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# WEAVING A SAFETY NET: POOR WOMEN, WELFARE, AND WORK IN THE CHICKEN AND CATFISH INDUSTRIES

SHERRILYN A. IFILL\*

The 1990s ushered in the largest and most sustained economic boom in U.S. history. This robust economic picture has been marked by the maintenance of low unemployment rates. Nationally, the unemployment rate has remained at, near or below five percent for the past eight years.<sup>1</sup> Yet another indicator of American economic prosperity has been the tremendous drop in the welfare rolls.<sup>2</sup> Following the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRA) in 1996,<sup>3</sup> or “welfare reform,” federal welfare benefits were delegated to the states, lifetime time limits were set, and participation was narrowed to certain non-immigrant groups.<sup>4</sup> In accordance with the most significant requirements of the new Act, welfare recipients would be required to work in order to receive their

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\* Associate Professor of Law, University of Maryland School of Law. I wish to thank the editors of MARGINS for their vision and dedication to launching this journal. I am grateful for the invaluable support of my assistant Diane Freeland. I also thank Sarah White and the women line workers at the Delta Pride catfish processing plant in Mississippi whose story inspired me.

1. See George Hager, *Unemployment Rate Falls; Job Growth Slows, Giving Mixed Signals about U.S. Economy*, WASH. POST, June 5, 1999, at E1. See also John M. Berry, *Jobless Numbers that Set Off Bells*, WASH. POST, September 28, 1999, at E1. What often remains unsaid, however, is that many people are overemployed—holding down not only one job, but two or three to make ends meet. See Sri Ramakrishnan, *Study Details Impact of Poverty in U.S.*, WASH. POST, July 9, 1999, at E1. Thus, as America’s unemployment rate has gone down, the daily economic struggle of most Americans to survive has remained the same, or in many cases worsened. Nearly 10% of Americans cannot afford to pay their entire monthly gas, electric, or oil bills. *Id.* Seven percent cannot pay their full rent or mortgage. *Id.* And despite the low unemployment rate, one in five American children lives in poverty. *Id.*

2. See Robert Pear, *White House Releases New Figures on Welfare*, N.Y. TIMES, August 1, 1999, §1 at 16.

3. See Pub. L. No. 104-193, August 22, 1996, 110 Stat 2105.

4. See Pamela Loprest, *Long Ride From Welfare to Work*, WASH. POST, August 30, 1999, at A19. See also Robert Pear, *Most States Meet Work Requirement of Welfare Law*, N.Y. TIMES, December 30, 1998, at A1.

welfare checks.<sup>5</sup> This work requirement added to the work and training requirements of the 1988 Family Support Act (FSA).<sup>6</sup>

“Welfare reform” is often hailed as a success, particularly by conservative lawmakers.<sup>7</sup> President Clinton, who ultimately signed the welfare reform bill that was drafted and pushed by the Republican majority in Congress, has cited welfare reform as one of the successful innovations of his tenure as president.<sup>8</sup> That success has largely been measured by the number of families who have left the welfare rolls.<sup>9</sup> Indeed, since 1996, the welfare rolls have plummeted. The rolls have been cut in half nationally with approximately seven million families receiving welfare—down from 14 million.<sup>10</sup>

Others have maintained a more skeptical view of welfare reform. In 1996, President Clinton’s decision to sign the measure prompted resignations from several highly respected members of his own administration.<sup>11</sup> Many caution that the effects of welfare reform cannot be known until families begin to reach the five-year cap.<sup>12</sup> Even President Clinton recently conceded that potential dangers of the welfare reform bill may manifest themselves in the next few years as the lifetime limits kick in.<sup>13</sup>

But perhaps the most dramatic, dangerous, and lingering effect of “welfare reform” has been the constructed conversation about work as it relates to poor women that has dominated our nation’s public discourse. The PRA reflected a narrow and deceptively symmetrical conception of the relationship between poverty and work. Under this view, poverty was more a “state of mind” than a social and economic problem. Work

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5. See Stephen Barr, “Welfare-to-Work” Success; U.S. Agencies, Workers Exceed Hiring, Turnover Expectations, WASH. POST, August 2, 1999, at A17.

6. Family Support Act of 1988, Pub. L. No. 100-485, 102 Stat. 2343 (1988) (codified at 42 U.S.C. §§ 601-687 (1988)). The FSA mandated that single mothers eligible for welfare work or enter a job training program. It also established a system that would seek support from fathers.

7. See *id.*

8. See Jason De Parle & Steven A. Holmes, *A War on Poverty Subtly Linked To Race*, N.Y. TIMES, December 26, 2000, at A1.

9. *Id.*

10. See Amy Argetsinger, *Maryland Offers New Uses for Welfare Cash*, WASH. POST, September 29, 1999, at B1.

11. Alison Mitchell, *Two Clinton Aides Resign to Protest New Welfare Law*, N.Y. TIMES, September 12, 1996, at A1 (reporting on resignation of Peter Edelman and Mary Jo Barnes, Assistant Secretary at the Department of Health and Human Services).

12. De Parle & Holmes, *supra* note 8.

13. *Id.*

promotes self-esteem and a sense of responsibility; poverty is caused by the absence of these attributes rather than by structural economic or social conditions. Under this paradigm, the ills of poverty are caused by idleness, reflecting a personal failing rather than complex and deeply entrenched social and economic structural problems. Therefore, the problems faced by poor mothers are best solved by sending them to work—any kind of work. Poor mothers were demonized in this discourse. “Welfare mothers,” as they were labeled, would need the routine and rigors of work to build their self-esteem, character, and sense of responsibility.<sup>14</sup>

While Americans have long associated poverty with personal weakness, laziness, or moral deficiency,<sup>15</sup> the “welfare reform” debate focused this view on poor, black women. The powerful imagery and rhetoric of this debate drew its roots from the seeds sowed in the 1980s. President Reagan denounced “welfare queens”—women who, according to Reagan and many of his supporters, scam the welfare system while getting fat on filet mignon purchased with food stamps.<sup>16</sup> The construction of the “welfare queen” provided a visual image of a promiscuous, lazy, cunning cheat.

Of course, the image of the “welfare queen” was not without its racial dimensions. Despite the fact that through the 80s and 90s most women on welfare were white women,<sup>17</sup> there was no doubt that the

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14. See, e.g., CHARLES MURRAY, *LOSING GROUND* (1984).

15. See WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS* 155-60 (1996) (contrasting the American belief system about poverty and welfare with that of Europeans); Larry Cita Backer, *Welfare Reform At the Limit: The Futility of “Ending Welfare As We Know It,”* 30 HARV. C.R. — C.L.L. REV. 339, 348 (1995) (identifying belief that poverty is “a pathological condition” affecting the “individual pauper” as an “initial assumption” of our welfare paradigm).

16. Edwin Yoder, *Politics of Welfare is Laced with Hypocrisy*, ST. LOUIS POST-DISPATCH, August 6, 1998 at 7B. (“Reagan proclaimed that ‘in the war against poverty, poverty won’ and added to our cast of stock characters the memorable image of the ‘welfare queen’ who drives up in a Cadillac, in her mink coat, to buy beer and wine with food stamps.”) *Id.* See also Reena Shah, *The Hidden Faces of the Hungry*, ST. PETERSBURG TIMES, March 14, 1990, at 1A. (“The symbol of the poor today is . . . Linda Taylor, the famed ‘welfare queen.’ Taylor, a resident of a Chicago housing project, was said by Ronald Reagan in his 1980 presidential campaign to have had 80 aliases and collected \$150,000 in public aid. She actually defrauded the welfare program of \$9,793 and was sentenced to at least two years in prison.”) For a more realistic view of the day-to-day struggles of welfare-dependent women, see DAVID ZUCCHINO, *MYTH OF THE WELFARE QUEEN* (1997).

