CONSERVATIVE AGENDAS AND CAMPAIGNS

WOMEN AND REPRODUCTIVE RIGHTS

Throughout U.S. history, government policies, government agencies, and private organizations have sought to control women’s sexuality and reproduction. Many institutions have targeted women of color and lower-income White women for control, limiting the numbers of children they have and devaluing their roles and needs as mothers. As prisons and the entire criminal justice system have become more powerful and pervasive as institutions of social control, they too have played an increasing role in controlling and policing women’s reproduction, including arresting pregnant women who use drugs. Because poor women and women of color are disproportionately represented in the criminal justice system and in prison, reproductive control policies in these arenas affect these women even more heavily.

The prosecution of women for using drugs when they are pregnant illustrates several important trends in contemporary U.S. politics: designing policies to punish instead of provide assistance; focusing on blame and individual responsibility instead of collective solutions to social problems; and using the criminal justice system to deal with what are really complex social, psychological, and medical problems. Increasing money for law enforcement and incarceration instead of social services, and shifting services like drug treatment into the criminal justice system, only makes it more difficult for people with addictions to get the treatment they need to stay out of the system in the first place.

Being sent to prison negatively affects a woman’s reproductive rights—from the ability to get an abortion to the ability to have or keep one’s children. The assumption that women in prison are unworthy of parental rights fits into a long history of suppressing poor women of color’s rights to be mothers. This attitude is exemplified by Project Prevention/C.R.A.C.K., an organization that pays women who use drugs to become sterilized and recruits directly at jails, prisons and drug treatment centers. The greater involvement of the prison system also ensures that women whose reproduction might once have been labeled “irresponsible” will now be criminalized.

The Right resolutely opposes reproductive rights. In addition to opposing legal abortion, the Right promotes policies that reward the formation of patriarchal, heterosexual, two-parent families and penalize, or at best ignore, other family structures. But historically, there has been little overlap between progressive criminal justice activists and those fighting for reproductive rights. Complicating the matter are different tendencies within the reproductive rights movement: a mainstream perspective focusing on “individual choice” and “privacy,” led largely by White middle-class women, and another perspective focused on social justice, which defines reproductive rights as the right to have and rear children as well as the right not to, spearheaded largely by lower-income women, women of color, and their allies. As the criminal justice system expands and the Right’s law-and-order and anti-reproductive rights agendas converge, it will take a broad-based movement to effectively oppose this threat to justice.

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Punishment, Reproductive Control, and the Construction of Unfit/Fit Mothers

By Rachel Roth, Ph.D.

History

Reproductive control is integral to the history of the United States; it has played a role in nation-building, politics, and social control. From the beginning, the colonization and creation of the United States depended on controlling the reproduction of Native peoples and African slaves. Political elites justified the reservation system and genocidal treatment of Native people as necessary to fulfill “manifest destiny” and westward expansion. Both the colonial and U.S. governments displaced, relocated, and exterminated Native peoples. In the 1830s, President Andrew Jackson encouraged his troops to kill women and children, in order to decimate current and future generations of Native peoples. Reproductive control of enslaved African women took a different form: plantation owners sought to ensure that women would bear children in order to reproduce the labor supply with a new generation of slaves. Women suffered sexual assaults and exploitation but had no control over the fate of their children, who could be sold off at the owner’s will.

As the country grew more diverse through immigration, political and social elites seeking to maintain their hold on power developed the idea of “race suicide” and ushered in the era of eugenics. The eugenics movement encouraged “worthy” White Anglo Saxon Protestant (WASP) women to bear more children while discouraging and in some cases preventing other groups of women from having children. Beginning in 1907, 23 states passed laws mandating the sterilization of people deemed inferior and unfit, including the vague category of “feeble-minded” women. Although officially a term describing mental capacity, “feeble-minded” was also a code for women’s sexual activity. In the early 20th century, working-class White women who had sex and bore children outside of marriage might have found themselves targeted for institutionalization and sterilization or for imprisonment in women’s “reformatories,” where they could be held indefinitely until the authorities found them sufficiently rehabilitated to return to society. By 1960, more than 60,000 people had been subject to “eugenic” sterilization in state institutions for the mentally ill or mentally retarded— institutions which included so-called “feeble-minded” girls and women. “At best,” concludes historian Elaine Tyler May, “only a few of these individuals consented.”

Over the course of the 20th century, compulsory sterilization shifted from institutionalized White women to poor women of color receiving public assis-
Thousands of Native, Puerto Rican, Mexican American, and African American women were sterilized at government expense, often without their informed consent—or even without their knowledge. Indeed, the sterilization of African American women in the South was so widespread that it even has a code name—the “Mississippi appendectomy.” The early 1970s were an especially grim time for Native women—research and anecdotal reports paint a disturbing picture of sterilization abuse at federally funded health centers, including of many young women in their twenties and even their teens. Women tell stories of being pressured to agree to sterilization during the pain of childbirth, or threatened with the loss of welfare benefits if they did not “agree.”

Andrea Smith of incite! explains that attacks on women’s reproductive rights are part of the history of genocide, affecting entire tribes and peoples as well as individual women and their families. Coercive sterilization stands alongside other efforts to destroy Native peoples and cultures, such as the government’s “wholesale removal” of children and placement in boarding schools that prohibited all native languages, religions, and customs.

