
Does Parental Sexual Behavior Influence “Parental Fitness” and Child Custody Determinations?

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Abstract

Family Law typically promotes a nuclear family model and rules against parents who exhibit alternative sexual practices. The family court system uses the “best interest of the child” standard to guide custody decisions but the standard is vague so judges may consider nearly any kind of evidence or insert personal biases. This study examines the relationship between parental sexuality and child custody determinations, and specifically focuses on homosexual and sex worker parents. The courts and legislation have a tendency to rule against gay and lesbian parents in custody cases because there is fear that the children will grow up to be homosexual or experience social stigma. Sex worker mothers are at risk of losing their children to the State because there is concern that the children will lack morals and decency. Studies show virtually no difference between the children of homosexual parents or legal sex worker parents compared to normative heterosexual parents, so the arguments used to limit parental involvement in custody cases often lack merit. The current legislation and custody process does not solely focus on the best interests of the children involved, but instead impose moral biases and stereotypes on parents’ lifestyles. The study explores previous research and cases to examine the patterns concerning child custody and non-nuclear family models. The study will follow a mixed-methods approach to measure social workers’ attitudes and approaches to child custody decisions, and will also document sex worker parents’ experiences and difficulties regarding their occupations as sex workers and roles as parents.

Introduction

Family law and policies are preoccupied with nuclear family models, which have implications in child custody determinations. Child custody cases involving parents who practice alternative sexual behaviors are treated skeptically by the law. Gay and sex worker parents are at risk of losing their children because their sexual lifestyles do not conform to societal expectations. The legislation and social work policies rely heavily on moral judgments and stereotypes instead of actual research to determine the placement of children. Through this study, the researcher hopes to influence and contribute to legislation that truly addresses the needs and best interests of children instead of judging nonconforming parents.

Purpose of Research

The purpose of this study is to examine how parental sexual behavior impacts perceptions of “parental fitness” and child custody determinations. The study focuses specifically on Lesbian, Gay, Bisexual, and Transgender (LGBT) parents and sex worker parents.

Significance of the Research

This research is significant because child custody decisions are highly influenced by moral judgments and presumptions of social workers, judges, and legislators. The moral judgments and prejudices of policies and laws do not truly address the best interests of children, but instead punishes parents who practice alternative sexual behaviors. The courts often limit the parental involvement of LGBT and sex worker parents at the expense of the children; in some cases parents’ actual parenting skills and love for their children do not outweigh the moral prejudices of the law. As a result, children are taken away from their homes and placed in foster care or with extended family because of their parents’ perceived sexual promiscuity or deviance.

Research Questions

How does parental sexual behavior impact child welfare and child custody determinations?
 What are the practices and attitudes of social workers towards sex worker parents?

Analysis of the Literature

Background

The courts are often called on to render decisions affecting family structure and the living arrangements of individual family members. Judges are often required to determine custody rights on the basis of the lifestyles and values of the individuals involved (Lewin, 1981). Family law is preoccupied with the symbolism of “normal” family life, which typically involves a nuclear family or a married heterosexual couple living with their biological children (Schulenberg, 1999). The court’s presumption of what constitutes a normal family has implications in child custody determinations; child custody cases involving gay parents are treated as special cases and skeptically by the law even though more than twenty percent of lesbians and ten percent of gay men have children (Henry, 1977). There is also a tendency for courts and social workers to rule against single mothers who work in the sex industry because single motherhood and sex work does not fit into the nuclear family model (Roberts, 1995).

Best Interests of the Child Standard

The family court system uses the “best interest of the child” and “least detrimental alternative” conceptual models to guide their child custody decisions. The “best interests of the child” is the common legal test for custody decisions in all states and generally favors the custody arrangement that best fulfills the needs of the specific children involved (Herman, 1997). The “least detrimental alternative” acknowledges the limitations of the courts and experts in determining what is truly best for a child, so instead it determines the parent’s capacities relative to a child’s needs and tries to find the least harmful solution (Tye, 2003). The judicial system continues to attempt to fill the needs of children and their best interests, but also continues to promote the concept of normalcy and nuclear families.