17. WILSON, *supra* note 15, at 166-67. Nevertheless, African Americans make up a

image of “welfare queen” was of a black mother, living in the inner-city.<sup>18</sup> The “welfare queen” served as a kind of racially-coded shorthand that conjured up long-held stereotypes about black women, without ever explicitly identifying race as a central component of the debate about poverty, welfare, and work.<sup>19</sup>

The “welfare queen” imagery built upon earlier images of poor, black women as unnatural and pathological. In 1965, the Labor Department published “The Negro Family: The Case for National Action.”<sup>20</sup> That report identified the role of black women—specifically black female-headed households—as a central component in the so-called “tangle of pathology” of black families.<sup>21</sup> Thus, the image of poor black mothers was ripe for exploitation in the more recent welfare reform debate.

Ironically, at precisely the time that poor black women were being demonized for not working outside the home, middle-class white women were increasingly being measured—and measuring themselves—by how much time they were able to spend with their children.<sup>22</sup> Professional

disproportionate percentage of those receiving welfare as compared with the percentage of blacks as a whole in the population.

18. *Despite Prevailing Stereotype, Whites, not Blacks, Collect Greatest Share of Public Aid Dollars*, EBONY, December 1992, at 54. (“Say the word ‘welfare’ and immediately the image of the lazy black welfare queen who breeds for profit surfaces in the minds of those who have come to believe the hideous stereotype. It is a myth that persists despite government figures and authoritative studies showing that whites overwhelmingly reap the lion’s share of the dole.”).

19. When President Clinton later nominated Lani Guinier to serve as the first female African American Assistant Attorney General for Civil Rights and she was decried by right-wing political commentators as a “quota queen,” the racial dimensions of the “welfare queen” label were further confirmed. Lani Guinier, *Who’s Afraid of Lani Guinier?*, N.Y. TIMES, February 27, 1994, §6 at 41 (“And from the moment conservative activist Clint Bolick branded Guinier ‘Clinton’s Quota Queen’ in a Wall Street Journal op-ed article, her days were as numbered as any other prey luckless enough to be caught in the signs of the mass and sometimes mindless media”). Lori Rodriguez, *In Defense of Cheated Nominee*, HOUS. CHRON., July 24, 1993, at A27.

20. U.S. DEPARTMENT OF LABOR, OFFICE OF PLANNING AND RESEARCH, THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION (1967) (also known as the Moynihan Report—named for its principal author, Senator Daniel Patrick Moynihan).

21. *Id.* Ironically, Senator Moynihan was a fierce opponent of the PRA, and has continued to express concern about the effect of the Act on the lives of poor children. See Michael Pakenham, *Moynihan Is at It Again – Collapsing Conventional Wisdom, Sounding Moral Alarms*, BALT. SUN, October 13, 1996, at 4N.

22. See e.g., Barbara Kantrowitz & Pat Wingert, *The Parent Trap*, NEWSWEEK, January 29, 2001, at 48. (“[M]any are starting to question whether time devoted to their children really can be efficiently penciled into the day’s calendar, like a business appointment with a couple of short, excitable clients”). Laura Shapiro, *The Myth of Quality Time*, NEWSWEEK, May 12, 1990, at 62; Mark Fisher, *The Trials of a Female Lawyer: Should Marcia Clark Be in Court or the Kitchen?*,

women agonized over whether they were able to make their children's soccer practice or go on the school trips. In essence, while poor women were being pushed out the door to work and encouraged to leave their young children with care providers as a demonstration of their integrity and worth, middle-class women were encouraged to put their children first and spend more time in the home.

In this regard, not only did work have a different meaning for poor women, but mothering and interaction with children also carried different meanings for poor and middle-class women. For middle-class mothers, the assumption was that greater contact was important to the development and stability of their children and families.<sup>23</sup> For poor women, there was no such assumption. Indeed, the contrary presumption prevailed. Poor women who stayed at home to rear their own young children were depicted as harming their children. In 1994, Speaker of the House Newt Gingrich suggested that orphanages would better serve poor children than being reared by their own mothers.<sup>24</sup> This presumption was reinforced by eugenics theories like those offered in *The Bell Curve* by Charles Murray and Richard Herrnstein which suggested that poor, uneducated parents were more likely to produce children with low IQs.<sup>25</sup>

Murray and Herrnstein's theories did not inspire a massive effort by their followers to eliminate poverty and to promote education among poor women. Instead, their work was used to fashion a more punitive public policy measure. The "welfare queen" and *The Bell Curve* images of worthless poor black mothers supported a growing right-wing claim that poor black mothers were undeserving of welfare assistance. Increasingly, it was suggested that these women could be compelled to earn welfare benefits. Imposing work requirements would ensure that

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WASH. POST, March 3, 1995, at B1.

23. *Id.*

24. Michael Kramer, *Newt's Believe It or Not*, TIME, December 19, 1994, at 43; Michael Wines, *Team in Place, Gingrich Comes Out Slugging*, N.Y. TIMES, December 7, 1994, at B11. "In extended remarks, Mr. Gingrich said he proposed that states be allowed to experiment with varying ways of tending to displaced and abused children—including, he said, orphanages or youth hostels—in contrast to a welfare system that encourages that children be placed with their parents or in foster homes." *Id.*

25. See RICHARD J. HERRNSTEIN & CHARLES MURRAY, *THE BELL CURVE: INTELLIGENCE AND CLASS STRUCTURE IN AMERICAN LIFE* (1995). See also *Federal Study Links Some Mild Retardation to Poverty*, N.Y. TIMES, March 31, 1995, at A17. *Id.*

poor women were not getting “something for nothing.” Work would stop “welfare mothers” from having babies—a practice that many conservative commentators insisted was undertaken deliberately by “welfare queens” as a means of receiving greater benefits.<sup>26</sup> For this reason Professor Dorothy Roberts refers to the welfare reform initiatives undertaken in the post-Reagan years as “contraceptive welfare laws.”<sup>27</sup>

The work requirements of welfare reform were not directed at eliminating poverty. Indeed, it scarcely mattered whether the work poor women would perform would be enough to support their families. Very little attention was focused on the work itself because the work provisions were not aimed at increasing the skills or marketability of poor women as workers in the formal economy. Rather than describing the value of work as important for establishing economic independence and stability for poor women and their children, the act of working became the barometer by which to measure the societal value of poor women. By working, poor women could transform themselves from the “undeserving poor” to the “deserving poor.”<sup>28</sup>

Nor was there any serious analysis by politicians supporting welfare reform of the likely negative effects on welfare dependent moms’ very young children who would be thrust into child care for ten to thirteen hours a day.<sup>29</sup> In fact, because *The Bell Curve* and other studies suggested that poor minority women were genetically responsible for the low IQ of their children, the traditional view that children benefit by increased interaction with and care from their mothers was implicitly rejected.

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26. See MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* 117 (1995) (citing 113 Cong. Rec. H11515 (daily ed. December 16, 1987)) (statement of U.S. Representative Marge Roukema (R-NJ)).

27. Dorothy Roberts, *The Only Good Woman: Unconstitutional Conditions and Welfare*, 1995 DENVER UNIV. L. REV. 931, 932.

28. See MICHAEL B. KATZ, *THE UNDESERVING POOR: FROM THE WAR ON POVERTY TO THE WAR ON WELFARE* (1989). See also FINEMAN, *supra* note 26, at 116-17.

