Bastardy, Gender Hierarchy, and the State: The Politics of Family Law Reform in Antigua and Barbuda

Mindie Lazarus-Black

Law's saliency in the development of West Indian societies began in the earliest days of settlement and has remained critical and constitutive. The author examines the transformation of Caribbean law over time as an instrument of class, kinship, and gender relations and investigates ethnographically the repeal in 1986 of illegitimacy as a legal category in Antigua and Barbuda. In contrast to the colonial era, working-class ideas about gender and family and actions by married women played a pivotal role in banishing bastardy and reconstituting the relationship between families and the state. This struggle reveals lawmaking as a deeply contextualized and gendered practice.

In a landmark act at the end of 1986, the Parliament of recently independent Antigua and Barbuda legally banished bastardy and made "illegitimacy" legitimate. The Status of Children Act,[1] and two companion measures, the Births Act[2] and

This article summarizes a portion of my dissertation. The field research, conducted in 1985–86 and for three months in 1987, was funded by a Fulbright Grant from the Institute of International Education and an Inter-American Foundation Fellowship. An American Fellowship for Dissertation Research from the American Association of University Women and the William Rainey Harper Fellowship from the University of Chicago provided financial assistance to complete the thesis.

A much shorter version was presented at the American Anthropological Association Meetings (Lazarus-Black 1989). I am grateful to the discussant, Sally Engle Merry, for her insightful suggestions for expanding the text. Later drafts benefited from readings by Lisa Douglass, Wendy Espeland, Kathy Hall, David Koester, Susan Lowes, Leonard Plotnicov, and Leslie Reagen. Raymond Smith, John Comaroff, and Bernard Cohn know well how this particular argument changed over time. I appreciated the opportunity to present the work to the Departments of Criminal Justice and Anthropology at the University of Illinois at Chicago. I have incorporated suggestions by anonymous reviewers for *Law & Society Review.* Finally, William N. Black listened with endless patience and responded with logic. Thank you all.

[1] The Status of Children Act eliminates the legal disabilities of illegitimate children. The statute declares "the status and rights, privileges and obligations of a child born out of wedlock are identical in all respects to those of a child born in wedlock" (Laws of Antigua and Barbuda 1986).

[2] Until the Births and Deaths (Registration) (Amendment) Act became law, an unmarried woman who gave birth to a child in Antigua was compelled to register that child as a bastard. The mother's surname was recorded on the child's birth certificate, but the father's name was omitted. By law, the child was fatherless. The new act facili-

Law & Society Review, Volume 26, Number 4 (1992)

the Intestate Act,[3] redefine centuries-old kinship relationships and restructure the duties, obligations, and property rights of kin. Three important changes resulted. For the first time, discrimination against a person on the basis of birth status is now illegal; men can acknowledge their illegitimate children by complying with a simple procedure; and all children so recognized inherit from their fathers' estates. Since over 80% of children in these islands are born out of wedlock, these bills bear on the lives of a great many people (Antigua and Barbuda 1985).

I explain here why these statutes and the events that contextualize their passage mark a critical turning point in the history of Antiguan[4] family organization and in the use of family law as an instrument of class, kinship, and gender relations. I begin with Antigua's earliest kinship statutes, documenting critical changes in their content in conjunction with evolving social and economic organization, and then examine the events surrounding the recent and radical reform.[5] Viewed historically and ethnographically, these changes in Antigua's kinship laws not only mark the evolution of the legal definition of family and the functions the state assigns kinship law, they also signal changes in the character and forms of resistance to state power (cf. Foucault 1979; Abu-Lughod 1990). The latest codes, I argue, are consequences of an engendered political and judicial process which began in the 17th century and which continues today to interweave issues of class, kinship, and gender.

---

tates the process by which a man becomes the legal father of a child and diminishes the importance of marriage in assigning paternity. A man and woman may jointly register their child at birth, and no person need be stigmatized as a bastard because his/her parents have not wed. The statute also allows the registrar to reregister a child whose father's name does not appear on his original birth certificate. Once a man places his name on a birth certificate, he is legally responsible for the food, clothing, shelter, education, and general well-being of that child. Antiguans expect this act will greatly increase the number of children in the country with legal fathers.

[3] The Intestate Estates (Amendment) Act recognizes every child's right to inherit from his/her father whether or not the parents are married; it specifically includes children born out of wedlock but legally acknowledged for distributing property on intestacy. Under the new law, "child" or "issue" in relation to the deceased means a child of the marriage, a person judged by a court to be the issue of the deceased, or a child acknowledged under the Births Act. The "brothers" and "sisters" of an intestate now include "any child of the father or mother of the intestate." The law also spells out the amount and type of property to be distributed to persons in various kinship statuses. The act covers only those cases in which the deceased has failed to make a legal will. According to the lawyers I interviewed in Antigua, however, the vast majority of Antiguans die intestate. Thus the economic consequences of this new law may prove significant.

[4] Following local custom, I shall use the more convenient "Antigua" to refer to the country Antigua and Barbuda.

[5] The reader should be aware that there are few published historical sources on Antigua and almost no secondary material regarding its legal history. I have had to rely on primary legal records, a few contemporary accounts, and scattered descriptions by visitors to the island. In my forthcoming book I compare Antigua's kinship history with that of other West Indian islands.

My analysis contributes to understanding how colonial orders are constructed and change over time and the ways in which local ideologies and practices alter the meaning, functioning, and consequences of formal laws and institutions.[6] I am concerned with a theoretical issue central to comparative politics and the anthropology of law: how and to what extent the power of law is used to structure class, kinship, and gender relations and how those relationships, in turn, alter dramatically the content and processes of law (J. L. Comaroff 1980; Comaroff & Roberts 1981; Donzelot 1979; Fitzpatrick 1983a, 1983b; Foucault 1979, 1980; Massell 1968; Santos 1977).[7] The historical nature of my argument enables me to address the relationship between the political and economic dominance of particular groups and legislated rules and to contend with how such statutes interact with but do not fully displace norms and normative practices.[8] Like Stoler (1989), I investigate law as part of the process of European domination and as an instrument constitutive of class and gender relations. The small size of Antigua and its continuous domination by the British for most of its history enables me to focus on legal change in one locale over an extended period and allows for a more detailed analysis of the effects of local ideologies and practices upon law.

[6] In the past two decades, these issues have been seminal in the anthropology of law (e.g., Abel 1979; Benda-Beckmann 1981; Cohn 1965, 1983, 1989; Cohn & Dirks 1988; J. Comaroff 1985; J. L. Comaroff 1980, 1982, 1989; Comaroff & Comaroff 1986; Comaroff & Roberts 1981; Cooper & Stoler 1989; Fitzpatrick 1980; Goveia 1970; Lewin 1987; Martinez-Alier 1974; Moore 1978, 1986, 1989; Nader & Todd 1978; Nader 1989; Rosen 1989; Salamone 1983; R. Smith 1982, 1984a, 1987; Snyder 1981; Starr & Pool 1974; Starr & Collier 1987, 1989; Stolcke 1984; Stoler 1989; Vincent 1989; Westermark 1986). For a review of the most recent theoretical trends in the field see Starr & Collier (1987, 1989). In addition, Merry provides a comprehensive overview of research contending with "legal pluralism" (1988) and "colonialism and law" (1991). Earlier studies investigated the impact of European law on indigenous peoples, pointing especially to the interaction between divergent normative orders (e.g., Bohannan 1989, 1965; Burman & Harrell-Bond 1979; Cohn 1959, 1965; Galanter 1968; Gluckman 1967 [1955], 1965; Kidder 1979; Jayawardena 1963; Pospisil 1979, 1981). To my knowledge, anthropologists of law have not previously had the opportunity to examine lawmaking "in progress" as gendered practice.

[7] The argument developed here was influenced most by Foucault (1979, 1980) and Donzelot (1979), and independently of Fitzpatrick (1983a, 1983b), who also contends that we must investigate law as constitutive of social life and family relationships. Fitzpatrick (1983a) makes the point in the context of building a "radical theory of legal pluralism." In contrast, my analysis demonstrates by concrete example how the state and families intersect dialectically over time and makes commonsense understanding of kin and gender central to the analysis of those processes. In my dissertation and forthcoming book I argue, following Foucault (1979), that scholars must investigate not only "systems of legalities" but also "systems of illegalities." The concept of "legal pluralism" does not go far enough in delineating contested domains of power.

[8] Following Comaroff and Roberts (1981:28), a "norm" is "a statement of rule that is indigenously regarded as relevant to the regulation of social conduct." When I refer to "normative kinship order" I mean individuals' commonsense understanding and use of language, attitudes, and behaviors considered appropriate for those who define themselves as family.

My focus on law in constituting class, kinship, and gender relations over time also corrects a significant omission in earlier research about West Indian families. Studies of Caribbean kinship have ignored the power of government to define and alter the meaning of kinship and its legal effects for men and women of different classes.[9] Although the state's ability to structure these relationships is never without challenge, we see clearly in Antigua that the state has power to expand or contract rights and duties between members of different classes, within families, and between men and women, and may, over time, extend its power to matters formerly considered "personal" and extralegal.

I present my argument in three parts. First, I examine the role of kinship law as part of the foundation for domination in early colonial Antigua. This will shed light on the force of law historically and on the symbolic and pragmatic significance of the latest family laws. Until 1834, Antigua was a slave society. For two centuries, colonists who qualified for the local legislative assembly by virtue of their sex, status as free men, religion, and property qualifications governed the island. I describe their pervasive and successful efforts to devise and maintain rigid distinctions between people of different socioeconomic ranks and races through marriage, fornication, and bastardy laws.

In part II, I review what measures lawmakers took after slavery to reinforce earlier class, kin, and gender hierarchies. Regulation of families became enmeshed with planters' efforts to retain labor for the sugar plantations and to maintain at minimal expense some health, welfare, and educational standards for workers. The Antiguan case lends strong support to Fox

[9] Several efforts to explain West Indian kinship organization focused on the unsettling effects of slavery (e.g., Curtin 1955; Goveia 1965; M. Smith 1966; Patterson 1967). Herskovits (1958) and Mintz & Price (1976) pioneered research on the retention and influence of African customs and traditions in the Caribbean. Community studies inspired by British structural-functionalism produced a variety of social, psychological, economic, and demographic variables to account for local West Indian patterns (e.g., E. Clarke 1970; Gonzalez 1970; Goode 1960; Kunstadter 1968; Rodman 1971; M. Smith 1962, 1965). In general, these works concentrate heavily on synchronic analysis of family organization, minimizing the problem of the system's origins and the direction of future change. More recently, historians and anthropologists such as Bush (1990), Craton (1978), Gaspar (1985), Higman (1976, 1979, 1984), Massiah (1986), Morrissey (1989), Olwig (1981), and R. Smith (1982, 1984a, 1987, 1988) have challenged the notions that West Indian slave families were highly unstable or disorganized, that they consisted solely of women and offspring, and that men were marginal. Patterson (1982) discounts the notion that there has been continuity in Jamaican family structure. None of these studies, however, explore in depth the crucial fact that European colonists brought with them and encouraged cultural traditions in which families were legally constituted. Martinez-Alier (1974), Jayawardena (1963), and Trotman (1986) are unusual in attending to the role of law and legal processes in West Indian family life, but each focuses on a more limited time span and without emphasizing law's constitutive powers in structuring kinship and gender in conjunction with normative practices.

Piven and Cloward's argument (1971) that welfare legislation is designed to regulate the poor while accommodating shifts in capital's need for labor. In contrast to the American case, however, Antigua's poor relief arrangements were expanded even before political unrest threatened the state.

