

Gender & American Culture

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Unruly Women

The Politics of
Social and Sexual
Control in the
Old South



Victoria E. Bynum

The University of North Carolina Press

Chapel Hill and London

Four

Punishing Deviant Women

The State as Patriarch

On April 8, 1861, Susan Williford pleaded with the magistrates of the Granville County court to allow her to maintain custody of her two youngest children—Nancy, aged eight, and Louisa, aged six. Williford charged two planters of the county with forcibly removing the girls from her home despite her objections. In defending the right to raise her own daughters, Williford declared in an affidavit that although she was poor, through “industry and frugality” she had always supported Nancy and Louisa comfortably and, further, that she was an “honest and hardworking woman . . . much distressed at being separated from her children of such tender years.” The court ordered an investigation but apparently did not rescind the apprenticeships.¹

Susan Williford’s predicament was not unique. Courts in the antebellum South often apprenticed children judged to be indigent, ill-raised, illegitimate, orphaned, or of free black parentage. The apprenticeship of illegitimate or free black children removed them from the homes of their parents (usually single women) to those of court-appointed masters (usually white men) for whom they were bound by contract to labor in return for their livelihood. Rarely did the contracts specify that a skill be taught the children other than farming for boys and spinning for girls.² Though Williford, a white woman, might truthfully argue that she loved and took good care of her children, the fact that they were the illegitimate offspring of a racially mixed union

branded her a social deviant incapable of raising them properly. Committing the crime of miscegenation condemned her to a legal rung just above slavery—a rung usually reserved for free black women.

Williford’s life from childhood to middle age demonstrated how courts punished women who defied the sexual and racial constructs of southern society. How and why did she become an outcast, even an outlaw? Although she suffered from poverty and the stigma of deviancy throughout most of her adult life, her family roots probably originated among the yeomanry of Granville County. The economic and sexual vulnerability of women, however, had reduced her mother, Elizabeth Williford, to the ranks of poor whites. Elizabeth never married, and the illegitimate birth of her daughter Susan ensured poverty and degraded status for both.³

At age six, Susan Williford was apprenticed to a farmer, William Gordon. Growing up could not have been easy for children like her who were separated at very young ages—sometimes as young as one year—from their mothers. In Susan’s case, separation was made worse by an abusive master. In November 1822, her mother charged Gordon with mistreating Susan, but not until February 1823 did the court remove the child from Gordon’s home. Perhaps Susan’s childhood apprenticeship experiences influenced her impassioned plea for custody of her children forty years later.⁴

The court’s treatment of women like Williford demonstrated that, despite southern leaders’ idealistic vision of women’s absorption within the family circle, state and local judges recognized that some women were neither the wives nor the slaves of white men. Such women had no place or function in southern society. Unmarried, propertyless women were not the vessels through which white male property and progeny passed. Instead, many were mothers of a troublesome white and black laboring class.⁵

By contradicting society’s cherished beliefs about women’s natural delicacy, servility, and virtue, the behavior of some poor women compounded their inferior status. Besides violating prescribed norms of female behavior, poor women broke taboos against interracial social and sexual intercourse more often than did economically privileged women. Respected white southerners regarded deviant white women

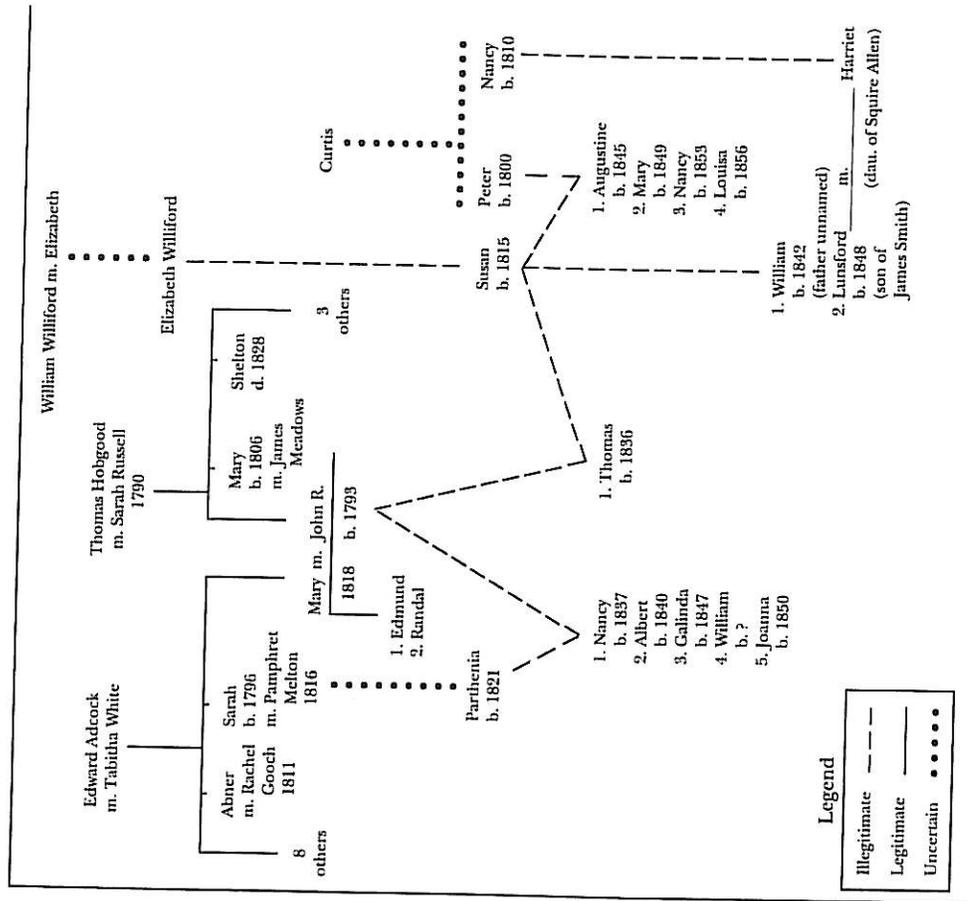
as "vile," "lewd," and "vicious" products of an inferior strain of humanity. They considered unmarried free black women naturally lascivious and amoral by virtue of their race. These attitudes, in turn, legitimized the power of the courts to punish such behavior and limit the freedom of poor women.⁶

