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Rachel Ginnis Fuchs, *Contested Paternity: Constructing Families in Modern France*. Baltimore: Johns Hopkins University Press, 2008. xii + 368 pp. Photos, notes, index, bibliography. \$55.00 U.S. (hb). ISBN 978-0-8018-8832-8.

Review by Jean Elisabeth Pedersen, University of Rochester.

Rachel Fuchs' newest book, *Contested Paternity*, is fascinating in every particular from its striking cover image to its extensive endnotes and bibliography. The jacket illustration reproduces Suzanne Valadon's *Family Portrait* of 1912, a group portrait that shows the painter in the company of her natural son Maurice Utrillo, born to Valadon by an unknown father in 1883 but recognized by her fellow painter Miguel Utrillo in 1891; her lover and future husband, André Utter, who was one of Maurice's friends; and her single mother, Madeleine Valadon, who raised first her daughter and then her daughter's son without a husband or a partner. The endnotes and archival sources show how Fuchs puts the story of this remarkably complex family of notable individuals in its larger social context, examining the situations of the many ordinary men and women who also had children and eventually formed families without ever getting married. Building on her extensive work in the records of the French Assistance publique, Assistance judiciaire, Tribunal civil de Paris, Parquet de la Seine, and Tribunal civil de la Seine, Fuchs demonstrates the surprising patterns of continuity and change in the practices of the successive generations of men and women who founded a wide variety of different kinds of "nonconformist families" (p. 200) over an impressive period of almost three hundred years from the Old Regime until today.

*Contested Paternity* combines the appeal of social history and cultural history. On the one hand, as in her previous work on abandoned children, single mothers, and poor women in Paris,<sup>[1]</sup> Fuchs uses a combination of legal proceedings, journalistic trial coverage, and contemporary commentary to say as much as she can about the daily lives of ordinary men and women. In this particular case, she focuses chiefly on the circumstances of the single mothers who sued their partners for paternity, the bachelor men who appeared as defendants in such paternity suits, the husbands who disavowed paternity of their adulterous wives' children, the fathers and mothers who lost custody of their children when the state decided they were unfit parents, and the men and women who adopted other people's children for a wide variety of reasons that ranged from close emotional attachment to simple economic self-interest. On the other hand, she uses the judicial records not only to uncover the finances, family circumstances, and social situations of the men and women who went to court in such cases, but also as a way of understanding what Natalie Zemon Davis once called the power of "fiction in the archives,"<sup>[2]</sup> the socially-acceptable cultural scripts and potentially plausible legal narratives that Fuchs herself describes as "creative non-fiction" (p. 3). In one particularly elaborate extended metaphor, she compares plaintiffs and defendants to actors playing the roles of good mothers and good fathers, magistrates and lawyers to casting directors deciding whose competing performances to believe in those roles, state authorities to producers "directing the behavior of men and women who played their parts as lovers, mothers, and fathers," and legislators to dramatic authors whose laws constituted the script that magistrates, lawyers, and state authorities might either follow

to the letter or alternatively act as assistant playwrights to modify in the actual practice of handing down individual legal decisions (p. 240).

The French Civil Code maintained a blanket prohibition on paternity suits for over a century, from 1804 to 1912, but one of the most impressive aspects of *Contested Paternity* is the way in which Fuchs uncovers the complex and dynamic reality behind this apparently static situation by showing both the changes in national legal theory and the variations in local legal practice that occurred before, during, and after the one hundred eight years that the Civil Code forbade such suits. For much of the eighteenth century, for example, women had the right to bring paternity suits if they could claim that men had seduced and abandoned them, but Fuchs finds that by the eve of the French Revolution, courts had already stopped honoring such women's legal claims because the judges that had once seen single mothers as the innocent victims of dishonorable men had now come to view unmarried mothers and their natural children as dangerous threats to legitimate families with respectable heads of household. Even before Napoleon put his Civil Code into effect in 1804, French revolutionaries had already first limited the use of paternity suits under the National Convention in 1793 and then forbidden them outright as part of the Thermidorean reaction of 1794.