29. Martha Minow identified some of the questions that caused her “mental alarm . . . to ring at the thought of work requirements for mothers of pre-school age children after the passage of the Family Support Act: “Who exactly is supposed to care for those children if their mothers enter the workforce? How will quality childcare be financed? Will there be jobs for impoverished mothers—and will the hours, transportation, and other requirements be compatible with good parenting? What are the back-up arrangements for days when the children are ill—will the daycare provider send them home, and will the mothers lose their jobs or fail their training programs if they stay with an ill child?” Martha Minow *The Welfare of Single Mothers and Their Children*, 26 CONN. L. REV. 817, 822-23 (1994).

Likewise, the conditions of the work poor women would undertake and the effect of that work on physical and mental health of mothers and their families was ignored.

In this paper, I examine the working conditions faced by many poor women of color. I focus on women working in the poultry and catfish industries. I contend most of the public discourse about welfare and work has ignored the conditions in which many poor women work. The working conditions of poor minority women in the catfish and poultry industries challenges the theory that the mere act of working adds value to the lives of poor women. I contend that poor women raising children, like all women, must be able to make choices about whether and when to work; and that those who choose to work need *meaningful* work to improve the lives of their families. I attempt to make a small contribution to ongoing progressive efforts to examine myths about “work” and their effect on public policy initiatives targeted at poor women.

I focus on the catfish and poultry industries for two principal reasons. First, the chicken and catfish boom of the past fifteen years has resulted in tremendous financial rewards for the chicken and catfish industries.<sup>30</sup> Experts estimate that catfish, particularly in Mississippi generate at least \$500 million a year for the catfish industry.<sup>31</sup> Nevertheless, Mississippi continues to have the highest poverty rate of any state in the nation.<sup>32</sup> Similarly, poultry has produced stunning financial rewards for companies like Perdue and Tyson. The U.S. chicken broiler industry makes well over \$1 billion in profits each year.<sup>33</sup> The health craze of the past fifteen years has seen a stunning rise in chicken as the replacement for “red meat” in most American homes.<sup>34</sup> Chicken, in effect, has become a staple of the American diet, and has

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30. See Richard Schweid, *Down on the Farm*, SOUTHERN EXPOSURE, Fall 1991, at 15.

31. *Id.*

32. See Karen DeMasters, *Percentage of Poor Found Lower Than U.S. Average*, N.Y. TIMES, November 7, 1999, § 14NJ at 6.

33. *Clean Up Poultry Industry Religious Leaders Demand Ethical Conduct from Poultry Processors*, PR NEWSWIRE, January 23, 1997.

34. See Lenore Miller, *Revisiting “The Jungle;” The Case of the Hamlet Chicken Processing Plant Is Not Closed*, WASH. POST, October 20, 1992, at A19.

made the owners of chicken processing plants incredibly wealthy.<sup>35</sup>

Secondly, chicken and catfish workers are overwhelmingly poor women of color. Thirty to forty percent of all poultry workers are Latino immigrants.<sup>36</sup> The vast majority of poultry plant workers in the south are African American single heads of households.<sup>37</sup> The vast majority of the catfish line workers in the Mississippi Delta region are African American women.<sup>38</sup> More disturbingly, the conditions in which women work in these industries is deeply racialized, bearing a striking similarity to the sharecropping system of decades ago, when black farmers were kept in perpetual debt and poverty by southern white landowners.<sup>39</sup>

Poor African American and Latino catfish and poultry line workers often face a similar reality to the historical cotton sharecropping families.<sup>40</sup> Indeed catfish has surpassed cotton in Mississippi and poultry has surpassed tobacco in North Carolina, as the largest agricultural enterprises in those states.<sup>41</sup> Workers in these plants must purchase their

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35. *Id.*

36. *Alliance Sends Thanksgiving Message to Reich; Labor Department Needs to Investigate Poultry Industry*, PR NEWSWIRE, November 26, 1996.

37. See Miller, *supra* note 34.

38. See Philip Dine, *Catfish Strike Could Boost Labor in 90's*, ST. LOUIS DISPATCH, December 28, 1990, at 1B.

39. See Andrea Stone, *Catfish and Picket Lines; Race Issue is Raised in Mississippi Strike*, USA TODAY, October 31, 1990 at 3A. From the late 1800s through the 1950s, many Southern black families were caught up in the trap of sharecropping. Under this system, black families purchased seeds and supplies from a "company store" owned by a plantation owner, who also leased a bit of land to a black family. The store also provided basic food stuffs to the black families. All of these items would be purchased on a credit system, to be paid when the family brought in their harvest. The family worked the land—usually growing cotton—and at the end of the season brought the cotton harvest to the plantation owner to sell. See Aremona G. Bennett, *Phantom Freedom: Official Acceptance of Violence to Personal Security and Subversion of Proprietary Rights and Ambitions Following Emancipation, 1865-1910*, 70 CHI-KENT. L. REV. 439 (1994) (describing the workings of the sharecropper system). Invariably, the black family would earn next to nothing. When they arrived for an accounting at the end of the season, they were often told by the overseer year after year that the debts they owed to the company store exceeded the value of their cotton harvest. In this way, blacks were kept in a position of perpetual poverty, perpetual debt, working land that did not belong to them, for wages that could not sustain their families. *Id.*

40. Peter Kilborn, *Charges of Exploitation Roil a Catfish Plant*, N.Y. TIMES, DECEMBER 10, 1990, at A1 (describing "plantation culture" in Delta Pride catfish plant).

41. See Kevin Sack, *In Mississippi, Will Poor Grow Poorer with State Welfare Plan?*, N.Y. TIMES, October 17, 1995, at A1. Bill Straub, *Some Tobacco Farmers Heed Call, Attempt to Diversify Their Crops*, THE DALLAS MORNING NEWS, October 8, 1995, at 16A. "North Carolina, the nation's top tobacco producer, is several steps ahead of Kentucky on diversification. Fifteen years ago, tobacco was the state's most lucrative farm product accounting for 25 percent of total income. Today it ranks third behind swine and poultry production." *Id.*

safety equipment—including gloves, knives, hairnets, aprons, and boots—from the company, which deducts the cost from their paycheck.<sup>42</sup>

They work for minimum wage in highly stressful jobs in unpleasant conditions that often result in injury. At the end of the day, these women still cannot afford to sustain their families on their wages. Because they live and work in regions where low-skilled employment opportunities are limited, they are compelled to keep working in the factories to provide a subsistence living for their families.

Finally, line work in chicken and catfish processing plants is difficult and dangerous work. Women line workers are exposed to stunningly high levels of injuries from repetitive motion disorders and cuts. Women of color are disproportionately exposed to cumulative trauma disorders.<sup>43</sup> These work-related injuries are not likely to diminish, given the recent passage in Congress of a bill reversing ergonomics rules promulgated by the Occupational Safety and Health Administration (OSHA) in the waning days of President Clinton's administration.<sup>44</sup> The OSHA rules would have required employers to take affirmative steps to minimize worker injuries from repetitive and cumulative trauma.<sup>45</sup>

In Part I of this article, I describe the challenges facing poor women of color in the catfish and chicken industries. In Part II, I explore how the public discourse about work, poverty, and welfare reform of the 1980s and 1990s has ignored the harmful effects of this kind of work on the physical and mental health of poor women of color and on the lives of their children. In Parts III and IV, I conclude by identifying some critically important areas of study and policy intervention that must be taken up to provoke a responsible discussion about the meaning of work as it relates to poor women.

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42. THE PUBLIC JUSTICE CENTER, *THE DISPOSABLE WORKFORCE: A WORKER'S PERSPECTIVE* 24 (1998) (available online) < <http://www.publicjustice.org/reports/poultry.pdf>>.

43. *Id.* at 7 (citing National Institute for Occupational Safety and Health, Health Hazard Evaluation Report, HETA 89-307-2009 (Feb. 1990)).

