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FROM AGE OF CONSENT LAWS TO THE “SILVER RING THING”: THE REGULATION OF ADOLESCENT FEMALE SEXUALITY

J. Shoshanna Ehrlich

We are presently in an era of intense concern about the sexual conduct of adolescents, with a particular focus on young women. This preoccupation can be traced back to the 1960s when policymakers began to draw a link between “early” childbearing and poverty. The initial emphasis on the *consequences* of sexual activity meant that the underlying moral issues went largely unnoticed. However, with the legalization of abortion and the rise of the Religious Right, attention soon shifted away from the consequences of sexual activity to the underlying conduct itself, thus unleashing a crusade to restore traditional “American” family values. The sexually active young woman is at the heart of this storm as she crosses the boundary of morally acceptable behavior based on a powerful combination of gender and age. She is thus the focus of intensifying legal efforts to restore the value of chastity and the authority of parents over their adolescent children.

This is not the first period of intense public concern about youthful sexuality. In the 1830s moral reformers, inspired by millennial perfectionism, sought to rescue their fallen sisters from a life of sin and promote a single sexual standard. Toward the end of the century, a new generation of reformers, alarmed about the increasingly visible manifestations of sexual expression, renewed the call for sexual restraint. This time, however, they looked to the state to help them restore moral order. As a result, the state assumed an important role in the effort to monitor and control the troublesome conduct of young women.

As concerns about morality continue to infuse the political arena, it is important that we understand the historical antecedents and the potential implications of the current drive to control the sexuality of young women, including their reproductive decision-making. Accordingly, this article is divided into two primary sections. Section One begins in the 1830s and takes us through the Progressive Era. Section Two begins in the 1960s and takes us to the present.

The first section begins with the moral reform campaigns of the early nineteenth century, in which female reformers reached out to save their fallen sisters from a life of sin, and follows how this effort culminated in the end of the century campaign to raise the age of sexual consent. Tracing the evolving understanding of female sexuality, the article then focuses on the efforts of Progressive Era reformers to control female sexual delinquency—an approach which, rather than focusing on punishing men for having sex with underage women, sought to reconstruct female behavior in accordance with Victorian standards of propriety. The second section begins with the War on Poverty of the 1960s and explores how the link policymakers drew between youthful childbearing and poverty helped usher in a second period of renewed concern about the sexual conduct of young women. The article then examines two interconnected strategies that have been at the forefront of the present effort to restore traditional sexual and familial values—parental involvement laws and federally funded abstinence-only education.

I. 1830-1920: FROM VIRTUOUS MAIDEN TO SEXUAL DELINQUENT

To the nineteenth-century female reformer, the prostitute was a powerful symbol of the inexorable link between male sexual excess and female ruin. Seeking to abolish the sexual double standard which excused men from the chasteness demanded of women, over the course of the century, reformers employed a variety of strategies to control the immoral behavior of the lascivious male. Ultimately, these strategies both empowered and constrained women as they sought to define their place in a rapidly changing society.

A. Female Reform and the Pursuit of the Single Sexual Standard

1. Fallen Sisters, and the Attack on Male Licentiousness

In 1834, a small group of women joined together to form the New York Female Moral Reform Society. Meeting at a Presbyterian Church, they drew their inspiration from the Second Great Awakening, a period of intense religious revivalism that originated in the northeast and swept the nation in the early years of the Republic. Evangelical ministers rejected the Calvinist view that salvation lay entirely in the hands of God and instead stressed the ability of individuals to overcome sinfulness through their own actions. They believed that by working “‘ceaselessly to make themselves and others

perfect',” individuals could help usher in the Millennium and bring about the Second Coming of Christ.¹

Motivated by a “sense of urgency and spiritual absolutism,”² auxiliary groups proliferated, and in 1839, the New York Moral Reform Society reconstituted itself as a national organization, known as the American Female Moral Reform Society.³ Believing that the “sin of licentiousness has made fearful havoc[,] . . . drowning souls in perdition and exposing us to the vengeance of a holy God,”⁴ Society members believed that prostitution was the “cause of the general corruption of social life.”⁵ Seeking to save the nation from ruin, they regarded it as their duty to reach out and save their fallen sisters from a life of sin.

Enlarging the scope of their activities beyond the traditional female benevolent activity of “ministering to the needs of their victims[,]”⁶ moral reformers also launched a direct attack on the sexual double standard. Blaming male sexual excess for the downfall of their sisters, reformers called for a single sexual standard based on the female ideal of purity. To cleanse the nation of sin, they demanded that

¹ George E. Connor, *The Awakening of Edward Bellamy: Looking Backward at Religious Influence*, 11 UTOPIAN STUD. 38, 44 (2000) (quoting CHARLES GRANDISON FINNEY, MEMOIRS OF CHARLES G. FINNEY (Garth M. Rosell & Richard A.G. Dupuis eds., 1989)).

The Second Great Awakening is associated with post-millennial thought which conceives of the millennium “as a new golden age in history which will prepare the way for Christ's coming.” *Id.* at 40. This contrasts with pre-millennial thought which believes that “Christ's appearance is necessary before the thousand years of peace can begin.” *Id.* (quoting David E. Smith, *Millenarian Scholarship in America*, 17 AM. Q. 535, 538 (1965)). Many reform movements of the time, including abolitionism, were rooted in this perfectionist fervor.

² Carroll Smith Rosenberg, *Beauty, the Beast and the Militant Woman: A Case Study in Sex Roles and Social Stress in Jacksonian American*, 5 AM. Q. 563, 566 (1971).

³ *Id.* at 576.

⁴ *Id.* at 566-67 & n.8 (discussing the documents of the New York Female Moral Reform Society and the Ladies' Society for the Observance of the Seventh Commandment).

⁵ DAVID J. PIVAR, PURITY CRUSADE: SEXUAL MORALITY AND SOCIAL CONTROL, 1868-1900 34 (1973) (discussing the social control of sexual morality through prostitution reform).

⁶ Anne M. Boylan, *Timid Girls, Venerable Widows and Dignified Matrons: Life Cycle Patterns Among Organized Women in New York and Boston, 1797-1840*, 38 AM. Q. 779, 780 (1986) (discussing the goals of the New York and Boston Female Moral Reform Societies to eradicate evils as well as ministering to the needs of victims).

It should also be noted that although ministering to the needy had long been an acceptable activity for women, reaching out to prostitutes was a bold new step. Anne M. Boylan, *Women in Groups: An Analysis of Women's Benevolent Organizations in New York and Boston, 1797-1840*, 71 J. AM. HIST. 497, 505 (1984).

men learn to control their desires. Uncertain about the ability of men to purify themselves, the Society encouraged "pious women throughout the country to shun all social contact with men suspected of improper behavior. . . ."⁷

Moral reform societies, which faded in importance in the years prior to the Civil War, bequeathed a mixed legacy to Progressive era "purity" reformers who again struggled to alter standards of sexual behavior. On the one hand, emerging at a time when the ability of the community to regulate private sexual behavior had eroded, the American Female Moral Reform Society represented "the assertion of female moral superiority and the right and ability of women to reshape male behavior."⁸ On the other hand, it also reinforced traditional understandings of female domesticity and sexuality. Over time the Society placed increasing emphasis upon motherhood as the primary source of female moral authority. Grounded in the view that "[a] mother's love will accomplish more than anything else except omnipotence[.]"⁹ reformers encouraged women to focus their efforts in the domestic realm. Reformers also held tight to the ideal of female purity. Equating female sexual expression with danger and ruin, their activism helped to "lay the groundwork for the Victorian sexual code which placed particular stock in the purity of females."¹⁰

2. Social Purity Reformers and the Anti-Prostitution Campaign

Towards the end of the nineteenth century, as prostitution grew more commercialized and became increasingly identified with urban poverty and decay, police and physicians began calling for state regulation of the practice, proposing measures such as the licensing of prostitutes, mandatory vaginal exams, and the confinement of prostitutes to select neighborhoods. The call for regulation unleashed a storm of opposition among middle-class women reformers, including women's rights activists such as Susan B. Anthony and Elizabeth Cady Stanton. Heirs to the antebellum moral reform tradition, these "social purity" reformers led the anti-regulation fight

⁷ Rosenberg, *supra* note 2, at 572.

⁸ *Id.* at 578 (citing N.Y. Female Moral Reform Soc'y, Executive Committee Minutes (Oct. 4, 1836)).

⁹ Mary P. Ryan, *The Power of Women's Networks: A Case Study of Female Moral Reform in Antebellum America*, 5 FEMINIST STUD. 66, 82 (1979) (citation omitted). See also PIVAR, *supra* note 5, at 40-41.

¹⁰ Ryan, *supra* note 9, at 73. See also Ellen Carol Dubois & Linda Gordon, *Seeking Ecstasy on the Battlefield: Danger and Pleasure in Nineteenth-Century Feminist Sexual Thought*, 9 FEMINIST STUD. 7, 9-14 (1983).

to prevent what they regarded as the official sanctioning of the sexual double standard.¹¹

Succeeding in their effort to defeat regulation, social purity reformers turned their efforts to the eradication of prostitution—the ultimate symbol of male sexual excess and female degradation and shame. Reflecting the growing influence of the Women's Rights Movement, they believed that ending male sexual excess was a "necessary precondition of full equality between men and women."¹² Renewing the earlier demand for a single sexual standard, reformers adopted a variety of voluntary and legal strategies to bring male sexual behavior under control.