There are several factors involved in the “best interests” determination such as:

the child’s emotional, mental, and social needs, bond between parent and child, parent’s ability to provide a stable home environment, and parent’s moral fitness (Vujovic, 2004). The vague standard of the “best interests” doctrine forms the basis for custody and judges to consider nearly any kind of evidence in deciding which parent should have custody of the child, which can interfere in objective determinations (Lewin, 1981). The courts have been consistent in their concern that awarding custody to a homosexual parent would not serve the best interests of the child; many lesbian, bisexual, gay, and transgendered biological and de facto parents have been denied custody in favor of heterosexual parents or third parties such as grandparents (Latham, 2005). The hint or stigma of living an “alternative lifestyle” makes someone liable to a decision based on prejudice rather than on the best interests of the child (Henry, 1977).

Applications of the Best Interest of the Child Standard

The controversial per se rule is used by a few states to determine the “best interests” of children in custody decisions. The per se rule dictates that all parents in a particular category are unfit and it is always best to remove the child from those parents’ custody (Shapiro, 1996). In some jurisdictions, a parent’s homosexuality is a per se reason for denying custody and creates the irrefutable presumption that a homosexual is unfit for parenthood (Latham, 2005). The evidence of a parent’s homosexual conduct is enough for a court to disqualify him from being granted custody; a court applying a per se standard is not required to consider any other factors and may deny custody based on sexual orientation alone (Huff, 2001). In 1995, the Supreme Court of Virginia ruled that a lesbian is per se an unfit parent because of her “felonious sexual conduct [which is] inherently in lesbianism” and that exposure to homosexuality is likely to cause children harm in the future (Brunner, 1999). Although the per se rule is unpopular, many states apply the presumption of harm approach when they decide custody cases involving homosexual parents which is essentially the per se rule in disguise (Allen & Burrell, 1996). The per se and presumption of harm approaches are based on stereotypes of homosexuality with little regard for the actual best interests of the children involved (Brunner, 1999).

The nexus test is a standard that most states have adopted, and it assesses a person’s parental fitness on an individual case-by-case basis. Under nexus tests, only the aspects of a person’s background that have a direct connection to the ability to parent or potentially harm a child are relevant to the court’s determination about custody (Tye, 2003). The courts require evidence that the parent’s homosexuality has an adverse effect on the specific child; if the parent’s

homosexuality has no adverse impact on the child, then it is irrelevant in a custody case (Shapiro, 1996). The nexus approach prevents the courts from using the fact that a parent's lifestyle is outside the societal mainstream as a basis for decision in custody determinations (Latham, 2005). The District of Columbia is the only jurisdiction using a nexus test that statutorily forbids the use of a parent's sexual orientation as the sole basis for denying custody; and in other jurisdictions, sexual orientation is increasingly considered irrelevant to custody and visitation disputes (Vujovic, 2004). The courts will only deny custody because of a parent's sexual orientation if a connection can be shown between parental sexual orientation and harm on the child (Patterson & Redding, 1996).

Parental Fitness

Parental fitness is at the center of child custody determinations, and the idea of a "fit parent" is grounded in the conventional notions of heterosexual marriage and selfless mothers as the legal foundations of society (Schulenberg, 1999). Social workers often make decisions regarding the fitness of a parent and follow a ten-part model for conducting parental fitness evaluations in custody cases, which includes: family history, educational history, occupational history, marital history, substance abuse history, and criminal history (Herman, 1997). A parent's sexual orientation may be an issue in custody cases because the American legal system has not accepted the notion that a good parent may also be homosexual or promiscuous (Hitchens, 1980). Many homosexual parents worked hard to conceal their sexual orientation from their children and families out of fear they would lose custody, but since the late 1960's, more gay parents have been unwilling to keep their sexual preference secret or to concede their parental rights (Hitchens, 1980). Society's assumptions and prejudices regarding homosexuality and the proper way to raise children are reflected in the laws and court decisions; it is widely presumed that a heterosexual home environment is unquestionably better for a child than a homosexual home environment in terms of role modeling and moral development (Hitchens, 1980). The courts should not find a distinction between homosexual and heterosexual parenting because homosexual parents relate to their children as parents, not as homosexuals (Richman, 2002).