44. See Peter H. Stone, *Ergonomics Reversal: A Win for Business*, *BALT. SUN*, March 11, 2001, at 1C.

45. Steven Greenhouse, *Rules' Repeal Heightens Workplace Safety Battle*, *N.Y. TIMES*, March 12, 2001, at A12.

## I. CATFISH AND POULTRY

A. *The Rise of Catfish*

The catfish industry sprang to life as a profit-making enterprise in Mississippi in the early 1980s.<sup>46</sup> Farm staples like cotton and soybean were becoming increasingly less profitable as a result of rising interest rates and international competition.<sup>47</sup> By the early 1990s, catfish generated \$350 million in the Mississippi Delta.<sup>48</sup> The principal beneficiaries of the catfish boon have been a group of 400 to 500 white farmers who own the tens of thousands of acres of land in the Delta that have been flooded to make artificial catfish ponds.<sup>49</sup> The owners of this land formed a consortium which owns and controls all aspects of the catfish industry.<sup>50</sup> This form of ownership—virtual integration—means that the same owners own the land where the catfish is farmed, supervise the harvest of catfish, and own the processing plants where the fish are cut, cleaned, and packaged.<sup>51</sup> The owners of the catfish industry formed a cooperative to grow the feed that the catfish eat.<sup>52</sup> Despite this tremendous boon to the local economy, the Mississippi Delta remains among the poorest regions in the country.<sup>53</sup> The people who do most of the hands-on work in the catfish industry—maintaining the catfish ponds, cutting the grass, feeding the fish, taking oxygen readings in the ponds, driving the trucks, lifting the packages of fish, loading the trucks, processing the fish—are black and poor.<sup>54</sup>

While most of the truck drivers and loaders are African American men,<sup>55</sup> the line workers within the catfish plants tend to be African American women, who are single heads of their households.<sup>56</sup> They tend

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46. See Schweid, *supra* note 30, at 15.

47. *Id.* at 16.

48. *Id.*

49. *Id.* at 15.

50. *Id.*

51. *Id.* at 14.

52. See Schweid, *supra* note 30, at 17.

53. On his 1999 Anti-Poverty tour, President Clinton, in a repeat of Bobby Kennedy's trip to the region years ago, went to the Mississippi Delta to decry poverty. See Charles Babington, *Clinton Urges Corporate Investment to Fight Pockets of Poverty*, WASH. POST, July 8, 1999, at A2; see also Charles Babington, *Clinton Tells Poorest Tribe: "We Can Do Better,"* WASH. POST, July 8, 1999, at A2.

54. See Loprest, *supra* note 4, at A19.

55. See Dine, *Catfish Strike*, *supra* note 38, at 1B.

56. Telephone interview with Sarah White, shop steward at the Delta Pride catfish

to work for minimum wage—just \$5.15 an hour.<sup>57</sup> Over years of work, they can work their way up to a top salary of \$6.80 an hour.<sup>58</sup> They work typically an eight- to ten-hour day.<sup>59</sup> Immediately prior to and during the Lenten season—from January to April—when the demand for fish in the American public is at its highest, the catfish line workers in Mississippi work from eight in the morning until nine or ten at night.<sup>60</sup> If they refuse to work the longer hours they accumulate “tardies.”<sup>61</sup> Three “tardies” equals one day and twelve accumulated days results in automatic dismissal, with no opportunity to be rehired for three years.<sup>62</sup>

Line workers are assigned to different stations—like “cutting heads” “ripping stomachs,” “filleting” or “skinning.”<sup>63</sup> It is here that line workers engage in a single repetitive motion to accomplish their task.<sup>64</sup> It is among these workers at the “kill table” that the injury of carpal tunnel syndrome is most prevalent.<sup>65</sup> Workers at the “kill table” are also exposed to other injuries such as serious cuts, punctures, and cut-off fingers.<sup>66</sup> The level of injuries is directly related in many instances to the “line speed”—the speed at which the conveyor belt brings the catfish to each worker. Line workers are often required to eviscerate fifteen to eighteen fish each minute.<sup>67</sup> The speed of the line is a major issue of controversy between line workers and owners—as owners seek higher prices by maintaining a fast pace of processing and line workers seek to protect their physical health.<sup>68</sup> Recent efforts have resulted in increased

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processing plant in Indianola, Mississippi (October 19, 1999)(interview notes on file with author). See also Kilborn, *supra* note 40, at A1.

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. Interview with Sarah White, *supra* note 56.

63. *All Things Considered* transcript, September 10, 1994. See also Kilborn, *supra* note 40.

64. See Andrea Stone, *supra* note 39, at 3A.

65. *Id.*

66. *Id.*

67. *Id.*

68. *Delta Pride Workers to March on Plant Demanding Release of Medical Records*, PR NEWSWIRE, December 6, 1990. Bob Hall, research director for the Institute for Southern Studies, contends that both the catfish and poultry industries regard workers as replaceable assembly-line cogs: “It is treating workers as if they are parts of a machine, but you can’t oil a person’s arm. They literally wear down and wear out.” Jeff Kunerth, *Catfish Plant Workers Challenge Line’s*

“rotation” of workers at the “kill table” in the largest catfish processing plant in the country, Delta Pride.<sup>69</sup>

Temperature was also a serious health issue at the plants. Many of the women were regularly ill with flu-like symptoms. Temperatures were kept in some plants as low as forty degrees Fahrenheit to ensure the freshness of the fish.<sup>70</sup> The floor, covered in water and fish parts, is always slippery.<sup>71</sup>

Workers in the catfish processing plant frequently refer to the “plantation mentality” that continues to pervade the workplace.<sup>73</sup> A union official cited the legacy of the plantation racial hierarchy as partially responsible for Delta Pride’s recalcitrant position during the 1990 strike. Referring to the local catfish owners’ view of the black female workforce, he remarked, “they’ve switched them from the cotton fields to the catfish plant, and they still regard them as field hands.”<sup>74</sup>

A day of line work is filled with personal indignities. Prior to their 1990 strike, Delta Pride line workers were entitled to only six trips to the bathroom each week for only five minutes at a time.<sup>75</sup> Although today line workers are permitted to use the bathroom more freely, they are often required to tell the supervisor or “overseer” if they have “a personal problem”—to explain why they might take longer than usual in the bathroom.<sup>76</sup> One worker remarked, “[e]ven if you have to change your Kotex, you have to tell them that. It’s embarrassing.”<sup>77</sup> Another noted, “I don’t believe they would treat white ladies this way.”<sup>78</sup>

In this regard, one community activist observed that “[i]n many

*Safety*, ORLANDO SENTINEL-TRIBUNE, March 26, 1990, at A1.

69. In response to an OSHA inquiry, Delta Pride stated that it had begun implementing a program of “employee training, work station improvements, job rotation, equipment modifications and physical exercises.” *Id.*

70. *Id.*

71. Kilburn, *supra* note 40.

72. *Id.*

73. Donna St. George, *Mississippi Strikers Combat a “Plantation Mentality,”* PHILADELPHIA INQUIRER, November 29, 1990.

74. Philip Dine, *Dispute in the Delta: Struggle at Catfish Plant Pits Poor Blacks Against Prosperous Whites*, ST. LOUIS POST-DISPATCH, October 8, 1990, at 1A. (“Joe Price, 37, of the union’s regional office in Atlanta, attributes Delta Pride’s hard stance to its ownership by local farmers with strong attitudes about the role of blacks, especially women).