In the final section, I argue that the recent effort to banish bastardy belongs to the long struggle in Antigua for a more equitable division of labor and resources, representative government, and political autonomy (cf. Henry 1983, 1985). The entrenchment of the society's normative kinship order which incorporated some, though not all, of the rules of the legal kinship system is a legacy of a colonial era that created a disadvantaged class. Examining the events surrounding passage of the latest kinship codes, I find that today, as in the past, family law reflects the socioeconomic backgrounds, religious interests, and political concerns of those who frame them. In the case of the most recent legislative change, however, actions by married women, people not normally privy to the lawmaking process in Antigua, were pivotal in the effort to banish bastardy and reconstitute the relationship between families and the state. The question centered on equal rights, an issue lawmakers thought noncontroversial given the country's history of slavery, but which actually proved complex because kinship systems fundamentally affect the status of gender relations, as well as blood ties and property rights. The legal effort to banish bastardy disclosed the gendered character of the political and legal process. In the recent reform of the bastardy laws, ideas about relationships between men and women, tempered by references to Christian ideals, influenced the content of the new kinship laws and the history of their passage.

I. Class, Kinship, and Gender Law in Early Antiguan Society, 1632–1834

Antigua was settled in 1632 by free persons and their indentured servants. They grew tobacco, cotton, and subsistence crops and attempted to keep at bay the local Carib Indians. Within a few years, the colonists had devised a regular system of government, complete with elected assemblies, governors' councils, parish vestries, and a hierarchy of courts. They were a prolific people in matters of law. Having brought directly from England "only so much of English law as is applicable to their own situation and the condition of an infant colony" (Blackstone cited in Morrison 1979:46), they passed a formidable number of rules and regulations by which to govern themselves. Contrary to local assumptions nowadays, a great many Antiguan laws never duplicated those of Great Britain. Among the indigenously written codes were kinship rules that bore

clearly the marks of the unusual situation in which the colony's lawmakers found themselves. One historian estimates that 60,820 slaves were imported to Antigua between 1671 and 1763 (Gaspar 1985:75). Slaves accounted for 41.6% of the population in 1672; 80.5% in 1711; and 93.5% in 1774 (ibid., p. 83). The white population peaked at 5,200 persons in 1724 (ibid., p. 80).

One striking similarity between the early family laws of Great Britain and Antigua is that both assigned power over persons and things to legitimate males. A striking difference between the two is that the West Indian laws were intentionally designed to create and maintain a social hierarchy that the ruling elite believed to be necessary to maintain order and the division of labor. One of the earliest statutes, for example, proscribed "Carnall Coppulation between Christian and Heathen" (ibid., p. 167). The latter category included both Amerindians and Africans. The penalties for breaking this law differed according to the offender's position in the division of labor: a free man or woman who slept with a heathen was made to pay a fine; an indentured servant had his or her contract extended; and an offending slave was branded and whipped.

Anglican marriage law governed nuptials in England when Antigua was colonized; marriage was a sacrament which also bestowed legal rights concerning maintenance and inheritance. Civil marriages performed by secular authorities were not recognized in England until 1836.[10] In contrast, class and kinship would be created in law simultaneously in Antigua, with sharp consequences for the content and structure of gender relations. By the end of the 18th century, the island possessed three separate marriage laws corresponding to its three social ranks of persons: free individuals, indentured servants, and slaves.

The first marriage law, Act No. 2 of 1672, regulated marriages in the free white population. The preamble to the act notes that "for want of orthodox ministers" on the island, "diverse marriages have been had and solemnized, by virtue or colour of certain orders of the Governor and Council in some other manner than hath been formerly used and accustomed." The statute made all such marriages and those later solemnized by any justice of the peace "taken to be and to have been of the same and no other force and effect, as if such marriage had been had and solemnized by an orthodox minister" (Laws of Antigua 1864:10). The act also provided for a jury of 12 men to decide cases of contested legitimacy. The legislators noted that such measures would not be necessary after the arrival of an

[10] There was one exceptional period, 1653–57, during the English Civil War when the formalities of marriage were temporarily transferred to civil magistrates. It was a period marked by increasing resistance to the clergy and the ecclesiastical courts (Gillis 1983:263).

orthodox ministry. In 1688, however, they changed their minds about this secular marriage code. A new law forbade any person not duly qualified by the Anglican church to perform marriage ceremonies on penalty of £20 current money of the island (Laws of Antigua and Montserrat Microfilm No. 1). The Anglicans retained the exclusive right to wed couples in Antigua until 1844, eight years after the British Marriage Act allowed registered ministers of other denominations and civil authorities to celebrate marriages in England.

A separate Antiguan marriage code, however, governed the marriages of free persons and indentured servants. A free person who wanted to marry a servant either had to serve that master for two years or pay £20 to secure the servant's freedom. Transgressors of the marriage rules could be punished with heavy fines. If a free person secretly married an indentured servant, the punishment could include forced servitude. Nor were the legislators content merely to discourage marriages between free persons and servants; they also tried to control reproductive patterns among servants. A bill of 1698 drafted to try to encourage whites to settle in the colony also tried to control their sexual behavior:

> if any servant shall get another with Childe, they shall each . . . serve twelve months, or pay six pounds Money to the Master . . . of the woman servant, but any free person getting a servant with Childe, shall pay twenty pounds Money to the Master . . . of the Servant for her freedom, and keep harmless the parish. (Laws of Antigua and Montserrat, Microfilm No. 1)

In 1716, the legislators ensured that these rules were widely publicized: they were to be read by captains to their militia troops four times a year (Lazarus-Black 1990:73–77).

What was the consequence of the legal restriction on free-servant marriage? In 1720, almost one out of five whites in Antigua (19.1%) was a servant (Gaspar 1985:78). A large portion of the colonists, therefore, could not marry unless they could obtain permission from their employers, buy out their contracts, or pay heavy fines. Perhaps both servants and free persons were discouraged from marrying by the statute that only recognized marriages performed by Anglican ministers. Legal separations and divorce were impossible to obtain locally. Given this combination of statutes, and the well-known fact that West Indian plantation owners preferred employing unmarried men because married men with families cost the estate more for support, it is little wonder that concubinage and prostitution were common among free whites and servants and that some of these persons failed "to keep harmless the parish." In Antigua, as in Jamaica, there evolved a kinship system for these men which enjoined "marriage with status equals and non-legal unions with women of lower status" (R.

Smith 1982:121). In contrast, "respectable" free women married and refrained from extramarital affairs. Nevertheless, whether by choice or lack of alternative, a considerable number of women headed their own households. A census of heads of 701 "Familys" in St. John's in 1753, for example, indicates that as many as 34% were female-headed (Lazarus-Black 1990:47).

Law contributed to the establishment of an informal family structure, but illicit unions inspired still more legislation. An act of 1786, for example, compelled "reputed Fathers of illegitimate White Children to make a competent Provision for them." Parish funds maintained them, "altho' their reputed Fathers have been in circumstances sufficiently competent to provide for such Children" (Goveia 1965:220). Although precedent for caring for illegitimate children came from the English poor relief acts,[11] the Antiguan law clearly reflects local reproductive practices because both an individual's place in the division of labor and his or her color were issues when Antiguan lawmakers legislated relationships between parents and children. The 1786 bill is important on another account: Precedent was first set for women to utilize the courts to establish paternity, win child support, and act as advocates for their families in the courts.

As these examples show, some of the earliest Antiguan laws regulating reproduction, marriage, and illegitimacy were devoted to controlling the behavior of free settlers and indentured servants. Legislators were anxious that sexual relationships, love, and/or marriage not threaten the boundaries between workers in different legal categories. By 1818, visitor James Walker wrote about what he perceived to be an unusual correlation between upper-class status and marriage in Antigua. He reported that "rank and privilege, which are strongly marked in everything, seem to turn marriage into a distinction somewhat of the nature of nobility, and to

[11] Poor relief legislation in England began with the breakup of feudalism. The first laws regulated individual almsgiving, repressed begging and vagrancy, and restricted laborers from leaving their parishes. An act of 1531 licensed the poor and aged to ask for alms, but five years later another statute prohibited begging altogether. The new proposal arranged for local collection and distribution of charity to the "needy poor" (including illegitimate infants), provided jobs for willing workers and apprenticeships for children, and enforced punishments for those who refused to work. The success of these various projects was thwarted, however, by the lack of finances to support them. In 1572, lawmakers addressed that issue by passing an act empowering local officials to collect payments for poor relief within the parishes. The next bill, the Poor Law Act of 1576, placed the duty of maintenance for an illegitimate child on both parents. An Act of 1601 then specifically appointed "overseers of the poor," selected by justices of the peace, and required each parish to levy a poor relief tax. Financial responsibility for illegitimate children in England was reassessed in acts of 1809, 1834, 1844, and 1872 (Pipkin 1934; Jacobs 1932). A sustained analysis of early English poor law and the 1834 reforms is found in Webb & Webb (1963a, 1963b). For a brief review of the history of poor laws in Europe and the United States, see Fox Piven & Cloward (1971).

reserve it in general for the proprietors and leading men of the colony" (cited in Goveia 1965:215). The island's elite intermarried among themselves (Sheridan 1961, 1973).

For all of the 17th century and most of the 18th, lawmakers mostly ignored conjugal and reproductive practices among slaves. After all, slaves were not persons but freehold property (Laws of Antigua and Montserrat, Microfilm No. 1).[12] The earliest slave codes were designed to promote labor and prevent resistance. Laws made it illegal for bondsmen to leave their estates without permission and outlawed assemblages, drinking, theft, possession of weapons, and insults or assaults to whites. Provisions were established to set penalties for harboring slaves or refusing to return them to their masters. Over time, the assembly supplemented these police measures with economic restrictions, some designed to protect the markets of white settlers with small farms (Goveia 1965:152–202). For example, slaves were restricted from selling without written permission any of the crops designated for export: sugar, cotton, rum, molasses, and ginger (ibid., pp. 161–62).

As the growing value of slaves and the profitability of the sugar crop became apparent, however, local legislators passed measures to increase the number of persons who could be counted as slaves and to further discourage relationships between free persons, indentured servants, and bondsmen. In 1644, a mulatto child produced by a racially mixed union was enslaved until ages 18 or 21. After 1672, such a child was enslaved for life (Dunn 1972:228 n.). In 1697 the Assembly decreed that no minister was "to presume to marry a slave to any free person." For the crime of marrying a slave, a free person was fined £20—or subjected to four years of servitude to his spouse's master. The provisions were incorporated into the 1702 Act for the Better Government of Slaves and Free Negroes and the fines and penalties were increased.

Although few laws protected slaves in the Leeward Islands until the end of the 18th century, pressure from the antislavery movement in England eventually forced local initiative to improve slave conditions. Afraid that Parliament or the Colonial Office might authorize special legislation to significantly improve the conditions under which slaves worked, Caribbean lawmakers drafted their own versions of "ameliorating" legislation (Goveia 1965:189–91). One consequence for slaves was that masters suddenly began to play a more intrusive role in their family lives.

The Leeward Islands Amelioration Act, adopted in Antigua

[12] Except in Nevis, Leeward Island slaves were chattels only in cases of debt and when other assets were unavailable (Goveia 1965:152–53).

in 1798, set minimum food, housing, and clothing allotments for slaves, condemned "excessive punishments," and established marriage rules specifically for slaves. Masters were advised to induce their slaves to choose one mate. Such encouragement of "monogamy" did not spring from Christian piety since the law also held slave marriages by religious rites "unnecessary and even improper" (Higman 1984:351). More likely, it came from greed because the planters believed licentious behavior inhibited reproduction. In any case, this slave marriage system only partially resembled the lawmakers' own. The planters insisted that the Africans were still too uncivilized to comply with a contract. Their plan for slave marriages, therefore, preserved the idea of a faithful union but without the element of contract.