A mother's sexuality may be an issue in custody cases because there are concerns about single sex workers' ability to be fit parents. Society's assumptions and prejudices regarding sex workers and the proper way to raise children are reflected in the laws and court decisions. It is widely presumed that mothers in the sex industry are "unfit" to raise children and that their lifestyles are harmful for children's moral development (Murphy, 1998). The courts are concerned about the effect a parent's sexual conduct may have on a child's development because the child may develop a standard of morality not generally accepted by society (Huff, 2001). The legal system is not concerned with a mother's relationship with her children but focuses on her sexual behavior, which may not necessarily affect them.

The criminal law influences courts' perceptions of socially acceptable behavior and parental fitness, and mothers involved in the criminal justice system are deemed unfit parents. The law helps shape the way society perceives women's proper roles as selfless, asexual mothers who should devote their lives to child rearing (Roberts, 1995). Modern law categorizes female prostitutes by their sexual conduct and makes their involvement in sex work the central component of their identity (Sanchez, 1997). Sex worker mothers deviate from society's ideal of motherhood and are often treated harshly by the criminal

justice system; criminal law consistently punishes women who deviate from what the law perceives as their "natural capacity to nurture and protect" (Murphy, 1998). Women who are arrested for prostitution and processed in the criminal justice system often lack resources and alternatives to put their life as prostitutes behind them (Arnold, 2000). Society and the justice system do not view mothers in the sex industry as victims or individuals but rather as petty criminals, the kind of people that destabilize and destroy communities (Jacobs, 1999). Prostitution-involved women are rarely recognized as maternal figures and "true mothers" by society, and are at high-risk of child custody disputes (Dalla, 2004).

Sex work

Economic vulnerability forces some women into sex work because the sex industry is seen as one of the few alternatives available to women with limited education and opportunities (Rornero-Daza, 2003). The term "sex worker" relates to the provision of sexual favors as a career path that is "more or less freely chosen by individuals who see it as a possibility for quick monetary profit" (Rornero-Daza, 2003). The majority of women in the sex industry freely decide to be involved and have control over whether and when they stop; many chose to stay in the industry as a resistance to poverty and potential unemployment (Romero-Daza, 2003; Surratt & Inciardi, 2010). A high number of

female sex workers especially prostitutes have children, and studies have found that prostitutes with children experience greater financial need and incentive for working to provide for their children (Sloss & Harper, 2004).

The common idea of sex workers conjures the image of a woman walking the streets, but there are several different types of sex workers ranging from exotic dancers to phone-sex operators (Arnold, 2000). There are also various types of prostitution which include call girls, escorts, brothel workers, pornographic actors, massage parlor workers, and street walkers. Call girls are able to charge high prices for their services, work in private settings, and are afforded higher status than other types of sex workers (Romero-Daza, 2003). Street prostitutes or “streetwalkers” are often viewed as the bottom of the sex work hierarchy by both insiders and outsiders to the sex industry (Romero-Daza, 2003). Street-level sex work is considered the most dangerous and least glamorous form of prostitution; street workers’ living situations are characterized by high rates of housing instability, significant financial difficulties, and violence (Bletzer, 2005; Sloss & Harper, 2004).

