

Colonialism and Carceral Motherhood

Native Hawaiian Families Under Corrections and Child Welfare Control

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This article uses data from Hawai'i as a case study to illustrate overlapping, racialized, and gendered regimes of state power in the contemporary post-welfare, neo-liberal political environment. Native Hawaiian families, as a legacy of colonialism, are especially at risk as targets of this control due to strategies of regulation and control coincident with the rise of neo-liberal politics. In this policy environment, penal and welfare practices attempt to shift the responsibility for structural disadvantage onto individuals in marginalized populations, while extending the state's power to police families among a broader network of kin. This article contributes to the literature on gendered state regulation and neo-liberal governance by illustrating patterns of criminalization and expanding child welfare control in this marginalized population.

Keywords: *gender; incarceration; child welfare; neo-liberal policies; Native Hawaiians; colonialism*

The neo-liberal politics that have transformed systems of welfare and punishment nationally are currently reshaping practices and policies in Hawai'i. Although the "Aloha State" maintains vestiges of the progressive policies of its past, a more punitive consciousness has recently emerged as evidenced through the adoption of mandatory minimum sentences for drug offenses and a "three-strikes" law. In this environment, increasing numbers of women have been drawn under state control, not only as penal subjects but also as individuals who have come under the control of child welfare agencies (formerly known as child protective services). This process of dual criminalization—of women as offenders and as subjects of child welfare investigations—has had a particularly deleterious effect on women of Native Hawaiian ancestry.

Author's Note: The authors gratefully acknowledge the comments of two anonymous reviewers of drafts of this article.

The carceral control of problem populations—in this case, women of Native Hawaiian ancestry—has been reconfigured in late modernity (see Garland, 2001). The neo-liberal state's control has been extended in scope through the expanded use of incarceration and categorically through an increasingly punitive child welfare system. In this environment, both penal systems and child welfare systems converge to create an ever-expanding carceral population made up of poor families whose lives are subject to these dual state controls. Just as child welfare policies have criminalized and undermined the families of African Americans and other women of color on the U.S. mainland (Roberts, 2002), Native Hawaiian women have been disproportionately affected.

In this article, we examine the carceral controls that affect poor women most directly: systems of corrections and child welfare services. Both represent forms of what Renny Golden (2005) refers to as “traumatic state intervention” (p. 3) into the lives of poor women and their children. Our case study contributes to conceptual approaches to the intersecting regimes of state disciplinary systems and adds some empirical specificity to an emergent feminist literature on the gendered nature of welfare and penal interventions (see Haney, 2004).

Data used in this article are descriptive rather than explanatory in nature. Some data are drawn from a larger study of parenting women on parole supervision in Hawai'i (see Brown, 2003). As a result of Hawai'i's indeterminate sentencing, nearly all incarcerated persons sentenced to a felony in the state of Hawai'i leave prison on parole supervision. This data set has information on all 240 women under parole supervision in the state during May 2001, 85% of whom were parents. In keeping with contemporary practices of risk management, these case files also contained risk and needs assessments, which we use as indicators of marginalization and criminalization. In addition, patterns of Native Hawaiian overrepresentation in the child welfare system and intersections between criminalization and child welfare investigations are examined against the backdrop of colonialism and its accumulated injuries to the indigenous people of Hawai'i. We also draw attention to the use of family conferencing, in particular its “indigenized” form, as a signature example of neo-liberal policy making, which potentially increases the reach of the state to a diverse network of kin. As Haney (2004) notes, examinations of the post-welfarist state can benefit from the examination of more specific “linkages” (p. 355) between systems of state control. This phenomenon has been little studied nationally, and among particular populations, little quantitative data exist (see Golden, 2005; Klein, 2007; Roberts, 2002). We seek to address this gap in the literature.

We believe that it is important to examine these adverse interventions within the framework of neo-liberal policies emergent in the last decades of the 20th century. Neo-liberal strategies of governance have meant the devolution of state responsibility for social welfare to nonstate entities, in particular, individuals and their families. These approaches promote self-regulation and self-reform through individual

responsibility for addressing the effects of poverty and other forms of social disadvantage (Kemshall, 2002). In the post-welfarist state, social disparities are attributed to poor individual choices and the extent to which these choices fail to fall in line with middle-class notions of how to live (Gillies, 2005). This framework is important because it accounts for the convergence of several complex trends: risk management (especially for problem populations); increasing surveillance of the poor; the decline of the welfare state; and exclusionary policies for individuals and groups who fail to engage in self-reform (Garland, 2001; Kemshall & Maguire, 2001; O'Malley, 2001; Schram, 2000). Historically disadvantaged groups, such as Native Hawaiians in this case, are affected in complex and distinctive ways by the policy changes wrought in advanced liberal society.