By law, slave marriages were monogamous, but not contractual, since the parties won none of the privileges implied in marriages of free persons. A child of a slave marriage, for example, was not allowed to take the surname of the father or inherit whatever property he might have accumulated.[13] The law did include provision for a public declaration of a couple's intention to live together, monetary awards from their masters for marrying, and a brief ceremony in which the marriage was officially recorded in the estate records. Reading these codes, one cannot help but be struck by the irony of the symbolic gesture of recording slave marriages in plantation account books. Instead of preserving these marriages in the church registers, the planters noted them in the double-entry ledgers in which transactions involving the estate's capital were recorded (cf. Weber 1958; Lazarus-Black 1990:78–79).

At the time of the Amelioration Act, Antiguan slaves made up 94% of the population of the island. The majority worked under severe conditions on large sugar estates. The few historical records which speak to their conjugal and reproductive practices suggest that here, as elsewhere in the Caribbean, there was never a single type of slave family. There were long-lasting as well as short-term unions between men and women. Single and multiple unions coexisted in different proportions in different places and at different times since the social, economic, and ideological contexts in which slaves labored influenced both the number and types of their conjugal relationships and patterns of reproduction. Those who spent all their lives in the fields differed in their mating and reproductive practices from those who lived in towns or

[13] It was common practice in the islands to allow slaves to keep whatever goods they might acquire from the sale of provisions grown on the estates in their "own" gardens and during their "own" time. Some masters let slaves earn cash by hiring themselves out.

belonged to masters with small estates. Slaves on large and profitable plantations, for example, might experience relative stability in their day-to-day lives and had access to a pool of potential conjugal partners on their own and nearby estates. "Elaborated families," explains Higman (1984:366), "were . . . most common on large-scale plantations." The record suggests a pattern in which slaves experimented initially with a number of partners and later settled into more permanent and long-term unions with single partners.

Historians have also traced some differences in the conjugal practices of field workers, domestics, and skilled artisans. Men who were recognized as leaders within the slave community, for example, were able to maintain multiple unions which were accepted as "legitimate" relationships within the community (see, e.g., Goveia 1965; Brathwaite 1971; Higman 1976, 1984; Craton 1978; R. Smith 1987; Morrissey 1989; Bush 1990). Slave women who lived on very large estates were also more likely to become involved in miscegenistic relationships (Higman 1976:147–48). Sexual unions and blood ties with whites in different ranks of society obviously influenced the family lives of slaves and the course of their future relationships. A white overseer or craftsman, for example, might free his child by a slave woman to work at his side. Plantation elites rarely permitted such an arrangement, but they sometimes manumitted their lovers and children (Lazarus-Black 1990:100).

Slaves who labored in towns where demographics and daily life were decidedly different manifested a different conjugal pattern. A large percentage of town slaves were domestics and laundresses, tasks assigned to women. Although slave men worked as messengers, on public works, on docks and in a variety of other pursuits (Goveia 1965:230), their masters were unlikely to allow them to establish independent households (Higman 1984:373). Subjected to constant supervision, domestics were also much more likely to live in mother-children households than were field laborers (ibid., p. 371).

Finally, in the late 18th century, town slaves and free persons of color in Antigua,[14] most of whom lived in urban areas where they could find employment, were more likely to come under the influence of Anglican, Moravian, and Methodist missionaries who introduced to their converts the notion that marriage was a critical component of one's

[14] The freed black and colored population of Antigua included very few persons during the slave era: only 1,200 in 1787; 1,300 in 1805; and 3,895 in 1821. Most resided in St. John's and were employed as domestics, servants, messengers, or on the docks. They were restricted by law from most of the rights held by free whites. For further discussion of their kinship practices see Lazarus-Black (1990:107–13).

religious salvation.[15] "Fornication," an offense in law, then acquired an entirely new connotation. By the end of the slave trade in 1807, the missions claimed to have converted about 28% of the black and colored population in Antigua, St. Kitts, Montserrat, Nevis, and the British Virgin Islands (based on Goveia 1965:307). As the churches evolved into institutions designed to educate slaves and to save their souls, Christianity came to play a decisive role among the structural and personal variables influencing conjugal and reproductive practices among slaves—not to mention the structure and ideology of gender relationships (Lazarus-Black 1990:113–21).

At the end of the 18th century, then, the Amelioration Act and Christian marriage offered to the majority of the island's population, the slaves, opportunities to acknowledge formally familial ties. The assembling of slaves on the large estates, the announcing of marriages, pressure from masters and ministers to end relationships with more than one person, and the psychological effect of having one's union recorded for posterity in the great book of the estate influenced slaves' courting and conjugal practices—even if many refused the gifts, to give up mates, or to participate in the rites, and even if some masters ignored the law. We know that some slaves did in fact marry in accord with the Amelioration Act, because historian Flannagan (1967 [1844]:vol. 2:96, 97) heard complaints after emancipation that some freed men "violated those [former] vows without compunction" and later "married" someone else! Flannagan also reported that as soon as possible "it was their pride to be married at the established church." By the end of the slave era in 1834, a legal church wedding had assumed a special meaning across the ranks of this society. Socially, it was a mark of civility, education, financial stability, enduring love, and religious salvation. Pragmatically, it ensured certain legal protections for men, women, and their children.

When slavery ended, Antigua's kinship organization was marked firmly by directives from the state. "Kinship" and "class" were constituted together. It would be an error, however, to presume that marital relationships were guided entirely by class prescriptives, for conjugal and reproductive ideologies and practices are always also determined by gender

[15] There were two great waves of missionary activity in Antigua. The first occurred at the end of the 18th century, spurred by the arrival of Methodist and Moravian ministers to the island. My review of historical records and government reports suggests these established denominations were most successful in gaining converts in and around the towns. A second wave of proselytizing began around World War I and gained momentum during the years of the Great Depression. Anglicans, Methodists, Moravians, Catholics, Baptists, and some fundamentalist groups then began spreading the word into rural communities (Lazarus-Black 1990:114–20, 189–97).

relations. As they intervened in the family lives of persons of different ranks in diverse ways and by means of disparate rules, lawmakers also concretized a hierarchical arrangement between the sexes. Women's legal disabilities, of course, influenced their abilities to act as advocates for their families.

Interestingly, Antiguan law did not often deal specifically with women; they were governed as a matter of course. Between 1668 and 1864, for example, the Antiguan Assembly passed 1,263 bills and women were rarely mentioned or were noted only in passing. The following, from a law of 1698 fixing the terms of indentured servant contracts, is typical:

> each Servant, during his servitude . . . shall have . . . from their Master, or Mistress, six pounds of Fish or Flesh per week, and Bread kind suitable, and shall have one Coat or Jackett, Three Shirts, Three pairs of Drawers, Three pairs of Shoes, one Hatt, two pairs of Stockins for each Year, and convenient Lodging during their term, and Woman Servant proportionable. (Laws of Antigua and Montserrat, Microfilm No. 1)

Tracing how lawmakers regarded women becomes even more difficult after 1860 when an act was passed stating that henceforth "words importing the masculine gender include females" (Laws of Antigua 1864:439).[16]

When women were distinguished in Antiguan law, however, they were differentiated according to their socioeconomic rank, property holding, and marital status. As was true in Great Britain, women were barred from formal political participation, denied the vote, and hindered by law from developing an economic base that might allow them to gain power, a feat they sometimes accomplished when their husbands or fathers died. Married women fell under the law of coverture. Their right to hold and transfer property in Antigua was modified further by local statutes. In 1692, for example, the Leeward Islands Legislature decided it would be lawful for a man possessed of his wife's inheritance in land to convey that land—a right specifically denied him by English common law. The Antiguan bill only required that a local judge sign an affidavit to the effect that the wife consented to her husband's decision to sell her inheritance (Laws of Antigua 1864:19–20). Another bill (1705) protected widows by granting as part of their dower "all coppers, stills . . . cattle, horses, [and] asses" on a husband's properties, along with his lands, slaves, and tenements if he died without a will. This provided her with reasonable housing,

[16] I found no clue explaining why that change was enacted. Perhaps it was only a matter of expediency. The bill is the Consolidated General Orders of the Court of Chancery of Antigua, 1860. It also made "words importing the singular number" [to] "include the plural number" and the word "person" to include "a body politic or corporate" (Laws of Antigua 1864:439).

slaves, and tools to work his estate even if he had left large debts (Laws of Antigua 1864:4–5).

Only well-to-do widows, however, benefited from this rule. A different statute applied to the wives of the "ten-acre men," poor whites who had accepted the legislators' offer of free land in return for their services in defending the colony. The local Antiguan gentry found the division of the 10-acre plots troublesome as there was not "a sufficient encouragement for new grantees to proceed in cultivating" those plots. Therefore, in 1747 they abolished dower rights in land for all future widows of 10-acre men and substituted a cash settlement of £30 from the treasury—provided the widow submitted the proper forms within a designated period. If there were no heirs, the land reverted back to government (Laws of Antigua 1864:49–51).

A free woman living without a man or much property faced a very precarious existence in 18th-century Antigua. Not surprisingly, the poverty of such women became the subject of legislative concern in 1753. Lawmakers gave women a special dispensation exempting them from taxes if they owned fewer than 10 slaves on whom they depended for their livelihood (Laws of Antigua and Montserrat, Microfilm No. 3).

Colonial law differentiated between free men and women by favoring control of property by men. With respect to dower rights, it also privileged wealthy women over poor women. On the other hand, law treated male and female servants and male and female slaves similarly, even if masters treated them differently in practice.[17] Indentured servants of both sexes were granted the same legal rights and responsibilities except that, as the 1698 code illustrates, women were given dresses rather than drawers and proportionately less food. Pregnancy in indentured servants was regarded as a nuisance and discouraged legally with fines. The Amelioration Act pardoned slave women from heavy labor during pregnancy and gave those with seven living children reprieve from field duties. Otherwise, it did not radically differentiate the treatment of male and female slaves.

The legacy of colonialism, then, was a hierarchical social world in which men and women were cast into rather rigid social ranks and in which men ranked higher than women. Social scientists have previously paid little attention to the development and constitutive character of law in the Caribbean; my research reveals that judicial codes played a formative role in

[17] As Morrissey (1989:13–14) points out in her discussion of slavery, legal equality "did not translate into equity among slaves precisely because slave masters treated male and female slaves differently. Slave men, by virtue of their greater access to resources (skilled positions, hiring out, provision gardens), had status and authority over slave women and children. And women's greater access to manumissions, domestic work, sexual unions with masters, and the potential for bearing free children gave them an advantage over slave men." Nevertheless, law had greater influence in shaping kinship and gender ideology over time than Morrissey supposes.

early Antiguan kinship and gender organization. Locally crafted marriage, fornication, bastardy, and inheritance laws influenced the evolution of familial patterns within and between the social classes in Antigua because they established particular meanings, associations, and consequences for the relationships of marriage and parentage. Law was a vehicle for creating class, kinship, and gender hierarchies simultaneously in Antigua. It discouraged marriage between persons of different ranks, blatantly denied contractual unions to some, and tried to create an alternative system among slaves. Formal marriage and legitimacy were associated first with the propertied class and later with all those who adhered to a Christian way of life.

When slavery ended, the complexity and variability that characterized familial relationships among slaves, particularly men's proclivity for retaining multiple conjugal partners, became less tolerable to the planter/lawmaker. Multiple unions gave men enlarged networks of kin and friends, some of whom might provide them with alternatives to working full time on the sugar estates, while leaving a great number of children without fathers legally responsible for supporting them. Exactly what behaviors lawmakers regulated and what they left untouched by the rule of law colored the events that unfolded after emancipation and until independence. The specific dynamics of legal intervention in matters of class, kinship, and gender would change, but the centrality of its role would not.