Enforcement of laws governing bastardy, prostitution, fornication, and apprenticeship provided the chief means through which courts punished sexually active women and appropriated the labor of their children. Class, race, and marital status dictated which women were most likely to be summoned before county magistrates. An unmarried woman who did not remain celibate might frequently find herself in court throughout her childbearing years.

Despite the tremendous social and legal costs, some unmarried women led sexually active lives, entering into a subculture of mostly poor people who did not abide by the rules of polite society. This behavior allowed them a measure of personal choice in a world that otherwise restricted poor or unmarried women to lives spent serving others. Chart 4.1 reveals the connections that two deviant women—Susan Williford and Parthenia Melton—forged among yeoman, poor white, and free black members of the neighborhoods surrounding the township of Tally Ho in Granville County. The Hobgoods, Adcocks, Willifords, and Curtises had frequent contact with each other throughout the antebellum era. The Hobgoods and Adcocks intermarried, and many of the free black Curtises were apprenticed to, or worked for, their white neighbors. In addition, illicit liaisons created cross-class and interracial relationships.⁷

Williford and Melton were pivotal to these kinships. So was John R. Hobgood, who fathered children by both women in 1836 and 1837, respectively.⁸ He probably concluded from Williford's *déclassé* status that no harm was done by impregnating her, but he clearly "ruined" Melton, who probably was his sixteen-year-old niece (see Chart 4.1). Hobgood seemed particularly addicted to dissolute living. Like Williford and Melton, whose legal problems began with their pregnancies by him, he was in and out of court all his adult life, eventually entering the county poorhouse. His immediate family was plagued by violence. Two men beat to death his brother Shelton in 1828, and Mary Meadows, his

Chart 4.1. The Creation of a Subculture



Source: U.S. Federal Manuscript Censuses, 1850, 1860; Estate Records; Apprenticeship Bonds; Bastardy Bonds; Marriage Bonds; Granville County, NCDAH.

notorious sister, was accused in 1847 of arranging the murder of her husband. Despite the solid yeoman background of the Hobgoods, the behavior of John, Shelton, and Mary mired them in Granville's impoverished subculture.⁹

The relationship between John R. Hobgood and Parthenia Melton was long-lasting, despite its illicit nature. By 1850, the couple had five children, although they never married and apparently never shared a home. Melton, like Susan Williford, lived in a world of poverty and violence, and her control over her children was precarious. She was charged with bastardy once and, along with John Hobgood, for fornication twice. In 1851, the court took custody of all of her children and apprenticed two of them. It placed the remaining three children in the county poorhouse to await further action regarding their custody. In 1860, thirty-nine-year-old Melton lived alone with her youngest child, Joanna, whose custody she regained, while sixty-seven-year-old Hobgood languished in the county poorhouse.¹⁰

Williford's social status dropped even lower than Melton's and Hobgood's in the 1840s, when she entered into a permanent relationship with Peter Curtis, a free black man of her community. Denied by law the right to marry the partner of her choice, although she lived with him for at least fifteen years, Williford lost all her children by Curtis when the court ruled that they were subject to apprenticeship because they were illegitimate. In addition, the court regularly charged Williford and Curtis with fornication.¹¹ Whereas free black couples found it extremely difficult to prosper in a white slaveholding society, interracial couples found it almost impossible to maintain a traditional family life.

Living with Curtis instead of alone probably enhanced the personal safety and economic security of Williford, despite increased harassment by the courts. In 1840, before taking up with Curtis, she was beaten up and her house was torn apart by a white man—an experience all too common for poor white women of outcast status. Joining the Curtis family, which had numerous relatives among Granville County's vital community of free black farmers and artisans, lessened her vulnerability. Living among the Curtises also provided a community in which her mulatto children were accepted. Three of her

Table 4.1. Charges of Sexual Misconduct and Larceny Brought against Women in the Lower Courts, 1850–1860

	Granville	Orange	Montgomery	Total
Prostitution	8	11	0	19
Fornication	21	43	5	69
Bastardy	33	94	42	169
Larceny	5	2	1	8

Source: Criminal Action Papers and Bastardy Bonds, Granville, Orange, and Montgomery counties, Criminal Actions Concerning Slaves and Free Persons of Color, Granville County, NCDAH.

children married into black families of their neighborhood in the 1860s.¹² Thus at the price of utter condemnation by white society, Williford gained greater physical protection—something outcast poor white women generally lacked—by crossing the color line.