75. See Dine, *Catfish Strike*, *supra* note 38.

76. Interview with Sarah White, *supra* note 56; see Dine, *Catfish Strike*, *supra* note 38, at 1B.

77. St. George, *supra* note 73.

78. *Id.*

ways, the catfish industry has simply replaced cotton with catfish. The rest remains the same."<sup>79</sup>

For women coming from "welfare to work" the challenges for catfish line-workers are even greater. Because catfish line workers jobs are considered "unskilled labor," many women coming for the first time into the workplace are given little or inadequate training. Line workers are typically required to filet fifteen fish in a minute. One can imagine the training needed to perform such a task safely and effectively for hours at a time. At Delta Pride, new workers are given two weeks to learn the job.<sup>80</sup> As a result of the inadequate training, women coming from welfare to work may be the most likely to be injured as line workers.<sup>81</sup> According to one of the plant workers, when these women injure themselves they are often fired, although the company will simply say that "they are not working out."<sup>82</sup> Once on the job, the women are given two months' probation.<sup>83</sup> If they survive probation they are able to obtain medical insurance only after six months.<sup>84</sup>

For both old and new line workers, working in the catfish industry rarely provides enough funds to sustain the family.<sup>85</sup> Many workers supplement their income by taking evening jobs after a full day at the catfish processing plant.<sup>86</sup>

### *B. Poultry Work*

The experience of workers in the poultry industry is strikingly similar. Poultry is the South's largest agricultural product.<sup>87</sup> The Delmarva region is the fourth-largest chicken broiler production area in

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79. Schweid, *supra* note 30, at 16.

80. Interview with Sarah White, *supra* note 56.

81. *Id.*

82. *Id.*

83. See Roland Klose, *Delta Pride Strikers Win Ms. Award For Courage*, THE COMMERCIAL APPEAL (Memphis), May 16, 1991, at B4.

84. *Id.*

85. Interview with Sarah White, *supra* note 56; see also Dine, *Catfish Strike*, *supra* note 38.

86. See Videotape: *This Far By Faith*, (California Working: Berkley, California 1991) (produced by Patrice O'Neill and Rhian Miller).

87. Peter Applebone, *Worker Injuries Rise in Poultry Industry as Business Booms*, N.Y. TIMES, November 6, 1989, at A1.

the U.S.<sup>88</sup> Five companies control more than half of the annual broiler production in the poultry processing industry.<sup>89</sup> Like the catfish industry (which incidentally modeled itself after the poultry industry), the poultry industry is vertically integrated.<sup>90</sup> This means that the same company owns the eggs, processing plants, distribution system, and contracts with small farmers.

Although “chicken catchers,” who collect thousands of birds in a “catch” from local farms, and truck drivers tend to be African American and Latino men,<sup>91</sup> the line workers in poultry processing plants tend to be African American and increasingly Latino women.<sup>92</sup> Like the women on the catfish line, poultry line workers work at incredible speeds, repeating the same motion over and over again. Some workers eviscerate the chickens—cutting them open and scooping out the innards—and others debone. These workers are most vulnerable to cumulative trauma disorders. Line speeds are a serious problem for line workers in the poultry industry. According to the Bureau of Labor Statistics, the poultry industry recorded the fifth highest rate of cumulative trauma disorders.<sup>93</sup> Although the Department of Agriculture regulates line speed to ensure food safety, violations often occur. In 1997, Perdue’s plant in Georgetown, Delaware reportedly violated the Department’s line speed limit twenty-two times.<sup>94</sup> According to OSHA, in North Carolina, ninety-nine percent of the participants in high exposure positions were black and eighty-six percent were women.<sup>95</sup> Ammonia leaks and chicken blood, feces, and fat are all over the environment.<sup>96</sup> As a result, poultry workers are exposed to respiratory hazards.<sup>97</sup>

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88. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 3.

89. *Id.* at 4.

90. See Eric Lipton, *Poultry Poses Growing Potomac Hazard: Chicken Production Employs Many But May Taint Water For Many More*, WASH. POST, June 1, 1997, at A01; THE PUBLIC JUSTICE CENTER, *supra* note 42, at 5.

91. See Charlie LeDuff, *At a Slaughterhouse, Some Things Never Die: Who Kills, Who Cuts, Who Bosses Can Depend on Race*, N.Y. TIMES, June 16, 2000, at A1; Lena H. Sun & Gabriel Escobar, *On Chicken’s Front Line*, WASH. POST, November 28, 1999, at A01; Heather Dewar & John Rivera, *At Poultry Plant Workers Find Their Voice*, BALT. SUN, February 2, 1998, at 1B.

92. *Id.*

93. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 7.

94. Sun & Escobar, *supra* note 91.

95. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH, HEALTH HAZARD EVALUATION REPORT, HETA 89-307-2009 (Feb. 1990).

96. See Miller, *supra* note 34.

97. See *Clean Up Poultry Industry Religious Leaders Demand Ethical Conduct From*

Working conditions in poultry plants received sustained national attention for the first time after the 1991 fire at Imperial Foods, a poultry processing plant in Hamlet, North Carolina, where twenty-five workers were killed and fifty-six were injured.<sup>98</sup> Most of the workers were killed or injured because the owners of Imperial Foods had padlocked the exit doors to the plant from outside. The owners kept the doors locked, they said, to keep workers from stealing chickens. The owners of Imperial Foods later pled guilty to involuntary manslaughter and were sentenced to twenty years in prison.<sup>99</sup> At that time, Congressional hearings were held to address the conditions of poultry workers and OSHA enforcement was increased. Yet today it is estimated that 28,000 poultry workers lose their jobs or become disabled due to work-related injuries.<sup>100</sup> Poultry has been listed as one of the five most dangerous industries for workers.<sup>101</sup>

Many poultry plant workers are immigrants from Guatemala and other Central American countries lured by the promise of decent wages.<sup>102</sup> These workers, like earlier sharecroppers who purchased seeds and provisions from the landowner's "store," buy their aprons, gloves, hair nets, and safety equipment from a company store.<sup>103</sup> Like catfish workers in the Delta, poultry workers are subject to stringent rules restricting the number and frequency of bathroom breaks.<sup>104</sup> The Department of Labor has also found "substantial overtime violations" among poultry employers.

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*Poultry Processors*, PR NEWSWIRE, January 23, 1997.

98. Miller, *supra* note 34.

99. *Id.*

100. *Id.*

101. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 7 (citing Bureau of Labor Statistics).

102. Gabriel Escobar, *Immigration Transforms a Community: Influx of Latino Workers Creates Culture Clash in Delaware Town*, WASH. POST, November 29, 1999, at A1.

103. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 24.

104. *Id.* at 19.

## II. THE EFFECT OF CATFISH AND POULTRY PROCESSING WORK ON WOMEN'S HEALTH

### A. *Physical Effects*

The physical effect of poultry and catfish processing work has been well documented. As discussed above, in the jobs in which women are disproportionately employed in the plant—cutting and deboning chicken and cutting and filleting catfish—serious cuts and repetitive motion injuries present the most serious health risks. The struggle between line workers and management invariably returns to disagreements over line speeds—with managers seeking to speedup the line and employees trying to maintain safe speeds for workers. In his final days in office, President Clinton attempted to respond to the risk of cumulative stress in these industries by implementing OSHA's proposed ergonomics standards through an executive order.<sup>105</sup> The order required OSHA to impose workplace safety regulations on employers, specifically to target cumulative trauma disorders. In March 2001, at the urging of industry lobbyists, Congress voted to overturn those regulations, leaving workers like those on catfish and poultry lines vulnerable to continued repetitive motion injury and disability.<sup>106</sup>

Workers are also exposed to a variety of chemicals such as ammonia and chlorine that can cause bodily injuries.<sup>107</sup> In addition, the cool temperature in the plants and presence of cold water in vats and on the floor promote a variety of viral infections among many women.