One group notably absent from this discussion is Asian Americans. For much of the 19th and 20th centuries, the United States controlled Asian reproduction by restricting immigration from Asian countries. Laws against Chinese immigration provide a stark example. Although men came to the U.S. from China in the 1800s to build railroads and do other essential work, they were not rewarded with citizenship, nor could they easily establish families. Few women came to the western frontier in these years. Some Chinese women were “kidnapped, lured, or purchased from poor parents” to work in indentured servitude as prostitutes in the largely male communities. Congress responded with the Page Law of 1875, which officially targeted organized prostitution but effectively ended the entry of unmarried Asian women into the country. A few years later, Congress suspended almost all Chinese immigration with the passage of the Chinese Exclusion Act of 1882, which restricted entry to those in the “merchant class.” Women made up less than ten percent of Chinese residents in the U.S. in the 19th century, and did not approach parity with men until 1980. Subsequent laws and quotas limited immigration from other countries, keeping the numbers of Asian women and Asian families low until Congress opened up immigration in 1965.

The policies and practices described here served many agendas, including regulating the labor force. Implicit or explicit in many of these policies is the idea that certain women do not deserve to be mothers, or are not fit to be mothers, and should not expect any support from the government if they have children. Many public policies have embodied an overt social control agenda to curtail reproduction among women considered unfit or unworthy of motherhood. The overt racism, conquest and slavery that fueled control of women’s bodies in the past is reproduced in contemporary times through the criminalizing of women’s conduct and thereby their bodies, health and sexuality.
Punishing “Unfit” Mothers Today
The women targeted by public policy as “unfit mothers” today still come largely from the ranks of the poor and from communities of color. Single mothers, welfare recipients, immigrants, and women who use drugs all find themselves the objects of punitive and counter-productive policies, and they increasingly find themselves trapped in the criminal justice, probation, and prison systems. Once in these systems, they may find themselves marked for life, second-class citizens with compromised reproductive rights.

The original New Deal welfare programs of the 1930s privileged White widows as “truly needy” and “deserving” and discriminated against other women. These biases are still with us. For instance, although White women make up the majority of welfare recipients, the picture of a “welfare mother” and especially “welfare queen” in the public imagination is almost always of a Black woman. Beginning in the late 1960s, the news media actively shaped this perception by choosing to run photographs of African Americans in a majority of stories about poverty and welfare. Research on how states choose to implement welfare reform finds that race is a very significant predictor of state social policy choices; states with higher percentages of welfare recipients who are African American are more likely to adopt “get-tough” welfare policies.12

Stereotypes about particular groups of women lead to specific policies to punish and control their behavior. As the following chart shows, if women are deemed to be sexually irresponsible, then the solution must be to penalize them for having babies. Encouraged by the federal government, 24 states have adopted “family caps,” policies which deny women additional resources if they have a baby while they are receiving welfare.13 To consider another example, if women are deemed to be lazy, then the solution must be to make them work outside the home. Even though conservative ideology maintains that “good mothers” are supposed to be available for their children, women who receive public assistance are forced to work at outside jobs, even when they have babies as young as three months old. And if immigrants are deemed to be coming to the U.S. just to mooch off of public services, then the solution must be to deny them assistance, even if they have entered the country legally and contributed to the economy and their communities.

Rather than individually assessing a woman’s needs, welfare policies deem some women categorically unfit or undeserving of assistance. The federal welfare law imposes a five-year lifetime limit on the receipt of Temporary Assistance to Needy Families (TANF), regardless of any individual’s specific circumstances. In another example, the federal law makes women with a felony drug conviction ineligible for TANF or food stamps, regardless of whether they are involved with drugs or able to take care of their children. In order to give these women eligibility, states must take the initiative to pass a special law. Few states have done so. This provision undermines the rights of poor women to be mothers, and is having a particularly devastating impact on the families of African American and Latina women, who make up nearly half of those affected.14 As many as 92,000 women lost eligibility for benefits during the first three years of implementation.15 It also makes poor children even more vulnerable to the possibility of homelessness, family disruption, and government intervention; some 135,000 children were affected by the ban in the first three years.16 By denying women the resources and assistance they need to care for their children, the ban makes it more likely that women who have criminal records will lose custody of their kids. Policies like these continue to punish women long after they finish serving their prison sentence, creating, in effect, a kind of life sentence that permanently criminalizes women even when they are “free.”
The role of the criminal justice and prison systems in punishing mothers is especially clear in prosecutions of women for using drugs when they are pregnant. Although no state has passed a law specifically making it a crime for a pregnant woman to use drugs, this has not stopped prosecutors in at least 40 states from charging women with such crimes as “fetal abuse” and even homicide in cases of stillbirth. Women of all backgrounds use drugs and alcohol, but the prosecutions have been primarily directed at poor African American women. In addition, courts in many states have terminated women’s parental rights on the basis of a positive drug test at birth. In these cases, women do not face a criminal prosecution but they lose forever the right to contact, let alone rear, their children. Once again, blanket policies that equate a positive drug test with parental unfitness deny mothers and children the individualized assessments and government assistance that are supposed to govern child welfare proceedings. (See following section: “The Role of the State: Criminal Prosecution of Pregnant Women.”)

Not satisfied with the governmental response, some people have decided to take matters into their own hands. Barbara Harris, a conservative from Orange County, California, started an organization, bizarrely named C.R.A.C.K., which stands for Children Requiring A Caring Kommunity (now called Project Prevention). This group pays women who have or have ever had a drug or alcohol problem $200 to either be sterilized or use long-acting birth control. They have helped to start groups all over the country, and have even begun recruiting at jails, taking advantage of women at an especially vulnerable time. (See “The Role of the Right: Project Prevention.”)