Crossing the color line also reveals the larger connection of female sexuality and reproduction to issues of race and poverty. Because of the counties' significant free black populations, the Orange and Granville courts enforced laws against prostitution and fornication as often to punish miscegenation and limit sexual contact between free blacks and slaves as to punish white couples guilty of adultery (see Table 4.1). Indictments for prostitution particularly targeted women who engaged in interracial social activity or who operated taverns at which blacks and whites were suspected of gambling, drinking, and exchanging illegal goods. Prostitution was usually included within the general charge of operating a "disorderly house," rather than being the sole issue of an indictment.¹³

That court magistrates sought to control rather than eliminate prostitution is indicated by their general indifference toward white prostitutes who confined their services to white males. These women appear to have quietly plied their trade without legal challenge,¹⁴ perhaps because many white citizens believed that the availability of lower-class white prostitutes (as well as slave women) protected respectable women from defilement by lustful males. Few citizens seem to have thought much about the prostitute herself except to label her

"vile," "dissolute," and the like.¹⁵ Respectable townspeople for the most part ignored prostitutes unless, if white, they crossed the color line or, as in the case of Nancy Glasgow who was caught milking the cow of Thomas Pleasants without his permission, they imposed upon more prosperous members of the community.¹⁶

Their marginality in society makes it difficult to reconstruct the lives of prostitutes or women who ran underground taverns. Most of those accused of prostitution or of operating "disorderly houses" were poor women who lived in female-headed households and lacked extensive kinship networks in their communities. Some, like Orange County's Emily King, Lucinda Woodrow, and free black Patsy Huckabee and Granville's Nancy Glasgow and Sally Short, had illegitimate children in their younger years. Others, such as Catherine Mincey (Minzey) and Mary Perry of Orange County, were probably of illegitimate birth themselves.¹⁷ In virtually every case, ostracism from respectable society preceded involvement in prostitution.

Few owned any property of substance, and many were omitted by census takers in their enumeration of households.¹⁸ Consequently, most of the evidence that survives in the public records is negative, identifying such women as witnesses or victims of crimes. Criminal records, for example, record Nancy Glasgow's beating by well-to-do hotel keeper Simon G. Hayes—an incident suggesting that Glasgow perhaps tried to conduct business in Hayes's hotel.¹⁹ In Orange County, Emily King was subpoenaed as a witness to a murder that occurred during a drunken brawl at her place of business.²⁰ Prostitutes and female tavern keepers clearly were visible figures in the shadowy social world denied to ladies of the community, a world in which violence and illicit sexual activity were commonplace. This and the fact that prostitutes were forced to cater to men who despised them even while they exploited their services left women of this underground subculture highly vulnerable.

In contrast to prostitution, indictments for fornication focused on women who gave rather than sold sexual favors. Targeted were those who cohabited with slaves (primarily free black women), participated in interracial sexual activity (mostly poor white women), or engaged in adulterous relationships with married men.²¹ The first two categories

included some couples who considered themselves married but were legally forbidden to marry.²²

Although marriages between slaves and free blacks were not legal, slave masters sometimes allowed informal arrangements. The slave-owner might disrupt these informal marriages at any time, as in the case of Reuben Day and the slave Harriet, but such marriages were plagued by more than the master's interference. It was difficult to build intimate, stable unions when marriages lacked legal sanction, privacy, and complete freedom of movement.

The case of Sarah Boon is illustrative. Sarah, a Wake County slave, was married to James Boon, a free black carpenter. She remained tethered to her master's plantation while James traveled the countryside in search of work. For almost a year, she beseeched him in letters to return to the plantation, where the couple had a cabin, garden, and livestock. "Your hogs are running wild," Sarah warned, "and I fear they will all be destroyed." She told James that she felt very "loane-some," and she experienced the anguish of jealousy when she learned that he was seeing another woman. "My Dear Husband," she wrote, "I frealy forgive. . . I wish it to be banished from our memories and never to be thought of again and let us take a new start."²³

It must have been particularly frustrating that James's new lover was a free black woman who could travel with him and legally marry him. James Boon later married Mahala Buffalo without having to make even a gesture to Sarah, who, according to the law, had never been married.²⁴

It is not entirely surprising that James Boon opted not to sacrifice his mobility to live permanently on the plantation with his slave wife. Their situation typified the dilemma of slaves and free blacks who were allowed to cohabit. Emma Stone recalled that her free black mother, Polly Mitchell, chose to live and raise her children on the Chatham County plantation of her slave husband. This decision, as Stone pointed out, led to quasi-slavery for the Mitchells: "We chilluns, long wid her, wuz [treated] lak de udder slaves."²⁵

Polly Mitchell's gender may have played a key role in her decision. As a free black woman, she was less likely than James Boon to have a marketable artisanal skill. Furthermore, her children were free even

though their father was a slave. Thus getting the permission to live as the wife of her slave partner from his master may have been contingent on her staying on the plantation. The decision apparently allowed her husband's master to appropriate the labor of her children.

Laws against fornication discouraged free blacks from seeking mates who were slaves. The illegality of marriage among slaves greatly reduced the pool of marriageable partners available to free black women, many of whom found partners among cousins, uncles, and other relatives. In the process, they built kin lines every bit as intertwined as those of the planter elite.²⁶ A small pool of potential marital partners meant, however, that many free black women never married and instead probably carried on clandestine affairs with slaves, married free black men, or white men.