Moral Fitness and Custody Decisions

Courts consider factors like the parent’s “moral fitness” in custody decisions, which opens the door to the consideration of a parent’s sexual orientation. For child custody determinations where one parent is accused of immoral conduct, case law requires evidence of an adverse effect on the child as a result of the sexual or “immoral” conduct to justify an award of custody to one parent over another (Brunner, 1999). Custody guidelines often attempt to legally and discursively control and inhibit alternate sexualities, and judges may even deny custody to a gay or lesbian parent and define his sexual identity as deviant (Richman, 2002). Homosexuals’ sexual conduct and orientation are often viewed as immoral so individuals assume that the placement of children with homosexual parents will cause moral harm (Shapiro, 1996). The courts are concerned about the effect a parent’s sexual conduct may have on a child’s development because the child may develop a standard of morality not generally accepted by society (Huff, 2001; Hyde, 1991). The fact that many states have statutes that prohibit homosexual activity through sodomy laws makes homosexual parents’ criminals and perceived as incapable of setting a good example for children (Huff, 2001; Patterson & Redding, 1996).

A parent’s sexual behavior or promiscuity impacts the Courts’ opinions of the parent’s “moral fitness” in custody decisions. Legal sex work (exotic dancer, pornographic actress, etc) and illegal sex work (prostitution) are viewed as immoral because of the perception that workers engage in risky behavior such as unprotected sex, drug use, and violence (Weitzer, 2009). There is concern that sex workers will expose their children to unsafe situations and cause them to develop a lack of morality (Bletzer, 2005; Hyde, 1991). Studies have shown that prostitute mothers rarely entertain clients in their residence while their children are home, and that few daughters follow their mothers’ footsteps into the sex industry (Bletzer, 2005). Social workers and courts can use sex worker mothers’ sexual or “immoral” conduct to justify an award of one parent over another or removing children from the home because of the potential adverse effects on children (Brunner, 1999).

Child Custody Concerns

A major concern of the court is that both lesbians and gay men will produce homosexual children. Psychologist and founder of the Family Institute, Paul Cameron claimed that “homosexuality is contagious and the children will follow in their parents’ footsteps,” which implies that it is important that custody is not granted to gay men and lesbians (1998). There is fear that homosexuality will “spread” and cause a decrease in morals and procreation, which would change the social fabric of the country. The American Psychological Association and the National Association of Social Workers contend that homosexuality is not more prevalent among children with a homosexual parent than those with heterosexual parents (Cameron, 1998). Research shows that most homosexuals are children of conventionally heterosexual parents; 92% of young adults who grew up with two lesbian parents identify as heterosexual, and 90% of adult sons raised by gay fathers identify as heterosexual (Latham, 2005; Schulenberg, 1999). The assertion of the court that homosexual parents should be denied custody because they raise homosexual children is prejudicial and unsupported by research.

The most common concern raised by opponents of homosexual parenting is society’s lack of acceptance of alternative families, including homosexual parents and children. There is fear that the children of gay and lesbian parents will experience stigma, ridicule, and embarrassment by their peers and the community (Latham, 2005; Patterson & Redding, 1996; Schulenberg, 1999). The children may experience child-peer rejection and strained social relationships because of the parents’ sexual identities (Hitchens, 1980; Patterson & Redding, 1996). The courts often assume that

granting custody to homosexual parents is not in the “best interests” of the child because of societal disapproval and potential rejection of them.

The general concern about the societal treatment of lesbians and gay men does not justify custody decisions limiting the rights of homosexual parents. It is unconstitutional to deny parent custody of his or her child based on the possibility of social stigmatization or societal disapproval (Huff, 2001; Shapiro, 1996). In *Palmore v. Sidotl*, the Supreme Court held that although the constitution cannot control prejudices, it cannot tolerate or encourage them either (Latham, 2005). The court can only conclude stigma justifies a denial of custody, if there is evidence of a connection between the stigmas the child experiences and some harm to child (Shapiro, 1996). The stigma and potential ridicule may be overstated because research indicates that the children of homosexuals feel no less accepted than those of heterosexuals (Latham, 2005). Psychologists have also found no difference in comparative studies with regard to the quality of children’s friendships or social competence, and found the children to have similar ratings of popularity among other children (Latham, 2005).