With respect to voluntary strategies, the White Cross Society is of particular interest, as it presages today's "virginity pledging" campaign. The Society was founded by the Church of England "to promote social purity and to assist young men in their resistance to illicit sexual relations by giving sex education within the church." As part of their vigorous purity campaign, the Women's Christian Temperance Union (WCTU), under the leadership of Frances Willard, helped spread White Cross Societies across the country. Men who joined promised with "the help of God" to "protect [women] from wrong and degradation" and to "maintain the law of purity as equally binding upon men and women."¹³ Augmenting these efforts, the WCTU also created a female counterpart to the White Cross Society—the White Shield Society. With members pledging to lead a "pure life," these societies sought to "spiritualize" sexuality in order to "achieve the general moral elevation of society."¹⁴

Distinguishing themselves from the earlier generation of moral reformers, social purity activists turned to the state to aid them in their crusade to purify society through the eradication of prostitution. Central to this effort, reformers, who had become increasingly concerned about the sexual vulnerability of young women, demanded states raise the age of sexual consent.

¹¹ See Robert E. Riegel, *Changing American Attitudes Towards Prostitution (1800-1920)*, 29 J. HIST. IDEAS 437, 448 (1968) (discussing the various actions to regulate prostitution and the social reaction).

¹² Kristin Luker, *Sex, Social Hygiene, and the State: The Double-Edged Sword of Social Reform*, 27 THEORY & SOC'Y 601, 608 (1998).

¹³ Frances E. Willard, *Social Purity Work for 1887*, UNION SIGNAL (Chicago, IL), Jan. 13, 1887, at 12, available at www.womhist.binghamton.edu.

¹⁴ PIVAR, *supra* note 5, at 114-15.

3. Young Women and the Age of Consent

In the mid-1880s, lurid tales about the operation of an underground "white slave trade" in London made their way to the United States, aided by a journalistic expose, entitled, *The Maiden Tribute to Modern Babylon*, in which British reformer and journalist, William T. Stead, "described in vivid detail the entrapment and ravishing of 'five-pound' virgins by lecherous aristocrats."¹⁵ Consequently, purity reformers turned their attention to the sexual exploitation of young women, although as suggested by the naming of the problem, they were principally concerned with the exploitation of white teens.¹⁶

Based on a WCTU survey of state laws, social purity reformers were outraged to learn that the average age at which a female was considered competent to consent to sexual relations was ten.¹⁷ This sanctioning of male access to the young female body came to embody the danger that unconstrained male sexuality posed to female virtue. Thus, social purity reformers launched an ultimately successful campaign to raise the age of sexual consent and by the turn of the century, most states had raised the age of sexual consent to sixteen or eighteen. In practical terms, these laws criminalized male sexual contact with an expanded pool of young women, which reformers hoped would serve to protect under-age teens from being coerced or tempted into prostitution.

In turning to the state, there is little doubt that reformers were genuinely concerned about the exploitation of young women, as symbolized by the lurking dangers of the "white slave" trade. They may also have been seeking to protect young women from sexual violence in situations that might not have met the legal definition of rape.¹⁸ However, relating back to the moral reformers' insistence upon female purity, the age-of-consent campaign also represented a "conser-

¹⁵ MARY E. ODEM, *DELINQUENT DAUGHTERS: PROTECTING AND POLICING ADOLESCENT FEMALE SEXUALITY IN THE UNITED STATES, 1885-1920* 12 (1995).

To aid the cause, Stead apparently arranged to purchase a young working-class "maiden" from her mother for purposes of prostitution, leading one activist to refer to him as the "John Brown" of "white slaves." *Id.* (citing *Mr. Stead's Case*, N.Y. DAILY TRIB., Nov. 29, 1885 and *Mr. Stead and His Party*, N.Y. DAILY TRIB., Dec. 20, 1885).

¹⁶ See ODEM, *supra* note 15, at 36-37.

¹⁷ *Id.* at 13.

¹⁸ See Jane E. Larson, "Even a Worm Will Turn at Last": Rape Reform in Late Nineteenth-Century America, 9 YALE J.L. & HUMAN. 1, 20-21 (1997); and Stephen Robertson, *Age of Consent Law and the Making of Modern Childhood in New York City, 1886-1921*, 35 J. SOCIAL HIS. 781 (2002).

vative" reaction to the increasing visibility of adolescent female sexual expression.¹⁹

As industrialization brought increasing numbers of young women into the city in search of work, reformers realized that unlike in earlier times, many of the young women were not subject to the watchful eyes of their family, and thus were vulnerable to sexual exploitation. However, many were also enjoying their newfound freedom and some purposefully sought to shed the yoke of Victorian moral constraints.²⁰

These increasingly visible manifestations of female sexuality, particularly on the part of "working girls," prompted a "moral panic" among middle-class reformers.²¹ As Odem explains,

Where middle-class reformers saw only sexual danger in the public world of work . . . working-class daughters also perceived new opportunities. As they engaged in new jobs and urban recreations in American cities, these young women explored romantic relationships and heterosexual pleasures outside of marriage. . . .

Such behavior conflicted sharply with the bourgeois conception of girlhood sexual purity and innocence. Middle-class women criticized male behavior, but they were equally troubled by the assertions of sexual and social autonomy on the part of female youth. Reformers assumed a position of moral authority . . . based on middle-class ideals of female purity and modesty. They upheld the belief . . . that the loss of sexual purity was the worst thing that could happen to a young woman.²²

By insisting that the state had a role to play in safeguarding the virtue of young women, the age-of-consent campaign transformed what had been largely a private concern—female sexual behavior—into a matter of public policy. Although the resulting laws clearly served an important protective function, they also paved the way for a

¹⁹ This position is perhaps most closely identified with ODEM, *supra* note 15. See also CONSTANCE A. NATHANSON, DANGEROUS PASSAGES: THE SOCIAL CONTROL OF SEXUALITY IN WOMEN'S ADOLESCENCE (1991); RUTH M. ALEXANDER, THE "GIRL PROBLEM:" FEMALE SEXUAL DELINQUENCY IN NEW YORK, 1900-1930 (1995); and Dubois & Gordon, *supra* note 10, at 15-16. For a critique of this perspective see Larson, *supra* note 18, and Robertson, *supra* note 18.

²⁰ ODEM, *supra* note 15, at 24; ALEXANDER, *supra* note 19, at 11-21.

²¹ See NATHANSON, *supra* note 19, at 16 (discussing the concept of "moral panic").

²² ODEM, *supra* note 15, at 24.

greater acceptance of state control over the female body based upon prevailing normative understandings of appropriate behavior. This subsequently found expression in the Progressive Era's concept of "sexual delinquency."

B. Progressive Era Reformers and the Containment of Sexual Promiscuity

During the Progressive Era (roughly 1900–1920), efforts to bring the sexual conduct of young women under the control of the state intensified. In contrast to the views of the earlier generation of reformers, Progressive Era activists acknowledged that women had, and sometimes acted upon, sexual desire. However, this did not mean they were more accepting of female sexual agency than their Victorian counterparts had been; instead, the image of the sexual victim gave way to the image of the sexual delinquent.

Buoyed by an optimistic belief in the goodness of humanity and the inevitability of progress, Progressive reformers sought to tackle a broad range of social problems that accompanied the rapid pace of industrialization and urbanization. As they focused on the very real problems faced by poor and working-class urban families, reformers found themselves increasingly distressed by the failure of these families to conform to middle-class domestic norms. Of particular concern was the sexual activity of young women (particularly those from poor immigrant families), which they saw as "fundamentally perverse and predictive of future promiscuity."²³

Viewed almost exclusively in sexual terms, on multiple levels, female "misconduct" was considered a more serious problem than the misbehavior of young men, sexual or otherwise. On an individual level, the delinquent conduct of young men was often seen as a normal developmental phase that adolescent males progressed through without any lasting consequences, whereas the delinquent girl was believed to be in danger of ruining her entire life.²⁴ On a family level,

²³ Steven Schlossman & Stephanie Wallach, *The Crime of Precocious Sexuality: Female Juvenile Delinquency in the Progressive Era*, 48 HARV. EDUC. REV. 65, 68 (1978).

This is not to suggest that young women did not face sexual danger and coercion, or that all sexual contact was voluntary and consensual. Young women, especially those who were on their own in the city, frequently had to contend with unwanted sexual advances. Moreover, their often precarious financial situation left them susceptible to male overtures, as they came to realize that "their sexuality was a valued commodity that they could trade for things they wanted or needed." ODEM, *supra* note 15, at 55. See also ALEXANDER, *supra* note 19, at 35–41.