Whether jailed for drug problems or other reasons, imprisonment takes a heavy toll on women’s reproductive rights. Women in jail and prison report that inadequate medical care and crowded conditions threaten their well-being, including their ability to bring a pregnancy safely to term and to maintain their fertility, and changes in federal and state foster care laws jeopardize their parental rights. Drug treatment is in short supply, especially for pregnant women and for women with young children, yet that does not stop women from being penalized for failing to obtain treatment or somehow kick their habits on their own. Both the public and the private
responses to women with drug addictions punish women for health problems instead of providing services to help women take care of themselves and their families. With state governments shifting more of their treatment dollars into drug courts, jails, and prisons, women may find that they have an even harder time getting help outside of the criminal justice system.

**Impact**

Conservatives like Charles Murray and former Vice President Dan Quayle have been successful at convincing Americans that single mothers are the source of major social problems. As Murray put it in 1993, “illegitimacy is the single most important problem of our time—more important than crime, drugs, poverty, illiteracy, welfare or homelessness—because it drives everything else.” In this view, preventing women from having children outside of marriage is policy goal number one, not preventing corporations from “outsourcing” jobs to other countries, increasing the supply of affordable child care, or ending the misguided war on drugs. Even though it is easy to laugh at Quayle’s speech criticizing the television character Murphy Brown for “glamorizing” single motherhood, the ideas in his speech are reflected in the law that Congress passed in 1996 to change the welfare system.

At the same time that conservatives aim to individualize what are really broad-based social and structural problems, the mainstream pro-choice movement emphasizes individual choice as its core theme. While the question “who decides” is a good one, it needs to be broadened beyond abortion to the full range of reproductive decisions, including the decision to have children. This is not to say that abortion rights are not under attack, because they are. But focusing narrowly on women’s right to choose free from government interference does not provide ground to argue either for women’s rights to receive reproductive health services, including abortion, or for women’s rights to be mothers. As prisons take on greater significance as institutions of social control, women who have drug problems or any history of trouble with the law will find that their ability to exercise their reproductive rights and to be mothers is in serious jeopardy.

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ROLE OF THE STATE: Criminal Prosecution of Pregnant Women

In over 40 states, women have been arrested for conditions, circumstances or actions taken while pregnant, especially for drinking alcohol or using drugs. While no one suggests it is desirable for pregnant women to use drugs, many have questioned the purpose of prosecuting women for doing so. The drive to prosecute women accelerated during the late 1980s and 1990s, during a period of backlash against feminism and welfare rights. In these cases, prosecutors apply laws on the books in novel ways that violate women’s due process rights to be treated fairly—for instance, charging women with drug possession on the basis of a positive drug test, even though this falls outside the ordinary meaning of the term “possession.” Although courts of appeal have discredited the prosecutions in every state but one, they continue to crop up in new states—and even in states where judges have previously dismissed them. These courts have rejected the use of these laws to charge women with child abuse and/or distributing drugs to minors. In 2001, the Supreme Court struck down a public hospital’s policy to test pregnant women for drugs and share the results with police without obtaining a search warrant. But not all women have attorneys or public defenders with the expertise to help them challenge these charges, and many have plea bargained and accepted penalties that should never have been imposed.

The one state where courts have upheld the prosecutions as valid and legitimate is South Carolina, and dozens of women have been arrested in that state alone. They are typically poor, disadvantaged, African American women who rely on public hospitals for their medical care. In one of the worst cases, Regina McKnight is serving twelve years for the crime of “homicide by child abuse” because her stillborn infant tested positive for cocaine derivatives (See “What Happened to Regina McKnight?”). Expert testimony now makes clear that the stillbirth was the result of an infection unrelated to the drug use.

Across the entire nation, the prosecutions reflect a profound racial bias, because, although women of all backgrounds drink or use drugs during pregnancy, the majority of the prosecutions thus far documented have been against low-income women of color—many of whom used crack cocaine. They rest on the false proposition that exposure to crack during fetal development is uniquely harmful and irreversible, and that exposed babies today are the “super-predators” of tomorrow. (See “Youth” section.)

The prosecutions also reflect a profound hypocrisy and desire to apply criminal justice techniques in every domain. Some women have been arrested and jailed while they are pregnant, on the false theory that jails provide healthy, drug-free environments that will “protect” the fetus. Other women are arrested after they give birth, usually on the basis of a positive drug test. Prosecuting women after their babies are born does nothing to improve fetal health, since the baby is already born. It makes women afraid to seek help, punishes women for their addictions, and undermines families, contrary to public policy principles that emphasize providing services to keep families together.

These prosecutions turn the health problem of addiction into a law enforcement problem. They funnel resources into prosecution and imprisonment instead of treatment and other forms of support, such as housing and child care, that might keep poor women and their families out of the criminal and child welfare systems to begin with. Indeed, women may find that their only chance of getting into a treatment program is if they are arrested first, because states have shifted drug treatment dollars into the criminal justice system.
WHAT HAPPENED TO REGINA MCKNIGHT?

By Lynn Paltrow

Often when prosecutors are considering precedent-setting cases they choose a test case in which there will be little public sympathy or support for the defendant. This was the case in South Carolina when prosecutors chose to blame Regina McKnight for the death of her newborn. McKnight was an indigent African American woman with numerous health problems, limited education, and a drug problem that began after her mother was run over by a truck on the edge of a highway. McKnight went to her local hospital in 1999 and experienced a stillbirth. As in a significant percentage of stillbirths, there was no obvious cause for the pregnancy loss.

Instead of counseling McKnight, or offering to find her the medical and drug treatment she desperately needed, the focus almost immediately turned to gathering evidence against her. Hospital staff and the state knew that she had a drug problem. And with a positive test for metabolites of cocaine in hand, the state concluded that her pregnancy loss should be treated as a case of homicide and that her drug use would be identified as the cause of the stillbirth.

