

B3. Women, Risk, Public Health, and the Law

B3:1 Elizabeth Sapere, *“We Are All Unfit Mothers”*: *Baby M and the Surrogacy Wars in the 1980s*

In 1985 Mary Beth Whitehead, a stay-at-home mother, signed a surrogacy contract with biochemist William Stern. She was artificially inseminated with William’s sperm and “Baby M” was born in 1986. Before leaving the hospital Mary Beth decided she would keep the child, ultimately fleeing the state. A prolonged custody trial ensued, the first in the United States to challenge the validity of a surrogate contract. Far beyond the specifics of this heart wrenching case, the trial was also about the future of motherhood and the family in the face of social and technological changes to reproduction. As Mary Beth’s attorney opined in his opening statement, “the defendant in this case...is motherhood.”

Based on a close reading of trial transcripts, newspaper articles, and archival material I argue that the Baby M case became a moral panic about class, race and motherhood and the role of the state in defining and constructing the family. Court testimony, judges’ decisions, and the national debate that ensued centered on racialized ideas about “bad” mothers and “good” families. As one letter signed by over one hundred prominent feminists, Hollywood actors, and authors put it: “by these standards we are all unfit mothers.” The “Baby M” court case and its subsequent appeal, which resulted in two different yet similar decisions, sparked a national debate about surrogacy. What this controversy demonstrates is how the debate over surrogacy played into pervasive racialized perceptions about mothering and families. While the trial and debate were initially about one contract and one custody case, it morphed into a culture war about white motherhood and the family.

Learning Outcomes

- Understand the dynamic history of medical ideas and practices, their implications for patients and health care providers, and the need for lifelong learning.
- Recognize the dynamic interrelationship between medicine and society through history.

B3:2 Joanna Federico, *External Causes? Conceptualizations of Violence in American Public Health Before the Dickey Amendment (1887 – 1993)*

In 1996, Republican Representative Jay Dickey, the self-declared “point-man” for the National Rifle Association in Congress, inserted an amendment into the Congressional budget that effectively defunded public health research on gun violence for more than two decades. Although the chilling effect of the so-called Dickey Amendment was undeniable, violence prevention had only begun to achieve legitimacy as an object of public health study and practice in the mid-1980s. Prior to this, recognition of the public health implications of violent injury and death had been hampered not only by outsiders’ insistence that these were not diseases and therefore not health problems, but also by a lack of consensus within the field regarding whether and how public health methodologies could be applied to the problem(s) of violence.

This paper traces developments in American public health scientists’ conceptualizations of violence as a phenomenon amenable to study utilizing the methods of their field from the earliest references to patterns in mortality from “accidents and violence” in the Weekly Abstracts of Sanitary Reports in the late 19th century through the establishment of the Division of Violence Prevention at the CDC’s National Center for Injury Prevention and Control in 1993. Throughout this period, statisticians asserted that complete and accurate national mortality data was essential to public health’s mission of identifying and intervening in patterns of preventable death. However, turn-of-the-century sanitarians sometimes noted patterns in violent mortality in order to demonstrate that a spike in deaths was not due to epidemic disease, and therefore, not their fault or their concern. Later, as rates of infectious disease mortality declined and deaths from homicide and suicide took a disproportionate share of the lives of the young and people of color, midcentury epidemiologists asserted that violence was a significant health and a social justice problem, but that it was the role of public health scientists to analyze the problem, not to intervene in it.

Learning Outcomes

- Develop knowledge and understanding of professional behaviors and values
- Contribute to the improvement of prevention efforts

B3:3 Shannon Withycombe, *Preserving Her Life: Medical Exceptions in Nineteenth-Century Abortion Laws in the U.S.*

Historian James Mohr identified 1860-1880 as the period that “produced the most important burst of anti-abortion legislation in the nation’s history,” (Mohr, *Abortion in America: The Origins and Evolution of National Policy*, 1978, p.200). This statement, published in 1978 may no longer be true as a new wave of anti-abortion legislation has swept the nation in the wake of the Dobbs decision. Modern legislators, however, have looked to these nineteenth-century laws to support new abortion bans. One of their arguments has been that medical exceptions written into modern laws exactly replicate those included in anti-abortion laws of the 1800s. Given this, they argue, abortion bans and their very limited medical use have always garnered support from the very state’s beginning.

This paper will explore how medical exceptions for abortion worked in nineteenth-century America. It will analyze doctors’ writings to determine how they practiced under abortion laws that contained such language as: “unless the same is necessary to preserve her life.” Instead of understanding the preservation of a pregnant person’s life in the extremely narrow terms of current laws, nineteenth-century physicians discussed a wide range of health issues and conditions that could be addressed with therapeutic abortion. As regular physicians sought to restrict the practice of abortion to themselves as part of a larger movement to secure a medical monopoly in America, these men also understood abortion as a treatment freely available to them for any number of medical situations. Importantly, American physicians understood that these laws allowed what counted as a medical exception to be solely a decision made by doctors without any legal or political influences. Doctors agreed that the use of abortion as a therapeutic was left entirely to their own discretion and protected by the law. Understanding the social, medical, and legal contexts of these nineteenth-century anti-abortion laws can provide important insight into these latest attacks on medical practice.

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