²⁴ ODEM, *supra* note 15, at 115; Schlossman & Wallach, *supra* note 23, at

female sexual activity was a direct challenge to parental authority as parents were supposed to keep their daughters "innocent, chaste, and dependent until marriageable age."²⁵ Lastly, on a societal level, a young woman's misconduct posed a "double threat" to the social order. Because women were the moral compass of society, not only did the sexual activity of young women flaunt behavioral expectations, her actions removed "the moral constraints on men."²⁶

These gendered beliefs about the weight and meaning of delinquent behavior resulted in the differential treatment of young men and women in the juvenile court system, itself a product of Progressive Era reforms. While most of the young men who appeared before the court were charged with criminal offenses, the majority of young women were charged with engaging in immoral conduct, which if engaged in by an adult would not have come within the criminal code.²⁷ Moreover, to prevent "more girls from becoming wayward,"²⁸ girls who appeared to be on the path to ruin—predelinquents—were treated similarly to girls who had already met their downfall.²⁹ Of particular concern were daughters of immigrant families, who were often characterized as "lacking in self-restraint." Consequently, "unfamiliar cultural patterns of behavior" were often read as "signs of advanced sexual experience."³⁰

These gendered understandings of juvenile behavior also influenced dispositional outcomes. Although less likely to have committed a crime, young women were more likely to be incarcerated in a reformatory, while probation was the preferred approach for young men. This difference in approach reflected the view that female delinquent behavior was more serious and intractable. Thus, whereas boys could be rehabilitated while remaining at home under the watchful eye of a visiting probation officer, where girls were concerned, probation was for "the chosen few whose minds [were] not too poisoned by the life they [had] been leading."³¹

84-85; and Michael W. Sedlak, *Young Women and the City: Adolescent Deviance and the Transformation of Educational Policy, 1870-1960*, 23 HIST. EDUC. Q. 1, 2 (1983).

²⁵ Schlossman & Wallach, *supra* note 23, at 84.

²⁶ Estelle B. Freedman, *Their Sisters' Keepers: An Historical Perspective on Female Correctional Institutions in the United States: 1870-1900*, 2 FEMINIST STUD. 77, 78 (1974). See also Schlossman & Wallach, *supra* note 23, at 84.

²⁷ Schlossman & Wallach, *supra* note 23, at 71-72.

²⁸ Maude E. Miner, *The Problem of Wayward Girls and Delinquent Women*, 2 ORG. FOR SOC. WORK 130, 136 (1912).

²⁹ Schlossman & Wallach, *supra* note 23, at 72.

³⁰ *Id.*

³¹ Miner, *supra* note 28, at 135.

Incarceration was not generally conceived of as a punishment in the way that we typically think of a jail sentence. Rather, in keeping with the "rehabilitative ideal" of the time, reformers believed that by removing a young woman from the environmental stresses that led to her delinquency in the first place, she could be redirected to a more meaningful life in accordance with middle-class domestic norms. Accordingly, most institutions "developed a comprehensive rehabilitation program that was based on the expectation that the young women upon release would either return to their families or be placed in honest, respectable positions, ordinarily in domestic service, especially if they were unwed mothers."³²

Incarceration also served to remove young women from sexual temptation, often until they reached a marriageable age. This approach to curing young women of their sexual delinquency reflected the reformers' lack of faith in the ability of working-class and immigrant mothers to provide the level of supervision and moral instruction they believed necessary to keep their daughters out of harm's way.³³ To secure their futures, their care was instead entrusted to the newly emergent female professionals who sought to dispense "maternal justice" at all levels of the juvenile court system.³⁴

"The Progressive Era . . . [was] a turning point in the state control of sexuality."³⁵ Particularly where young women were concerned, this shift embodied dual impulses. On one hand, state intervention was intended to be protective in nature—to shield young women from the very real dangers of sexual violence and exploitation. On the other hand, it was also directed at the containment of "illicit" sexual behavior, which resulted in the "dramatic growth of a state institutional and legal network for the surveillance and control of young female moral offenders."³⁶ As developed in the following section, these impulses continue to shape contemporary approaches to the regulation of adolescent female sexuality, where they now collide with the modern drive towards autonomy and self-regulation.

³² Sedlak, *supra* note 24, at 8.

³³ See Schlossman & Wallach, *supra* note 23, at 75-80; and ODEM, *supra* note 15, at 115.

³⁴ See ODEM, *supra* note 15, at 96 & ch.5.

³⁵ Luker, *supra* note 12, at 605.

³⁶ ODEM, *supra* note 15, at 108. Some historians see both impulses in this history, whereas, others tend to emphasize one over or to the exclusion of the other. See generally Schlossman & Wallach, *supra* note 23 (emphasizing the institutional and legal impulses).

II. 1964-2005, AND BEYOND: FROM PREGNANCY PREVENTION TO "THE SILVER RING THING"

Much like the nineteenth-century prostitute emerged as a symbol of sexual danger and moral decay, in the 1970s the pregnant adolescent came to represent "social disorder and change."³⁷ Although teen births actually declined during this decade from their peak rate in 1957, public anxiety about changing sexual norms and the "postmodern" family landed on the pregnant teenager who "came to personify the social, economic, and sexual trends that in one way or another affected almost everyone in America."³⁸ Consequently, although many of the dynamics are different, once again we are in a period of increasing public efforts to contain the sexuality of young women.

A. The Private Becomes Public: The "Discovery" of the Pregnant Teen³⁹

In 1964, President Johnson launched the "War on Poverty," an ambitious program to alleviate the plight of the poor. As part of this effort, policy analysts quickly identified the "excess fertility"⁴⁰ of poor, urban (read black) single mothers as a primary cause of poverty and welfare dependency; accordingly, pregnancy prevention became an important tool in the battle to eliminate poverty. This approach was bolstered by studies that found that, when compared to other women, a greater percentage of low-income women reported having experienced unwanted births.⁴¹

Based on the belief that family planning was "probably the single most cost-effective anti-poverty measure,"⁴² in 1964, the federal government began providing limited funding for birth control for low-income women. Six years later, to ensure that no woman would be denied access to contraceptives because of poverty, Congress passed Title X of the Public Health Services Act, which created "a comprehensive federal program devoted entirely to the provision of family

³⁷ NATHANSON, *supra* note 19, at 14-15.

³⁸ KRISTIN LUKER, *DUBIOUS CONCEPTIONS: THE POLITICS OF TEENAGE PREGNANCY* 82-83 (1996).

³⁹ This section draws heavily on the work of Luker. *See id.* and NATHANSON, *supra* note 19.

⁴⁰ LUKER, *supra* note 38, at 56.

⁴¹ *Id.* at 56-58.

⁴² LUKER, *supra* note 38, at 59 (quoting SAR A. LEVITAN, *THE GREAT SOCIETY'S POOR LAW: A NEW APPROACH TO POVERTY* 209 (1969) (quoting Joseph Kershaw, First Assistant Director for Research and Planning, Office of Economic Opportunity (the federal agency created to oversee the antipoverty campaign))).

planning services on a national basis.”⁴³ Two years later, Congress amended the Medicaid statute to add family planning to the list of “mandated services” that health care providers must provide in order to remain eligible for federal Medicaid funds.⁴⁴

Recast as a tool in the fight against poverty, birth control was stripped of its moral underpinnings, which a century earlier had resulted in the banning of contraceptives as “Articles of Immoral Use.”⁴⁵ Underscoring this dramatic reconceptualization of birth control “from private vice to public virtue”⁴⁶ only twelve years before the inception of Title X, President Eisenhower, in response to a recommendation that the government pay more attention to family planning, stated;

I cannot imagine anything more emphatically a subject that is not a proper political or governmental activity or function or responsibility. . . . This government will not, as long as I am here, have a positive political doctrine in its program that has to do with this problem of birth control. That is not our business.⁴⁷

From the start, teens were able to access Title X family planning services, which were to be provided to “all persons,”⁴⁸ however, they

⁴³ The Alan Guttmacher Institute, Facts in Brief, *Title X and the U.S. Family Planning Effort* (1997), available at <http://www.guttmacher.org/pubs/ib16.html>.

Title X is administered by the Office of Family Planning, which is within the Department of Health and Human Services’ (DHHS) Office of Population Affairs. Title X funds are allocated to ten regional DHHS offices which then award these funds to public and private nonprofit agencies on a competitive grant basis. Some grantee agencies are direct providers of family planning services while others allocate funds to a “delegate agency” that runs a clinic.

⁴⁴ Initially, Title X was the primary source of public funding for family planning. Today, Medicaid is the largest source of funds, but Title X rules set the standard of patient care at family planning clinics which receive any Title X monies. It thus remains “central to the national effort” to make family planning services available to low-income women. The Alan Guttmacher Institute, *Title X: Three Decades of Accomplishment*, 1 ISSUES IN BRIEF 1 (2001), available at http://www.agi-usa.org/pubs/ib_1-01.pdf.

⁴⁵ For a discussion of the Comstock laws, see JAMES C. MOHR, ABORTION IN AMERICA: THE ORIGINS AND EVOLUTION OF NATIONAL POLICY, 1800-1900 196-99 (1978).

⁴⁶ LUKER, *supra* note 38, at 60 (quoting JAMES REED, FROM PRIVATE VICE TO PUBLIC VIRTUE: THE BIRTH CONTROL MOVEMENT AND AMERICAN SOCIETY SINCE 1830 (1978)).

⁴⁷ NATHANSON, *supra* note 19, at 40 (citing THOMAS C. DIENES, LAW, POLITICS, AND BIRTH CONTROL 266 (1972)).

⁴⁸ Family Planning Services and Population Research Act of 1970, Pub. L. No. 91-572, 84 Stat. 1504, 1507 § 1005(a) (1970).

were not a targeted population. This soon changed, as poverty was increasingly attributed to "early" rather than to "excess" childbearing. As Luker writes, "If in the early 1960s the image of the typical woman needing family planning was that of a woman on welfare surrounded by a gaggle of unkempt children, by the mid-1970s it had become the image of a bewildered adolescent."⁴⁹ Accordingly, in 1978, Congress amended Title X to make it clear that recipients of Title X family planning funds were required to provide services to adolescents.