McKnight was put on trial. Her public defender argued that the case should be dismissed since the state’s homicide by child abuse statute was never intended to be used to punish women who experienced stillbirths. The trial court rejected this and the proceedings went forward with the focus on whether or not cocaine caused the stillbirth. The first trial ended in a mistrial when at least one of the jurors went on line to do independent research on the question of cocaine’s effects. At the second trial the public defender only called one expert who said cocaine did not cause the stillbirth. Experts, however who could have testified that the stillbirth was, without doubt, the result of an infection unrelated to drug use were never called to testify. One of the state’s doctor’s however testified that, “cocaine in and of itself can kill you’ after only one use. He was forced to concede that he did not have any medical knowledge that would support this assertion and that, in fact, the sole basis for this opinion were press accounts about the death of basketball player Len Bias. The state’s case rested on the claim that since they could not identify the cause of the stillbirth, it must have been cocaine. They made this argument without conducting tests and examinations that could have ruled out many more likely causes.

Despite the lack of evidence, the judge permitted the case to go to the jury, which deliberated for less than 15 minutes before returning a guilty verdict on May 16, 2001. McKnight became the first woman in America to be convicted by a jury of homicide by child abuse based on her behavior during pregnancy. She was sentenced to 20 years imprisonment, with the final eight years suspended.

The case was appealed to the state’s Supreme Court. Numerous medical and public health groups joined an amicus brief in support of McKnight. The South Carolina Medical Association joined by other local and national health organizations filed a brief that carefully evaluated the evidence in the case. This brief concluded that not only was there no evidence that cocaine caused the stillbirth, but that as a matter of science there was little evidence that cocaine itself could even theoretically have been the cause of this kind of stillbirth.

Despite flaws in the trial, the lack of evidence, a clear legislative history that the state’s homicide by child abuse law was not intended to punish pregnant women (including those who use illegal drugs), and the overwhelming opposition of leading medical groups, a majority of the South Carolina Supreme Court upheld the conviction and the new interpretation of the state’s homicide law. In January 2003, the Court held that under South Carolina law a viable fetus is a “child” and thus the state’s homicide by child abuse statute could be used to prosecute anyone—including the pregnant woman herself—who causes the loss of a pregnancy.

While some state politicians insist that this expanded homicide statute will be applied only to pregnant women who use illegal drugs or who fail to make a good-faith effort to get help, others admit that the decision permits prosecution of any woman whose behavior can be characterized as the cause of a stillbirth. As the local prosecutor said, “Even if a legal substance is used, if we can determine you are medically responsible for a child’s demise, we will file charges.”

Moreover, the decision makes women the guarantors of a pregnancy’s outcome. In rejecting McKnight’s arguments, the court noted that the statute’s definition of harm as, “inflicting or allowing to be inflicted on the child physical injury” and “failing to supply the child with adequate health care” could both “clearly be applied to an unborn child.” Neither of these provisions is
Debunking Myths About Pregnant Women and Drugs

By National Advocates for Pregnant Women

**MYTH #1: ALL DRUG-EXPOSED CHILDREN ARE SERIOUSLY DAMAGED AT BIRTH AND FOR THE REST OF THEIR LIVES.**

Some newborns exposed prenatally to some substances do suffer adverse short or long-term consequences. These infants include those whose mothers lacked access to quality prenatal care and adequate nutrition, smoked or drank while pregnant, or used fertility-enhancing medications that cause multiple births associated with prematurity and other health risks. However, sensational, inaccurate, and misleading news reports, especially about crack/cocaine, have convinced many people of the necessity of punitive responses to the problem of drug-exposed children. Today, dozens of reputable studies establish that the impact of cocaine on newborns has been greatly exaggerated and that other factors are responsible for many of the ills previously associated with cocaine use—with poverty chief among them.

**MYTH #2: WOMEN WHO USE DRUGS CAN SIMPLY STOP.**

Women who are addicted to drugs cannot simply stop using them. Addiction is a chronic relapsing disease from which recovery takes time. Nevertheless, addiction is frequently regarded as a moral failing, and pregnant addicted women are presumed to be selfish and uncaring. Many of these women, however, were sexually abused as children or beaten as adults, and turn to drugs...
to numb the pain of the abuse and trauma they were experiencing. Then, they become addicted or dependent.

Once addicted, pregnant women face numerous barriers to getting help. The lack of adequate treatment for women has been well documented, despite evidence of drug treatment’s success and cost-effectiveness. Research shows that comprehensive treatment programs that do not separate mothers from their children help women and their families. They are also cost-effective, especially when compared to the staggering financial and social costs of imprisonment and separating mother and child.

Even when there is meaningful treatment available, recovery is a process that occurs over time with relapse an expected part of the process. Pregnant women should not be jailed and punished when they exhibit symptoms of a disease. Similarly, pregnant women should not be singled out for a form of medical vigilantism that requires them to accept and comply with treatment that may not even be medically appropriate for them or face arrest and imprisonment.

**MYTH #3: THREATENING PREGNANT WOMEN WHO USE DRUGS WITH CRIMINAL PENALTIES WILL PROTECT THEIR CHILDREN AND IMPROVE THEIR HEALTH.**

Far from protecting children, the threat of prosecution deters women from seeking prenatal care and what little drug treatment may be available. That is why leading health and child welfare groups oppose the use of criminal laws to address this public health question. These organizations include the American Medical Association, the American Academy of Pediatrics, the American Public Health Association, the American Nurses Association, and the American Society on Addiction Medicine. Similarly, organizations such as the Center for the Future of Children and the March of Dimes that are concerned specifically with children’s health oppose the use of criminal laws in this area. As the March of Dimes explains: “Targeting substance-abusing pregnant women for criminal prosecution is inappropriate and will drive women away from treatment.”