There is considerable societal disapproval and stigma regarding sex worker mothers, which causes concern that children of sex workers will experience the same disapproval and prejudice as their parents. Professional promiscuity on the part of females is a “striking deviation from what a large segment of the society declares to be acceptable sexual performance,” which causes disapproval and negative views towards prostitution (Jackman, 1963). Women in the sex industry often hide their sex work because of stigmatization and fear of the consequences of being discovered such as losing custody of their children (Bletzer, 2005). The stigma and fear of discovery associated with sex work also prevents mothers from accessing needed services such as drug rehabilitation or legal protection from abusive partners and child custody hearings (Sloss & Harper, 2004). The courts and laws are more likely to limit sex worker mothers’ parental rights than offer resources and support (Sloss & Harper, 2004).

There is a myth that homosexual parents, especially gay men will molest their children so it is best to remove the children from their homes. Some individuals have argued that homosexuals are predisposed to child molestation and that most pedophiles consider themselves gay (Baldwin, 2001; Brunner, 1999; Huff, 2001). There is a belief that the gay community targets children for their sexual pleasure because the homosexual

lifestyle is a youth-oriented culture (Baldwin, 2001). The idea that people associate pedophilia with homosexuality denotes that homosexuality is viewed as immoral and as a sexual sickness (Latham, 2005). Some courts believe that denying custody is necessary to shield children from the risk of sexual molestation because children living with lesbian or gay parents are more likely to be sexually abused by the parent or the parent’s friends (Patterson & Redding, 1996; Walker, 1999). In 1976, in the *Matter of J. S. & C.*, an expert testified that the gay father’s visitation should be limited once his sons hit puberty because they would be subject to either “his overt or covert homosexual seduction” (Patterson & Redding, 1996). In general, the overwhelming majority of child abuse cases can be characterized as heterosexual in nature with an adult male abusing a young female (Patterson & Redding, 1996). Only about 14% of molestation cases involve homosexual men, while 82% of adult offenders are “heterosexual partners of a close relative of the child” and 74% of boys abused by an adult male are victims of “someone in a heterosexual relationship with the child’s mother” (Latham, 2005). The issue of child molestation is a serious and genuine concern but there is no evidence that homosexual parents are the majority of the perpetrators or more likely to offend.

A major concern of the courts is that sex workers will expose their children to domestic violence and sexual abuse because of their lifestyles. Women in the sex industry often experienced abuse and neglect in home environments as well as sexual and physical abuse as children. Some psychologists believe that sex workers’ daughters are more likely to be sexually abused because of their mothers’ history of abuse and the possibility of entertaining clients in their homes (Dalla, 2003; Weitzer, 2009). Studies show that many sex workers especially street-level prostitutes and exotic dancers characterize their relationships with male partners as “severely abusive;” women in prostitution are the frequent victims of violence at the hands of their partners and strangers (Bletzer, 2005, Romero-Daza, 2003). Children are often exposed to physical violence in their homes which can lead to emotional and psychological damage that causes poor relationships and low self-esteem as adolescents and adults (Bletzer, 2005). Social workers and judges are likely to remove children from the homes of sex workers because they are concerned they will be exposed to physical violence or sexual abuse even though studies show these issues are also prevalent in non-sex worker homes.

There is a belief that children in the custody of gay or lesbian parents are more vulnerable to behavior problems and mental breakdown (Patterson & Redding, 1996). Research indicates there is not any difference in the development, mental health, or general psychological stability of a child parented by homosexuals and one parented by heterosexuals; in fact children of homosexuals have been found to exhibit “impressive psychological strength” (Latham, 2005). The

American Psychological Association (APA) acknowledged that research findings suggest that the well-being of children is unrelated to parental sexual orientation and that children of homosexual parents are as likely to flourish as those of heterosexual parents (Patterson & Redding, 1996; Tye, 2003). Gay and lesbian parents are as likely as heterosexual parents to provide home environments that support positive developmental outcomes among children living in them (Patterson & Redding, 1996). As long as a parent can provide a nurturing home environment and demonstrate good parenting skills then psychosocial development of children will not be compromised (Brunner, 1999). Children of gay and lesbian parents are often described as more tolerant of diversity, more nurturing toward younger children, and better communicators than their counterparts (Kunin, 1998; Latham, 2005). Children's optimal development is influenced more by the nature of the relationships and interactions within the family than by the particular structural form it takes (Latham, 2005).