In contrast with the welfarist state, the neo-liberal state deploys its power less directly, enjoining populations to exercise self-regulation and manage their own risk (Rose, 1999). The post-welfare state exerts less centralized control over misbehavior (Garland, 2001), spreading out responsibility for addressing social problems among a range of actors. The neo-liberal state also experiments with devolving its functions to a broader network of nonstate entities. As Scouler and O'Neill (2007) note, these new "arrangements" (p. 764) obscure the expanding networks of control that these programs deploy. Therefore, in addition to describing the intersections of criminalization and child welfare control, we examine a program that is illustrative of this decentralized role of the state and its potential implications for expanding the carceral net. The increasing practice of family conferencing distributes the responsibility for child welfare onto a range of relatives—relatives who are likewise socially disadvantaged. After examining patterns of criminalization among Hawaiian and non-Hawaiian women, we explore how this innovation, known as 'Ohana Conferencing, has emerged as a net-widening approach to child maltreatment, one that draws on indigenous knowledges and traditions to configure a system of "responsibilization" (see Hannah-Moffat, 2000, 2002).

Hawai'i's Colonial Legacy

Under the pressure of American colonialism, Native Hawaiians have historically been drawn into the web of the criminal justice system at numbers that outpace their proportion in the population. Although this took the form of the criminalization of normal cultural practices during the early 19th century (Merry, 2000), Native Hawaiians today experience high rates of alcohol and drug abuse, violence, poor education, unemployment, and other problems that bring them into contact with the law and other institutional controls (Merry, 2002). As indigenous people, they also face the suffering associated with being displaced in their homeland by White and, to an extent, Asian domination.

A fully organized Kingdom in the 19th century with recognizably modern institutions, the Hawaiian nation in 1893 found itself under the illegal control of a cadre of White businessmen with American ties, backed up by the U.S. Navy. Within several years, the former Kingdom was annexed by the United States, which subsequently established a territorial government and visible military presence in the Islands. Although segments of the Native Hawaiian population intermarried with newcomers and assimilated, large numbers of rural people attempted to maintain their traditional ways of living, resisting the pull of plantation work that dominated the economy for a century.

The influence of Christian missionaries during the middle decades of the 19th century and the transplantation of Western notions of law had gendered as well as racialized implications for native and immigrant peoples. Notions of race and gender were intrinsic to the colonial projects of Americans and Europeans (McClintock, 1995; Seuffert, 2005). The structure of the modernized nuclear family and related gender roles were inscribed by Western law on the indigenous populace of Hawai'i as well as on the successive waves of mostly non-White immigrants from Asia and other poor regions of the globe (Merry, 2000). These legal transformations were central to the domination of the native people and the emergent capitalist economy instituted in 19th-century Hawai'i. Like native women in the Americas and Africa, Native Hawaiian women were criminalized in a "web of gendered moral regulation articulated by law," culminating in incarceration (Sangster, 1999, p. 34). For Native Hawaiian women, gendered regulation under Western law encompassed sexuality as well as encouraged social arrangements grounded in Western understandings of the family. Under the new law, Hawaiians were frequently arrested, fined, or imprisoned for engaging in the sorts of fluid sexual relations that were largely uncontested in precontact Hawai'i (see Merry, 2000).

Following the annexation of Hawai'i by the United States in 1898, the political power of Native Hawaiians was essentially neutralized. Growing more marginalized by a capitalist plantation economy which largely excluded them, Native Hawaiians dominated the ranks of the lower classes. Native Hawaiian women, when imagined at all by Whites, evoked the erotic native seductress, an identity only enhanced as tourism grounded in ideas of the "friendly" (and alluring) native took hold in the United States and beyond (Desmond, 1999). Hawaiian cultural capital, with its metaphors of aloha, reciprocity, and respect, was frankly overpowered in a social field dominated by Western institutions that prioritize individualist values and materialist ideologies (Kame'eleihiwa, 1992; Trask, 1993).