Linking poverty and teen pregnancy, reformers who advocated for provision of family planning services to teens were able to sidestep the link between sex and pregnancy. In focusing on the consequences of sexual activity, they deflected attention away from the "willful transgression of moral norms represented by the sexual act of an unmarried woman."⁵⁰ Thus, the rather radical act of providing government funded contraceptive services to minors was packaged as a socially necessary and morally neutral act.

However, this development did not occur in a bubble. Of particular importance, in 1973, the *Roe v. Wade*⁵¹ decision unleashed a wave of anti-abortion activism. Here too, attention quickly focused on teens, as conservative forces sought to exclude them from *Roe*'s promise of reproductive autonomy. In 1980, the momentum of the "pro-life" movement helped Ronald Regan secure the presidency, which signaled the emerging political influence of the "Religious Right." Reframing the causal link between pregnancy and early childbearing, the conservative rise to power triggered a paradigm shift in the thinking about the sexual behavior of young women. From their perspective, the problem was not "teenagers' pregnancies but their sexual activity [and] the remedy was not contraception but chastity."⁵² This shift set the stage for a renewed effort to contain the sexual (and reproductive) conduct of young women. As developed in the following section, once again, the law has been an important strategic ally in this undertaking.

B. Just Don't Do It: But If You Do, We Will Tell Your Parents

In this section, we consider two important legal approaches to the containment of adolescent sexual expression—parental involvement requirements and abstinence-only mandates. Each approach is rooted in its own history, has its own doctrinal principles, and is discussed

⁴⁹ LUKER, *supra* note 38, at 62.

⁵⁰ NATHANSON, *supra* note 19, at 49.

⁵¹ 410 U.S. 113 (1973).

⁵² LUKER, *supra* note 38, at 76.

separately. However, this compartmentalization can serve to obscure the fact that these seemingly distinct approaches are, in fact, interwoven cross-strands in an overall strategy to persuade teens to adhere to a more traditional moral standard.

1. Parental Involvement Requirements

Young women who obtain birth control or terminate a pregnancy without involving their parents have become a symbol of a world that has lost its moral compass. Not only do they do they transgress moral standards; these teens uproot natural family hierarchies by secretly engaging in adult conduct. To contain these disruptive impulses, conservative forces have sought to limit the autonomy of young women by enacting laws requiring them to seek the consent of or give notice to their parents before obtaining contraceptives or having an abortion.⁵³

Although focused on the consequences of sexual activity, these laws serve another critical function—they let parents know that their daughter is (or wishes to become) sexually active. By making visible this previously hidden activity, parental involvement laws reinvest parents with authority over their adolescent daughters. Limiting their claim to autonomy, these laws invoke a traditional understanding of family relations, in which the legal position of children is defined “through their status within families.”⁵⁴

Before proceeding, an important comment is in order. Nothing in this discussion is intended to minimize the significance of the decision to become sexually active or to have an abortion. Nor is it intended to disparage the important role that parents can play in the lives of their adolescent children. In an ideal world, all young women would be able to turn to parents for support and guidance. However, many fami-

⁵³ These laws are generally sponsored by “pro-life” and other conservative groups such as Concerned Women for America. See National Right to Life Coalition Homepage, <http://www.nrlc.org> (last visited Feb. 10, 2006); and Concerned Women for America Homepage, <http://www.cwfa.org> (last visited Feb. 10, 2006). Of course, other rationales are commonly advanced to justify these laws. Of central importance is that young women lack the decisional capacity to decide for themselves that they are not ready to become mothers. For a discussion of this, as well as other rationales see Teresa Stanton Collett, *Seeking Solomon's Wisdom: Judicial Bypass of Parental Involvement in a Minor's Abortion Decision*, 52 BAYLOR L. REV. 513 (2000). For a detailed critique of the capacity argument see J. Shoshanna Ehrlich, *Grounded in the Reality of Their Lives: Listening to Teens Who Make the Abortion Decision without Involving Their Parents*, 18 BERKELEY WOMEN'S L.J. 61 (2003).

⁵⁴ Janet L. Dolgin, *The Fate of Childhood: Legal Models of Children and the Parent-Child Relationship*, 61 ALBANY L. REV. 345, 393 (1997) (citing Parham v. J.R., 442 U.S. 584, 600 (1979)).

lies fall short of the ideal. The concern here is with disclosure that results from legal compulsion rather than flowing from family relationships that can sustain the communication.

a) Contraceptives

When it comes to access to birth control, Title X has been the primary target of efforts to impose parental involvement requirements; for the most part, state laws which permit confidential access to contraceptive services have not attracted the same degree of attention.⁵⁵ To date, efforts to amend Title X to add a parental notification requirement have been unsuccessful; however, in 1981, Congress did amend Title X to require providers to "encourage family participation" whenever minors seek contraceptive services.⁵⁶ However, since the reelection of George Bush, there has been a growing momentum in Congress to enact, as they are now commonly titled—a "Parent's Right to Know" law.⁵⁷

As conservatives seek to limit adolescent sexual activity, Title X is a logical target. Not only does it allow teens to obtain birth control without the knowledge of their parents, it also provides the funding

⁵⁵ Rachel K. Jones & Heather Boonstra, *Confidential Reproductive Health Services for Minors: The Potential Impact of Mandated Parental Involvement for Contraception*, 36 PERSP. SEXUAL & REPROD. HEALTH 182, 183 (2004), available at <http://www.guttmacher.org/pubs/journals/3618204.pdf>. However, the picture may be different if state funding is involved. Presently, teens in Utah and Texas cannot obtain state-funded contraceptives without parental authorization. *Id.* at 183. For the various state laws and their individual requirements, see The Alan Guttmacher Institute, *State Policies in Brief, Minors' Access to Contraceptive Services* (2005), available at http://www.agi-usa.org/statecenter/spibs/spib_MACS.pdf.

⁵⁶ Pub. L. No. 97-35, 95 Stat. 570 § 931(b)(1) (codified as 42 U.S.C. § 300(a) (1981)). Subsequently, based on a misinterpretation of this language, the Department of Health and Human Services issued regulations, requiring parental notification. Dubbed the "squeal rule," the regulations were struck down by two federal appellate courts as inconsistent with Congressional intent. See *New York v. Heckler*, 719 F.2d 1191, 1196 (2d Cir. 1983); *Planned Parenthood Fed'n, Inc. v. Heckler*, 712 F.2d 650 (D.C. Cir. 1983).

For the history of various efforts to amend Title X to add a parental notice or consent requirement, see Stephanie Bornstein, *The Undue Burden: Parental Notification Requirements for Publicly Funded Contraception*, 15 BERKELEY WOMEN'S L.J. 40 (2000).

⁵⁷ On June 21, 2005, Senator Thomas Coburn (R-OK) and Representative Todd Akin (R-MO), introduced a "Parent's Right to Know" bill. The law would require federally funded health clinics to notify parents at least five days in advance of providing contraceptives to their daughter. Parent's Right to Know Act of 2005, S. 1279, 109th Cong. § 2(a)(1) (2005); Parent's Right to Know Act of 2005, H.R. 3011, 109th Cong. § 2(a)(1) (2005).

for contraceptive services.⁵⁸ As critics see it, the government is making it easy for young women to engage in “risk-free” sex. As former Republican Senator Jesse Helms of North Carolina put it, “no one can deny the fact that Title X does indeed subsidize teenage sexual activity. . . . [a]t a minimum, Title X tends to create an atmosphere in which teenage promiscuity is viewed as normal and acceptable conduct.”⁵⁹ Similarly, Oklahoma Representative Ernest Istook explains, “When you subsidize something, you get more of it. The government should not subsidize teen sex.”⁶⁰

Critics further assert that Title X has promoted a culture of promiscuity by displacing parents in favor of the “abortion and condom crowd.”⁶¹ Turning again to Representative Istook, he asserts that “Title X has accelerated teen sex, by *undercutting* parents and standards. When government says morals are irrelevant, then our children are invited to act accordingly.”⁶² Likewise, Oklahoma Senator Tom Coburn, a principle sponsor of the 2005 “Parents’ Right to Know Act,” argues that this law is needed in order to “correct this irrational policy that *undermines* the vital relationship between parents and their children.”⁶³

⁵⁸ About one in four women in the United States obtain family planning services from a publicly funded clinic. Jennifer J. Frost et al., *The Availability and Use of Publicly Funded Family Planning Clinics: U.S. Trends, 1994-2001*, 36 PERSP. SEXUAL & REPROD. HEALTH 206, 206 (2004). In 2001, of the 6.9 million women who received such services, 1.9 million were teens. *Id.* at 209.

For more information on state and federally funded family planning programs, and the relationship between them, see generally *id.* (discussing state and federally funded family planning programs, and the relationship between them). See also Rachel Benson Gold & Adam Sonfield, *Family Planning Funding Through Four Federal-State Agencies, FY 1997*, 31 FAM. PLAN. PERSP. 176 (1999).

⁵⁹ Jeannie I Rosoff & Asta M. Kenney, *Title X and Its Critics*, 16 FAM. PLAN. PERSP. 111, 115 (1984) (reprinting Senator Jesse Helms’ testimony before the Labor and Human Resources Subcommittee on Family and Human Services, April 5, 1984).

⁶⁰ Press Release, Ernest Istook, Government vs. Parents, The Village Doesn’t Work (July 28, 1997), <http://www.house.gov/istook/col-ten.htm>.