Free black women strained the boundaries of the southern racial code in efforts to meet their own personal needs. Adeline Bowles, an unusually wealthy free black woman of Orange County, purchased her mate, a slave, from his master after the two were charged with fornication.²⁷ Most free black women, however, did not have the means to buy their mates or find masters willing to sell them. Some, like Kate and Mary Durham, carried on liaisons with male slaves for years before finally being charged with fornication. To these women, such unions often constituted marriages even though court officials treated them as adulterers and apprenticed their children in the manner accorded to bastards. Only after the war were Kate and Mary Durham able to legalize their respective marriages and regain custody of the children born to them before the war.²⁸

In those indictments of fornication aimed at punishing miscegenation, magistrates prosecuted primarily white women and black men rather than white men and black women.²⁹ This uneven application of the law reflected the structure of gender and racial relationships. White males claimed the right to govern all women, regardless of race.³⁰ The sole sexual possession of white women by white men assured perpetuation of the dominant "pure" white race. Possession of a black woman by a white man, whether of her person, labor, or body, demonstrated the powerlessness of the black man, who could not claim sole rights of possession even to women of his own race. Black

women were especially vulnerable. Subjected to sexual exploitation because of their gender, they were denied protection against sexual harassment on account of their race.

A white man might seek sexual activity with a black woman with little fear of censure from society provided he did not treat her in a manner that suggested the respect reserved for white women.³¹ Certainly, a white man should not appear at social gatherings with his black mistress. Just such behavior resulted in a rare case in which a white male was charged with fornication with a black female. By socializing publicly with Tabby Chavous (Chavis), a free mulatto woman, Thomas Peace so angered his brother Dickerson Peace that in 1844 the latter initiated charges of fornication against the couple. Undaunted by the charges, however, Thomas continued to escort Chavous to public gatherings well into the 1850s until Dickerson, unable to contain his rage, attacked and accidentally killed him at a neighborhood barbecue.³²

This violent end to a decade-long relationship illustrates the profound connections between sexual behavior and ordering of racial boundaries. The sexual possession of both white and black women symbolized men's power, but in very different ways. At a basic level, such possession signified the dominance of men over women. White women, however, were prizes; the higher a particular woman's family status, the better it spoke of the man who "won" her. Possession of black women, by contrast, symbolized a man's virility more than his honor, a virility manifested in racial domination.³³ Thus a white man must never, as in the case of Thomas Peace, elevate a black woman to the status of a white woman.

Most white men treated their affairs with black women with the discretion required in antebellum society. Indictments of racially mixed couples for fornication usually targeted white women and black men. In a society steeped in the mythology of white female purity and black inferiority, such couplings, though rare, were disturbing. Most nineteenth-century Americans viewed sexual intercourse as an act done *to* women rather than one in which women participated. Thus a black man's sexual "conquest" of a white woman potentially empowered him and humiliated white men. A white woman who chose a

black mate had to be lowered in status to prevent the elevation of the black male who possessed her and, of course, to confirm white males' cherished notion of themselves as the preferred sexual choice of any decent white woman.³⁴

White couples whose sexual behavior offended the community might also find themselves indicted for fornication. Many such cases involved poor white women and propertied (usually married) white men. An indictment for fornication could also serve as a prelude to a suit for divorce,³⁵ or it might simply reflect feuding among members of a community. Many people routinely used the courts to punish and embarrass each other.

Efforts to embarrass a man by linking his name with a disreputable woman sometimes extended beyond neighborhood feuds. Susan Mason, an unmarried white woman who had several illegitimate children, demonstrated the power (if it may be called such) of an unchaste woman to challenge the credentials of a southern gentleman. When Mason named wealthy, upper-class William Stanford Moore as the father of one of her bastards in 1848, Moore won a reversal of the lower court's decision in favor of Mason in superior court.³⁶ Eight years later, when two editors of the *Raleigh Register* again linked Moore's name with Mason's, Moore sued the men for slander, labeling Susan Mason "a woman of a base and infamous character . . . [who is] in all respects unchaste in the highest degree, [as well as] low & degraded."³⁷ Mason's flagrant sexual behavior had rendered her an "untouchable" in white society, the sort of woman who could send a gentleman scurrying into court to protect his good name.

Using the courts to harass one's enemies was particularly popular in Montgomery County, although magistrates rarely indicted anyone for fornication and never charged any women with prostitution. The county simply lacked enough free black, kinless, or landless people to develop the underground of dramshops, gambling, and illicit sexual activity that leading citizens in Granville and Orange counties feared would bring social chaos if left unchecked. Indictments for fornication did occasionally provide a convenient weapon against one's enemies, however. When Gilbert Nichols gossiped to neighbors that Candace Lucas had taken as "sweet-hearts" several slaves of the community,

Lucas's uncle and brother promptly charged Nichols's uncle, who lived with a mulatto woman, with fornication.³⁸ The timing of the Lucas' suit suggests not so much indignation over miscegenation as an effort to even the score in the ongoing battles between the families.