There is considerable consensus among scholars of Hawaiiana that the effect of colonialism, racism, poverty, and extensive alienation from aboriginal culture and lands has severely damaged the life chances of the indigenous population (Blaisdell, 1993, 1996; Merry, 2000; Trask, 1993). During the 1980s and 1990s, punitive forces in the state's politics resulted in a wave of harsh sentencing legislation. Studies of penal populations in Hawai'i indicate that jails and prisons are disproportionately

populated by Native Hawaiians (Brown, 2003, 2006; Stein, 2001). The problem of disproportionate representation in the state's prisons falls even more harshly on Native Hawaiian women than on men. Although the state's incarcerated population is approximately 37% Native Hawaiian—nearly twice their proportion in the general population—women of Native Hawaiian ancestry make up 44% of the incarcerated female population (Office of Hawaiian Affairs, 2006).

Ethnicity, Motherhood, and Criminalization

The war on drugs that propelled many African American women into state and federal prisons (Bush-Baskette, 1998) has its analog in Hawai'i. Mandatory minimum sentencing for crystal methamphetamine was a precursor to the leap in the number of incarcerated women in Hawai'i ("Drug Addiction," 2004). In 1977, Hawai'i ranked 45th in the nation with female incarceration rates at 3 per 100,000. By 2004, Hawai'i women were imprisoned at a rate of 69 per 100,000, ranking 16th in the nation (Frost, Greene, & Pranis, 2006). As incarceration and the expansion of child welfare control among poor women increased in Hawai'i, Native Hawaiian families especially were positioned at the crosshairs of state regulation and control. Overrepresented among those receiving income maintenance and other welfare benefits, they also are disproportionately incarcerated in both adult and juvenile facilities (Office of Hawaiian Affairs, 2006). Their offenses, strongly related to their marginalized status and the effects of colonialism, are best understood as crimes of accommodation (Quinney, 1977). For these offenses, they are represented in criminal justice populations at roughly double their membership in the general population (Brown, 2003).

Data drawn from a population of formerly incarcerated women on parole in Hawai'i also illustrate the extent to which contemporary crime control tactics affect Native Hawaiian women and their children. The data point to social and economic characteristics indicating that this population experiences heightened marginalization (in terms of employment and educational attainment). Similarly, the data show that Native Hawaiian women who are incarcerated are more likely than other (non-Hawaiian) incarcerated women to have been involved with child welfare services.

Consistent with data from other sources (Stein, 2001), approximately 53% of female parolees in 2001 were Hawaiian or part-Hawaiian, a rate more than twice their proportion of the state's population. Caucasians, on the other hand, at 26.8% of the overall population in the state (U.S. Census Bureau, 2005), were underrepresented at 16%. The majority of the women on parole in 2001 in Hawai'i were mothers. Of the 240 women paroled, 203, or 85%, were parents to nearly 600 children (Brown, 2003). Early motherhood appears to be the norm for this group of women; roughly half had their first child by the age of 20. Our examination of the case files of these formerly incarcerated women also revealed that motherhood converged with

Table 1
Race/Ethnicity of Parenting Women on Parole Supervision in 2001

Race/Ethnicity	Frequency	Percentage
Hawaiian/part-Hawaiian	108	53.2
Caucasian	32	15.8
Pacific Islander/Asian	30	14.8
Other	33	16.3
Total	203	100.0

Table 2
Offense Type by Ethnicity

Offense Type ^a	No Hawaiian Ancestry		Hawaiian Ancestry		Total	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
Drug offense	54	56.8	39	36.1	93	45.8
Property offense	31	32.6	55	50.9	86	42.4
Crimes against persons	9	9.5	9	8.3	18	8.9
Other (public order crimes)	1	1.1	5	4.6	6	3.0
Total	95	100	108	100	203	100

^aMost serious offense, current conviction.

involvement in the criminal justice system. The majority (71%) had at least one child by the time they were sentenced for their first misdemeanor or felony offense. As with the overall population of women on parole, the majority of parenting women were of Native Hawaiian ancestry (see Table 1).

A look at current offenses committed by this group of parenting women shows that they were convicted primarily for property and drug offenses and rather seldom for crimes against persons. Native Hawaiian women served sentences primarily for property crimes, whereas women of other ancestries were significantly more likely to have been convicted for drug-related offenses, as shown in Table 2. Non-Hawaiian women were far more likely to have been convicted for drug offenses (56.8%), with nearly that proportion of Hawaiian women (50.9%) having been convicted of property offenses, a significant inverse relationship ($\chi^2 = 10.99, df = 3, p < .05$).