II. The Post-Emancipation Era: Free Laborers and Belabored Families

Much remained the same in Antigua immediately after emancipation in 1834: the economy still depended on sugar, and the working people labored under profoundly difficult conditions. Nevertheless, the abolishment of slavery altered class relations and the organization of power; it generated significant changes in laws related to labor and the management of families. Because people were no longer commodities, and the earlier marriage laws governing slaves, servants, and free persons expired, the local elite was forced to rethink the rights of individuals, the conditions of labor, and the functions of kinship. Once slavery was abolished, lawmakers placed increasing emphasis on individuals' rights to enter into contracts and, concomitantly, developed a new relationship between individuals, families, and the state.

Slaves' new freedom to accept or decline labor was quickly converted into a new form of bondage by means of statutory contracts between owners and freed slaves who "chose" to remain on the plantations. In fact, lack of suitable land ensured that most remained on the estates under the terms of the Con-

tract Act (Hall 1971:36–40). The contract provided a job, minimum wages, shelter, medical attention, and gardening rights. Wages were set at 6*d* sterling per day for able-bodied men; women and children received a percentage of that pay. The Contract Act fostered continuity between slavery and freedom by binding laborers to the lands and houses they had occupied during slavery and, in most cases, to similar work patterns. Nevertheless, the change involved granting former slaves the legal status necessary to enter a contract—a status that conferred the legal competence enjoyed by free persons. Under the new laws, each worker was capable of committing to a contract, expected to fulfill its terms, and subject to punishment for failure to do so (Laws of Antigua and Montserrat, Microfilm No. 9). Moreover, the former slaves who entered the work force under these laws constituted a class known as "estate laborers," a legally constituted lower class bound to special rules and regulations regarding their health, education, and right to assemble. In the minds of the Antiguan lawmakers, most of them still planters, the freedom of this class of laborers, as constrained as it was, seemed to threaten to unleash a restless criminality. The Contract Act was modified slightly over time but not fully abolished until 1937 (Henry 1985:85).

A second development, however, tempered the ideology of individualism that underlay the freedom of the former slaves to bind themselves to their former masters. After 1834, the state's administration of familial relations was tied increasingly to intervention through labor codes, social welfare legislation, and poor laws. Faced with high mortality rates and a shrinking labor pool, the state sent inspectors into the villages and onto the estates to sanitize, immunize, and educate plantation workers. Restrictive marriage and fornication codes that had limited the reproductive freedom of this class no longer occupied the minds of lawmakers. Instead, social welfare policies were tied to the needs of the local labor pool and the costs of maintaining a free labor force (cf. Fox Piven & Cloward 1971).

Antiguan poor law reform took a very different course than that pursued in Great Britain in the same period. England's infamous Poor Law Reform Bill of 1834 dramatically altered the government's policy for handling the "able-bodied" poor and others too sick, old, or young to fend for themselves. It set a uniform policy for administering to the poor, discouraging "out door relief" granted to people in their homes and opting instead for "workhouses" in which the destitute were housed and forced to labor at the most menial tasks. Poor Law authorities in England sometimes discussed the feasibility of putting pressure on paupers' relatives to keep them from the workhouses (Webb & Webb 1963b:126), but the 1834 Poor Law did

not explicitly force peoples' blood relatives to feed, clothe, and work for their maintenance.[18]

Like England, Antigua would also eventually build a poor house. Beginning in the 1850s, however, the island's poor laws were rewritten so that the maintenance of applicants for relief became the legal responsibility of every relative. The responsibility for children, the elderly, and other nonworking persons was shifted in law to an "extended" family that specifically included grandparents. For example, in 1864, one could not refuse to work to maintain one's family (Laws of Antigua 1864: 179). Any person accused of abandoning his or her family could be tried before a magistrate. Any such person was also prevented from migrating.[19] By the mid-19th century, the state "policed" (Donzelot 1979) as much as it "governed" families.

Antiguan lawmakers may have extended kinship obligations to prevent a potential fiscal nightmare: They were avoiding the possibility that an impoverished working class with an extremely low marriage rate might leave the sugar estates or ap-

[18] Sidney and Beatrice Webb's *English Poor Law Policy* (1963b) never clearly defines "relatives" or what legal responsibilities relatives held with respect to the poor. As far as I can determine, when 19th-century English poor law commissioners and guardians discussed making "relatives" accountable for poor persons, they usually had in mind legal responsibilities between husbands, wives, and children (e.g., ibid., pp. 3, 4, 126 n.). That fact, of course, is illustrative of the very different kinship systems with which British and Antiguan lawmakers were concerned. Those who drafted the English Poor Law of 1834 were primarily concerned with the "able-bodied poor," men capable of being employed in the workhouses. They assumed those men's dependent wives and children would follow them to the workhouses (ibid., pp. 3, 15, 36, 100–101). "Wives" were further differentiated into several different classes including widows, deserted wives, those whose husbands were in His Majesty's service, beyond the seas, imprisoned, or insane and with or without children (ibid., pp. 40–41, 100–104, 174–78). Never-married women with illegitimate children comprised a relatively small percentage of England's paupers. Before 1834, they were given relief in their own homes. Each parish was responsible for trying to find putative fathers to recover what relief had been given their children. The 1834 Poor Law exempted putative fathers from the responsibility of reimbursing the parish. Instead, the commissioners recommended that a bastard child be "what Providence appears to have ordained that it should be, a burden on its mother, and where she cannot maintain it, on her parents" (cited in Webb & Webb 1963b:7). It is not clear, however, if this recommendation was enforced because Parliament "contented itself with giving the Central Authority wide powers and almost unfettered discretion in the use of them" (ibid., p. 12). After 1844, it became illegal to provide outdoor relief to women with illegitimate children, but again the discretionary power of local authorities produced geographical diversity in practice (ibid., pp. 23, 83–84). A Circular of 1871, a 1875 policy recommendation of the Manchester Board of Guardians, and an 1873–74 Annual Report suggested the inspectorate try harder to get contributions from relatives of people receiving relief (ibid., pp. 150, 152, 229 n.). I found only one 19th-century English law that specifically imposed legal obligation on a group for persons not their spouse or offspring. The Married Women's Property Act (1882) made a married woman with separate property responsible for maintaining her husband, children, and grandchildren (ibid., p. 175 n.).

[19] I found no precedent for these statutes in England in the same time period. The Antiguan codes bear some resemblance to a 16th-century poor law that made children, parents, and grandparents responsible for each other if they had the means and only if the parents or grandparents were unable to work (Webb & Webb 1963a:64–65). It is hard to believe, however, that 19th-century Antiguan planters turned to a 1597 statute as a model for their own codes. It seems more likely that they would have been influenced by the 1834 British poor law reform.

ply for parish relief for illegitimate children. The legislators accomplished much more than this, however. Relationships between men, women, and children suddenly had new implications because law now infiltrated what had previously been conceived of as "personal" matters. If it had become illegal to enslave a worker, it was now legal to bind a laborer to virtual slavery by means of a contract. If it had seemed immoral to abandon one's kin, it was now also illegal. Civil codes redefining kinship duties and obligations recreated the planters' control over their emancipated slaves (Lazarus-Black 1990: 128–55). Poor "relief" was a response to the "problem" that the earlier and continuing regulation of families created.

Antiguan planters' ability to use kinship, labor, and welfare laws to intervene directly in the lives of workers was more restricted after 1871, however, due to a political restructuring. In an effort to make colonial administration more efficient and less expensive, Great Britain made Antigua one of six "Presidencies" within a new Leeward Islands Federation. Its General Legislature then gained jurisdiction over matters between husband and wife, parent and child, divorce, and guardianship of infants (Federal Acts of the Leeward Islands 1914:vol. 1:2).[20]

Of acts passed by the Federation, three in particular had long-term ramifications for family life in Antiguan communities and bear on the events surrounding the efforts to reform family law in the 1980s. Each also illustrates the continuing and constitutive ties between political economy, law, and kinship. These laws include an act establishing new procedures for determining paternity and maintenance for illegitimate children, a statute enabling married women to hold and transfer property, and a divorce act. Products of the late 19th century, the paternity law and the married women's property act remain ex-

[20] An Act for Making Alterations in the Law Consequent on the Coming into Operation of the Leeward Islands Act 1871 (1872) made Antigua, Montserrat, St. Christopher, Nevis, Dominica, and the (British) Virgin Islands a single colony. The Island Secretary and the Attorney General of the Leeward Islands became members of the Legislative Council of Antigua. An Executive Council continued to assist the governor. In 1898, the Legislative Council was again reorganized. The new council was composed of eight "official" and eight "unofficial" members appointed by the Queen. After 1899, the eight official members of the council included the Colonial Secretary, the Attorney General, and the Auditor General of the Leeward Islands, the Treasurer of Antigua, and four other local public officials. Unofficial members were private citizens (Laws of Antigua and Montserrat, Microfilm No. 10). After the loss of local autonomy, Antigua rarely passed measures affecting kin relations. I found only two examples, the Absconding Guardians ordinance of 1919 (The Maintenance of Children Act, Cap. 49), which protected children whose parents or guardians were leaving the island without making adequate provision for their maintenance and care (Laws of Antigua 1920:618–20), and the Children Emigration Protection Ordinance (1919), which prevented guardians from removing a child from the state unless they could show just cause (Antigua and Barbuda, Revised Laws 1962:2:1215–16). I did find several cases in the magistrates' books for 1981–85 in which the former statute was invoked to prevent a putative father from emigrating. The Children Emigration (Protection) Ordinance was repealed in 1974.

tremely relevant to the making and breaking of family ties in contemporary Antigua. Of more recent vintage, divorce was infrequently resorted to until the 1970s. Examining the rights these laws bestow, especially to women, helps explain the contemporary Antiguan kinship system and the events surrounding family law reform in the early 1980s.

New procedures for establishing the paternity of an illegitimate child and for providing child support were instituted by the 1875 Act for the Better Support of Natural Children, and to Afford Facilities for Obliging the Putative Father to Assist in the Maintenance of Such Children. The law set procedures for paternity trials to be held at the lowest courts, the magistrates' courts. It gave magistrates authority to declare men legally responsible for illegitimate children and to determine how much they would pay, within limits, in weekly support stipends. Women could also apply for funds to cover maternity fees or funeral expenses if the child died. The act encouraged women to use the courts to establish paternity and to obtain child support by making them easily accessible at minimal cost.

With only slight modifications, this is the same law that currently governs relations between fathers and illegitimate children in Antigua. Only the support stipend has changed over time—from a few shillings to a few dollars. The maximum weekly stipend that a magistrate could award for support for illegitimate children in 1987 was $15 Eastern Caribbean dollars ($5.67 U.S.). As in the past, the magistrate's court continues to serve as a forum for the kinship disputes of unmarried persons—persons who are today, as in the 19th century, also likely to be poor. In sharp contrast, married persons, many of whom are also middle class, can apply to the High Court to resolve their kinship disputes. In the High Court, judges take more time to listen to disputes and rule according to the circumstances of each individual case. They regularly issue orders for child custody and maintenance that take into consideration the financial positions of the parents and the educational needs of the children.

The fact that the magistrates' courts are used regularly for resolving kinship matters, but mainly by one class—poor and unmarried women—is evidence that law continues to influence family patterns and the economy of households, even as it reproduces the legal disabilities associated with lower-class kinship patterns. The persistence of these two alternative legal channels for married and unmarried persons preserves the earlier hierarchical class structure—a fact that does not go unnoticed in the community. Antiguans I interviewed, including lawyers, magistrates, and ordinary citizens, thought it highly unjust that the law discriminates in this fashion. Nevertheless, and despite the limitations of the present code, the courts are often

utilized by unmarried Antiguan women.[21] Speaking out for the legal, social, and moral rights of one's children is important for women in Antigua. As we shall see, those kinship norms, in conjunction with a long tradition of using magistrates' courts to obtain rights, helped fuel the effort to rewrite illegitimacy laws in the 1980s.