The rigid structure of the work environment at poultry plants also imposes a variety of rules that have both physical and mental consequences for line workers. For example, the enforcement of ten-minute bathroom breaks has reportedly caused some workers to “relieve themselves while working on the line or to withhold fluid intake to control the need to urinate while working.”<sup>108</sup> These restrictions

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105. See *The NewsHour with Jim Lehrer: Ergonomic Debate* (PBS television broadcast, March 7, 2001) (transcript available online) < [http://www.pbs.org/newshour/bb/health/jan-june01/ergo\\_03-07.html](http://www.pbs.org/newshour/bb/health/jan-june01/ergo_03-07.html)>. See also, OSHA Ergonomics Program Standard, 65 FR 68846, Nov. 14, 2000 (available online) < [http://www.osha-slc.gov/OshStd\\_data/1910\\_0900.html](http://www.osha-slc.gov/OshStd_data/1910_0900.html)>.

106. Randall Mikkelsen, *Bush Signs Congress's Repeal of Work Safety Rule*, Reuters Newswire, March 20, 2001.

107. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 20-21.

108. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 20.

reportedly are most egregiously felt by pregnant women workers. The imposition of these requirements assaults the dignity of individual workers.

New research into the effects of exposure to the growth-promoting antibiotics routinely given to poultry may reveal deeper and more long-term health effects for poultry workers. Studies demonstrate that antibiotic resistance may be transferred during occupational or environmental contact with animal waste.<sup>109</sup> Poultry workers may suffer from high levels of antibiotic resistance (AR) as a result of their constant and close exposure to the carcasses and feces of chickens treated with a variety of antibiotics to stimulate growth. Increased levels of antibiotic resistance and its correlation with increased use of growth-producing antibiotics in animal feed production is a major health concern.<sup>110</sup>

Of course, in the case of poultry workers at the Imperial Plant in Hamlet, North Carolina, work at the plant proved fatal when a fire broke out and employees were unable to get out of the doors that had been locked from the outside by the plant owners. The plant was the largest employer in the town. The overwhelming majority of those employed by the plant as laborers were African American women. Citing fears that workers would steal chickens, management admitted to locking the doors of the plant. Although the Hamlet plant deaths were caused by egregious conduct on the part of management, routine employer decisions—such as how fast to set line speeds—impact the physical health and safety of poultry and catfish workers.

### *B. Mental Effects*

The relationship between work stress and depression has been

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109. See, e.g., Simonsem GS, et al *The Transmission of Van-A-Type Vancomycin-Resistant Enterococci and Van-A Resistance Elements Between Chickens and Humans at Avoparcin-Exposed Farms*, MICROBIAL DRUG RESISTANCE 4:313-318 (1998); Levy SB, Fitz Gerald GB, Macone AB, *Changes in Intestinal Flora of Farm Personnel After Introduction of a Tetracycline-Supplemental Feed on a Farm*. NEW ENGLAND JOURNAL OF MEDICINE 295, 583-588 (1976).

110. Levy SB, *The Challenge of Antibiotic Resistance*, SCI. AMER. 278: 46-53 (1998); Austin and Kakehashi M, and Anderson, RM, *The Relationship Between the Volume of Antimicrobial Consumption in Human Communities and the Frequency of Resistance*, PROC. NAT'L ACAD. SCI. USA 96: 1152-1156 (1999).

identified in a number of studies. It cannot be doubted that line work in catfish and poultry plants is highly stressful. Line work requires high levels of concentration and discipline. Chicken moves at a speedy pace. Cutters and deboners are required to wield sharp knives at an alarming speed. Not only is the work difficult, but the conditions within the plants themselves are punishing. The temperatures are alternately cold and hot; the hours are long and smell is often unpleasant.<sup>111</sup> Tensions among workers on the line may make the workplace even more stressful.<sup>112</sup>

Because of both deeply embedded “cultural expectations” and the subordinate status of women in many workplaces, women are particularly subject to work stress.<sup>113</sup> They are often expected “to smile, be cheerful, show concern for people when they ill, and laugh at the jokes of male colleagues.”<sup>114</sup> In this regard “women do more emotional labor in the workplace.”<sup>115</sup> This is further complicated by the presence of racial hierarchies in both the catfish and poultry plants—hierarchies deeply rooted in the South. Workers in catfish plants notice that supervisors are often white men, who stand over or near the line workers sometimes with a stopwatch to ensure the speed of the line.<sup>116</sup>

The rigid enforcement of “bathroom break” rules in the plants assaults the dignity of women working on the line. Long bathroom lines and the need to remove uniforms often make the ten-minute time limit inadequate.<sup>117</sup> Moreover, the frequency of bathroom breaks is highly regulated. In a survey of poultry workers in the Delmarva region, 59.7 percent reported receiving two bathroom breaks per day.<sup>118</sup> Nearly forty percent reported that they received only one such break each day.<sup>119</sup> The “bathroom break” issue is an especially palpable assault on the dignity of women line workers given both the gendered and racial dynamics of the supervisor/line worker relationship. Line workers must absorb the

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111. Sun & Escobar, *supra* note 91. “The plant smells like wet feathers. Temperatures range from below freezing—in what is known as the 28-degree room, where packages await shipping—to 120 degrees by the scalding, which loosens feathers.” *Id.*

112. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 31.

113. JOANNE B. CIULLA, *THE WORKING LIFE: THE PROMISE AND BETRAYAL OF MODERN WORK* 123 (2000).

114. *Id.*

115. *Id.*

116. See Kilborn, *supra* note 40.

117. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 19.

118. THE PUBLIC JUSTICE CENTER, *supra* note 42, at 18.

119. *Id.*

indignity of the bathroom break rules each day.

Moreover, because the work rarely pays enough to move women line workers out of poverty, line work is emotionally defeating. Women typically leave their children early in the morning, work in unpleasant and physically perilous conditions, and are rarely paid enough money to move their families out of poverty. In this sense, the work is not only physically difficult, but emotionally and spiritually defeating as well.

For women working at the plants pursuant to “welfare to work” requirements the defeating nature of the work may be particularly egregious. They are compelled by the new welfare law to pursue this work regardless of the conditions and the likelihood that the work will remove them from dependence on aid. The work is instead required as proof of their worthiness to receive assistance. Thus, many of these workers are working not to lift their families out of poverty, but to pursue the elusive goal of moving from the ranks of the “worthless poor” to a place among the “deserving poor.” In both instances the women and the their families are still poor—without much hope that this reality will change.<sup>120</sup>

Additionally, working in the harsh conditions of the poultry and catfish plants may compromise the mental health of women moving from “welfare to work” because many women on welfare already suffer from depression or other untreated mental problems. Adults living in persistent poverty are often depressed.<sup>121</sup> Depression may be a particular problem for poor mothers,<sup>122</sup> who face unique pressures in rearing children in often unsafe and stressful living conditions. Many poor women have been victims of rape, sexual abuse, or domestic violence.<sup>123</sup> These experiences often result in the particular vulnerability of poor women to a variety of mental health problems that accompany trauma.<sup>124</sup>

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120. Indeed the persistence of seemingly intractable poverty has been glossed over in many rosy accounts of welfare reform’s success.

121. Sandra Danziger, et. al., *Barriers to the Employment of Welfare Recipients*, at 5 (visited March 5, 2001) <<http://www.ssc.wisc.edu/irp/pubs/dp119399.pdf>> (Institute for Research on Poverty, Discussion Paper No. 1193-99).

122. *Id.* at 16.

123. *Id.* at 5.