During the period when the data were gathered, the State of Hawai'i Paroling Authority routinely assessed offender populations for criminogenic risk and need factors. This instrument, known as the Client Management Classification System (CMCS), examined a number of domains to assess risk. These data, shown in Table 3, show higher levels of risk-related factors for Native Hawaiians on some factors compared to other women.

Table 3
Risk Factor Scores for Women of Hawaiian and Non-Hawaiian Ancestry

Risk Domain	Hawaiian Ancestry (<i>n</i> = 100)		Other Ancestry (<i>n</i> = 79)		<i>T</i> -Score
	Score	<i>SD</i>	Score	<i>SD</i>	
Alcohol usage problems	2.23	1.62	1.81	1.66	2.07*
Other drug usage problems	1.78	0.56	1.67	0.67	1.15
Number of address changes in last 12 months before arrest	1.46	1.30	1.30	1.34	0.79
Percentage of time employed in last 12 months before arrest	1.73	0.68	1.49	0.86	2.00*
Attitude	0.86	1.50	0.78	1.37	0.35
Age at first conviction	1.70	1.85	0.94	1.56	2.99*
Number of prior periods of probation/ parole supervision	3.28	1.54	3.19	1.62	0.38
Number of prior probation/ parole revocations	3.00	1.74	2.89	1.80	0.43
Number of prior felony convictions	1.32	1.69	1.09	1.63	0.93
Convicted of select offenses	1.74	1.69	1.32	1.57	1.72
Total risk score	19.32	6.39	16.48	6.90	2.85*

* $p < .05$.

Women of Native Hawaiian ancestry scored consistently higher (although not always to a level of statistical significance) in terms of criminogenic risk factors compared to other women. Among several domains such as alcohol use, percentage of time employed in the year prior to their arrest, and age at first conviction, the greater risk scores for Hawaiian versus non-Hawaiian women are statistically significant ($p < .05$). The overall risk scores for Native Hawaiian women are also significantly higher by comparison. We note especially the pattern of underemployment just prior to arrest and younger age at first conviction as particularly indicative of marginalization and early criminalization. These scores are not surprising given comparatively lower levels of educational attainment, school failure, and adolescent delinquency among Native Hawaiians in general (Office of Hawaiian Affairs, 2006; Pasko, 2006).

Just as Native Hawaiian women experience higher criminogenic risk factors, these data show that their maternal experiences were troubled as well. Among this group of 203 parenting women on parole, nearly 24% had records of child welfare agency investigations. Nearly 16% of the women had their parental rights terminated for at least one child. Mothers of Native Hawaiian ancestry were significantly more likely than others to have been investigated and experienced adverse actions by child welfare agencies (see Table 4).

Table 4
Investigation and Termination of Parental Rights
Among Paroled Mothers (*N* = 203)

	Investigated by Child Welfare		Parental Rights Terminated	
Hawaiian	17.2%	35	11.3%	23
Non-Hawaiian	6.4%	13	4.4%	9
Total	23.6%	48	15.7%	32
	$\chi^2 = 9.8, df = 1, p < .005$		$\chi^2 = 5.3, df = 1, p < .05$	

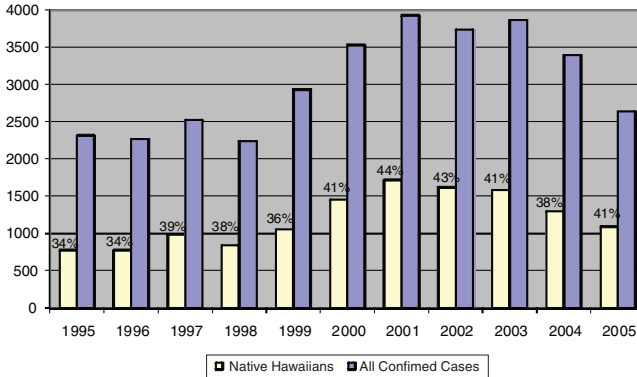
These data on paroled women also are consistent with other state data that indicate that Native Hawaiians make up the largest single group of families involved in the child welfare system in Hawai'i. Some 60% of children in foster care in the state are of Native Hawaiian ancestry, more than double their numbers in the general population. These children have accounted for more than 40% of confirmed child maltreatment cases every year since 2000 (with the exception of 2004, when the trend was temporarily reversed; see Figure 1).

