

### **Childbearing from the Perspective of Poor Black Women**

*Reading:* Dorothy Roberts, “Punishing Drug Addicts Who Have Babies: Women of Color, Equality and the Right of Privacy.” *TF*.

The prosecution of drug-addicted mothers involves two fundamental tensions. First, punishing a woman for using drugs during pregnancy pits the state’s interest in protecting the future health of a child against the mother’s interest in autonomy over her reproductive life...Second...The government may choose either to help women have healthy pregnancies or to punish women for their prenatal conduct. (445-6)

Prosecuting drug-addicted mothers “deters pregnant women from using available health and counseling services,” and “blinds the public to the possibility of nonpunitive solutions and to the inadequacy of the nonpunitive solutions that are currently available.” (446)

Question: “Can we determine the constitutionality of the government’s actions without considering the race of the women being singled out for prosecution?” (446)

Issues:

1. Disproportionate impact of punitive policies on poor black women.
  - Heightened scrutiny of poor black women; access via state monitoring of the poor.
  - Criteria for suspecting drug-abuse correlates with poverty.
  - Particular forms of drug abuse, e.g., crack cocaine, more liable to trigger punishment.
  - Social acceptance of punishing poor black women; scapegoating for social ills.
2. Background devaluation of black motherhood
  - Exploitation of black women during slavery.
  - Disproportionate removal of black children through child welfare system.
  - Sterilization of women of color.
3. Punishment for having babies
  - “It is the choice of carrying a pregnancy to term that is being penalized.” (452)
    - The only realistic way for a drug-addicted pregnant women to avoid punishment is to get an abortion. (452)
    - “The history of overwhelming state neglect of black children casts further doubt on its professed concern for the welfare of the fetus.” (453)
  - The state punishes poor black women rather than providing “the means for them to have healthy children.” (453)
    - Drug treatment centers are based on “male-oriented models.” (453)
    - Pregnant addicts who seek help are the ones “most often reported to government authorities.” (453)
  - Poor black women “...are not punished simply because they may harm their unborn children; rather they are punished because the combination of their poverty, race, and drug addiction is seen as making them unworthy of procreating.” (454)
4. Privacy & Equality

The value we place on individuals determines whether we see them as entitled to perpetuate themselves and their children. Denying a woman the right to bear children – or punishing her for

exercising that right – deprives her of a basic part of her humanity. When this denial is based on race, it also functions to preserve a racial hierarchy that essentially disregards black humanity. (454)

Conclusions:

- “Viewing the issue from [the vantage point of poor Black women] reveals that the prosecutions punishing for having babies women whose motherhood has historically been devalued.” (456)
- “It is only by affirming the personhood and equality of poor women of color that the survival of their future generations will be ensured. The first principle of the government’s response to the crisis of drug-exposed babies should be the recognition of their mother’s worth and entitlement to autonomy over their reproductive lives. A commitment to guaranteeing these fundamental rights of poor women of color, rather than punishing them, is the true solution to the problem of unhealthy babies.” (456)

Questions:

a) How might one respond to Roberts’ arguments? How strong is her evidence for her conclusions?

- What considerations suggest that race is a key factor, and not just poverty?
- What should the state do when an addict refuses to cooperate?

b) Is Roberts’ argument an example of identity politics? Why or why not?

Roberts, Dorothy E. “Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy.” In *Theorizing Feminisms: A Reader*. Edited by Elizabeth Hackett and Sally Haslanger. Oxford University Press, 2005. © Oxford University Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <http://ocw.mit.edu/help/faq-fair-use/>.

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