Another issue concerning custody cases is that some courts still assume that lesbian and gay men are mentally ill and therefore unfit to be parents (Patterson & Redding, 1996). The DSM originally designated any non-normative sexual behavior such as sadism, masochism, fetishes, and homosexuality as mental illnesses (Ault & Brzuzy, 2009). The DSM designation of homosexuality as an illness resulted in oppressive outcomes for gay, lesbian, and bisexual people such as limited custody and visitation rights (Silverstein, 2009). In the late 1960s and early 1970s, activists, social workers, psychologists, and psychiatrists pressured APA to eliminate homosexuality from its list of mental disorders, which lead to the APA removing it from the DSM in 1973 (Ault & Brzuzy, 2009). The idea that gay parents are unfit because of mental illness can be criticized on the grounds that atypical gender development or non-heterosexuality is neither illnesses nor disabilities (Patterson, 2009). The APA and other professional organizations such as the American Bar Association and the National Association of Social Workers have adopted policies that oppose discrimination based on sexual orientation and supports granting child custody to homosexual parents (Patterson & Redding, 1996).

Mothers in the sex industry are viewed as psychologically and physically unhealthy because they are seen as mentally unstable and HIV/AIDS risks. Studies show that street prostitutes are more likely than non-prostitutes and indoor sex workers to exhibit psychological disorders and engage in extensive high-risk sex behaviors with

numerous partners, which increase their vulnerability to HIV (Bletzer, 2005, Surratt & Inciardi, 2010). The psychological impact on a child living with a mentally unstable parent or an HIV infected parent can cause the child to have poor self-esteem and high rates of depression; society's fear of the HIV and mental illness could manifest itself in an avoidance of contact with the child by his peers (Bletzer, 2005). Although the literature shows the mental health and HIV disparities among street-level prostitutes, there is no convincing evidence of poorer physical or mental health, lower self-esteem, or impaired social relationships among other sex workers (Bletzer, 2005). Studies show that mothers in the sex industry often practice safe sex and are not infected by HIV/AIDS at higher rates than other women, so the mental and physical health arguments are less relevant in custody decisions (Bletzer, 2005).

There is an assumption that all sex workers are addicted to drugs and alcohol, which causes them to neglect and abuse their children. Studies show that many street-level prostitutes use drugs especially crack cocaine as a coping strategy for limited opportunities and daily stress (Bletzer, 2005). Some prostitutes admit to using drugs and alcohol while pregnant, which contributes to Fetal Alcohol Syndrome and birth defects; these babies are usually removed from the mother's custody by the State immediately after birth, while the mothers are charged with child endangerment (Bletzer, 2005). The children of addicts and alcoholics often follow their parents' footsteps because of a genetic predisposition towards addiction, social learning, or efforts to cope with painful realities; the courts and social workers try to prevent the cycle of drug addiction, alcoholism, and neglect by removing children from the custody of addicted mothers (Bletzer, 2005). Although the literature documents the prevalence of drug use among street-level prostitutes and the effects of addiction on children, there is little evidence of the drug use of mothers in other parts of the sex industry such as call girls and escorts (Bletzer, 2005).