The Federation's Married Women's Property Act (1887), which was modeled on the English statute of the same name and gave married women the right to hold and transfer property in their own names (Antigua and Barbuda, Revised Laws 1962:vol. 5:3075–84),[22] has been adapted for use in Antigua primarily to deal with problems women face because of local kinship practices. Women and their lawyers invoke this statute as a consequence of the common practice by which married couples hold their joint property in the husband's name. Several attorneys explained to me that the Married Women's Property Act is used when (1) couples want to separate but not divorce; (2) a marriage has failed before the three years required to be eligible for divorce; (3) there are no legal grounds to file for divorce but the spouses have parted; or (4) a wife suspects her husband plans to leave her and wants to establish her contribution to their joint property. According to the lawyers I interviewed, adultery is the most common reason for divorce in Antigua. While Antiguan wives "look the other way" and ignore some of their husbands' affairs, a man's decision to share "his" assets with his "friend" and illegitimate children infuriates his wife. Hence the custom that presupposes a man's control over matrimonial property causes women's lawyers to use an 1887 code when there is trouble in the marriage. Again, the pervasiveness of such marital tensions, coupled with the norm that encourages women to speak on behalf of their children, proved critical to the recent struggle to legitimize illegitimacy.

[21] In the capital of St. John's, a town of approximately 20,000 people, I recorded 1,492 cases of maintenance and arrears for 1984 and 1,237 cases for 1985. The large number of cases is due in part to the frequency with which men who have been adjudged the putative father of a child or children, and ordered to pay weekly support, fail to make those payments. When a man neglects to provide child support for five or six consecutive weeks, the collecting officer requests the magistrate to order the man to explain why he has not paid. Three-fourths of all new cases brought to the court are requests by women to have men be declared the legal fathers of illegitimate children with an accompanying order for child support (Lazarus-Black 1991).

[22] In 1870 Britain passed a statute enabling a married woman to control her own wages, stocks, and inheritances from next of kin who died intestate, to purchase life insurance, to place funds in a bank or the post office, and to sue and be sued with respect to her separate property. In 1874, a defect in the earlier bill that prevented creditors from charging husbands with their wives' premarital debts was eliminated. The Married Women's Property Act of 1882, the most significant challenge to the subordinate status of married women, consolidated these two earlier statutes and extended to each woman married after 1 Jan. 1883 the right to control separately assets that she brought to her marriage or acquired in her own name after her nuptials. Her inheritance was her own, she could enter contracts, dispose of property, be sued or charged with bankruptcy, and be ordered to maintain her legal dependents.

The other product of the Leeward Federation with long-term effect on the lives of Antiguan families and of influence in the politics of family law reform in the 1980s was the divorce bill (Antigua and Barbuda, Revised Laws 1962:vol. 1:489–500). Judging by the late date of its passage—1948—Leeward Island lawmakers were long reluctant to permit divorce, even though divorce had been available in Great Britain since 1857.[23] Interestingly, the Caribbean statute made divorce retroactive to 1913 without explanation (Federal Acts of the Leeward Islands 1948:No. 1). There has been little further innovation in matrimonial law since the 1940s. In fact, the act under which Antiguans were divorcing during my fieldwork replicated almost exactly an English law of 1937. To obtain a divorce one has to prove desertion, adultery, or cruelty. Its general unavailability in Antigua until the relatively recent past helps explain not only the very low divorce rate on the island but also the custom whereby married couples simply live apart when they cannot live together. Indeed, "living in sin" and having children out of wedlock reflected not so much a failed morality as the near impossibility of canceling a marriage contract in the 19th century and for most of the 20th (Lazarus-Black 1990:160–61).[24] Thus although the divorce law did not originate in an attempt to regulate the nonlegal Antiguan family, it contributed to their numbers by making it extremely difficult to change marriage partners.

To recapitulate, early Antiguan family law functioned to keep separate free persons, indentured servants, and slaves. More than that, it endeavored to regulate sexual and reproductive relationships within these distinct social ranks. After emancipation, work contracts, poor laws, and paternity statutes that channeled to the magistrates' courts unmarried and mostly poor mothers desirous of child support reinforced the class structure.[25] Nineteenth-century family law commanded both the independence of workers and the solidarity of families in times of adversity. It deployed property and inheritance within legally constituted families but neglected the reality that Antiguans often married later in life, many after they become parents, and that most died without a will or legal heirs. Over time, these laws left a legacy of meaning about what kinship "should be," what marriage and divorce entail, how the sexes shall in-

[23] The English Parliament ended ecclesiastical authority over marriage in 1857 when it passed the Matrimonial Causes Act. The law made legal separations and divorces more available but discouraged those practices by making it difficult to prove legal grounds for separation. For further discussion of this and later British divorce acts see Lazarus-Black (1990:151–59).

[24] Lewin (1987) encountered a similar phenomenon in Brazil.

[25] I do not wish to give the impression that women only go to magistrate's court for financial reasons. For an alternative perspective based on research in contemporary Antigua see Lazarus-Black 1991.

teract, and to whom and with what success women can turn for support for illegitimate children. We turn next to the questions of why and how the practical consequences of kinship norms and gender hierarchy caused Antigua's most recent family laws to bring together the idealism of law and the realism of Antiguan family life, reflecting a rhetoric of political autonomy, human equality, and marital sanctity.

III. Independence and the Efforts to Banish Bastardy

The legal construction of families in Antigua, the definition of who is kin to whom and what such relations mean materially and otherwise, belonged first to the processes of colonialism and the construction of a hierarchical society predicated on slavery. Later Antiguan political economy and law encouraged the development of a kinship system comprised of diverse familial forms and with variable household memberships. The struggle to legitimize illegitimacy first began after political independence from Great Britain in 1981 and through the efforts of a political leadership whose roots lay in the working class.[26] These lawmakers, like their predecessors, acted on behalf of their own class interests when they relegislated kinship. In sharp contrast to earlier lawmakers, and for the first time in Antigua's history, however, this elite used kinship codes to remove rather than to create new bases for social hierarchy within the society. In this respect, the Status of Children Act, the Births Act, and the Intestate Act mark a critical turning point in the use of family law as a vehicle of class relations. These statutes, which end discrimination against illegitimate children, are critical on another account too; the story behind their passage heralds significant changes in Antiguan women's participation in lawmaking. Women's historical role as advocates for their children encouraged them to exercise power as the legislature considered changing the status of children. Understanding the struggle to banish bastardy, as well as the events and processes through which this goal was accomplished, thus requires our attention to contemporary kinship and gender norms, the present composition of the lawmaking elite, and the efforts of women who helped change the course of Antigua's kinship history.

As in the past, Antigua's marriage rate remains low and its illegitimacy rate high. In the early 1980s, for example, the marriage rate per one thousand persons was less than three, while the illegitimacy rate at birth averaged 80% (Antigua and Bar-

[26] Henry (1983, 1985) offers well-researched and provocative discussions of "constitutional decolonization" in Antigua, which also explore the emergence of contemporary political leadership. He distinguishes Antigua's new black political elite from its foreign and white economic elite.

buda 1982, 1983, 1985). A variety of reasons account for these continued rates, including the legacy of laws that discouraged marriage and prohibited divorce, individuals' reluctance to marry until they have established a home and some financial security, an unwillingness on the part of men to wed until they feel they have "sown their wild oats," the critical relationship between marriage and individual religious salvation which becomes especially important in one's later years (Lazarus-Black 1990:262–72), and individuals' outright resistance to this form of state intervention in their personal lives.[27] Visiting "friends" and long-term, nonlegal relationships are common and prevail alongside formalized unions. Although both men and women say marriage is an ideal to which they aspire "some day," parenting outside of marriage is also highly valued. Within marriage, husbands and wives have segregated roles and nobody ever suggested to me that they were equal in any respect. Both sexes believe firmly that a wife should defer to her husband when the couple faces important decisions. Men usually determine what economic contribution they will make to the household, and they rarely explain their comings and goings. A cultural prescriptive, common throughout the region, holds that men "by nature" love to love more than one woman and ensures that many men will father "outside" children even after they are wed (e.g., Alexander 1978, 1984; Austin 1979, 1984; Barrow 1986; E. Clarke 1970; DeVeer 1979; Douglass 1992; M. Smith 1962; R. Smith 1956, 1982, 1987, 1988; White 1986). Since Antiguans typically acknowledge relationships through both blood and law, families become complicated alliances in which individuals strive for love, attention, respect, and social, political, and economic support.

Prior to the recent legislation, however, marriage and legitimate birth continued to convey certain legal, social, and economic advantages. As late as the 1950s, some secondary schools would not admit illegitimate children. Almost all the churches baptized illegitimate children on days set apart from the baptisms of legitimate children. Moreover, even in the 1980s the illegitimate children of a man who died intestate had to wait for the approval of the Prime Minister's Cabinet before they could inherit their father's property—and then only in cases where legitimate heirs did not claim the estate. Illegitimate children also faced difficulty obtaining papers enabling them to travel and work overseas.

The legal changes that addressed these disadvantages awaited a shift in the composition and goals of the lawmaking class. When slavery ended, many planters left the island, leav-

[27] My thanks to an anonymous reviewer who reminded me that I had neglected this reason for not marrying.

ing their posts in the civil service and commerce to be filled gradually by the children of people of color, indentured servants from Portugal, traders from the Middle East, and men and women from the working class who achieved social mobility primarily through teaching, the professions, and the church (Lowes 1982, 1987; Henry 1983, 1985). These groups had lacked any political voice until the 1950s when Antiguans won universal suffrage enabling the working class to gain representation in government.[28] In contrast to government by white planters or a colonial federation, the contemporary political leadership is Antiguan born, black, and locally educated. They are people who have "come up": the sons and daughters of working people. Moreover, many of them held jobs such as carpenter, artisan, timekeeper, secretary, or clerk before assuming their posts in Parliament.[29] The exemplar is V. C. Bird, Sr., the Prime Minister, who has served continuously as chief executive since 1961 with the exception of 1971–76 when his Antigua Labour Party lost one election. Bird was born out of wedlock in an Antiguan slum, which meant that a secondary school education was out of the question "both because it was expensive and the schools did not permit entry to illegitimate children" (*Antigua and Barbuda Independence* n.d. [1981]:28). He and his associates now in Parliament were active in the labor disputes and strikes of the 1920s and 1930s, led the fight to legalize the unions, helped write Antigua's successive constitutions, and brought the nation to independence. Those lawmakers are familiar not only with the commonsense understanding of family in Antiguan communities but also with the plight of illegitimate children. Moreover, it was common knowledge in the legal

[28] Long a single-crop economy, the Antiguan agricultural sector remains in general decline despite a variety of efforts to revive it. In the past two decades, tourism has become the single most important economic activity. Its direct value now accounts for about 21% of the gross domestic product, and at least 12% of the labor force works in this sector (World Bank 1985:24). The government is the largest single employer, accounting for about 30% of employed persons, many of whom are temporary laborers (ibid., p. 4). Unemployment remained at around 20% through the first half of the 1980s (Antigua and Barbuda 1982, 1983, 1985). In general, Antiguans are low-income hard-working people holding multiple jobs or sharing jobs to help families make ends meet.