Fortunately, research demonstrates that even when women can’t abstain completely from drugs, they can nevertheless have healthy pregnancies if they get prenatal care and help for other problems, especially those associated with poverty. Putting women in jails and prisons where health care is notoriously inadequate and where drugs are nevertheless often available is certainly not good for a pregnancy. Similarly forcing a pregnant woman to go cold turkey in prison or out of fear of arrest can in some cases cause her to have a miscarriage.

Finally, there already exist numerous laws criminalizing drugs. Clearly criminalization has not been a successful strategy in curing addiction. There is no evidence that yet another punitive law will work any better.

**MYTH 4: PROSECUTING PREGNANT DRUG USERS WILL NOT INTERFERE WITH WOMEN’S REPRODUCTIVE RIGHTS.**

The premise underlying criminal laws that punish drug using pregnant women is that fetuses may be viewed as separate legal entities with rights hostile to and in conflict with those of the pregnant woman. Each decision that recognizes such interests eats away at the basic premise of *Roe v. Wade* and the health and interests of women and their future children. Moreover, for some women, having an abortion which she does not want may be the only way to avoid arrest and imprisonment for continuing a pregnancy to term.

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ROLE OF THE RIGHT:
Project Prevention (formerly known as C.R.A.C.K.)

Unlike progressive activists, some right-wing activists believe government policies and practices that punish pregnant women are too lenient. One such group is Project Prevention, formerly known as Children Requiring a Caring Kommunity (C.R.A.C.K.). The group changed its name recently in response to critics and activists. C.R.A.C.K. was the brainchild of Barbara Harris, a woman who founded the group after failing to convince California legislators to make it a crime for women to give birth to “drug-damaged” babies. Founded in 1997, Project Prevention now has 23 chapters around the country, including affiliates in Chicago, San Francisco, Houston, Las Vegas, Nashville, New Orleans and Detroit.

Project Prevention’s goal is to permanently or temporarily sterilize women with substance abuse problems. Its method is to offer a $200 cash incentive for any of the following birth control methods: Depo-Provera, IUD, Essure, tubal ligation, or Norplant (no longer on the market). The organization claims sterilization is a better alternative to incarcerating women who use drugs while pregnant because it is “extremely cost effective and does not punish the participants.” Project Prevention has started receiving referrals from publicly funded jails, probation centers, drug treatment centers and hospitals.

The organization has a history of soliciting its clients in lower-income Black and Latino communities by placing billboards and posting flyers. Some of the billboards read, “If You are Addicted To Drugs, Get Birth Control—Get $200 Cash!” A more controversial slogan, now out of circulation, read: “Don’t Let a Pregnancy Ruin Your Drug Habit.” Since its founding,

WHY BARBARA HARRIS STARTED C.R.A.C.K.

Barbara Harris was working as a waitress in a southern California pancake house when she stumbled on the cause that would become her passion: saving America from the scourge of “crack babies.” It was 1990, and she and her husband were asked to become foster parents to an eight-month-old girl born to a crack-cocaine-addicted mother. Over the next two years, they took in three more children born to the same woman including one suffering from a neurological disorder that the Harris’s were convinced was the result of damage incurred during pregnancy.

The idea that poor, drug-addicted women—most of them living in inner-city neighborhoods antithetical to the white suburban landscape of Harris’s home in Orange County—were having baby after baby without regard for their own or their children’s well-being became her crusade. “These women literally have litters of children!” she later said in a series of provocative interviews. “They’re not acting any more responsible than a dog in heat.”

To Harris’s detractors, she is pandering to the worst stereotypes of decayed inner-city living and has no regard for the scientific literature on crack cocaine and pregnancy rates for addicts. They say she is discriminating against poor women who are not necessarily in the best position to make decisions about their future - or about what to do with the $200...To which Barbara Harris says: nonsense. All she is interested in, she says, is preventing children from suffering because of the gross irresponsibility of women too spaced out to control their own fertility.

She explains that, although sterilization is usually freely available at any time, money is the inducement many women need to follow through. “They’re not willing to take the time out of their busy lives. They know it’s something they ought to do, but all they are thinking about is how to get drugs. I’ve had letters saying, ‘Thank you for helping me to do the first responsible thing about my addiction.’”

FREQUENTLY ASKED QUESTIONS (Excerpts from Project Prevention’s Website)

Some say that these people are not capable of deciding on long-term birth control?

[Project Prevention:] If you can not trust someone with their reproductive choices, how can you trust them with a child?

Are you targeting blacks?

[Project Prevention:] Definitely not. It is racist, or at least ignorant, for someone to learn about our program and assume that only black addicts will be calling us. Not all drug addicts are black.

Project Prevention targets a behavior not a racial demographic. If someone is a drug addict or alcoholic and could get pregnant, then we hope they will take our cash incentive offer and get on birth control until they get off drugs.

Why aren’t you spending your money on drug treatment?

[Project Prevention:] We spend billions of dollars every year in this country on drug treatment and opening new drug treatment programs. Our Fresno director cared for the fifth baby born to an addict who lived only three short years. The cost to keep Zachary alive was $3.4 million! For every Zachary we prevent from being conceived, society saves millions of dollars that can be put towards drug treatment. Project Prevention offers every person in our program referrals to drug treatment programs and will assist them in getting into one if they choose to, but our main goal is to get addicts/alcoholics on birth control.

Are you saying that “all drug-exposed children are permanently damaged or likely to die”?