124. Karen de Sa, *California Program Aims to Help Downtrodden Women Deal with Life*, SAN JOSE MERCURY NEWS, February 19, 2001 (citing study by California Institute of Mental Health, which found that “most welfare parents had at least one diagnosable disorder” and that

For example, several recent studies suggest that women on welfare—regardless race or educational level—are disproportionately victims of early sexual abuse.<sup>125</sup> Earlier studies show a similar correlation between early sexual abuse and welfare dependency in women.<sup>126</sup> Early sexual abuse is strongly correlated with depression in women. As victims of early sexual abuse, many women on welfare are coping with this burden while raising their children and working in highly stressful and dangerous work environments. Given the likelihood that welfare-dependent women suffering from depression are most often not in treatment, highly stressful work may produce unmanageable levels of mental and emotional stress in single mothers, thus further compromising their parenting abilities.

### *C. Effects on the Family*

The welfare-to-work requirements of the 1996 welfare law presume that a mother working outside the home is better for the family than a stay-at-home mom on welfare. The more familiar debate around “working moms” has centered on the desire of middle-class educated moms to advance up the career track at the same rate as their male counterparts. In this debate, professional women sought greater participation and upward mobility in the formal economy.

Poor women were not a part of this debate. Their experience differed from that of white middle-class women. Poor African American women traditionally worked outside the home<sup>127</sup> as maids, schoolteachers, or nurses to the children of white affluent moms. In other cases, poor black women were engaged in a variety of jobs inside the home—taking in laundry, working as hairdressers, seamstresses, or bakers—to support their families while simultaneously raising their children.

Women on welfare have also worked. Because welfare benefits rarely provide enough money to adequately care for the family, women on

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“almost half said they’d been battered by a mate within the last year”).

125. Jason DeParle, *Early Sex Abuse Hinders Many Women on Welfare*, N.Y. TIMES, November 28, 1999, § 1, at 1.

126. *Id.*

127. PAULA GIDDINGS, *WHEN AND WHERE I ENTER: THE IMPACT OF BLACK WOMEN ON RACE AND SEX IN AMERICA* 256 (1984). See also ANGELA Y. DAVIS, *WOMEN, RACE AND CLASS* 230-32 (1981).

welfare have regularly attempted to supplement their assistance awards with sporadic employment in the informal economy or with assistance from relatives or boyfriends.<sup>128</sup> Thus, the idea of the lazy welfare mom is more myth than reality. Welfare-dependent moms in many cases were already working before welfare-to-work. The difference is that before welfare reform, women were able to choose the kind of part-time or sporadic work that still enabled them to be a presence in the life of their children.

Despite the fact that most of the women on welfare engaged in some kind of work, the image of the “welfare queen” constructed an image of poor women as slothful. They were also characterized as bad mothers, more a threat than a help to their children. These were a different kind of poor mother. They did not work *and* they neglected their children. The media played a critical role in shaping and perpetuating these images.<sup>129</sup>

The graphic and often grisly stories of welfare dependent moms who abused the system and/or their own children were highlighted to dramatize the unworthiness of these women as benefit-recipients and the worthlessness of these women as mothers.<sup>130</sup> In perhaps the most stunning of the welfare reform schemes, then House Speaker Newt Gingrich suggested that the children of welfare dependent women might be effectively reared in orphanages.

Several years removed from the peak of the welfare reform hype, the negative effect of welfare-to-work on children seems more than obvious. The children of catfish line workers in the Mississippi Delta for example, start their day at five or six in the morning when their mothers awaken to get public transportation to the factory to begin their shift at seven or eight. Before school, children must either be dropped off early at before-school care or at a neighbor’s home. Where neither of these options is available, children will wait alone at home until the school bus comes or until it is time to walk to school.

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128. See Jason De Parle, *Better Work Than Welfare*, N.Y. TIMES, December 18, 1994, at 44.

129. See Lucy A. Williams, *Race, Rat Bites and Unfit Mothers: How Media Discourse Informs Welfare Legislation Debate*, 22 FORDHAM URB. L. J. 1159 (1995).

130. *Id.*

The day at the catfish plant ends at 6:30 p.m.—sometimes later during the high production Lenten season.<sup>131</sup> Workers must clean and put away equipment and clean their workspace before going home. The line worker often must take public transportation. Children will have been in after-school care or at home alone for three to four hours by the time their mom returns home. Without question, the mother returns home exhausted after a day of hard physical labor. If, like many catfish and poultry workers, she is nursing a chronic repetitive motor injury she will need to endure more pain to prepare dinner, give baths, and clean the home. Engaging in the kind of “quality time” with children, such as checking on homework, so prized by middle-class working moms is unlikely. A frequent complaint of catfish workers is management’s refusal to permit workers to take days off to care for sick children.<sup>132</sup>

Thus, for poor welfare-dependent women rearing children, mothering is a luxury which only affluence can buy. This runs contrary to the core purpose of aid to poor mothers. Welfare was designed to insure that the basic physical needs of poor women and their children would be met. This assumed that women would be unable to work outside the home precisely because they were raising their children. This supportive view of welfare-dependent mothers began to change just as the racial and marital status of the welfare-dependent population began to change. As some scholars have noted, the push to impose work requirements on welfare-dependent moms can trace its roots back to the period when the image of welfare recipients changed from that of poor white widows to black single inner-city moms.<sup>133</sup>

The work provisions of welfare reform implicitly assume that welfare-dependent moms provide nothing more to their children than a day care or after-school provider. Indeed, the assumption is more likely that such a provider is a better influence than a welfare-dependent mom who does not work. This is a particularly unsupportable set of assumptions because the absence of safe, adequate, and affordable child-care is an especially serious problem for poor mothers. As Peter Edelman has remarked:

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131. Interview with Sarah White, *supra* note 56.

132. *Id.*

133. See Katherine Silbaugh, *Turning Labor Into Love: Housework and the Law*, 91 NW.U.L. REV. 1, 67-68 (1996); FINEMAN, *supra* note 26, at 116.

[t]he childcare question is not just about the amount of money, it is also about the kind of childcare. What about infant and toddler care, which barely exists and is very expensive? What about the woman who gets a job from midnight to 8:00 a.m.? What is she going to do about her children? Are we going to have childcare then? What about quality?<sup>134</sup>

Several recent studies show that between sixty-six percent and eighty-seven percent of women compelled to work as a result of the PRA use unregulated day care or home care provided by relatives or neighbors.<sup>135</sup>

During the same period when poor black women were demonized for being “stay-at-home moms,” an entirely different set of discussions was surfacing in the media and in both liberal and conservative circles about the dissatisfaction felt by white affluent and middle-class working women who struggled to spend more time at home rearing their children. Mainstream newspapers and a variety of parenting magazines regularly featured stories about highly successful career women who got on the “mommy track” in order to have more time with their children.<sup>136</sup> The most dramatic stories were those of high-powered executive women who “gave it all up” to be stay-at-home moms. The ultimate sacrifice of these women was regularly hailed by conservative “family values” proponents. Indeed, some conservative commentators criticized high-powered career women as dubious “mom” material because of their failure to “put their children first.”<sup>137</sup>

In one remarkable high-profile criminal case involving the death

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134. Peter B. Edelman, *The Clinton Welfare Bill: How Bad Is It?*, Address for the 7th Annual Louise Raimor Mokofsky Lecture on Child Welfare, University of Maryland School of Social Work (April 4, 1997) (transcript on file with author).

135. *Morning Edition: Findings of Four-Year-Project on How Welfare Reform Affects Single Mothers with Preschool* (NPR radio broadcast, February 4, 2000) (transcript available on WESTLAW).