[29] Lowes (personal communication, 1989) researched the backgrounds of 21 members of Parliament in 1985. Her data includes information about "father's occupation" in 16 cases. Of these, 4 were peasant farmers or overseers on estates, 5 were artisans (including carpenters, a plumber, a shipwright, and a taxi driver), and 5 held occupations such as "time keeper," "teacher," and "civil servant," suggesting possible middle-class status. Only 2, an "estate owner" and an "estate manager," may have belonged to the upper stratum. The backgrounds of these Parliamentarians reflected an "old guard," peers of V. C. Bird, Sr., who were active in the union, held working-class jobs, and were educated locally, and a younger group who gained social mobility through education. Of the 21 members, 11 were schooled only in Antigua while 10 others, mostly the younger generation, have obtained university or vocational training abroad. Their previous employment histories include artisan, 3; white-collar job (e.g., accountant, secretary, civil servant), 10; teacher, 3; business interests, 3; engineer, 1 and doctor, 1.

community that Jamaica, Trinidad, and Barbados, nations with kinship histories similar to Antigua's, had revised their statutes to end discrimination against illegitimate children.[30]

A Status of Children Act was included on the government's list of "priority legislation" in 1982. The Solicitor General and his assistants wrote the first drafts of Antigua's Births Act and Status of Children Act the following year. The bills made all the rights, privileges, and obligations of children born out of wedlock identical to those of children born in legal unions and provided a procedure by which men might readily identify their illegitimate offspring. Neither bill addressed directly the subject of inheritance. By implication, however, any child legitimated by his father's signature on a certificate at the courthouse under the Births Act might inherit equally with the progeny of a marriage. Having secured the approval of the Cabinet, and following usual procedure, the bills were then introduced to the House of Representatives for debate.

The transcript of the first Parliamentary debate reveals that the Representatives immediately understood the overtly political significance of the newly proposed kinship codes. Champions of the bills made the issue of human equality their central argument. Proponents claimed the statutes protected individual rights and were just alternatives to discrimination based on birth status that had served the old social hierarchy. The attorney general declared that "when this bill is passed into law it will be one of the most important pieces of legislation which this House would have passed" (Antigua and Barbuda 1984). Several legislators stated explicitly that kinship law could be wielded as a political tool and as an instrument of class relations. One enthusiast, for example, called the bill "the outcome of the social revolution that started in 1939" with the efforts to legalize labor unions (ibid.). Members of the House recounted their own memories of illegitimate children being excluded from high schools on the island, cutting off an important route for social mobility. Others mentioned that the churches would not baptize legitimate and illegitimate children on the same day. They found practical value in the bills because they removed the obstacles and embarrassment people faced when they tried to secure documents to travel and work overseas. As one representative declared: "There have been too many cases of people who want to get their green card not being able to get it because of the fact that they were so-called bastards." Supporters also identified these measures with "progressive

[30] Most of the lawyers practicing in Antigua today were trained in Great Britain. All the attorneys I interviewed were aware that other Caribbean nations had already altered their kinship statutes to ban discrimination against illegitimate children. Concerns about appearing to be backward in comparison to other nations were voiced repeatedly in the Parliamentary debates of these bills.

thinking." Even the leader of the opposition political party agreed "with certain principles" of the bills (ibid.).

Despite the enthusiasm in the House, however, the Status of Children Act and Births Act were never scheduled for Senate debate, making their enactment into law impossible. Why didn't the plan to legitimate illegitimacy succeed in 1984?

The attempt to banish bastardy made explicit the contradictory ideas contained in Antigua's legal culture. Relegislating the rights of individuals, but also of parents and children, the Status of Children Act raised the question about which of two opposing principles should prevail: Should kinship law cherish first the rights of all individuals regardless of birth status or should it continue to encourage marriage and legally constituted families? The contradiction fueled an unexpected controversy that shifted the course of Antigua's kinship history, delaying for two years the Status of Children Act and the Births Act and causing legislators to draft a new Intestate law for the nation.

The Status of Children Act and Births Act of 1984 failed to reach the Senate because of lobbying by a group of married women who believed strongly in the equality of all children but who refused to ignore the practical consequences of family and gender norms in their community. Antiguan men's proclivity to father and provide for children outside of legal unions, together with the custom of holding a couple's marital assets in the man's name even if a wife works outside the home, suggested to them that the Status of Children Act and the Births Act posed possible social embarrassment together with considerable financial threat. A man's decision to legitimize a child born outside of the marriage could jeopardize his wife's own and her children's financial security. Alert to this possibility, the women initiated a political struggle over family law reform lasting two years, waged completely in accord with local kinship and gender norms, espousing human rights and the sanctity of marriage, and ultimately gaining for married women the legal protection they sought.

The struggle over these acts was particularly surprising and interesting because it involved married women. A review of the literature on women in the Caribbean finds "women do not actively participate in the political and policy-making arenas of their societies" and that women who are involved in decision-making positions are mainly middle and upper income women (R. Clarke 1986:147). As a group, Caribbean women have never been proportionately represented in government, political parties, or trade unions. They have had low membership rates in formal organizations generally, except for church groups, and some research suggests that when West Indian women do become involved in formal political efforts, their activi-

ties are often limited to such traditionally female tasks as fund raising and social welfare efforts (Anderson 1986; R. Clarke 1986; Durant-González 1982, 1986; Massiah 1986; Safa 1986).[31] The Antiguan case is thus an exception to the view of Caribbean women that predominates in the literature.

Who were the married women involved in the struggle over Antigua's kinship codes? In an effort to protect the identities of informants, I asked government officials not to identify the protagonists by name. One member of Parliament referred to them as "certain married women," a description I adopted in later interviews.[32] I did not make this request during informal discussions of these events with lawyers who were acquaintances of mine, but no one volunteered their names. A few told me that the group included "some of the politicians' wives," which suggests their elite status. One member of Parliament said the group also included an office worker and a recently widowed owner of a shop. Another insisted that the group represented women of different classes and religious sects, some supported by their husbands:

> A: All of them. All of them would complain. Because, you see, why all women complain is that their children will not have—Look . . . [they would say] "I am with my husband, I am working, he's working. Whatever the low, or the high, whatever we have, we pool together. Usually, this is what happens and they feel that only their children should benefit. Now if he has children outside, well, why should that child come in and just benefit from what the married woman has worked for?" You see? And so all the women in that category, all married women, they were complaining. And I don't think that it's a popular bill among married people. (Interview, 21 April 1987)

Cognizant of the contradiction between the allegedly "protective" Status of Children Act, and the actual social and economic consequences for women and children of local conjugal and reproductive practices, the women achieved their goal in a manner that was strictly in accord with Antiguan gender ideology. Public display of political opposition to the rights of illegitimate children in a formal arena would have been viewed as inappropriate, as "rude" and "come up." Instead, the women wielded power quietly. They spoke to their husbands and min-

[31] A "Women's Desk" was established in Antigua in 1980 as part of the responsibilities of the Ministry of Education, Culture, and Youth Affairs. The Desk is involved in projects designed to augment women's income-generating activities, health, nutrition, and family life. Lack of resources severely limits what the small staff can accomplish. In 1985–86, Antigua had one woman Senator, but no women were elected to the House. One former member of the House was no longer active in politics (R. Clarke 1986:118, 119, 122).

[32] Antigua is a very small country, and its citizens value highly their privacy. During my fieldwork, I always assured the people I interviewed that I would protect their anonymity. I chose not to depart from my usual practice when I asked questions about the married women who struggled to obtain the new Intestate Act.

isters, made personal phone calls to officials and, importantly, a small group arranged a private appointment with the Prime Minister which was successful in convincing him of the validity of their claims.[33] Later, as they engaged in these efforts, the women also garnered editorial support from the Antigua Trades and Labour Union. The union had on at least one occasion published an article chastising the government for delaying passage of the Status of Children Act.[34] Lobbying to restructure the kinship laws, however, mostly took place outside the formal system; not once did the women become entangled in the legal process.[35]

The concrete result of the women's efforts was a new Intestate Act that offered financial protection to wives and legitimate children without seriously disadvantaging illegitimate children

[33] I have little information about one small group who were trying to organize a delegation to meet with the Prime Minister on behalf of the bills in 1985, during the period in which they failed to reach the Senate. This group consisted of three, possibly four, highly educated and professional women. At least two were married with grown children. I declined their invitation to participate in their mission.

[34] The *Workers Voice* explained the reason for the delay in terms of continuing class struggle: "The Status of children Act 1984 was passed by the Lower House in 1984, but was never sent to the Senate, as certain influential persons in the society presurized their respective ministerial representatives to withdraw the Bill" (*Workers Voice*, 21 June 1986, p. 1). It called for immediate action to protect the rights of illegitimate children. A more widely read paper, the *Antigua and Barbuda Herald,* recorded that the Status of Children Act and the Intestates Act had passed the House on 10 Dec. 1986. This brief article described the bills as "social legislations." The Attorney General and the Finance Minister were quoted briefly, both of whom emphasized that it was right to abolish the legal distinctions between legitimate and illegitimate children (*Antigua and Barbuda Herald*, 10 Dec. 1986, p. 2). There was no discussion in this article about why the bills had been delayed. The Senate debate of the Status of Children's Act, however, makes it clear that some "religious Christians" had also talked to Parliamentarians about whether these acts might discourage matrimony. I would hazard a guess that some were married women. Interestingly, the union's decision to work for passage of the bills in 1986 was influenced partially by pressure from Antiguan fathers who were living in the United States. A union leader and member of Parliament told me he had received several letters from men who were having difficulties securing green cards for their illegitimate children. They expected their union to speak for them (Antigua and Barbuda Records at Parliament 1986b).

[35] Penetrating the silence of other cultures is a difficult but extremely important task. As Santos (1977:32) noted several years ago: "Silence is not equally distributed across cultures, nations, or even groups and classes in the same society. Silence is a scarce resource and the ruling classes in every society tend to allocate it according to their convenience and their cultural postulates." My case study shows that while women have been silenced in some ways by the cultural logic of gender relations in Antiguan society, they can also work within silence to effect successful political strategies. A case study from France by Susan Rogers gives another illustration of how women exercise power in covert and informal ways (cited in Scott 1990:52). Evaluating this work, Scott reminds us: "That such women's power can be exercised only behind a veil of proprieties that reaffirm men's official rule as powerholders is a tribute—albeit a left-handed one—to the men's continued control of the public transcript. To exercise power in the name of another party is always to run the risk that the formal titleholder will attempt to reclaim its substance as well as its form" (ibid., p. 52). While I agree with this point, it is also useful to consider that men need not listen. The fact that they did in the Antiguan case suggests a shift in the balance of power. As one elected official told me, Antiguan women vote in ever increasing numbers and are not adverse to discussing their opinions with their representatives.

whose fathers had legally acknowledged them. If a man dies intestate, the act gives his wife one-third of his property and all of his personal effects, including automobiles, tools, jewelry, and household furnishings. The remaining two-thirds of the property is shared by his children, including those legitimized under the new Births Act. A man can defeat the provisions of the Intestate Act, however, if he makes other arrangements in a legal will.

With new kinship legislation drafted to the women's satisfaction, Antigua's legislators pressed ahead. The Births Act passed the House on 5 June 1986, with little fanfare. The Status of Children Act and the Intestate Act were introduced together six months later. Proponents emphasized again the need to protect the rights of every child regardless of birth status and expressed pride in being part of an effort to end discrimination in society. They associated these kinship laws with the political goal of promoting a more just society. The acts were lauded as indispensable to a democratic nation and protective of the "real" family. One Representative explained it this way:

> Mr. Speaker, we have a state in this country where the attitude of our people must be changed. We are trying to change them from the top but they have to be changed from the bottom too. . . . I am saying even though we are talking about all children as one, we are also saying, Sir, that they must realize although they are one, their attitudes must be of the same nature. Don't let those from the married family feel they are higher up than those of the unmarried families. They all must go down the road together and behave and hug up one another. For instance, my son, a daughter, one in wedlock and one out of wedlock, they should be together, hug up and kiss up and so on. This is what we are trying to do, to bring together the family. (Antigua and Barbuda Records at Parliament 1986a)

While they acknowledged that a great many Antiguan children were born out of wedlock, the Representatives insisted that protecting the rights of these Antiguan family members had nothing to do with condoning "immorality," condemning Christianity, or advocating African polygamy:

> What I am saying, I hope that it is not in the spirit of creating all sorts of families here and there that this bill is brought here today. It is not a situation in Africa where one man can have two, three, four wives and all sort of concubines, although we have them here, and I hope we are not trying our best to encourage such. We do feel a Christian society is really a welcome one. (Ibid.)