The Civil Code did allow a woman to sue for damages in the case of a broken marriage contract, abuse of authority, or seduction under false pretenses, but Fuchs shows that the new suspicion of women's words in court was still so strong at the beginning of the nineteenth century that women had a hard time winning such cases until public opinion shifted back in their favor again in the 1840s, with landmark cases in 1845, 1864, and 1898. Under the Third Republic, popular playwrights, feminist activists, Protestant reformers, and radical republicans alike began to press for legal paternity suits. After over a century of social struggle and almost four decades of parliamentary debate, the new Senate and Chamber of Deputies finally modified Article 340 of the Civil Code to allow "judicial recognitions of natural paternity" under certain circumstances in 1912. Today, paternity suits are legal and DNA testing makes paternal identification easier, but Fuchs argues that women are now less likely to bring suit partly because the procedure remains complex, partly because birth control makes it easier to avoid pregnancy to start with, partly because state welfare programs provide sufficient economic support even in the absence of a father, partly because single motherhood no longer carries so much social stigma, and partly because fatherhood has come to seem appealing enough that more men will assume their responsibilities voluntarily instead of under legal duress.

One of the most important aspects of *Contested Paternity* is the way in which Fuchs uses the history of paternity suits as a way to analyze changing attitudes towards fatherhood, motherhood, and childhood. Fuchs not only makes a distinction between biological fatherhood and social fatherhood, but she also explores a further distinction between several different forms of social fatherhood. In a recognition of full filiation, a father would give a child his name, his inheritance, and all the rights and responsibilities of family membership for life. In an agreement to provide child support, on the other hand, a father would only give a child economic assistance until the child reached his or her majority, lost all claim on the father's finances, and had to make his or her way in the world without any further connection to the father's family. Although Fuchs shows that courts were always more likely to allocate minimal child support than to threaten the ideal of the legitimate family by mandating full filiation for illegitimate children, she also argues that the 1912 legalization of paternity suits constituted a significant step in the recognition of new family forms beyond the married heterosexual norm.

Another innovative part of the book is the way in which Fuchs builds on Michel Foucault's history of sexuality[3] and Robert Nye's history of masculinity[4] to explore the ways in which men and women connected fatherhood and motherhood to cultural understandings of

masculine and feminine honor. When single motherhood was a source of shame, for example, a woman might sue a man for damages or paternity, not only to gain economic assistance for herself or her children, but also to regain her honor by publicly denouncing the man who had seduced and abandoned her with a false promise of marriage. When a wife's infidelity was a source of shame, similarly, a man might disavow paternity not only to get rid of an unwanted child but also to maintain his public honor by denouncing the woman who had betrayed him by conducting an adulterous affair behind his back. Although Fuchs herself does not say much about the reforms in French marriage and divorce law that preceded the legalization of paternity suits, her powerful illustrations of the importance of honor in both public and private life help to explain why the senators who legalized divorce in 1884 refused the revolutionary precedent of divorce by mutual consent in favor of divorce proceedings that made a distinction between the innocent spouse who earned the liberty of divorce if he or she won the case, and the guilty spouse who suffered the dishonor of divorce if he or she lost.[5] A focus on the importance of honor also helps to explain why three of the four grounds for divorce under the new Naquet Law were a dishonoring criminal conviction, adultery by the wife, and adultery by the husband.

One of the most surprising sections of the book is the section on adoption, which shows how a nineteenth-century focus on the adoption of adults by other adults slowly started to change with the passage of the first law that allowed the adoption of children by adults in 1923. As recently as 1966, a new French law still recognized and valued the adoption of adults in its own category separate from the adoption of children. Where mothers, lawyers, and judges did their best to work around the prohibition on paternity suits by suing for damages for seduction, however, men and women seem to have accepted the prohibition on child adoption in the same period. Unlike the parliamentary campaign for legal paternity suits, which took over thirty years from 1878 to 1912, the parliamentary proposal to allow the legal adoption of children passed with almost no discussion in 1923. It would be fascinating to know more about why the legal, jurisprudential, and parliamentary patterns were so different in the two situations. In the meantime, Fuchs' demonstration of the enduring importance of adult adoption and her analysis of the legal record to explore the complex web of fiscal and emotional reasons that might go into either adult or child adoption helps to contextualize the significance of high profile adoption cases such as Jean-Paul Sartre's decision to adopt Arlette Elkaïm as his daughter and literary heir in 1965 or Simone de Beauvoir's decision to adopt Sylvie Le Bon as her daughter and literary heir in 1980.[6]