[Project Prevention:] Barbara Harris has living proof in her home that many of these children turn out to be super stars. If these children get into a loving home at birth or while still very young their chances of having fewer problems is greater. Many of these children will go into the foster care system. They go from foster home to foster home, some living in 12 or more different homes by age 18 which gives some of them a whole new set of emotional problems. Then at age 18, a large percentage of these children end up homeless.

Is it preferable to add numerous unwanted children to our already over burdened foster care system? If we can prevent child abuse for $200, isn’t this the best $200 we can spend? This sad logic compels the day to day operations of Project Prevention.

Your program just makes me angry!

[Project Prevention:] There are some people who speak out against our organization that have never taken the time to contact us with their concerns. If they had they would have learned that although our number one priority is getting addicts/recovering addicts and alcoholics on long-term birth control, we do so much more than just that!

What many people fail to consider are the negative effects on a woman’s self-esteem to continually have babies that are taken away from them. That only leads to the addict feeling worse about themselves and continuing to use drugs or alcohol!

Some people say we send a message that women who are addicted to drugs and alcohol “aren’t worthy to have children”. However, when Child Protection Services takes a child from its mother at delivery, they are in effect telling the mother she is not fit to be a parent! We feel this experience will do nothing to improve the mother’s outlook on life, instead it will only contribute to their feelings of guilt and she will continue to use drugs or alcohol in an effort to forget the loss of yet another child.

When a woman has access to long-term birth control, she has the time and opportunity to make personal decisions in life that might allow her to move beyond her addiction, at which point she may become capable of raising a family without fear of having her children forcibly removed from her care.

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C.R.A.C.K./Project Prevention has paid almost 1,350 people to be sterilized and about 50% of those individuals were people of color (26 were men, although the group no longer pays for vasectomies). Although Harris insists that she offers her services to anyone, according to investigative journalist Andrew Gumbel, “it appears, from her flyer campaigns and from the statistical breakdowns of her own numbers, that her organization focuses primarily on the inner city and on ethnic minorities.” Indeed, at a training in Seattle, volunteers were encouraged to do market research to identify areas with the highest drug-related arrest rates. The how-to manual states, “the offer of $200 appeals more to the poor than it does to the rich.” Project Prevention denies that Blacks are targeted for sterilization, and Gumbel has pointed out that Harris especially “takes great delight in squashing the racism accusation” by pointing out that her husband and adoptive children are all Black. In many ways, Harris rationalizes her legitimacy because she has “walked the walk” with her adopted family.

Project Prevention’s success can partly be explained because Harris has received the Right’s stamp of approval. Funding for Project Prevention has poured in from wealthy conservatives, including at least $10,000 from radio personality Dr. Laura Schlessinger, $75,000 from the Allegheny Foundation, a project of the conservative billionaire Richard Mellon Scaife, and $125,000 from Jim Woodhill, a Houston-based venture capitalist and self-proclaimed member of the “Republican Rebel Alliance.” Harris has also received significant attention in the media. In addition to appearing on “Oprah,” Harris has been embraced by conservative talk radio hosts and newspaper columnists.

At the center of the controversy over Project Prevention is whether sterilization is an ethical solution for women of child-bearing age with substance abuse problems. Because of the U.S.’s long history of trying to restrict poor women from having children, reproductive rights activists, feminists, advocates for the poor, and social workers have all joined together to oppose Project Prevention/C.R.A.C.K. The main critique is that Harris’s project in effect is “reproductive discrimination against the poor—what Germaine Greer once described as middle-class resentment at ‘having to shell out for the maintenance, however paltry and meager, of the children of others.’” By targeting women in vulnerable economic and psychological situations, Project Prevention’s program in effect offers women bribes in exchange for their right to have children. Doctors and medical professionals fear women are being financially coerced to become sterilized because overusing drugs may compromise women’s ability to make decisions.

According to Lynn Paltrow, Project Prevention’s material broadly suggests that “a particular portion of the population should not be, or is not worthy of, reproducing the human race. The recent phenomenon of recruiting at jails, probation centers, and detention centers feeds off of stereotypes about poor women and women of color as both disposable and incompetent populations. The risk is that this will easily be interpreted to mean that this group is unworthy of being regarded as fully human.” Indeed, Project Prevention isn’t as concerned about the health and stability of the women it sterilizes as it is about simply preventing those women from having children. Project Prevention does not monitor how the cash is paid to women, and Harris readily admits that the women may be using the money to satisfy a drug addiction, and she “does not subscribe to the conventional wisdom that addiction is a disease.”
Analysis of Project Prevention/C.R.A.C.K.

C.R.A.C.K. contributes to the increased criminalization of women who may be pregnant and are struggling with chemical addiction. However, it is important to understand that activists who oppose C.R.A.C.K. are not advocating for pregnant women to use drugs. Instead, what they oppose is C.R.A.C.K.'s simplistic approach to the issue and dehumanizing “solution” of sterilizing women. It is important to explore the relationship between population control, the prison industrial complex and attacks on reproductive health. Advocates for women recognize that the intersection of pregnancy and drug use is a complex situation, and they believe that stigmatizing, prosecuting, and incarcerating women is detrimental to them and their families. Below are the most common arguments used to challenge C.R.A.C.K.

ARGUMENTS CHALLENGING C.R.A.C.K.

By Committee on Women, Population and the Environment

C.R.A.C.K.’s mission is essentially eugenic.

Reminiscent of eugenic programs from the early twentieth century, C.R.A.C.K. seeks to diminish the number of “undesirables” from the overall population. Eugenics is based on prejudiced and unsubstantiated beliefs that people inherently belong to a superior or inferior race and class. It is also fueled by a fear that the “inferiors” will breed excessively, thereby “threatening” the proportion of “superiors.” Repressive repatriation laws, restrictive immigration quotas and coerced sterilizations formed the basis of eugenics in the United States.