The "family" the legislators hoped their new kinship system would protect was "Christian" in its ideal union and "Christian" in its tolerance of bastard children. In accord with the still pervasive influence of the churches, their rhetoric privi-

leged marriage as a religious phenomenon, although not as fully determinative of a married man's resources. Members of the House, and later the Senate when it unanimously ratified these bills, understood that the "family" they envisioned was a family whose blood was thicker than water or any contract. The legislature reordered kinship law so that it would more closely resemble "family" in the Antiguan community, a family defined first through socially recognized blood ties (Lazarus-Black 1990:305). They understood that they were reformulating the kinship order in the image of the classes from which they had come and which they now represented. The content of family law had changed significantly, reflecting the new and unexpected influence of those who stood to lose position and property—married women (ibid., pp. 308–15).

As far as I can determine, this was the first time in Antiguan history that women exercised power successfully to resist bills that threatened their kinship status and financial interests. A group of married women used a variety of tactics outside formal legal channels to restructure new kinship legislation in such a way as to protect all children from discrimination based on birth status while preserving a protected place for marriage and community property. They wielded power to alter state intervention in their everyday lives, changing both kinship law and, more than likely, family practices on this island.

IV. Conclusions

Antigua's newest family laws express and reflect relatively recent changes in the backgrounds and interests of political leaders, in the nature and power of the state, and in the role of law in class and gender relations. No reassessment of the legal implications and consequences of legitimacy, illegitimacy, marriage, and inheritance could occur until a local bourgeoisie emerged with strong identification and ties to the working class, an agenda for social and economic change, and the opportunity to put those plans into action. In sharp contrast to the past, these new codes were specifically intended to break the cement of the old social hierarchy and to remove rather than to create bases for discrimination in society. The newest kinship laws are heralded as mainstays of social equality and justice. Most certainly, these codes resonate more closely with the family norms and practices of modern Antiguans and not with those of the former colonial elite.

Outlawing illegitimacy, the lawmakers outlawed condemnation of the kinship organization of the working people. Simultaneously, of course, they legitimated their own postcolonial rule—one which has not been without its critics (Henry

1985).[36] While Antigua's latest kinship statutes redefine kinship relationships and restructure the duties, obligations, and property rights of kin, they emphasize individuals as "free agents," part of the legacy of the labor laws of the 19th century. The state, however, now enters into the lives of families in a radically new way in that law protects the illegitimate child from discrimination and allows that child to inherit. Today the state recognizes and supports a different definition of kinship—one which affects families in every social class.

The shift in political power has also changed the character and forms of opposition to the state (cf. Foucault 1979; Abu-Lughod 1990). The events surrounding the passage of these bills reveal a complex web of power and resistance. In 1984, "certain married women" defeated the government's first attempt to recast kinship laws and substituted statutes more sympathetic to their own understanding of family and gender norms in their society. The 1986 codes reflect the political, economic, and social priorities of those women, union supporters, and political leaders.

The making of new kinship codes for the nation of Antigua and Barbuda exemplifies lawmaking as a deeply contextualized and gendered process. Given the slave history of these islands, no one would contest a demand for the legal equality of persons, and, thus, all welcomed the plan to banish bastardy as part of an effort to create a just and equitable society. And yet, given the long-held association between marriage and sacred Christian duties, married women could argue "legitimately" that wives must retain certain rights and privileges. Both the content of the new codes and the actions that brought them into law were structured by peoples' understanding of this history and by their cultural assumptions about family and gender.

A conflict remains, however. In practice, the Intestate Act may divide women against each other in their roles as mothers and wives. This is because while socially acknowledged albeit illegitimate children are often included within a man's "family," the mothers of such children are usually not once the couple's conjugal relationship ends (Lazarus-Black 1990:313). Thus, women who have children with men they do not remain with may find their children protected but their own situations tenuous. At the moment, however, the symbolic significance of these acts occupies the minds of their proponents; just what will be their actual practical, economic, and structural signifi-

[36] I do not mean to overemphasize the extent of the changes in Antigua's social, political, or economic structures in the past decade. As Henry (1985:162–63) points out, the country depends heavily on foreign assistance and foreign capital. Nevertheless, "what has changed and continues to change in the structural framework of state-class relations is not the basic hierarchical patterns but the relative distribution of power within the hierarchy. . . . This new situation has resulted in more competitive relations between the classes for access to state power."

cance for men and women, and for Antiguan families, remains to be seen.

References

Abel, Richard L. (1979) "Western Courts in Non-Western Settings: Patterns of Court Use in Colonial and Neo-colonial Africa," in Burman & Harrell-Bond (1979).

Abu-Lughod, Lila (1990) "The Romance of Resistance: Tracing Transformations of Power through Bedouin Women," 17 *American Ethnologist* 41.

Alexander, Jack (1978) "The Cultural Domain of Marriage," 5 *American Ethnologist* 5.

——— (1984) "Love, Race, Slavery, and Sexuality in Jamaican Images of the Family," in R. T. Smith (1984a).

Anderson, Patricia (1986) "Conclusion: Women in the Caribbean," 35 *Social & Economic Studies* 291 (June).

Antigua and Barbuda (1982) *Statistical Yearbook*. St. John's: Statistics Division, Ministry of Finance, Antigua and Barbuda.

——— (1983) *Statistical Yearbook*. St. John's: Statistics Division, Ministry of Finance, Antigua and Barbuda.

——— (1985) *Statistical Yearbook*. St. John's: Statistics Division, Ministry of Finance, Antigua and Barbuda.

Antigua and Barbuda Independence (n.d. [1981]) Official Independence Magazine. St. John's, Antigua: Ministry of Foreign Affairs, Economic Development, Tourism, and Energy.

Antigua and Barbuda Records at Parliament (1984) House Debate, Births and Deaths Registration (Amendment) Act and Status of Children Act, 6 Dec.

——— (1986a) House Debate, Intestate Estates (Amendment) Act and Status of Children Act, 4 Dec.

——— (1986b) Senate Debate, Intestate Estates (Amendment) Act and Status of Children Act, 22 Dec.

Austin, Diane J. (1979) "History and Symbols in Ideology: A Jamaican Example," 14 *Man* (n.s.) 497.

——— (1984) *Urban Life in Kingston, Jamaica*. New York: Gordon & Breach Science Publishers.

Barrow, Christine (1986) "Male Images of Women in Barbados," 35 *Social & Economic Studies* 51 (Sept.).

Benda-Beckmann, Franz von (1981) "Some Comments on the Problems of Comparing the Relationship between Traditional and State Systems of Administration of Justice in Africa and Indonesia," 19 *J. of Legal Pluralism* 165.

Bohannan, Paul (1965) "Ethnography and Comparison in Legal Anthropology," 67 *American Anthropologist* 401.

——— (1989 [1957]) *Justice and Judgment Among the Tiv*. Prospect Heights, IL: Waveland Press.

Brathwaite, Edward (1971) *The Development of Creole Society in Jamaica 1770–1820.* Oxford: Clarendon Press.

Burman, Sandra B., & Barbara E. Harrell-Bond (1979) The Imposition of Law. New York: Academic Press.

Bush, Barbara (1990) *Slave Women in Caribbean Society 1650–1838*. Bloomington: Indiana Univ. Press.

Clarke, Edith (1970) *My Mother Who Fathered Me*. London: Allen & Unwin.

Clarke, Roberta (1986) "Women's Organisations, Women's Interests," 35 *Social & Economic Studies* 107 (Sept.).

Cohn, Bernard S. (1959) "Some Notes on Law and Change in North India," 8 *Economic Development & Cultural Change* 79.
——— (1965) "Anthropological Notes on Disputes and Law in India," 67 (no. 6, pt. 2) *American Anthropologist* 82.
——— (1983) "Representing Authority in Victorian India," in E. Hobsbawm & T. Ranger, eds., *The Invention of Tradition*. Cambridge: Cambridge Univ. Press.
——— (1989) "Law and the Colonial State in India," in Starr & Collier (1989).
Cohn, Bernard S., & Nicholas B. Dirks (1988) "Beyond the Fringe: The Nation State, Colonialism, and the Technologies of Power," 1 *J. of Historical Sociology* 224.
Comaroff, Jean (1985) *Body of Power, Spirit of Resistance: The Culture and History of a South African People*. Chicago: Univ. of Chicago Press.
Comaroff, Jean, & John Comaroff (1986) "Christianity and Colonialism in South Africa," 13 *American Ethnologist* 1.
Comaroff, John L. (1980) "Class and Culture in a Peasant Economy: The Transformation of Land Tenure in Barolong," 24 *J. of African Law* 85.
——— (1982) "Dialectical Systems, History and Anthropology: Units of Study and Questions of Theory," 8 *J. of Southern African Studies* 143.
——— (1989) "Images of Empire, Contests of Conscience: Models of Colonial Domination in South Africa," 16 *American Ethnologist* 661.
Comaroff, John L., & Simon Roberts (1981) *Rules and Processes*. Chicago: Univ. of Chicago Press.
Cooper, Frederick, & Ann L. Stoler (1989) "Tensions of Empire: Colonial Control and Visions of Rule," 16 *American Ethnologist* 609.
Craton, Michael (1978) *Searching for the Invisible Man*. Cambridge, MA: Harvard Univ. Press.
Curtin, Philip D. (1955) *Two Jamaicas: The Role of Ideas in a Tropical Colony 1830–1865*. Cambridge, MA: Harvard Univ. Press.
DeVeer, Henrietta (1979) "Sex Roles and Social Stratification in a Rapidly Growing Urban Area—May Pen, Jamaica." Ph. D. dissertation, Univ. of Chicago.
Donzelot, Jacques (1979) *The Policing of Families*. New York: Pantheon Books.
Douglass, Lisa (1992) *The Power of Sentiment.* Boulder, CO: Westview Press.
Dunn, Richard S. (1973) *Sugar and Slaves: The Rise of the Planter Class in the English West Indies 1624–1713*. New York: W. W. Norton & Co.
Durant-González, Victoria (1982) "The Realm of Female Familial Responsibility," in J. Massiah, ed., *Women and the Family*. Cave Hill, Barbados: Institute of Social and Economic Research, Univ. of the West Indies.
——— (1986) "Evolution of a Research Methodology," 35 *Social & Economic Studies* 31 (June).
Fitzpatrick, Peter (1980) *Law and State in Papua New Guinea*. New York: Academic Press.
——— (1983a) "Law, Plurality and Underdevelopment," in D. Sugarman, ed., *Legality, Ideology and the State*. New York: Academic Press.
——— (1983b) "Marxism and Legal Pluralism," 1 *Australian J. of Law & Society* 45.
Flannagan, Mrs. (1967 [1844]) *Antigua and the Antiguans: A Full Account of the Caribs to the Present Day, Interspersed with Anecodotes and Legends. Also, An Impartial View of Slavery and the Free Labour Systems; The Statistics of the Island, and Biographical Notices of Principal Families*. 2 vols. Reprint. London: Spottiswoode, Ballantyne & Co.
Foucault, Michel (1979) *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books.
——— (1980) *The History of Sexuality:* Vol. 1, *An Introduction*. New York: Vintage Books.

Fox Piven, Frances, & Richard A. Cloward (1971) *Regulating the Poor: The Functions of Public Welfare*. New York: Vintage Books.

Galanter, Marc (1968) "The Displacement of Traditional Law in Modern India," 24 *J. of Social Issues* 65 (Oct.).