⁶¹ Mary Ellen Burke, *Conservatives Push for Action on Parental Rights Bill*, HUMAN EVENTS ONLINE, July 26, 2005, <http://www.humaneventsonline.com/article.php?id=8312>.

According to Judie Brown, President of the American Life League, this crowd seeks to ensure that “parents are either cowed into silence or denied information about their children” (unless they are in favor of the “deadly” service of abortion) in order to provide Planned Parenthood and “their ilk” with a steady flow of young women seeking abortion services. Judie Brown, *Ribald Rhetoric—The Opposition to Parent’s Right to Know*, PROLIFEBLOGS.COM, June 24, 2005, <http://www.prolifeblogs.com/articles/archives/2005/06/index.php>.

⁶² Press Release, Ernest Istook, *supra* note 60 (emphasis added).

⁶³ Pete Winn, Parents’ Right to Know Act Reintroduced, CITIZENLINK, June 21, 2005, <http://www.family.org/cforum/feature/a0036934.htm> (emphasis added).

Highlighting what they see as the ultimate corrosive force of Title X, the argument is repeatedly made that "[i]t is outrageous that, in the United States, children need a permission slip from their parents before the school nurse can give them an aspirin, while, at the same time, children can obtain contraceptives at public health clinics without even notifying their parents."⁶⁴ From the conservative perspective, this is the ultimate insult that rends the fabric of the parent-child relationship. Invested with symbolic meaning, the permission slip for aspirin represents the totality of parental authority over their children, subject to the gaping hole created by Title X.⁶⁵

Although not speaking specifically about Title X, Lainie Friedman Ross puts both of these concerns—the encouragement of teen sex and the undermining of parental authority—into philosophical terms:

I am deeply troubled by specialized consent statutes and believe they are an inappropriate response by a liberal government. A liberal community must accommodate families that hold a wide spectrum of attitudes toward sexuality, and it must realize that these families may seek to structure the experience of their children according to their own values. . . . These statutes allow sexually active adolescents to circumvent parents who belong to subcommunities that discourage or forbid premarital sexual activity by their members. These, statutes, then circumvent parental decision-making authority.⁶⁶

b) Abortion

Where abortion is concerned, the subsidization of sexual activity argument drops away; since, unlike in the Title X context, the gov-

⁶⁴ *Id.*

⁶⁵ This is a very common argument, although ear piercing is the more common example of the irrationality of our consent policies. However, this argument misses the point. Although it is generally true that parents have authority over the health care of their minor children, this basic rule is subject to multiple exceptions based on other social values, such as the importance of ensuring that teens do not avoid obtaining needed health care services based on fear of parental disclosure. Moreover, with respect to ear piercing, if a parent does have strong views, a young woman need only wait until she is eighteen. The denial of consent does not put her at risk, or irrevocably alter her future life course. See J. Shoshanna Ehrlich, *The Abortion Decision: Seeking Decisional Equity for Young Women or Why Ear Piercing Is a False Analogy*, 1 MSL REV. 26 (2001); and J. Shoshanna Ehrlich, *Minors as Medical Decision Makers: The Pretextual Reasoning of the Court in the Abortion Cases*, 7 MICH. J. GENDER & L. 65 (2000).

⁶⁶ Lainie Friedman Ross, *Adolescent Sexuality and Public Policy: A Liberal Response*, 15 POL. & LIFE SCI. 13, 14 (1996).

ernment does not actually fund the objectionable service.⁶⁷ However, as with Title X, an essential theme is that parental authority over their minor daughters will be eroded if young women are permitted to make their own abortion decisions, as their decision may conflict with the views of their parents. As the Court explains in the case of *Bellotti v. Baird*, parental involvement laws are consistent with a parent's "claim to authority in [his or her] own household to direct the rearing of [his or her] children,"⁶⁸ and consultation is particularly important where abortion is concerned because it is a practice that raises "profound moral and religious concerns" for some people.⁶⁹

This theme is elaborated upon in subsequent cases. For example, in *Ohio v. Akron Ctr. for Reprod. Health*, the Court stated that because a young woman's decision "will embrace her own destiny and personal dignity, and the origins of the other human life that lie within the embryo. The State is entitled to assume that . . . the beginnings of that understanding will be within the family, society's most intimate association."⁷⁰ In *Planned Parenthood of Southeast Pennsylvania v. Casey*, the Court extolled the additional value of a waiting period as it gives parents the "opportunity to . . . discuss the consequences of her decision in the context of the values and moral or religious principles of their family."⁷¹

In invoking the moral and religious values that a parent might wish to bring bear upon a young woman's decision, the Court is most obviously referring to beliefs about the "origins of human life."⁷² However, according to the above quoted passage from *Akron*, the abortion decision also implicates a young woman's "destiny and personal dignity,"⁷³ which in turn, may implicate other moral and religious considerations.

Most importantly, in learning that their daughter has engaged in at least one act of sexual intercourse, parents may be confronted with the fact that she has violated their deeply held beliefs about the illicit na-

⁶⁷ A similar argument, however, has been raised with respect to the public funding of abortion, although the claim here is that the government is subsidizing murder rather than sexual activity.

⁶⁸ 443 U.S. 622, 638 (1979) (citing *Ginsberg v. New York*, 390 U.S. 629, 639 (1968)). However, the Court also made equally clear that this authority may not be exercised so as to divest a young woman of her right of choice. Accordingly, these laws must, therefore, provide a bypass mechanism that allows her to seek a confidential waiver of the involvement requirement. See Ehrlich, *supra* note 53.

⁶⁹ *Bellotti*, 443 U.S. at 640.

⁷⁰ 497 U.S. 502, 520 (1990).

⁷¹ 505 U.S. 833, 899-900 (1992).

⁷² Ehrlich, *supra* note 65, at 98-106.

⁷³ *Akron*, *supra* note 70, at 520.

ture of nonmarital and/or nonprocreative sex. For example, the Catholic Church teaches that sex for purposes other than the creation of offspring within the context of a marital relationship frustrates the natural purpose of sexuality and thus interferes with the will of God.⁷⁴ Disclosure thus serves to make visible that which had previously lain beneath the surface and gives parents the opportunity to discuss their daughter's behavior with her within the context of the values and moral or religious principles of the family.⁷⁵

c) A Flawed Approach

As discussed, parental involvement laws enable parents to "structure the experience of their children according to their own values."⁷⁶ They thus counteract a legal approach to adolescent sexuality that enables teens to disregard the moral universe of their parents. However, mandatory disclosure is problematic on a variety of levels.

First, although it is certainly true that minors do not possess the same legal rights as adults, it is equally true that they are not simply subordinate members of a holistic family unit. As the Supreme Court has made clear on multiple occasions, teens are legal persons with enforceable constitutional rights, both within and outside of the reproductive realm.⁷⁷ Thus, although parents have the right to direct the upbringing of their minor children, this does not mean that they can divest them of their rights or impose their will by force.

Also problematic is the claimed causal relationship between laws that permit minors to make their own reproductive decisions and family disintegration. As we have seen, proponents of mandated parental involvement believe this legal approach is responsible for driving a wedge between parents and their adolescent daughters. However, this argument confuses cause and effect. These laws do not create problems in family structures; instead, by recognizing the "medical and psychological harm"⁷⁸ that mandated disclosure can cause, they respond to the complex reality of adolescent life.

⁷⁴ JOHN T. NOONAN, JR., *CONTRACEPTION: A HISTORY OF ITS TREATMENT BY THE CATHOLIC THEOLOGIANS AND CANONISTS* 231-57 (1965). See also KRISTIN LUKER, *ABORTION AND THE POLITICS OF MOTHERHOOD* 59-60 (1984).

⁷⁵ See *Hodgson v. Minnesota*, 497 U.S. 417, 417 (1990).

⁷⁶ Ross, *supra* note 66, at 14.

⁷⁷ See, e.g., *In re Gault*, 387 U.S. 1 (1967) and *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

⁷⁸ *Protecting the Rights of Conscience of Health Care Providers and a Parent's Right to Know: Hearing Before the Subcomm. on Health of the H. Comm. on Energy and Commerce*, 107th Cong. 51 (2002) (prepared statement of Renee Jenkins, Professor and Chair, Dep't of Pediatrics and Child Health, Howard University Col-

According to testimony presented in 2002 in opposition to a proposed parental involvement amendment to Title X and on behalf of the American Academy of Pediatrics (AAP),

[I]nvolutionary parental notification can precipitate a family crisis characterized by severe parental anger and rejection of the minor and her partner. One third of minors who do not inform parents already have experienced family violence and fear it will recur. Research on abusive and dysfunctional families shows that violence is at its worse [sic] during a family member's pregnancy and during the adolescence of the family's children.⁷⁹

Similarly, more than a decade earlier, the Supreme Court, in striking down a two-parent notification law that did not include a bypass provision, recognized that the consequences of a notification requirement are "particularly pronounced in the distressingly large number of cases in which family violence is a serious problem" and that disclosure of a daughter's pregnancy "can provoke violence, even where parents are divorced or separated."⁸⁰

Apart from those minors who are at risk of a violent reaction, there is nothing to suggest that mandated parental notification will restore harmony or connection between parents and their adolescent daughters. In fact, when it comes to abortion, most young women confide in their parents regardless of whether or not they are legally obligated to do so, and those who do not have well-considered reasons that are rooted in the actual circumstances of their lives.⁸¹

lege of Medicine).