It is clear that Native Hawaiian women and their families are disproportionately affected by adverse state interventions. The family is the first line of discipline and surveillance by a state apparatus that, in modernity, consists of powers diffused among social services, psychologists, psychiatrists, and social welfare agencies (Donzelot, 1997). The many personnel concerned with the welfare of children—schools, psychiatrists, welfare workers, counselors, juvenile authorities, and the whole throng of disciplinary agencies imagined by Foucault (1979)—require the deputization of a responsible adult member of the family. And, mothers are the primary actors who serve as a point of interface with the disciplinary machinery of the state. A mother's absence or inability to carry out this responsibility, quite aside from her personal care of her children, raises alarm. Her status as a drug abuser or law breaker always calls her maternal rectitude into question, making it more likely that she will come into contact with institutions of social control.

Motherhood on the Margins

In her classic account of the politics of child abuse, Barbara Nelson (1984) writes that, rather than addressing the poverty that is at the core of child maltreatment in the United States, politicians designed a mandatory reporting system as a form of "no-cost public rectitude" (p. 132). Disenchanted with what the right billed as "failed" antipoverty programs, the federal government sought solutions that cost little and dispersed responsibility for the problem to a variety of reporting agents in

Figure 1
Confirmed Child Maltreatment Cases, 1995-2005



Source: Data taken from State of Hawai'i Department of Human Services (1998-2006).

Chart 1. Confirmed Child Maltreatment Cases, 1995-2005

Data taken from State of Hawai'i Department of Human Services (1998-2006).

schools and hospitals. The emphasis on reporting had the consequence of broadening official scrutiny of the poor, who are more likely to come into contact with mandatory reporters in public hospitals and clinics. The poor are far more vulnerable to a growing array of public human service agents of control, in contrast to middle-class parents who are the paying clients of attorneys and other private practitioners from whom they seek help (Roberts, 2002).

Mothering behavior, as well as the way it is judged by others, is shaped largely by a woman's position in intersecting hierarchies of privilege and disadvantage. The ideology of "intensive mothering" described by Hays (1996, p. 4) is not totalizing; its enactment varies by race, gender, class, culture, and social context. Motherhood and its performance may mean different things to affluent, educated women and to working-class or lower class women (McMahon, 1995). Although women may adhere generally to the model of intensive motherhood, class-based expectations of what motherhood means also shape aspects of the parenting project for women. Intersections of race as well as class create distinct social positions from which motherhood is experienced by women. Collins (1991, 1994) provides insights into the intersection of race and class with African American women's experiences of mothering. Rather than a universalizing perspective on what motherhood is (or should be), recent feminist work draws attention to the multiple meanings of "kin-scripts" (Stack & Burton, 1994, p. 33) and the various standpoints within which motherhood is conceptualized and realized (Arendell, 2000). However, both law and

social policy are grounded in the ideology of intensive mothering within the nuclear, heterosexual family (Arendell, 2000; Fineman, 1995).

When maternal deviation occurs, the woman may come under the gaze of the state, especially when she is poor and a woman of color. Women in these groups not only are more likely to come under the scrutiny of child welfare services (Roberts, 2002) but are the same women who tend to be disproportionately incarcerated. According to the Adoption and Foster Care Analysis and Reporting System (AFCARS) administered by the U.S. Department of Health & Human Services, of the children in foster care at the end of fiscal year 2003, more than 29,000, or 6%, were removed because of parental incarceration. African American children are nearly nine times more likely than their White counterparts to have an incarcerated parent, and African American children are also disproportionately overrepresented in the foster care system. Nationwide, 40% of the children in the legal custody of the state are White and 34% are Black, whereas 69% of the nation's population of children are White and only 15% are Black (Allard & Lu, 2006).

Termination of parental rights, now even more common since the passage of the 1997 Adoption and Safe Families Act (ASFA), is having a disturbing effect on incarcerated mothers. Nationally, estimates of the percentage of children in child welfare services who have at least one incarcerated parent ranged from 1.6% to nearly 30% (Child Welfare League of America, cited in Hines, Lemon, Wyatt, & Merdinger, 2004). It is difficult enough for single mothers to meet ASFA requirements when they live in the community, but the short deadline has particularly severe consequences for incarcerated mothers who serve an average of 18 months. ASFA's strict time limits for permanency hearings and initiating petitions to terminate parental rights undermine families with an incarcerated parent and children in foster care. A recent study suggests that "ASFA has had an important effect" on incarcerated parents, based on the "significant overall increase" between 1997 and 2002 in the number of cases in which parental rights have been terminated (Lee, Genty, & Laver, 2005). The state of Hawai'i imprisons more than a third of its sentenced felons in facilities on the mainland, sending its predominantly Native Hawaiian inmates far from home. This places considerable burden on these families in terms of added difficulties in maintaining relationships with loved ones in prison.