Sex worker parents and foster care

For many poor women, single mothers, and sex workers, the battle to retain custody of their children is not with the judicial system but with the State. State statutes do not explicitly impose particular standards of behavior, but authorize child protective agencies and courts to intervene and remove a child if the child is neglected, abused, or in imminent danger of abuse (Murphy 1998). Mothers tend to be the focus of the state's intervention in cases of allegations of child abuse and neglect because they are often the custodians and caretakers of children (Murphy, 1998). The statutes' goal is supposedly child protection but the language of the law permits intervention on the basis of the mother's conduct rather than harm to the child (Murphy, 1998). Child Protective Service workers make discretionary

judgments about bad mothering; conversations with social workers often reveal deep biases about bad mothering based on race, class, poverty, and occupation (Murphy, 1998). The failure of parents to support their children emotionally and financially as well as provide moral guidance falls within most states' definitions of child neglect and are reasons for child removal regardless of the stability or love of the home (Murphy, 1998).

The state's removal of children from the homes of sex workers has major implications on the mental health and future outcomes of children. There is a perception that prostitution is a victimless crime but "the [true] victims are the children of the women who are left with no active parental involvement" (Arnold, 2000). Most prostitutes have children but do not live with them because they are placed in foster care, or live with their fathers or extended family members (Dalla, 2000). The children's removal from the home is typically the result of maternal alcoholism, drug addiction, imprisonment, or domestic violence regardless of whether or not she engaged in sex work (Bletzer, 2005). In other cases, sex workers are viewed as unfit mothers and lose their children because they raise them in the context of prostitution (Pheterson, 1993).

Foster care is meant to be a temporary arrangement, but children stay in care for an average of two years and have limited contact with their birth parents (Doyle, 2007). Foster children often experience inadequacies in state care including poor-quality caregivers, sexual and physical abuse, neglect, and constant shifts of placements (Mendes, 2006). The conditions in the foster care system are sometimes worse than the conditions in the sex workers' homes, and the children have to deal with feelings of inadequacy and depression for being separated from their mothers (Mendes, 2006). Foster children are typically released from the state between 16 and 18 years old, and face difficulties in accessing education, employment, and housing opportunities (Mendes, 2006). These young adults are at higher risk for drug and alcohol abuse, depression, teen pregnancy, high school drop out and imprisonment than their counterparts (Mendes, 2006).

Theoretical Frameworks

The criminal law shapes the way we perceive ourselves and others, and legal rules reward conduct that fulfills a woman's maternal role and punishes conduct that conflicts with mothering (Roberts, 1995). Society defines women as mothers or potential mothers, which determines her social identity (Roberts, 1995). The social construction of what constitutes a good mother and what constitutes a bad mother facilitates its control of women because women who fail to meet the ideal of motherhood are deemed as deviant or criminal (Roberts 1995). The State stigmatizes unwed and "unfit" mothers for violating the dominating norm; the criminal justice system punishes female defendants according to the extent to which their acts deviate from appropriate female behavior (Roberts, 1995). Mothers who commit crimes or immoral behavior such as sex work and prostitution are bad mothers who do not deserve the courts' mercy or custody of their children. Sex workers who are able to provide safe and loving homes for their children should be allowed to retain custody of their children regardless of their sexual behavior if it has no adverse effect on the children.

Parents should be judged based on their parenting skills and bonds with their children instead of their sexual orientation. The categories "lesbian mother" and "gay father" are conceptually flawed because they imply that a parent's sexual orientation is the decisive characteristic of his or her parenting (Stacey, 2010). The idea that children need both a mother and a father is flawed, and has inflamed culture wars over divorce, single parenthood, and gay parenting (Stacey, 2010). Social science studies have not found that families headed by married, biological parents are best for children compared to all other forms of families (Stacey, 2010).

The justice system and social workers, or "Petty Bureaucrats" are deciding children's placements and futures based on their own moral values and biases without truly addressing the "best interests" of children. The most important characteristics of parents are the ability to provide a stable and nurturing home environment that will promote positive psychosocial development in children.

Research Design and Methodology

This study will follow a mixed-methods approach and triangulation design, in which the researcher will collect quantitative and qualitative data simultaneously. The quantitative component will include online surveys of social workers to measure their attitudes and approaches to child custody and parental fitness decisions. The qualitative component will include interviews of sex worker parents to learn about their experiences regarding their occupations as sex workers and roles as parents.

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