⁷⁹ *Id.* In 2002, the AAP represented 57,000 pediatricians across the country. This testimony was endorsed by the American College of Obstetricians and Gynecologists, the American Academy of Family Physicians, and the Society for Adolescent Medicine. In total, the statement was endorsed by more than 196,000 medical professionals involved in the provision of health care services to adolescents.

Other studies have also found that about one-third of minors who do not disclose their abortion plans to their parents based on fear of a violent or other adverse parental response, such as being kicked out of the house. See Ehrlich, *supra* note 53, at 166.

⁸⁰ *Hodgson*, 497 U.S. at 438-39 (1990) (discussing the district court's findings).

⁸¹ See Robert W. Blum et al., *Factors Associated with the Use of Court Bypass by Minors to Obtain Abortions*, 22 FAM. PLAN. PERSP. 158, 160 (1990); and Stanley K. Henshaw & Kathryn Kost, *Parental Involvement in Minors' Abortion Decisions*, 24 FAM. PLAN. PERSP. 196, 199 (1992).

For a detailed discussion on reasons why teens choose not to involve their parents see Ehrlich, *supra* note 53.

When it comes to disclosure, what appears to be most important are long-standing patterns of communication. If parents have recognized and accepted the emerging sexuality of their adolescent daughter and have responded to this reality in "age-appropriate ways," their daughter is more likely to feel that she can turn to them when faced with an unplanned pregnancy.⁸² Supporting the link between established patterns of communication and the increased likelihood of disclosure, one study found that more than half of the teens who had not discussed birth control with their parents did not tell their parents about their abortion, while two-thirds of the teens who had discussed birth control with their parents chose to confide in them.⁸³

Although the struggle is far from over, as it presently stands, young women have retained important control over their reproductive decisions. In the Title X context, although parental involvement is encouraged, it is not required, and as far as abortion is concerned, although far from a perfect process, young women may seek a waiver of the parental involvement requirement.⁸⁴ Thwarted in their efforts to completely rein in adolescent decisional autonomy, conservatives have embraced other strategies in their efforts to change sexual mores, including publicly funded abstinence-only education.

⁸² Mary S. Griffin-Carlson & Paula J. Schwanenflugel, *Adolescent Abortion and Parental Notification: Evidence for the Importance of Family Functioning on the Perceived Quality of Parental Involvement in U.S. Families*, 39 J. CHILD PSYCHOL. & PSYCHIATRY & ALLIED DISCIPLINES 543, 549 (1998). See also Nancy E. Adler et al., *Abortion Among Adolescents*, 58 AM. PSYCHOL. 211, 214 (2003); Mary S. Griffin-Carlson & Kathleen J. Mackin, *Parental Consent: Factors Influencing Adolescent Disclosure Regarding Abortion*, 28 ADOLESCENCE 1 (1993); Marcela Raffaelli et al., *Parent-Teen Communication About Sexual Topics*, 19 J. FAM. ISSUES 315 (1998); and Laurie S. Zabin et al., *To Whom Do Inner-City Minors Talk About Their Pregnancies? Adolescents' Communication with Parents and Parent Surrogates*, 24 FAM. PLAN. PERSP. 148 (1992).

⁸³ Aida Torres et al., *Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services*, 12 FAM. PLAN. PERSP. 284, 288-89 (1980).

⁸⁴ The burdens that minors encounter differ from state to state, as does the likelihood of being able to obtain a waiver. Thus, for example, minors in Alabama face a fairly hostile judiciary, while in Massachusetts, most young women are granted consent. However, regardless of what the process is like, young women generally report being terrified of having to appear before a judge regarding such an intimate matter. See Ehrlich, *supra* note 53, at 145-46, 173-74. The following two articles, which focus on the judicial waiver process in Alabama, provide the reader with an excellent sense of what young women go through in states that are generally hostile to waiver requests: Helena Silverstein & Kathryn Lundwall Alessi, *Religious Establishment in Hearings to Waive Parental Consent for Abortion*, 7 U. PA. J. CONST. L. 473 (2004) and Helena Silverstein, *In the Matter of Anonymous, A Minor: Fetal Representation in Hearings to Waive Parental Consent for Abortion*, 11 CORNELL J.L. & PUB. POL'Y 69 (2001).

2. "Abstinence-Only" Education

a) Counteracting Title X

Three years after Title X was amended to expressly add adolescents as an included population, Republican Senators Orin Hatch (Alabama) and Jeremiah Denton (Utah), "both staunch opponents of the Title X family planning program, which they believed undermined family values and promoted teen sexual activity and abortion, called for a new approach to teen pregnancy—one emphasizing morality and family involvement."⁸⁵ Seeking "to promote self discipline and other prudent approaches to the problem of adolescent premarital sexual relations,"⁸⁶ they successfully secured the passage of the Adolescent Family Life Act (AFLA), the first federal program to provide funding for abstinence education.⁸⁷

Since 1981, Congress has created two additional funding streams for abstinence-only education programs. In 1996, Congress approved a sweeping reform of the nation's welfare law.⁸⁸ A stated goal of reform was the elimination of any incentives that might have encouraged women to give birth outside of marriage.⁸⁹ In addition to dis-

⁸⁵ Rebekah Saul, *Whatever Happened to the Adolescent Family Life Act*, GUTTMACHER REPORT ON PUB. POL'Y 5 (1999), <http://guttmacher.org/pubs/tgr/01/2/gr010205.pdf>

⁸⁶ 42 U.S.C.A. § 300z(b)(1) (2005).

⁸⁷ The AFLA is Title XX of the Public Health Services Act. 42 U.S.C. § 300z. The Act also funds support services for pregnant and parenting teens. Senators Denton and Hatch were able to shepherd AFLA through the legislature without any hearings or voice votes. Saul, *supra* note 85, at 5.

Highlighting the Title X/abstinence education link, in 1999, as Representative Ernest Istook (R-Okla) subsequently explained after agreeing to withdraw a parental notification bill in exchange for a \$50 million increase in funding for abstinence-only education: "This was another way of addressing the entire issue of teen sexuality and the problems that are caused by it." Joan Lowy, *Congress Ready to Double Spending on Abstinence Campaign*, SCRIPPS HOWARD NEWS SERVICE (Oct. 18, 1999), available at <http://www.textlife.org/docs/abstmoney.html>.

⁸⁸ See Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, 110 Stat. 2105 (1996).

⁸⁹ However, according to Ron Haskins and Carol Statuto Bevan, former staff members of the House Ways and Means Committee who worked on the welfare reform law, there was little direct evidence "that any particular policy or program reduces the frequency of nonmarital births;" rather, "the congressional attack on illegitimacy [was] based far more on the value position that sex outside marriage is wrong and the consequences severe for mother, child, and society than on empirical evidence linking a particular policy with reduced nonmarital births." Ron Haskins & Carol Statuto Bevan, *Abstinence Education Under Welfare Reform*, 19 CHILD. & YOUTH SERVICES REV. 465, 466-67 (1997).

couraging "illegitimacy," proponents of welfare reform also hoped to promote "broader social objectives aimed at reforming individuals' sexual behavior and restoring 'traditional family norms' . . . among all Americans."⁹⁰ Seeking to "align Congress with the social tradition . . . that sex should be confined to married couples,"⁹¹ the welfare reform law included a major new abstinence-only education initiative that was designed to change "both behavior and community standards for the good of the country."⁹² With guaranteed funding of \$50 million per year,⁹³ Congress committed itself to supporting education programs that would give teens the "single, unambiguous message that sex outside marriage is wrong and harmful to their physical and mental health."⁹⁴

In 2000, Congress created the Community Based Abstinence Education program (CBAE),⁹⁵ which provides funds to state and local organizations through a competitive grants process. The majority of CBAE recipients are located in the South and include many "self-described Christian faith-based organizations,"⁹⁶ such as pregnancy crisis groups that are staunchly anti-abortion. Between 2001 and 2005, Congress increased CBAE funding from \$20 million to more than \$100 million in 2005—a five-fold increase.

⁹⁰ The Alan Guttmacher Institute, *Welfare Law and the Drive to Reduce "Illegitimacy"*, ISSUES IN BRIEF (2005), http://www.guttmacher.org/pubs/ib_welfare00.html.

⁹¹ Haskins & Bevan, *supra* note 89, at 475.

⁹² *Id.*

⁹³ Funding was initially only authorized for a five year period, but, Congress has renewed funding on a yearly basis at the \$50 million level.

To receive funds under PRWORA, a state must contribute three dollars for every four federal dollars, for a yearly total of about \$87.5 million in public monies—significant increase over the roughly \$10 million per year that had been available up until then for abstinence education under AFLA.

⁹⁴ Haskins & Bevan, *supra* note 89, at 468.

⁹⁵ This funding stream was initially known as the Special Projects of Regional and National Significance—Community Based Abstinence Education (SPRANS-CBAE) program, but when it was moved from the U.S. Department of Health and Human Services' (HHS) Maternal and Child Health Bureau into HHS Administration for Children and Families in 2005, the name was shortened to Community-Based Abstinence Education. Sexuality Info. & Educ. Council of the U.S. (SIECUS), A Brief Explanation of Federal Abstinence-Only-Until-Marriage Funding, <http://www.siecus.org/policy/states/2004/Explanation.pdf> (last visited Jan. 8, 2006).