Penalty, Child Welfare, and System Families

The systemic routes women travel to incarceration, now well documented in feminist pathways research (Daly, 1992; Maher, Dunlap, & Johnson, 1995; Owen & Belknap, 2002), parallel those that lead to involvement in child welfare agencies. Conditions such as poverty, gender violence, substance abuse, and marginalization that are implicated in women's offending are also associated with child maltreatment (Nelson, 1984; Bloom, Owen, & Covington, 2003). Although the relationship is

complex (Carter & Myers, 2007), income levels and child maltreatment are inversely related (Sedlak & Broadhurst, 1996). As social welfare programs and resource-based interventions into social problems are rolled back, mothers from disadvantaged backgrounds are at high risk for family violence, as both targets and participants. At the same time, these social characteristics heighten the visibility of troubled women to a range of public authorities who are often mandatory reporters. Families who receive some type of welfare support overlap with those families whose children come into the foster care system. Goerge and colleagues (2000) documented the movement of children between income maintenance programs and foster care, finding that a majority of children in foster care were from state welfare rolls. Although child maltreatment is clearly not confined to disadvantaged families, the rolls of child protective agencies across the country are filled with the poor and ethnic minorities (Jones, 1997). Institutionalized racism, not unlike that which has filled correctional institutions, has populated the child welfare system with children of color (see Roberts, 2002).

The overrepresentation of children of color in the child welfare system derives from complex roots. A review by Hines and colleagues (2004) sketches out four major sources of this disparity: (a) family-related risk factors; (b) socioeconomic status and neighborhood factors; (c) bias in the system from entry (reporting) to disposition; and (d) changes in federal and state policy that have had unintended consequences for such families. Although these factors as they affect Native Hawaiian families need to be explored more fully, there is some indication that a combination of these mechanisms is relevant to the present discussion. Native Hawaiian families are among the poorest in the state, many coming from rural areas characterized by concentrated poverty (Bricking, 2001). The poverty rate among Native Hawaiians in 2005 was 15% compared with an overall state poverty rate of 9.8%. In addition, Native Hawaiians make up 27% of state residents living in poverty (Naya, 2007). They also make up the largest single group of families receiving Temporary Assistance for Needy Families (TANF) in the state. Although demonstrating bias on the part of reporting agents is difficult to document, the exposure of Native Hawaiian women to these reporting agencies in general is very high as a result of these linkages to state systems.

Although systems of penalty are the most obvious form of coercive state control, welfare agencies and their increased policing and regulatory powers have been recognized as such a force in the lives of poor women (Gilliom, 1997, 2001; Schram, 2000). Of these welfare agencies, child welfare has greatly expanded its power to manage the lives of women using their maternal concerns as a basis for surveillance and control. The war on drugs, implicated in the mass incarceration of women, has, in a sense, criminalized motherhood among impoverished groups, filling the ranks of the child welfare and foster care system with families of color (Roberts, 2002). Johnson and Waldfogel (2002) write that the proportion of children in the foster care system with incarcerated parents grew 25% during the

period from 1986 to 1997. As more punitive penal strategies filled prisons with parents, the war on drugs was waged across health and social services agencies. Widespread drug testing of newborns deemed to be at risk—but who are disproportionately born to African American and other families of color—has resulted in the widespread removal of these children from their mothers (see Roberts, 2002). The threat of loss of parental rights and the possibility of criminal charges have emerged as increasingly salient modes of state control in the lives of poor women. We view these penal sanctions and the adverse intervention of child welfare agents as constituting overlapping aspects of state control (Foucault, 1979).

Although Foucault did not anticipate the reach of the state through agencies of child welfare, these agencies, too, are correctional in nature, aimed at marginalizing and controlling populations. Endemic poverty and modernist interventions to manage problem populations have led to the emergence of what child welfare case workers in Hawai'i call "system families"—fragile families who, due to a host of structural and individual problems, are subject to the scrutiny of a variety of formal agencies, both penal and welfare. Local case workers in Hawai'i use the construction of system families to refer to multigenerational poor whom they view as chronic consumers of state services, who are known to law enforcement, who fill the rolls of child protective cases, and who are imagined as existing in a cycle of welfare dependency. Many so-called system families are Native Hawaiian or other members of the local multiethnic population who live a precarious economic and social existence in this rapidly transforming economy.