Gaspar, David Barry (1985) *Bondmen and Rebels: A Study of Master-Slave Relations in Antigua*. Baltimore: Johns Hopkins Univ. Press.

Gillis, John R. (1983) "Conjugal Settlements: Resort to Clandestine and Common Law Marriage in England and Wales, 1650–1850," in J. Bossey, ed., *Disputes and Settlements.* Cambridge: Cambridge Univ. Press.

Gluckman, Max (1965) "Concepts in the Comparative Study of Tribal Law," 67 (no. 6, pt. 2) *American Anthropologist* 349.

——— (1967 [1955]) *The Judicial Process among the Barotse of Northern Rhodesia*. Manchester: Univ. of Manchester Press.

Goode, William J. (1960) "Illegitimacy in the Caribbean Social Structure," 25 *American Sociological Rev.* 21.

González, Nancie L. (1970) "Toward a Definition of Matrifocality," in N. E. Whitten, Jr., & J. F. Szwed, eds., *Afro-American Anthropology*. New York: Free Press.

Goveia, Elsa V. (1965) *Slave Society in the British Leeward Islands at the End of the Eighteenth Century*. New Haven, CT: Yale Univ. Press.

——— (1970) "The West Indian Slave Laws of the 18th Century," in D. Hall, E. Goveia, & R. Augier, eds., *Chapters in Caribbean History 2*. Aylesbury, Eng.: Ginn & Co.

Hall, Douglas (1971) *Five of the Leewards 1834–1870*. St. Lawrence, Barbados: Caribbean Univs. Press.

Henry, Paget (1983) "Decolonization and the Authoritarian Context of Democracy in Antigua," in P. Henry & C. Stone, eds., *The Newer Caribbean: Decolonization, Democracy, and Development*. Philadelphia: Institute for the Study of Human Issues.

——— (1985) *Peripheral Capitalism and Underdevelopment in Antigua*. New Brunswick, NJ: Transaction Books.

Herskovits, Melville J. (1958 [1941]) *The Myth of the Negro Past*. Boston: Beacon Press.

Higman, B. W. (1976) *Slave Population and Economy in Jamaica, 1807–1834*. Cambridge: Cambridge Univ. Press.

——— (1979) "African and Creole Slave Family Patterns in Trinidad," in M. S. Crahan & F. W. Knight, eds., *Africa and the Caribbean: The Legacies of a Link*. Baltimore: Johns Hopkins Univ. Press.

——— (1984) *Slave Populations of the British Caribbean 1807–1834*. Baltimore: Johns Hopkins Univ. Press.

Jacobs, A. C. (1932) "Illegitimacy," in E. R. A. Seligman, ed., 7 *Encyclopedia of the Social Sciences* 579. New York: Macmillan Co.

Jayawardena, Chandra (1963) *Conflict and Solidarity in a Guianese Plantation*. New York: Humanities Press.

Kidder, Robert L. (1979) "Toward an Integrated Theory of Imposed Law," in Burman & Harrell-Bond (1979).

Kunstadter, Peter (1968) "Division of Labor and the Matrifocal Family," in N. W. Bell & E. F. Vogel, eds., *A Modern Introduction to the Family*. New York: Free Press.

Lazarus-Black, Mindie (1989) "The Banishment of Bastardy: Kinship Law, Social Hierarchy, and the State." Presented to American Anthropological Association annual meeting, November 1989, Washington, DC.

——— (1990) "Legitimate Acts and Illegal Encounters: The Development of Family Ideology and Structure in Antigua and Barbuda, West Indies." Ph.D. dissertation, Univ. of Chicago.

——— (1991) "Why Women Take Men to Magistrate's Court: Caribbean Kinship Ideology and Law," 30 *Ethnology* 119.

Lewin, Linda (1987) *Politics and Parentela in Paraiba*. Princeton, NJ: Princeton Univ. Press.

Lowes, Susan (1982) "From Free Colored to Middle Class: The Development of a Segment of the Population in Antigua, British West Indies, from 1830 to 1930." Prepared for American Historical Association, Washington, DC.

——— (1987) "Time and Motion in the Formation of a 'Middle Class' in Antigua, 1834–1940." Presented to American Anthropological Association annual meeting, November 1987, Chicago.

Martinez-Alier, Verena (1974) *Marriage, Class and Colour in Nineteenth-Century Cuba*. Cambridge: Cambridge Univ. Press.

Massell, Gregory J. (1968) "Law as an Instrument of Revolutionary Change in a Traditional Milieu: The Case of Soviet Central Asia," 11 *Law & Society Rev.* 179.

Massiah, Joycelin (1986) "Women in the Caribbean Project: An Overview," 35 *Social & Economic Studies* 1 (June).

Merry, Sally Engle (1988) "Legal Pluralism," 22 *Law & Society Rev.* 869.

——— (1991) "Review Essay: Law and Colonialism," 25 *Law & Society Rev.* 889.

Mintz, Sidney W., & Richard Price (1976) *An Anthropological Approach to the Afro-American Past: A Caribbean Perspective.* Philadelphia: Institute for the Study of Human Issues.

Moore, Sally Falk (1978) *Law as Process: An Anthropological Approach*. London: Routledge & Kegan Paul.

——— (1986) *Social Facts and Fabrications*. Cambridge: Cambridge Univ. Press.

——— (1989) "History and the Redefinition of Custom on Kilimanjaro," in Starr & Collier (1989).

Morrison, Dennis (1979) "The Reception of English Law in Jamaica," *West Indian Law J.* 43 (October).

Morrissey, Marietta (1989) *Slave Women in the New World: Gender Stratification in the Caribbean*. Lawrence: Univ. Press of Kansas.

Nader, Laura (1989) "The Crown, the Colonists, and the Course of Zapotec Village Law," in Starr & Collier (1989).

Nader, Laura, & Harry F. Todd, Jr., eds. (1978) *The Disputing Process: Law in Ten Societies*. New York: Columbia Univ. Press.

Olwig, Karen Fog (1981) "Women, 'Matrifocality' and Systems of Exchange: An Ethnohistorical Study of the Afro-American Family on St. John, Danish West Indies," 28 *Ethnohistory* 59.

Patterson, Orlando (1969) *The Sociology of Slavery*. Rutherford, NJ: Fairleigh Dickinson Univ. Press.

——— (1982) "Persistence, Continuity, and Change in the Jamaican Working-Class Family," 7 *J. of Family History* 135.

Pipkin, Charles W. (1934) "Poor Laws," in E. R. A. Seligman, ed., 12 *Encyclopaedia of the Social Sciences* 230. New York: Macmillan Co.

Pospisil, Leopold (1979) "Legally Induced Culture Change in New Guinea," in Burman & Harrell-Bond (1979).

——— (1981) "Modern and Traditional Administration of Justice in New Guinea," 19 *J. of Legal Pluralism & Unofficial Law* 93.

Rodman, Hyman (1971) *Lower-Class Families: The Culture of Poverty in Negro Trinidad*. New York: Oxford Univ. Press.

Rosen, Lawrence (1989) "Islamic 'Case Law' and the Logic of Consequence," in Starr & Collier (1989).

Safa, Helen I. (1986) "Economic Autonomy and Sexual Equality in Caribbean Society," 35 *Social & Economic Studies* 1 (Sept.).

Salamone, Frank A. (1983) "The Clash between Indigenous, Islamic, Colonial and Post-colonial Law in Nigeria," 21 *J. of Legal Pluralism* 15.

Santos, Boaventura de Sousa (1977) "The Law of the Oppressed: The Con-

struction and Reproduction of Legality in Pasargada," 12 *Law & Society Rev.* 5.

Scott, James C. (1990) *Domination and the Arts of Resistance*. New Haven, CT: Yale Univ. Press.

Sheridan, Richard B. (1961) "The Rise of a Colonial Gentry: A Case Study of Antigua, 1730–1775," 13 (2d ser.) *Economic History Rev.* 342.

——— (1973) *Sugar and Slavery: An Economic History of the British West Indies 1623–1775*. Baltimore: Johns Hopkins Univ. Press.

Smith, M. G. (1962) *West Indian Family Structure*. Seattle: Univ. of Washington Press.

——— (1965) *The Plural Society in the British West Indies*. Berkeley: Univ. of California Press.

——— (1966) "Introduction," in Edith Clarke, *My Mother Who Fathered Me*. London: George Allen & Unwin.

Smith, Raymond T. (1956) *The Negro Family in British Guiana*. London: Routledge & Kegan Paul, Ltd.

——— (1982) "Family, Social Change and Social Policy in the West Indies," 56 *Nieuwe West Indische Gids* 111.

——— (1984a) *Kinship Ideology and Practice in Latin America*. Chapel Hill: Univ. of North Carolina Press.

——— (1984b) "Introduction," in R. T. Smith (1984a).

——— (1987) "Hierarchy and the Dual Marriage System in West Indian Society," in J. F. Collier & S. J. Yanagisako, eds., *Gender and Kinship: Essays toward a Unified Analysis*. Stanford: Stanford Univ. Press.

——— (1988) *Kinship and Class in the West Indies: A Genealogical Study of Jamaica and Guyana*. Cambridge: Cambridge Univ. Press.

Snyder, Francis G. (1981) "Colonialism and Legal Form: The Creation of 'Customary Law' in Senegal," 9 *J. of Legal Pluralism & Unofficial Law* 49.

Starr, June, & Jonathan Pool (1974) "The Impact of a Legal Revolution in Rural Turkey," 8 *Law & Society Rev.* 533.

Starr, June, & Jane F. Collier (1987) "Historical Studies of Legal Change," 28 *Current Anthropology* 367.

———, eds. (1989) *History and Power in the Study of Law*. Ithaca, NY: Cornell Univ. Press.

Stolcke, Verena (1984) "The Exploitation of Family Morality: Labor Systems and Family Structure on Sao Paulo Coffee Plantations, 1850–1979," in R. T. Smith (1984a).

Stoler, Ann L. (1989) "Making Empire Respectable: The Politics of Race and Sexual Morality in 20th-Century Colonial Cultures," 16 *American Ethnologist* 634.

Trotman, David Vincent (1986) *Crime in Trinidad: Conflict and Control in a Plantation Society 1838–1900.* Knoxville: Univ. of Tennessee Press.

Vincent, Joan (1989) "Contours of Change: Agrarian Law in Colonial Uganda, 1895–1962," in Starr & Collier (1989).

Webb, Sidney, & Beatrice Webb (1963a) *English Poor Law History:* Part I, *The Old Poor Law.* Hamden, CT: Archon Books.

——— (1963b) *English Poor Law Policy.* Hamden, CT: Archon Books.

Weber, Max (1958) *The Protestant Ethic and the Spirit of Capitalism*. New York: Charles Scribner's Sons.

Westermark, George D. (1986) "Court Is an Arrow: Legal Pluralism in Papua New Guinea," 25 *Ethnology* 131.

White, Averille (1986) "Profiles: Women in the Caribbean Project," 35 *Social & Economic Studies* 59 (June).

World Bank (1985) *Antigua and Barbuda: Economic Report*. Washington, DC.

Sources of Antiguan Statutes Cited

1668–1900

Laws of Antigua and Montserrat (1668–1900). Records of the Colonial Office. Collection of the University of the West Indies, Law School, Cave Hill, Barbados. Microfilms 1–10.

Laws in Force in Antigua: Acts of the Leeward Islands from the Year 1690 to the Year 1798, and the Acts of Antigua from the Year 1668 to the Year 1864. Volume in the collection of the Faculty of Law, University of the West Indies, Cave Hill, Barbados.

1871–1955 (Leeward Islands Federation)

Federal Acts of the Leeward Islands (1881–1955). St. John's, Antigua: Government Printing Office.

1962–

Revised Laws of Antigua. 8 vols. London: Waterlow & Sons, Ltd. (subsequent legislation published annually).