That seven interracial marriages went uncontested in Montgomery County before the war further indicates that personal animosity rather than racial concerns animated the charges and countercharges of miscegenation between the Nichols and Lucas families. Six members of the Hussey family, all of whom passed in appearance as white despite having a mulatto grandmother, married white partners and raised large families without legal challenge until the Civil War brought the issue of race to the fore.³⁹ Wilson Williams, a mulatto, and Disey McQueen, a white woman, also lived as husband and wife in Montgomery County without apparent challenge.⁴⁰ The greater homogeneity of Montgomery County's population made its white citizens more willing to tolerate a few cases of interracial cohabitation than their counterparts in communities with higher numbers of free blacks and slaves.

The racial concerns that influenced the enforcement of civil and criminal laws also influenced the use of the apprenticeship system, which functioned as an instrument of racial control as well as an early attempt to institute a system of social welfare for the poor. Several categories of children were subject to apprenticeship: fatherless children "who have not sufficient estate to be educated on the profits"; children deserted without support for at least one year by their fathers; children not living with a father and living with a mother deemed by the court an improper parent; all free illegitimate children; and all children of "free negroes or mulattoes, where the parents do not employ their time in some industrious, honest occupation."⁴¹ The courts used the system most consistently to apprentice the children of free blacks.

County court officials removed poor children from their mothers through the apprenticeship system because women had no legal rights of guardianship over their children unless specifically endowed with them by courts. Fathers were by law the "natural" guardians of children. The courts defined as an orphan any child without a living or

Table 4.2. Number and Race of Children Apprenticed between 1850 and 1860

	Granville	Orange	Montgomery	Total
Black	60	71	13	144
White	34	40	17	91
Total	94	111	30	235

Source: Apprenticeship Bonds and Minutes of the county courts, Granville, Orange, and Montgomery counties, NCDAH.

legitimate father. All minor orphans were legal wards of the court regardless of whether they had living mothers. In strict legal terms, the courts "allowed" a mother to raise her children by virtue of her marriage to the children's legal "owner," their father. Hence the law required that widowed mothers apply in court for legal guardianship over their "orphaned" children, though in cases involving propertied families, the court usually granted such guardianships routinely.⁴² The likelihood that the children of propertyless widows and unmarried mothers would be apprenticed was much greater.

As Table 4.2 shows, more free black than white women lost custody of their children through the apprenticeship system. An unmarried mother of a black or mulatto child could certainly expect her child to be apprenticed. Between 1850 and 1860, black and mulatto children accounted for 61 percent of the children apprenticed in Orange, Granville, and Montgomery counties even though free black women made up only 9 percent of female-headed households.⁴³

Stripped of political and legal rights by virtue of both gender and race, most unmarried free African American mothers had little choice but to endure separation from their children. A few resisted apprenticeship, however, or challenged in court masters who abused apprenticeship laws. In 1848, for example, Cassandra Pollard, a "poor" but "respectable" free black woman of Wake County, obtained a lawyer and sought freedom for her daughter Elizabeth, whose master had illegally removed her from the county of apprenticeship and had retained custody of her beyond the age of twenty-one.⁴⁴ In Orange

County, Sarah Jackson sued to rescind her son's apprenticeship to Solomon Fuller on unspecified grounds after four years of service.⁴⁵

Because of their race, black women were less able to resist apprenticeship of their children. Court officials did not apprentice all illegitimate white children; instead, they focused on those who manifested obvious signs of poverty and neglect.⁴⁶ White women had greater rights in court than black women and, not being part of so small and visible a minority as free blacks, probably found it easier to hide their children from court officials. Yet the stigmatization of poverty and deviant behavior, grounds in the first place for the removal of a woman's child, severely undercut the white woman's advantage of race.

Giving birth to a black man's child eliminated the racial advantage for white women. In an 1855 suit similar to Susan Williford's, Nancy Midgett, a white mother of two mulatto children, appealed to the state supreme court to rescind her children's apprenticeships on grounds that she was living an industrious life and able to support them. Judge Pearson denied the request and reminded her that the county court "has power to bind out *all* free base-born children of color, without reference to the occupation or condition of the mother."⁴⁷

The circle of control over the sexual and reproductive activity of poor women technically was complete. Midgett, like Williford, could not legally marry her children's black father. Thus she had no legal right to the custody of her children. By denying the labor of their own children to parents who did not conform to the ideal of a (preferably white) male-headed, propertied household, North Carolina courts sometimes crippled the tenuous economic base of a fatherless or free black family. They also shattered many poor people's potential for forming affective family bonds.

In some cases involving single or widowed women who were unable to provide decent homes for their children, the interests of the children would probably have been better served had the apprenticeship system removed them from the custody of their mothers. In 1860, Mary Ann Inscore, a twenty-three-year-old white woman, apparently still had not named her three- and two-year-old illegitimate children. She lived with William Ferrill, who had been charged in November

1857 with operating a "disorderly house" that included prostitution.⁴⁸ It is no surprise that in a society that socialized women to be dependent on others and decreed marriage women's only viable vocation, those who failed to marry wisely or at all might lack the financial or emotional resources to raise their children. In such cases, the apprenticeship system provided an alternative to the poorhouse and, in theory at least, an opportunity for an indigent child to learn a skill. Most orders of apprenticeship, however, did not address a woman's ability to raise a child but merely cited the fatherlessness of a child as a priori evidence of that fact.