Indigenizing Child Welfare Services

Late modernity assembles a range of technologies and apparatuses tailored to produce subjects who are responsible and law abiding (Rose, 1999). Increasingly widespread, these modalities are constituted by the professional judgments of those who intervene in the affairs of the troubled and the troubling. Government of individuals in this way may be more or less subtle (Dean, 1999; Foucault, 1991; Rose, 1999), targeting a wide range of persons. Historically marginalized groups, however, whether African Americans or indigenous groups, most frequently receive the brunt of the state's most repressive practices. In the post-welfare state, where the market has become the source of social order, the transformative theme is to inculcate restraint and individualized controls that foster appropriate choice making (Garland, 2001). Modern child welfare case management directs its "clients" to seek various forms of modalities such as drug treatment, parenting instruction, anger management, and cognitive skills to maintain their parental rights. These same modalities are also commonly used by penal regimes to produce inmates who are self-regulating and responsible for the correction of their own misbehavior (Garland, 1997). In short, both correctional and welfare systems have adopted these responsabilizing

strategies that are imposed on inmates, welfare clients, probationers, and parolees (see Kemshall, 2002; Pollack, 2007). Women who are involved in both of these systems find themselves subjected to alternating forms of coercive control by welfare and penal institutions. As Haney (2004) argues, these gendered regimes, where women make up the majority of one and the smaller portion of the other, use similar discourses of self-management and individual responsibility for the structural problems that constrain their lives. As noted above, some persons voluntarily embrace technologies of self-improvement (Rose, 1999), but troubled populations are likely to have self-reform thrust upon them (Feeley & Simon, 1992). Hawai'i's system families are at the nexus of these disciplinary strategies. In the following section, we examine the history of Hawai'i's indigenous people as a backdrop to their current-day status as such a population. Like formerly colonized indigenous peoples elsewhere, Native Hawaiians have long been subjected to an array of coercive regulation ranging from incarceration to child removal (Hogg, 2001).

Concerned about the overrepresentation of Hawaiian children in the child welfare system and given widespread dissatisfaction with child protective services in general, the state of Hawai'i began to experiment with family conferencing. Family conferencing is an emerging process based on practices in New Zealand that aim to empower family decisions about child welfare (Schmid & Pollack, 2004). Research on the use of conferencing has shown mixed results with respect to outcomes, in particular, re-referral of cases to child welfare. In one study, re-referrals by extended family members involved in conferencing increased, with the result that families involved in family conference tended to remain in the system (Sundell & Vinnerljung, 2004).

In the mid-1990s, the state of Hawai'i instituted a demonstration project based on family conferencing. The Department of Human Services, in collaboration with the First Circuit Court, chose the community of Wai'anae on the island of 'Oahu as a demonstration site. This and the contiguous districts of Makaha, Makua, and Nanakulu contain some of the poorest census tracts in the state. These districts also have a large majority Native Hawaiian population. The program's appeal to Native Hawaiian culture is that community life is organized around the extended family or *'ohana*. Informal adoption, or *hanai*, of children by kin and non-kin is a long-standing practice among Native Hawaiians. Like "othermothering" in the African American community (Collins, 1991), relatives play a crucial role in absorbing and supporting troubled family members. The state of Hawai'i is now making 'Ohana Conferencing the center of its approach to child maltreatment.

Part of a broader movement to use a collaborative, family-centered approach to child welfare, the Hawai'i program aimed to draw on the strengths of the kin network and to decentralize decision making during case planning. An independent evaluation, however, found that 'Ohana Conferencing fell short of most of its major goals to provide services for children. Nor did it succeed in building the capacity of families to provide for their children's needs. Ironically, given the centrality of

cultural competency, the project's evaluation noted that the program failed to make a diligent effort to connect children with their Native Hawaiian cultural heritage (Lengyel, 2005).

This intervention is consistent with contemporary neo-liberal strategies of governance that are indirect and dispersed over a variety of nonstate actors (Garland, 1997, 2001; O'Malley, 1999). Conferencing disciplines families less directly compared to the old child protective system, deputizing organizations, agencies, and individual members of the extended family in the control of child welfare. A practice that entailed having families engage in a service contract with the state has expanded with more actors involved in carrying out the service contract particulars. Nevertheless, the state is still very present in these arrangements, as enforcer of these service contracts. Extended networks of kin, through their participation in conferencing, are exposed to child welfare authorities. Despite its claims to increase child protection, conferencing skims over the poverty and marginalization that are the main sources of poor child outcomes.