Now, we have private, monetary incentive programs offering young, educated, and privileged women $2,500 to 50,000 to “donate” their eggs to the infertility industry, while a program such as C.R.A.C.K. offers poor women with substance abuse problems $200 not to have a child. Monetary incentives by their very nature have more to do with coercion than choice. Poor women with substance abuse problems are not likely to be able to make an informed decision with regard to their reproductive capacity, if offered cash as an incentive. C.R.A.C.K.’s disregard for the women it targets is evidenced in Barbara Harris’ statement: “We don’t allow dogs to breed. We spay them. We neuter them. We try to keep them from having unwanted puppies, and yet these women are literally having litters of children.” C.R.A.C.K. denies poor, marginalized women with substance abuse problems their procreative ability, and this is a human rights violation.


C.R.A.C.K. irresponsibly limits birth control options by compensating women only for long-term, provider-controlled methods: tubal ligation, Essure, Depo-Provera and IUDs. Barrier methods and methods which protect against HIV infection and other sexually transmitted diseases are not offered.

C.R.A.C.K. increases the health risks of women with substance abuse problems.

The drug-addicted women that C.R.A.C.K. targets are likely to already suffer from poor health conditions and inadequate access to health care. However, C.R.A.C.K.’s high-tech birth control “options” require health care screening for contraindications and monitoring for side effects. C.R.A.C.K. may actually increase a woman’s risk of contracting HIV or other STDs, since it exclusively advances birth control methods which provide no protection against these infections.

C.R.A.C.K.’s quick-fix approach effectively gives up on treatment as a solution to addiction. So long as women with addiction problems stop having children, nothing else seems to matter. It does not recognize addiction as a medical problem which responds to appropriate treatment.

C.R.A.C.K. capitalizes on the false notion of “crack babies” as wasted lives.

Recognizing that using drugs while pregnant can harm an infant is very different from C.R.A.C.K.’s message that women on drugs should not have babies or that their babies are permanently damaged. The notion of “crack babies” as wasted human lives came about in the late 1980s when news reporters exaggerated the effect of crack cocaine on infants and preschoolers. They emphasized the most alarming predictions of doctors and researchers that infants of women who used crack cocaine would experience learning disabilities, attention and behavior disorders, and would have to be written off as a “lost generation” or a “biological underclass.” Today, there is practically scientific consensus that crack cocaine does no more damage to infants than heavy cigarette smoking and does less damage than heavy alcohol use. C.R.A.C.K. perpetuates the “crack babies” myth, further stigmatizing the children labeled as such and contributing to misinformation among the public.

Oppression, not the reproductive capacity of women, needs to be eliminated.

Women with substance abuse problems need drug treatment, decent jobs, educational opportunities, mental health services, and childcare services. It is the lack of these services and the denial of human dignity, which exacerbate conditions of poverty, racism, social status and gender discrimination. Activists oppose C.R.A.C.K. because it ignores the root causes that contribute to women’s addiction while perpetuating dehumanizing stereotypes about women.

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The Unborn Victims of Violence Act (UVVA)  
The Intersection of Tough on Crime and the Anti-Abortion Movement

Assessing the fetal rights movement in 1990, Nation columnist Katha Pollitt argued that focusing on rights for fetuses “allows the government to appear to be concerned about babies without having to spend any money, change any priorities, or challenge any vested interests.” Her observations are just as true today. Indeed, states with laws that respect women’s abortion rights are more likely than anti-choice states to adopt policies that help vulnerable children once they are born. Rather than help children, what fetal rights strategies do is erase women, expand the reach of the criminal justice sector, and undermine legal abortion—major goals of the Right.

WHAT PROBLEM IS THE UVVA SUPPOSED TO ADDRESS?

Since late 2002, the case of Laci Peterson has riveted national attention: a beautiful 27-year-old California woman who was eight months pregnant when she disappeared mysteriously on Christmas Eve, and whose body was not discovered until almost four months later. Peterson’s murder shocked and saddened not only those who knew her, but many others as well, horrified by the thought of her life cut short just as she was on the brink of bringing a new life into the world.

Although the Peterson story gained national attention, sadly, it is not unique. As women’s advocates have long known, violence often begins or escalates when a woman becomes pregnant. Indeed, recent research in several states finds that murder is a leading cause of death among pregnant women, who often die at the hands of their intimate partners. Other women survive the assault, but miscarry as a result. Because screening for violence is not always a routine part of prenatal care, we do not have adequate systems in place to identify and help women who are in danger.

As the problem of violence against pregnant women becomes better known among the general public, policy-makers have the opportunity and the responsibility to ask how it can best be solved. Unfortunately, forces on the Right instead chose to capitalize on the Peterson tragedy to promote their own anti-abortion agenda in the guise of the Unborn Victims of Violence Act, a bill that had stalled in previous years.

Signed by President Bush in 2004, the UVVA writes into federal law the idea that embryos and fetuses are separate, distinct, and completely independent from the pregnant women in whose bodies they grow. It is already a crime to assault another person, of course; what the UVVA does is create the impression that someone can commit “violence against a fetus” without doing violence to a pregnant woman. Specifically, the law creates a new federal crime of injuring or causing the death of “a child in utero” at all stages of gestation, treating a fertilized egg as a person for purposes of federal law enforcement.

WHAT’S WRONG WITH THE UVVA?