Because *Contested Paternity* is so admirably comprehensive in its approach, my biggest questions as I finished reading had less to do with the theoretical justifications, actual practices, and historical trajectories of the changing patterns of paternity suits, disavowals, and adoptions that Fuchs explains so well, and more to do with larger questions about how to explain the historical changes in these areas and assess their impact over such a long period of time. When judges stopped believing the women who came to court in the eighteenth century, for example, I wonder how their changing legal attitudes toward women may or may not have been connected to simultaneous Enlightenment debates over the role of women in salons and elsewhere.[7] How might Fuchs' demonstrations of the ways in which single mothers' and natural children's options changed as the French Revolution continued contribute to the larger discussion of whether the successive phases of that great event constituted a series of steps forward or backward for women more generally?[8]

When the revolutionaries of 1848 established the Second Republic, similarly, I wonder whether they revisited not only the National Assembly's and National Convention's arguments about women's suffrage and secular divorce, but also their arguments about paternity suits as well.[9] Fuchs has identified landmark cases on either side of the Revolution of 1848. In 1845, for

example, the Cour de Cassation upheld lower court decisions from Castelsarrasin and Toulouse to force a certain Monsieur Labia to pay 3000 francs in damages to his neighbor Monsieur Baysse as reparation for the damage that Labia had caused Baysse's reputation by seducing and impregnating Baysse's daughter with the aid of a false marriage promise (pp. 73-74). In 1864, even more dramatically, the Cour de cassation reviewed lower court decisions from Vire and Caen that ultimately forced the propertied L. to pay the enormous sum of 70,000 francs directly to the baker's daughter, Mlle G., for seducing her when he was 33 and she was only 15, fathering 6 children with her, and thus destroying her ability to seek an honest profession as a source of economic support for herself and her family (pp. 90-93). Although Fuchs connects the rhetoric in these cases not only to the language of honor and dishonor but also to emerging utopian socialist and feminist defenses of the right to work, she says nothing about whether the revolutionaries of 1848 explicitly addressed the issues of paternity, maternity, legitimacy, and illegitimacy as they attempted their new version of the republican experiment. If they spoke on these questions, what did they say? And if they did not speak on these issues, why was the Second Republic so different from the First and the Third in this regard?

Fuchs devotes an entire sub-section of her third chapter to the question "Why Did the Law Pass in 1912?" (pp. 136-154). Her answers include the French obsession with depopulation and the resultant interest in saving children's lives, the rise of the solidarist welfare state and a concomitant republican willingness to challenge the rights of fathers in the name of protection for women and children, the development of an active women's rights movement with a new feminist framework for understanding the problem of single motherhood, and a growing sense of national embarrassment about the gap between the text of the national legal code that prohibited paternity suits and the prevalence of the local legal practices that implicitly recognized paternity when they forced unwilling individual men to pay damages to unmarried pregnant women. Especially because Fuchs explores the ways in which countries such as Germany, Portugal, Spain, and England all allowed paternity suits while France still prohibited them, I would be curious to know more about what made the French case so different from other European situations at the same time. What might further comparative study of the timing and extent of the new French law allowing paternity suits contribute to our comparative understanding of international developments such as the multiplication and expansion of cities, the rise of the welfare state, or the intensification of the fight for women's rights? Given that Fuchs' earlier work has shown that the institution of social programs for poor mothers and their children often came earlier in France than in other countries,[10] for example, why did the end of the national prohibition on paternity suits in the same country come so relatively late?