136. See, e.g., Theodore Gideonse, *Mommy Track at the Times*, NEWSWEEK, June 1, 1998, at 61.

137. *Conservatives Knock “Selfish Mom:” There’s a New Bogeywoman in the Culture Wars*, NEWS & RECORD (Greensboro, NC), January 22, 1998, at A9.

of a toddler at the hands of his British au pair, an unusual amount of media focus and public commentary centered on a critique of the deceased boy's mother, Deborah Eappen, a physician, who worked three days a week. Mrs. Eappen reportedly received hate mail and was vilified by some trial observers for hiring a live-in au pair to help care for her son while she pursued a career—even a part-time career.<sup>138</sup> The public attacks on Mrs. Eappen and the hand-wringing in the media over whether mothers should stay at home revealed a surprisingly intense and widespread adherence to the traditional view that mothers should be the primary or indeed sole caregiver of young children. Yet there is virtually no evidence that this view was extended to encompass poor mothers and their children during the same period.

### III. WHY WORK?

#### A. Rearing Children – Work Without Pay

The “welfare to work” provision of the PR act and the 1994-96 public debate about welfare reform flourished in the context of a public policy discourse which ignores the fact that rearing children *is* work. This is not a new issue. One of the central causes of economic inequity among men and women is that work traditionally performed by women in the home has never been given value in the formal economy.<sup>139</sup> Maids, au pairs, and child-care providers are entitled to a wage. But the same tasks performed seven days a week for eighteen or more hours a day by mothers are just part of the joy and responsibility of motherhood, for which no compensation is required.

The work that women do in keeping a home is rarely economically credited, and then only when that work furthers the advancement of a husband's career. Thus in several high profile divorce cases, wives of corporate executives have been able to seek and obtain alimony payments that compensate them for the work they did keeping a

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138. See, e.g., Joanna Coles, *Louise Woodward: The Final Verdict: Woodward Flies Home With Baby's Death Still a Mystery*, THE GUARDIAN (London), June 17, 1998, at 4; Peter S. Cannellos, *Societal, Legal Change is Legacy of a Public Trial*, THE BOSTON GLOBE, June 17, 1998, at A1.

139. See Silbaugh, *supra* note 133; ANN CRITTENDEN, THE PRICE OF MOTHERHOOD: WHY THE MOST IMPORTANT JOB IN THE WORLD IS STILL THE LEAST VALUED (2000).

beautiful home and participating in social activities which assisted the upward mobility of a corporate executive husband.<sup>140</sup> Primary responsibility for childrearing was also part of the “work” identified by women who were compensated in these cases. The work of mothering was assigned value, however, only in its relationship to assisting the husband on his climb up the corporate ladder. Absent this legitimizing factor, rearing children has not been accepted as work which deserves compensation.

As Martha Fineman has noted, “the formal legal tie to a male” has long served as a credential that can separate “undeserving” poor mothers from those deemed worthy of government assistance.<sup>141</sup> For example, Fineman points out that Survivors Insurance Benefits provided for widows through Social Security increased by over fifty percent during the same period that AFDC decreased by thirteen percent.<sup>142</sup> This is consistent with the early conception of welfare as a benefit to widows—women who through no fault of their own have lost the support and protection of a husband.

By contrast, women who are mothers but never married have acted outside of deeply embedded patriarchal norms. Supporting poor, never-married single mothers through welfare subsidizes women who have failed to comply with those norms. The diminished value assigned to their work as full-time mothers as compared to that of widows, functions as a kind of sanction for their sexual rebellion.

### *B. Work as a Futile Exercise*

By now, even advocates of welfare reform admit that women who go from welfare to work do not earn enough at their jobs to end government assistance. In order to make welfare-to-work function, poor mothers must typically be provided with child-care assistance,

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140. See Silbaugh, *supra* note 133.

141. FINEMAN, *supra* note 26, at 115.

142. *Id.* at 16. The fact that “a majority of children receiving Survivors Insurance Benefits are white, and the majority of the children receiving AFDC are non-white” is only further evidence that race also plays a role in determining who are the deserving poor. *Id.* at 116 (quoting Senator Daniel Patarick Moynihan, 134 CONF. REC. S14250 (June 13, 1988)).

transportation assistance, and health insurance.<sup>143</sup> Even with those levels of support, the former Secretary of Health and Human Services recently concluded in a confidential memorandum that “[m]any parents leave welfare to work, yet still do not even earn enough to raise their families out of poverty.”<sup>144</sup> Despite this reality, compelling thousands of women to enter the workforce has been hailed as a positive reform in the lives of poor women. Thus, welfare-to-work is more about forcing women into the physical act of working, rather than moving poor women and the families out of poverty or even off of dependence on government largesse.

Nor is “work” in the abstract likely to improve and organize the lives of poor women. Without question, work in the formal economy can offer “instant discipline, identity, and worth” and does “structure our time and impose[] a rhythm in our lives.”<sup>145</sup> Yet the early morning voice of a child demanding breakfast, the need to get to the laundromat before all of the machines are utilized, catching the bus downtown to go to court or to family member’s home when the bus runs only once an hour, or the need to get your children in the house before nightfall when drug dealers take over the street, already provide enormous discipline and rhythm in the lives of many poor mothers.<sup>146</sup> Welfare-to-work simply requires mothers to add the external structure of work in the formal economy onto the often rigid structures that already exist in their lives.

Poor women need more than the stern father-figure of the state punishing them for making nontraditional sexual choices. They need a system that supports the choice not to work outside while raising small children, particularly when to work would undermine the ability of a mother to fully and responsibly parent the child. When poor mothers do work, they need training, child-care, transportation, flexible time arrangements, and a job that pays a living wage. Many poor women will need drug addiction treatment, mental health therapy, and other medical intervention. Most of all, poor working women need a workplace that is safe and humane

Compelling poor women to work in the absence of those

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143. See Loprest, *supra* note 4, at A19.

144. De Parle & Holmes, *supra* note 8.

145. CIULLA, *supra* note 113, at 7.

146. See, e.g., ZUCCHINO, *supra* note 16 (chronicling the lives of several single women living on welfare in Philadelphia). See also Martha Minow, *supra* note 29, at 829 (describing routine daily challenges faced by poor women).

considerations is at best paternalistic and at worst punitive. Welfare-to-work programs that force women into catfish and poultry plants without addressing the conditions of the work, the wages paid, and the physical and emotional needs of the woman herself simply increase the ranks of unhappy, demoralized, and physically imperiled poor workers.

#### IV. THE MYTH OF WORK AS THE ANTIDOTE TO POVERTY

The welfare-to-work solution to poverty encourages us to look away from the policy initiatives that could bring immediate and lasting change to the lives of poor people and the conditions in which they live. Addressing poor and inadequate public transportation systems, unabated lead paint in urban housing stock, failing public schools, lack of summer jobs for teens, policy brutality, and inadequate healthcare may offer a better return on the money and rhetoric expended on the welfare-to-work debate in transforming the lives of poor people. Yet by approaching poverty as an individual pathology rather than a structural economic and societal problem our national attention has been turned away from seeking systemic solutions to the problems created by persistent poverty.

In the end, the gauzy picture of work as the answer to poverty falls apart under the conditions present for welfare-to-work line workers in catfish and poultry plants. Unadorned and unexamined, work has little meaning without first considering the context in which people work, the value and meaning of that work to the worker, the physical and/or mental stresses posed by the job, and the ability of work to provide the basic economic needs of the family. Workers are unlikely to become better parents or citizens as a result of an experiment that requires them to spend very little time with their children, exposes them to highly dangerous working conditions, and keeps them poor. Instead, industries already making millions of dollars in profits will make more money, and politicians and policy advocates—far removed from the floor of a catfish or poultry plant—congratulate themselves for “helping” poor women live more “worthy” lives.