Recognizing the inevitability of losing their children, some free black women initiated apprenticeship so they could have some say in their children's placement. In 1828, Lusey Morgan, a pregnant free black woman, pleaded with county magistrates to bind her children to William Chamblee, an Orange County slaveholder. She had been bound to Chamblee as a young girl and lived with him as an adult with two children. She feared that her children might be apprenticed to someone else in the community and thus separated from her. In separate cases, Milly Richerson and Leaney Mitchell, free black women of Granville County, likewise initiated their children's apprenticeships to white planters on whose plantations they lived and worked. These planters may also have been the fathers of their children. Requesting that her children be bound to John C. Connell, Richerson explained, "I am now living on his land, and am unable to support myself only bi[sic] the hire of said children."⁴⁹ Had the women waited for the court to order the apprenticeships, they would have risked having their children bound to masters not of their choosing. Unable to broaden their opportunities for employment and avoid the apprenticeship system, women like Morgan, Richerson, and Mitchell negotiated to maintain at least the company of their children.

Because of its small free black population, Montgomery County courts apprenticed far fewer children than those in either Orange or Granville. But despite a free black population half the size of Granville's, Orange County had the highest apprenticeship numbers, reflecting the higher level of poverty among all women of that county. The differences between the Granville and Orange County courts'

apprenticeship numbers demonstrate also that, despite racial barriers, free blacks, like whites, benefited under the law according to their socioeconomic status and family connections.

More prosperous free black families resisted the apprenticeship of black children to whites. In 1824, Elizabeth Gooch, a white woman of Granville County, accused free blacks Reuben Day, Sr., and his wife, Nancy, of "stealing" her two black apprentices. Other free blacks prevented whites from gaining custody of black children by having the children apprenticed to themselves. Jeremiah Day of Orange County gained custody of his orphaned nephews in this manner.⁵⁰

Free black men and women who became the masters of apprentices bore the surnames of the most prosperous and extensive free black families. In Granville, William Evans (August 1830), Anderson Pettiford (May 1852), Joseph Curtis (August 1854), and Lucy Richerson (August 1852) took in black apprentices. In Orange, Jeremiah Day (August 1854), Sophia Mitchell (September 1855), and Elizabeth Mayo (February 1836) did so. In the cases of Richerson and Mayo, the apprentices were their own children.⁵¹ These families used the apprenticeship system as a form of foster parentage for orphaned or illegitimate children subject to being bound out.⁵²

These exceptions notwithstanding, the apprenticeship of one's child measured one's powerlessness in North Carolina society. Those against whom the apprenticeship system was most consistently applied were those who ranked lowest in the social hierarchy. This group included deviant white women and especially unmarried free African American women.

Although racial biases shaped the application of the apprenticeship system and the prosecution of women guilty of fornication and prostitution, lawmakers claimed that they were interested only in the economic ramifications of the directly related issue of bastardy. The state justified prosecuting parents of illegitimate infants as a means of preventing such children from becoming public charges. Given the greater economic resources of most men, it made sense to assign financial responsibility for bastards to fathers rather than mothers, and so the courts did. As early as 1714, the colony of North Carolina had required that fathers support their bastard children.⁵³

Judges cultivated an image of moral neutrality in their handling of bastardy suits, claiming that their sole interest was to prevent bastards from becoming public charges. Chief Justice Nash explained in 1854 the practical goals of bastardy statutes: "The community says to the marauder, you have no right to amuse yourself at the public expense; if we can catch you we will not punish you, but will compel you to do that which every principle of honor, justice, and humanity binds you to do."⁵⁴ An unwed mother or pregnant woman was legally required to reveal the name of her bastard's father. Those who refused were fined \$5 and expected to post bond for the support of their child.⁵⁵

The burden of proving innocence was upon the accused father, who until 1851 was legally barred from citing the "bad reputation" of the bastard's mother. Chief Justice Nash explained in 1844 that allowing such allegations as proof of a man's innocence would leave bastards almost impossible to prosecute. He added that most mothers of illegitimate children were of inferior character.⁵⁶

Nash's assumption that a pregnant single woman automatically exhibited a weak character flowed logically from nineteenth-century beliefs about the purity and innocence of respectable white women. A woman's true character would reveal itself in her behavior, and nothing provided more irrevocable proof of an inner moral weakness than sexual misbehavior. The poverty that engulfed so many women charged with bastardy only confirmed the widely held belief that poverty signified an innate inferiority passed from one generation to the next. Although some lawmakers recognized that a lack of opportunity led poor women to act in a deviant manner, most viewed economic poverty as the outward manifestation of an inner poverty of spirit and intellect.⁵⁷ Like upper-class citizens in general, lawmakers expected poor women to misbehave in greater numbers than middle- and upper-class women. Such behavior seemed consistent with the natural order of society rather than an indication of the structural barriers of class, race, and gender that poor women faced.