One must also consider the context of the community where many families subject to child welfare scrutiny live. Both conferencing and kinship foster care take place in the context of widespread disadvantage and the concomitant criminalization of poor communities of Native Hawaiians. Clear, Rose, Waring, and Scully (2003) found that high rates of incarceration are ravaging the social networks and capital of poor communities. The resulting social disorganization (i.e., coercive rather than residential mobility) has the effect of increasing crime in these neighborhoods, rather than reducing it (Clear et al., 2003). The state's poorest census tracts, which often have high numbers of Native Hawaiians, are vulnerable to this ravaging effect. As a result of high rates of criminalization in these disadvantaged communities, family members may not be eligible to participate or may resist coming into close contact with the gaze of the state. Conferencing may prove in time to have a net-widening effect, bringing even more individuals onto the radar screen of the state's agents of control. This seemingly more benevolent approach by the state obscures its expanding capacity for surveillance (see Scouler & O'Neill, 2007). As with community policing and neighborhood watch, the state deputizes individuals whose surveillance enhances the flow of information between the community and agents of the state (see O'Malley & Palmer, 1996).

Summary and Conclusions

This article illustrates how criminalization and adverse actions by child welfare systems intersect in the lives of a group of Native Hawaiian women. Given the limited data available and the fact that very few jurisdictions (including Hawai'i) collect data on women who are under penal and child welfare control, we have had to rely on existing data from disparate sources to attempt to "connect the dots" (Klein, 2007). In addition, the

data on criminalization should be viewed in the context of probable biased reporting, assessment, and the social control of Native Hawaiian women. (However, biased institutional assessments and adverse actions would serve to support our assertions.) Nevertheless, we feel that this does not detract from our central arguments about the effect of contemporary penal and child welfare policies on women of indigenous ancestry in Hawai'i. From a historical vantage point, modernity has left Native Hawaiians largely alienated in a place that used to belong to them. Their contemporary status is characterized by poverty, alienation from institutions of education and work, and a host of social problems that often propel them into contact with the law and with social welfare agencies. The cultural and material resources that prevailed when Native Hawaiians held sovereignty have been largely erased by colonialism, plantation capitalism, and Hawai'i's status as a tourist destination in a globalized visitor industry. Like African American women and other women of color, Native Hawaiian women find themselves the target of neo-liberal policies that hold them accountable for the historical and structural injustices that shape their current situations.

The expanding reach of child protective services, especially in their more punitive aspect, also reflects contemporary neo-liberal policies. The initiatives that flow from this framework have resulted in a state less involved in insuring a social safety net and more involved in retributive approaches to social order (Garland, 2001). Whereas criminal justice decisions are subject to constitutional protections, the decisions and mandates of child protective agencies have amassed considerable discretionary and punitive power. Parents who become involved in case investigations are subject to the largely unrestricted dictates and surveillance of service contracts, which parents violate at the peril of losing their children. Federal policies that enable the termination of parental rights within relatively brief periods of time have resulted in overwhelming pressure on families to comply with a broadening set of behavioral mandates set by child welfare agencies (Beckerman, 1998; Genty, 1995, 1998; Johnston & Gabel, 1995; Luke, 2002; Roberts, 2002).

At the same time, contemporary child welfare case management relies increasingly on family conferencing techniques—spreading the responsibility for family problems among a range of relatives—without addressing the material deprivation that lies at the root of child maltreatment (Nelson, 1984; Roberts, 2002). As we discuss here, these developments have taken place in the dual context of reduced welfare support and expanding criminalization of women, in particular for offenses largely motivated by addiction and poverty.

This article raises questions about the overlapping nature of neo-liberal governance and calls for more research on how characteristics of marginalized women make them more vulnerable to criminalization and other forms of state regulation throughout the life course. In-depth studies of intersecting state system discourses and practices will be constructive to feminist scholarship's understanding of new trends in the regulation of women in advanced liberal society. Ideological assumptions about poor women, especially the "maternally unorthodox" woman (McMahon,

1995), consistent with neo-liberal policies need to be traced through specific innovations—here, family conferencing—to reveal how such practices convert family members into “adjuncts” of the state (Elliot, 1989, p. 443). And, finally, we see that the promise of a more benign, culturally sensitive state to aid families obscures its growing capacity for expanding the population of carceral mothers in ways that continue the process of colonization.

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