⁹⁶ Sexuality Info. & Educ. Council of the U.S. (SIECUS), Policy Update, Siecus—August 2003, <http://63.73.227.69/policy/PUupdates/Arch03/arch030070.html> (last visited Jan. 8, 2006). In 2004, almost one-third of the grants went to faith-based groups. Sexuality Info. & Educ. Council of the U.S. (SIECUS), Policy Update, Siecus—July 2004, <http://www.siecus.org/policy/PUupdates/arch04/arch040116.html> (last visited Jan. 8, 2006).

b) The “Exclusive Purpose” Requirement

Although research shows that abstinence-only education does not change adolescent sexual behavior and that a comprehensive approach, which includes information about contraceptives, as well as, abstinence, both delays entry into sexual activity and decreases risky behavior,⁹⁷ recipients of federal funding must have as their “exclusive purpose” the teaching of the “social, psychological, and health gains to be realized by abstaining from sexual activity.”⁹⁸ Under a narrow definition of what qualifies as “abstinence” education, students may not be taught anything that contradicts the message “that a mutually faithful monogamous relationship in the context of marriage is the expected standard of sexual activity.”⁹⁹ This means that the curricu-

⁹⁷ See DOUGLAS KIRBY, EMERGING ANSWERS: RESEARCH FINDINGS ON PROGRAMS TO REDUCE TEEN PREGNANCY (2001), available at <http://www.teenpregnancy.org/downloads/reports.asp> (last visited Jan. 8, 2006).

⁹⁸ 42 U.S.C.A § 710(b) (2005). Programs that receive funding under CBAE must address all eight elements of the definition.

⁹⁹ *Id.* Of course, this means that these programs are inherently biased against gay and lesbian students. This bias is discussed in depth in the curricular reviews completed by Sexuality Info. & Educ. Council of the U.S. (SIECUS), see *infra* note 104.

Under section 710(b), the complete definition an “abstinence education program,” is one which:

- (A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;
- (B) teaches abstinence from sexual activity outside marriage as the expected standard for all school-age children;
- (C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;
- (D) teaches that a mutually faithful monogamous relationship in the context of marriage is the expected standard of sexual activity;
- (E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;
- (F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;
- (G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and
- (H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

42 U.S.C.A § 710(b).

Programs that receive money under CBAE (the largest source of abstinence funds) must address all eight points, thus making it a conservative favorite. Recipients of other funding sources have some flexibility in terms of which points they choose to emphasize, but in no case may a recipient contradict any of these eight points.

lum cannot teach students about contraceptives, unless the focus is on their failure rate.

Abstinence-only programs are gradually displacing more holistic approaches to sex education.¹⁰⁰ With their singular focus on purity, educational materials consistently stress the dire consequences that await the sexually active teen; although this message is directed to both young men and young women, it is embedded in highly gendered assumptions.

c) Controlling Desire through "Fear and Shame"

Unlike parental involvement laws that rely upon adult authority to redirect adolescent sexual impulses, abstinence-only education programs seek to convince teens to exercise self-restraint. Although the joys of waiting—so that “on the day of your marriage, you can give something really beautiful to each other, the joy of pure love”¹⁰¹—are presented, the overarching message is that premarital sex is inherently damaging. Based on an intensive review of six curricula that are used in abstinence-only education programs across the country, the Sexuality Information and Education Council of the U.S. (SIECUS) concluded that these programs rely on shame and fear to get their message across.¹⁰²

¹⁰⁰ In looking at changes between 1988 and 1999, one study concluded that there were “steep declines . . . in teacher support for coverage of birth control, abortion, information on obtaining contraceptives and STD services and sexual orientation Four in [ten] teachers cited abstinence as their most important message in 1999, up from one in four in 1988.” Jacqueline E. Darroch et al., *Changing Emphases in Sexuality Education in U.S. Secondary Schools, 1988-1999*, 32 FAM. PLAN. PERSP. 204, 211 (2000).

¹⁰¹ Anthony Zimmerman, *Weekly Letter*, CATHOLICMIND.COM, Oct. 2003, http://www.catholicmind.com/eletters/catholic_mind_letter_102003.htm (quoting Mother Theresa in an address to Students at Sophia University, Tokyo on April 26, 1981) (last visited Jan. 6, 2006).

¹⁰² Sexuality Info. & Educ. Council of the U.S. (SIECUS), SIECUS Reviews Fear-Based, Abstinence-Only-Until-Marriage Curricula, <http://www.siecus.org/reviews.html> (last visited Nov. 28, 2005). The six reviewed curricula include: Choosing the Best PATH; Choosing the Best LIFE; I'm in Charge of the FACTS; FACTS and Reasons; A.C. Green's Game Plan; and Sex Respect: The Option for True Sexual Freedom. The reviews further concluded that the curricula also omit important information, include inaccurate information, and rely upon religious beliefs and stereotypes. *Id.*

Another major review prepared for Representative Henry A. Waxman reached similar conclusions. See U.S. HOUSE OF REPRESENTATIVES: COMM. ON GOV'T REFORM MINORITY STAFF SPECIAL INVESTIGATIONS DIV., THE CONTENT OF FEDERALLY FUNDED ABSTINENCE ONLY EDUCATION PROGRAMS, PREPARED FOR REPRESENTATIVE HENRY A. WAXMAN (2004), available at <http://www.democrats.reform.house.gov/Documents/20041201102153-50247.pdf> [hereinafter Waxman Report].

The curricula that are used in the classroom include messages such as there is “no way to have premarital sex without hurting someone” and that just like “if you eat spoiled food, you will get sick,” sex outside of marriage has inevitable consequences for “you, your partner and society.” Students are also told that premarital sex damages one’s “bonding mechanism,” which reduces their chances of a successful marriage in the future.¹⁰³ They are taught that premarital sex can lead to bitterness, depression, loss of friends, and bad grades,¹⁰⁴ and that girls who have sex are six times more likely than their virgin counterparts to commit suicide.¹⁰⁵

Teaching materials include activities that a teacher can do with his or her class in order to highlight the shameful nature of engaging in premarital relations. “The Rose” is one example of such an exercise. The teacher begins by holding up three roses and likening their beauty to the beauty of the students. The students are asked to remove all of the petals from one rose, with each petal symbolizing a sexual relationship, one rose is left in tact, and a few petals are removed from the third rose. The teacher then tells the students that each rose represents a person and asks them to look ahead to marriage and think about which rose they would like to be—the rose which has nothing left to give, the rose which has fully preserved who it is and what it has to offer, or the damaged, but still beautiful, rose.¹⁰⁶

d) Gendered Messages

Abstinence-only education seeks to alter the conduct of both young men and young women. Its essential message regarding the

¹⁰³ Myra Batchelder & Martha E. Kempner, Keeping Our Youth “Scared Chaste”: SIECUS Curriculum Review: SEX RESPECT: A Fear-Based Abstinence-Only-Until-Marriage Curriculum: Junior High and Senior High School Students, <http://www.siecus.org/pubs/SexRespectfinal.pdf> [hereinafter Review of Sex Respect] (reviewing COLEEN KELLY MAST, SEX RESPECT: THE OPTION OF TRUE SEXUAL FREEDOM (1983)) (last visited Jan. 8, 2006).

¹⁰⁴ Myra Batchelder & Martha E. Kempner, Keeping Our Youth “Scared Chaste”: SIECUS Curriculum Review: GAME PLAN, A Fear-Based Abstinence-Only-Until-Marriage Curriculum for Middle School and High School Students (2005), available at <http://www.siecus.org/pubs/GamePlanFinal.pdf> [hereinafter Review of Game Plan] (reviewing SCOTT PHELPS & LIBBY GRAY, A.C. GREEN’S GAME PLAN (2001)).

¹⁰⁵ Myra Batchelder & Martha E. Kempner, Keeping Our Youth “Scared Chaste”: SIECUS Curriculum Review: CHOOSING THE BEST PATH, A Fear-Based Abstinence-Only-Until-Marriage Curriculum for Middle School Students (2005), available at <http://www.siecus.org/pubs/ChoosingtheBestPATHFinal.pdf> [hereinafter Review of Choosing the Best Path] (reviewing BRUCE COOK, CHOOSING THE BEST PATH (2001)).

¹⁰⁶ Review of Game Plan, *supra* note 104.

danger of premarital sex and the incalculable value of waiting until marriage holds both to the same sexual standard. Given the historic preoccupation with the preservation of female purity, this approach appears commendable. However, the reality is not this simple. Running underneath this gender-neutral veneer is a highly-gendered content which "treat[s] stereotypes about girls and boys as scientific fact."¹⁰⁷

The gendered message that permeates the abstinence curricula is perhaps best encapsulated in the advice that Dr. Colleen Kelly Mast, author of the *Sex Respect* curriculum, provides to mothers of pre-pubescent girls.¹⁰⁸ In a presentation entitled, "*What Do I Tell My 10 Year Old Daughter About Womanhood*," Dr. Mast instructs mothers to focus on the Six Ms—Modesty, Menstrual Cycle, Men and Women are Different, Mary, our Model of Meekness, Moodiness, and lastly, that Marriage is a Vocation that God Calls Many People To.¹⁰⁹

As far as modesty is concerned, a mother should instruct her daughter to "[a]void . . . provoking the eye of lustful men with your clothing as you grow in womanhood and beauty. Show him your skin, his hormones rush in."¹¹⁰ Regarding gender differences, a daughter should be made aware that

[e]ach gender has different gifts. They see life differently and have different emotional responses and methods of communication. . . . The girls will be physically mature before many of the boys . . . and the girls who start chasing boys early are not the ones who end up with the best marriages.¹¹¹

Girls should also be instructed to look at Mary, their heavenly mother, who was neither "aggressive, obnoxious [n]or gossipy," to help them "work spiritually to become virtuous."¹¹²

Dr. Mast also provides what she calls the "7 Cs" for boys.¹¹³ She instructs parents to help their sons to develop "spiritual and emotional discipline" before the "testosterone rolls" so as to avoid the phenom-

¹⁰⁷ See Waxman Report, *supra* note 102, at 16.