Most women charged with bastardy in Granville, Montgomery, and Orange counties were, indeed, poor. Almost half of sixty-seven women so charged between 1850 and 1860 whose profiles I have constructed lived in propertyless households on the eve of the war. Most

Table 4.3. Household Composition in 1860 of Women Charged with Bastardy, 1850-1860

	Granville	Orange	Montgomery	Total
Head of household	5	12	4	21
Living in female-headed household	3	7	6	16
Living in male-headed household	5	14	8	27
Living in poorhouse	0	3	0	3
Total	13	36	18	67

Source: Bastardy Bonds, Minutes of the Wardens of the Poor, U.S. Federal Manuscript Census, 1860, Granville, Orange, and Montgomery counties, NCDAH.

of these households were headed by the mother or another female. Just over half of the remaining thirty-five women who lived in propertyless households lived in homes headed by males. All but one of the women who lived in households with property valued at more than \$500 lived in male-headed households, usually those of their father. Usually unskilled and unlikely to marry, most mothers of illegitimate children lived in or on the edge of poverty. Fully half of them lived in households containing no apparent kin other than their illegitimate children (see Tables 4.3 and 4.4).

Despite their modest resources, relatively few unwed mothers became wards of county poorhouses during the antebellum era. The courts' policy of assigning financial responsibility to the fathers of bastards perhaps kept most unwed mothers off the county charity rolls. So, too, perhaps, did the lack of personal freedom, dreary surroundings, and general degradation associated with public charity. Officials closely monitored the work habits and behavior of poorhouse inmates.

The buildings that housed paupers were at best functional, and the food and clothing supplied were predictably monotonous and plain. In 1857, inspectors of the Orange County poorhouse found the building's walls almost entirely rotted behind its brick facade. Inside,

Table 4.4. Combined Real and Personal Property Values of Households of Women Charged with Bastardy between 1850 and 1860

	0	\$1-\$200	\$201-\$500	\$501 and over
Head of household	15	6	0	0
Living in female-headed household	6	5	4	1
Living in male-headed household	8	6	6	7
Living in poorhouse	3	0	0	0
Total	32	17	10	8

Source: Bastardy Bonds, Minutes of the Wardens of the Poor, U.S. Federal Manuscript Censuses, 1860, Granville, Orange, and Montgomery counties, NCDAH.

they discovered that the portion of the floor where the paupers slept had "generally mouldered into [the] earth." The diet consisted primarily of chicken or pork, corn, oats, milk, and coffee, while clothing was made from "good, substantial linsey." To enter the poorhouse represented a final loss of individual autonomy, and only those women on the brink of starvation chose the security of food and shelter over remaining in their communities.⁵⁸

Although most women charged with bastardy were poor, this does not mean that only poor women gave birth outside of marriage. In their zeal to prevent illegitimate children from becoming charges upon county funds, court magistrates tried to force poor unmarried women to name the fathers of their children in court. The illegitimate children of wealthy women did not present the same economic burden to society. Yet, despite the courts' efforts to prosecute the fathers of poor women's bastards, many men nevertheless found ways to protect their identity or evade full financial responsibility for their illegitimate children. A common practice was to post the woman's bond and pay her fine in return for her silence. In 1857, Joel Lucas wrote a letter to Montgomery County justice of the peace John McLennan that suggested a political reward for McLennan's cooperation in keeping Mary Jane Nelson's bastardy suit out of court: "We dont want hit

in cort [and] The Thing is [settled] with the woman. . . . I now want you to [do] this for me and you Shall Lose nothing By hit[.] I will Bee at Cort to morrow and expect to [hear of] you Beeing . . . Candat for Cleark."⁵⁹

The court subsequently approved the \$30 cash settlement provided for Nelson by the Lucases and ordered no further child support payments. Lucas's out-of-court settlement with Nelson prevented her from dragging his married brother through a public trial. It also considerably lowered the amount of support Willoughby Lucas had to pay for his illegitimate child. Out-of-court settlements of similarly small amounts were common in homogeneous Montgomery County.⁶⁰ That most of the women and men charged with bastardy were of the same race and class and probably came from families who had known each other for generations perhaps encouraged informal negotiations of child support.

Either out of fear or affection, many women like Mary Jane Nelson did not prosecute the fathers of their children. The married father of the child of Martha Day, a Granville County widow, promised Day a home in return for not naming him in court. He threatened her with violence when she did so anyway.⁶¹ Mary McQueen, who kept house for Kindred and Nancy Stewart of Montgomery County, refused to name the father of her two illegitimate children, despite town gossip that the father was Kindred Stewart and the fact that Stewart posted her bond during each pregnancy.⁶²

Finally, Susan Clements of Orange County protected the identity of Dr. Bartlett Durham, for whom the town of Durham was named, probably in return for financial support. Faced with entering the poorhouse upon Durham's death in 1857, Clements unsuccessfully sued his estate for support of their two illegitimate children.⁶³ A woman's protection of a man's identity, often in return for his private support of an illegitimate child and perhaps in hopes of continuing the relationship, was risky business. As Clements discovered, such financial support could end at any time unless it had been mandated by law.

While some white men evaded financial responsibility for illegitimate children, those who fathered black or mulatto children were

rarely charged with bastardy.⁶⁴ For this reason, bastardy numbers in the records of Montgomery and Orange counties are far higher than in Granville, where many fathers of bastards may have been slaves, free blacks, or whites who wished to remain anonymous.⁶⁵ Besides, court officials could show less interest in prosecuting the parents of free black bastards because the practice of apprenticing all such children from the age of five until twenty-one considerably lessened the need for county aid.⁶⁶

The inability of blacks to testify against whites in court further relieved the courts of prosecuting white fathers of mulatto children. Only a single bastardy case involving a free black mother and a white father reached the state supreme court in this period, and it was decided in favor of the father. In 1848, the high court ruled that free black mother Lucinda Simpson was by law "incompetent to give testimony against a white man," which the impured father of her child happened to be. Two years after denying Simpson's suit, the state supreme court ordered William Haithcock, a free black of Orange County, to support his illegitimate child by a white woman.⁶⁷ Consistent with social custom, the courts punished blacks and women, but seldom white men, who violated the taboo against interracial sexual relations.