I can only ask so many questions because Rachel Fuchs has already provided so many answers. I look forward to reading and re-reading *Contested Paternity*, and I recommend it to anyone who is interested in women's history, the history of the family, the intricacies of honor, the power of the courts, the rise of the welfare state, the complexity of republican theory and practice, or any of a whole host of other associated topics.

## NOTES

[1] See Rachel Ginnis Fuchs, *Abandoned Children: Foundlings and Child Welfare in Nineteenth-Century France* (Albany: State University of New York Press, 1984); Rachel Ginnis Fuchs, *Poor and Pregnant in Paris: Strategies for Survival in the Nineteenth Century* (New Brunswick, N.J.: Rutgers University Press, 1992); and Rachel Ginnis Fuchs, *Gender and Poverty in Nineteenth-Century Europe* (Cambridge: Cambridge University Press, 2005).

[2] Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987).

[3] Michel Foucault, *The History of Sexuality*, vol. 1, trans. Robert Hurley (New York: Vintage Books, 1980).

[4] Robert A. Nye, *Masculinity and Male Codes of Honor in Modern France* (New York and Oxford: Oxford University Press, 1993).

[5] The fourth ground was “cruelty and serious abuse” [*sévices et injures graves*]. The same concern about the honor and dishonor of innocent and guilty spouses came up again when senators and deputies debated the merits of allowing the automatic conversion of legal separations to legal divorces after a three-year waiting period in 1908. See Jean Elisabeth Pedersen, *Legislating the French Family: Feminism, Theater, and Republican Politics, 1870–1920* (New Brunswick, N.J.: Rutgers University Press, 2003).

[6] On the intricate details of Sartre’s and de Beauvoir’s complex intellectual and emotional lives see Deirdre Bair, *Simone de Beauvoir: A Biography* (New York: Simon and Schuster, 1991).

[7] See, for example, Dena Goodman, *The Republic of Letters: A Cultural History of the French Enlightenment* (Ithaca, N.Y.: Cornell University Press, 1994); and the contributions by Daniel Gordon, David Bell, and Sarah Maza in “Forum: The Public Sphere in the Eighteenth Century,” *French Historical Studies* 17:4 (Autumn 1992): 882–956.

[8] For just a few of the entries in the vast literature on this question, see, for example, Lynn Hunt, *The Family Romance of the French Revolution* (Berkeley: University of California Press, 1992); Joan Wallach Scott, *Only Paradoxes to Offer: French Feminists and the Rights of Man* (Cambridge, Mass: Harvard University Press, 1996); and, more recently, Suzanne Desan, *The Family on Trial in Revolutionary France* (Berkeley: University of California Press, 2004); and Jennifer Ngaire Heuer, *The Family and the Nation: Gender and Citizenship in Revolutionary France, 1789–1830* (Ithaca, N.Y.: Cornell University Press, 2005).

[9] On some of the many ways in which the revolutionaries of 1848 revisited the revolutionary debates of 1789–1795, see Susan Groag Bell and Karen M. Offen, “Women’s Fate in the French Revolution of 1848,” in *Women, the Family, and Freedom: The Debate in Documents*, volume 1, ed. Susan Groag Bell and Karen M. Offen (Stanford: Stanford University Press, 1983); Laura Struminger, “Looking Back: Women of 1848 and the Revolutionary Heritage of 1789,” in *Women and Politics in the Age of Democratic Revolution*, ed. Harriet B. Applewhite and Darline G. Levy (Ann Arbor: University of Michigan Press, 1993); and Scott, *Only Paradoxes to Offer*.

[10] Rachel Ginnis Fuchs, “France in a Comparative Perspective,” in *Gender and the Politics of Social Reform*. Other comparative analyses that stress the early origins of the French welfare state in similar ways include *Mothers of a New World: Maternalist Politics and the Origins of Welfare States*, ed. Seth Koven and Sonya Michel (New York: Routledge, 1993); Susan Pedersen, *Family, Dependence, and the Origins of the Welfare State: Britain and France, 1914–1945* (Cambridge: Cambridge University Press, 1993); and Daniel T. Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1998).

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