¹⁰⁸ Coleen Kelly Mast, *What Do I Tell My 10 Year Old Daughter About Womanhood?* (2000), <http://www.sexrespect.com/sixms.html>.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ The 7 Cs for boys are intended to help him to "develop spiritual and emotional discipline." Coleen Kelly Mast, *What Do I Tell My 10 Year Old Son?* (2000), <http://www.sexrespect.com/sevencs.html>.

ena she labels “testosterone RULES.”¹¹⁴ To help them mature into “strong Christian men,” boys should be encouraged to develop “courtesy and respect for women.”¹¹⁵ However, this is clearly a difficult task that demands much effort; accordingly, to help their sons develop the necessary willpower, parents should encourage them to engage in challenging activities, such as hard work, tough sports, and climbing large mountains.¹¹⁶

Similar messages run through much of the abstinence-only curricula. A pervasive theme is that boys have little control over their sexual desires and are easily satisfied by casual sex, whereas girls have far less natural desire and care about developing the emotional dimensions of a relationship.¹¹⁷ These stereotypes are presented as irrefutable gender truths and students are not encouraged to question their validity or the assumptions upon which they are based. Thus, despite the single sexual standard that these curricula endorse, the underlying message is that, given their more sensual nature, it is far more difficult for boys, than it is for girls, to lead a pure life.

This brings us back to where we started well over a century ago—that women are responsible for controlling male sexual behavior. As the *Sex Respect* curriculum states, “[B]ecause they become physically aroused less easily, girls are still in a good position to slow down the young man and help him learn balance in a relationship.”¹¹⁸ Of course, the implications of this view are that sex, with all of its damaging consequences, will be the girl’s fault, either because she failed to keep her own urges in check or was unable to help her boyfriend to control his.

Traditional assumptions about gender roles also flood the discussions about male/female relationships. Girls are warned not to offer too much in the way of suggestions or assistance, as this will “lessen a man’s confidence or even turn him away from his princess.”¹¹⁹ The *WAIT Training* curriculum explains that “[j]ust as a woman needs to feel a man’s devotion to her, a man has a primary need to feel a woman’s admiration. To admire a man is to regard him with wonder,

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ The 7 Cs for boys are: Christ, Commandments, Chastity, Custody of the eyes, Concentrate on developing your character, Control your behavior, no matter what your emotions are feeling, and Choose to take care of the body God gave you. *Id.*

¹¹⁷ See Sexuality Info. & Educ. Council of the U.S. (SIECUS), *supra* note 102, and Waxman Report, *supra* note 102, at 18.

¹¹⁸ Review of Sex Respect, *supra* note 103.

¹¹⁹ Waxman Report, *supra* note 102, at 18.

delight, and approval. A man feels admired when his unique characteristics and talents happily amaze her."¹²⁰

Boys take girls out, and girls are given to their husbands. The *Why kNOw* curriculum explains "[t]he father gives the bride to the groom because he is the one man who has had the responsibility of protecting her throughout her life. He is now giving his daughter to the only other man who will take over this protective role."¹²¹

In explaining the virtues of waiting, the *Respect Sex* curriculum explains that it helps young men to connect sex with "responsibility and commitment," while young women will realize that "sex is a lifetime gift of love. She can learn to trust her husband with her whole self and her whole future. She then is better able to experience sexual fulfillment when she gives her whole self within a trusting, caring marriage."¹²² Some curricula assume that the husbands will be breadwinners, while their wives remain at home. *Teen Aid* suggests caution in departing from this model: "[c]ouples considering the option of dual careers should spend time discussing whether the advantages outweigh the limitations, realizing that there are factors other than financial and self-fulfillment which must be kept in mind."¹²³

e) Virginity Pledging and the "Silver Ring Thing"

As part of their abstinence-only education, students may be asked if they would like to sign a "virginity pledge," in which they vow to remain chaste until marriage. Despite research showing that most pledgers break their vows before marriage and that upon becoming sexually active are less likely to use condoms or other contraceptives than non-pledgers,¹²⁴ virginity pledging has caught on and is not limited to the classroom. Parents are giving rings to their teens as symbols of their promise to remain pure,¹²⁵ fathers are signing pledges to protect their daughters' purity at "Father-Daughter Purity Balls,"¹²⁶

¹²⁰ *Id.* at 17.

¹²¹ *Id.* (emphasis added).

¹²² Review of Sex Respect, *supra* note 103.

¹²³ NARAL FOUNDATION, FEDERAL ABSTINENCE-ONLY EDUCATION: FUNDING MISINFORMATION, [http://www.naral.org/facts/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=1937](http://www.naral.org/facts/loader.cfm?url=/commonsspot/security/getfile.cfm&PageID=1937) (last visited Jan. 8, 2005).

¹²⁴ See Peter S. Bearman & Hannah Bruckner, *Promising the Future: Virginity Pledges and First Intercourse*, 106 AM. J. SOC. 859 (2001); and Hannah Bruckner & Peter S. Bearman, *After the Promise: The STD Consequences of Adolescent Virginity Pledges*, 36 J. ADOLESCENT HEALTH 271, 277 (2005).

¹²⁵ Mariella Savidge, *With This Ring . . . More Teens are Pledging Chastity Until Marriage*, MORNING CALL (Allentown, PA), May 27th, 2004, at E1.

¹²⁶ Tom Neven, *May I Have This Dance?*, FOCUS ON FAM, available at <http://www.family.org/fofmag/pf/a0025000.cfm> (last visited Jan. 8, 2006).

and groups such as the "Silver Ring Thing" (SRT) are drawing teens in with their upbeat messages about the joys of the chaste life.

Through its use of "high-tech lighting, video and sound displays, along with comedy and skits, to preach its abstinence-only message,"¹²⁷ SRT has found a way to make virginity hip. At the end of the show, those who take the abstinence vow (or commit to a second virginity) are given Bibles and a silver ring as a symbol of their commitment.¹²⁸ According to Denny Pattyn, the group's founder and executive director, SRT's mission is to offer teens "a personal relationship with Jesus Christ as a way to live a sexually pure life."¹²⁹ Although its approach may be different, SRT shares something important with its school-based counterparts—it too is the recipient of federal abstinence-only education funds.¹³⁰ Since 2002, SRT has received more than one million dollars so it can take its show on the road and hopefully reach its goal of putting "2 million rings on teens' fingers by 2010."¹³¹

CONCLUSION

In the 1830s, inspired by the Second Great Awakening, a small group of female moral reformers began reaching out to their fallen sisters. Seeking to save them from the predatory male, they challenged the sexual double standard which located sexual desire and agency in men. As modernization made it increasingly difficult for families and the community to closely monitor the sexual behavior of young women, moral reformers helped move concerns about their sexuality to the public stage. The initial focus on protection shifted to the development of strategies to control the sexually precocious young women whose behavior threatened normative assumptions about fe-

¹²⁷ Alisha Hipwell, *Federal Grant to Fund Message of Abstinence*, PITTSBURGH POST-GAZETTE, Dec. 10, 2003, at N1.

The American Civil Liberties Union has filed several law suits seeking to stop federal funding of the Silver Ring Thing on the grounds that this violates the separation of church and state under the first amendment. See Frank Jones, *Faith-Based Organizations Face Suits; Groups Using Federal Funds Are Accused of Prosecuting*, CHIC. TRIB., Jan. 2, 2006, at 8.

¹²⁸ Hipwell, *supra* note 127, at N1.

¹²⁹ All references to religion were removed from SRT's website after the ACLU filed its lawsuit in Massachusetts. Press Release, American Civil Liberties Union, *In Light of ACLU Lawsuit Charging the Federal Government with Funding Religious Activities, the Silver Ring Thing Removes Religious Content from Website* (May 19, 2005), available at <http://www.aclu.org/reproductiverights/gen/12609prs20050519.html>. See also Jones, *supra* note 127, at 8.

¹³⁰ *Id.*

¹³¹ Hipwell, *supra* note 127, at N1.

male desire and parental authority, and by 1920, the state had assumed considerable authority over errant young women.

In the 1960s, as the Johnson Era's War on Poverty sought to tackle the root causes of poverty, attention quickly focused on young women, as early childbearing was identified as an important contributing factor. Concerns about the consequences of sexual activity soon turned to moral approbation of the underlying conduct itself, and with the rise of the New Right, the law once again became an important vehicle for reining in young women. As we have seen, parental involvement laws and federally funded abstinence-only education programs are two important strategies in the ongoing effort to subject young women to parental authority and rigid codes of acceptable behavior. We have also seen the resurrection of historic assumptions about female responsibility for male sexual behavior, which, together with the legal assault on their autonomy, interfere with the ability of young women to make informed decisions for themselves in accordance with their own moral values and sense of place in the world.