White men profited from their ability to bribe court officials and coerce women into silence. For a woman, the extensiveness of her family roots was the most decisive factor in how she fared in court. Montgomery County's most notorious unmarried mothers—Hannah, Rosetta, and Ann Hurley—were from an extensive and long-standing yeoman family of the community.⁶⁸ Hannah and Rosetta Hurley successfully sued their children's fathers for support when court-ordered payments were not forthcoming.⁶⁹ Although the Hurley sisters' sexual conduct may have cost them their reputations, their strong roots in the community gave them the confidence and resources to demand their legal due.

Auley McAulay, a respected small slaveholding farmer of Montgomery County, sued John Birckhead, his daughter's lover, for support of their bastard child, and he sued him for seducing his daughter. McAulay took his suit all the way to the state supreme court. At one

point Birckhead demanded a trial outside of Montgomery County because of McAulay's extensive family connections. McAulay won his suit, despite proof that Mary Ann, his daughter, had consented to the affair with Birckhead. "[The] Consent of party seduced," wrote Justice Pearson, "does not bar the right of the parent in bringing damages for seduction by loss of service, nor will it serve to mitigate the offense of the seducer."⁷⁰

In cases of seduction, the courts applied a master-servant definition to the relationship of fathers and daughters. This legal fiction allowed a father to obtain financial compensation for the loss of his daughter's "purity and innocence" and, of course, for injury to the name of a respected family like the McAulays.⁷¹

Poor kinless women, in contrast, received little protection against sexual exploitation. Men considered lower class women, particularly African Americans, a sexual proving ground for those too "gentlemanly" to disturb the "finer" sensibilities of higher-class women.⁷² Women of loose reputation also risked blame for provoking the violence of men repulsed by their behavior. In 1851, thirty-six citizens of Halifax County petitioned Governor David Reid to pardon Lemuel Nevill and Davis Shearin, who had brutally beaten Polly Gaffin because she had committed adultery with the husband of Nevill's sister and had given birth to a mulatto baby.⁷³ The legal right of husbands to "chastise" wives physically encouraged a general consensus that men at large could discipline women at large—much like the attitude of white men toward African American men.⁷⁴

Similarly, prosecutions for rape focused on the reputation of the victim as well as the evidence against the accused. Conventional nineteenth-century thought regarded rape as the theft of a woman's most prized possession—a body reserved exclusively for her future or present husband. Under these terms, protection of sexually active single women would have degraded the pure white women whom the law was designed to protect. Given the attitudes of most white southerners, it hardly occurred to them that a black woman could be raped.⁷⁵

Neither, apparently, could an unchaste white woman. In several cases involving charges of rape of white women by slaves, women of

low, debased reputation—specifically, those guilty of miscegenation—were considered unworthy of the execution of a valuable slave. In such cases, white men admitted that some white women willingly had sexual intercourse with black men—and they were of course correct—but labeled such women “base prostitutes” whether they sold their services or not.⁷⁶

The existence of unmarried sexually active women, many of whom lived in female-headed households, provided a striking contradiction to the ideal of a woman’s place as either wife, daughter, or slave within the patriarchal structure of southern society. Women who lived outside the family structure and lacked economic independence were a familiar sight in local courts, where they were summoned by judges empowered to regulate their sexual and reproductive behavior. Although apparently unburdened by paternalistic responsibilities, the state assumed the role of patriarch in governing the lives of women who lacked proper male figures of authority to control them.

Throughout the antebellum period, social leaders and lawmakers treated single, sexually active women as outlaws and outsiders. The frequent presence of deviant women in the local courts reminded all women of the price of misbehaving, and prosecution of such women probably did curb antisocial behavior to a certain extent. Thus on the eve of the Civil War, North Carolina had a well-developed, if unevenly applied, system of laws that, despite the persistent misbehavior of a small, distinct subculture of free black and white women, reinforced the structure of the white family and preserved at least the appearance of sexual separation of the races.

Five

The Struggle to Survive

The Lives of Slave,

Free Black, and Poor

White Women during

the Civil War

The eruption of the Civil War in the spring of 1861 upset the boundaries of gender and race long sanctioned by custom and law in the South. In North Carolina, families were separated, control over slaves threatened, and local courts crippled by the sudden absence of white men whose domain of power included heading households, overseeing slaves, and serving as judges and jurors. Although it has long been an axiom among historians that the women left behind faced food shortages, increased crime, and a mounting death toll with courage and fortitude, only recently have we learned about the behavior of southern women during the war, except for those who volunteered their services to soldiers’ aid societies and hospitals. Indeed, we know very little about women from the enslaved and nonslaveholding classes, although they suffered the greatest deprivation during the war.¹

The difficulty of tracing the behavior of enslaved and poor women, who often waged a desperate struggle to survive, lies in the dangerous world that war always creates. War encourages women to “take cover”