Because the law does nothing to actually prevent violence against women, domestic violence groups opposed the law and urged Congress to restore funds for programs that help battered women instead. The National Network to End Domestic Violence explained that, “Legislation and policy should be focused on recognizing violence against women as the serious crime it is, and need not rely on loss of a pregnancy to vigorously prosecute these crimes.” When women do
lose a pregnancy as the result of an assault, the Network favors enhancing existing assault laws so that the assailant faces a harsher sentence for the additional injuries inflicted on the woman. The Democrats in Congress introduced just such a bill, only to see it defeated at the urging of groups like the National Right to Life Committee. The Democratic proposal was designed to recognize that women suffer two harms: the physical and emotional pain of assault, and the pain of losing a pregnancy and the opportunity to raise a child.

In addition to undermining abortion rights without doing anything to prevent crimes against women, advocates worry about one other possible implication of UVVA. The text of UVVA states that it should not be construed to permit the prosecution of “any woman with respect to her unborn child;” however, this kind of language has not stopped similar laws at the state level from being used against women. In one recent case, for instance, a Texas woman who used crack cocaine during her pregnancy was charged with delivering a controlled substance to a minor. Even though the Texas penal code makes clear that women are not to be prosecuted under these circumstances, a district attorney charged her under a provision of a different code. The woman’s lawyer and a legislator who sponsored the fetal injury law both say that the prosecutor is misinterpreting the law. “We intended for the mother of the child to be held harmless in cases like this,” explains the legislator’s chief of staff Scott Gilmore. For this reason, Lynn Paltrow of National Advocates for Pregnant Women concludes that, “Far from safeguarding pregnant women or children, the UVVA creates the legal foundation for policing pregnancy and punishing women who carry their pregnancies to term.”

Other groups launch an even more systemic critique of increasing the law enforcement approach to interpersonal violence, asking whether it can ever benefit women who already live in communities suffering from high levels of police surveillance and imprisonment. (See Critical Resistance–Incite! Statement on Gender Violence and the Prison Industrial Complex at www.defendingjustice.org)

Although more than 30 states have laws similar to UVVA on the books, this new federal law represents a major victory for abortion opponents and forces on the Right. During the course of a five-year battle, conservative forces gained sufficient power in Congress and the White House to pass the bill and along with it, to shape the national debate as one about rights for fetuses instead of the rights, needs, and experiences of women.

The Politics of Fetal Rights and the Anti-abortion Movement

In order to fully understand what is wrong with UVVA and the prosecution of pregnant women, it is important to understand how these developments fit into the larger context of the politics of fetal rights and the anti-abortion movement. Just as prosecuting pregnant women for drug use fails to help children, so does the UVVA fail to help pregnant women. Both tactics, however, create independent rights for fetuses—a step that may help to outlaw abortion. Both also embody a punitive approach to complex social problems, dump money into law enforcement and imprisonment, and boost the overall criminal justice agenda.

Historically, fetuses have not been regarded as separate from pregnant women. Indeed, the United States Supreme Court has never held that a fetus is a person. In the landmark 1973 decision Roe v. Wade, which legalized abortion, the Supreme Court held that fetuses represent potential life and recognized a State interest in that potential. The Court has made it clear in every case that the State’s interest in potential life never outweighs the State’s interest in women’s
lives and health. This is why courts routinely strike down laws that restrict abortion without explicitly acknowledging that women may need abortions to protect their health.

Roe v. Wade catalyzed a movement against legal abortion and for fetal rights. If opponents could establish the position that a fetus has a right to life, then it would follow that abortion must be outlawed. But fetal rights advocates have pushed for a broader range of rights for fetuses, such as the right to be born with a sound mind and body or the right to be conceived and gestated within an optimal “uterine environment.” Although no one can guarantee that a baby will be born healthy, that has not stopped advocates and sometimes government officials from trying to impose such rights by restricting women’s actions and penalizing them if they fall short. Nor has the alleged interest in healthy babies translated into programs that would advance maternal and child health.

Fetal rights advocates do not necessarily form one coherent movement, but a collection of individuals and organizations who may agree on some issues and differ on others. For instance, the National Right to Life Committee opposes abortion but does not support prosecuting pregnant women for using drugs because such prosecutions might drive women to terminate their pregnancies. Doctors, hospital administrators, local prosecutors, law professors, and social workers who might not oppose legal abortion sometimes support imposing unique obligations and penalties on pregnant women. Finally, other individuals and organizations, such as corporations, may have their own reason for advocating rights for fetuses—namely, they do not want to be held liable for birth defects that might be attributed to the hazardous substances and toxins to which their workers are exposed.

**Strategies and positions**

Fetal rights proponents rely on a two-pronged strategy: personify fetuses and dehumanize women. That is, treat fetuses as if they were independent beings with rights of their own that are equal—or superior—to the rights that women hold. Their tactics include everything from violence, intimidation, and harassment of abortion providers and patients; lobbying state and federal policy-makers; litigation and court orders to restrain individual women; and disinformation campaigns and manipulation, such as setting up “crisis pregnancy centers” that discourage women from getting abortions.

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**ROE AND CASEY**

Americans hold many myths about Roe v. Wade, the 1973 Supreme Court decision legalizing abortion. In that case, the Court neither held that women have a right to “abortion on demand” nor that fetuses have rights of their own that must be balanced against women’s rights. Indeed, the Court has never held that a fetus is a person with rights. Instead, the Court laid out these principles:

- **1st trimester:** women can decide to have an abortion without State interference;
- **2nd trimester:** the State can reasonably regulate abortion to protect women’s health;
- **3rd trimester:** the State can regulate and prohibit abortion after fetal viability, but must always permit abortions necessary to protect women’s health and lives.

In 1992, in Planned Parenthood of Southeastern Pennsylvania v. Casey, the Court abandoned this three-part framework and weakened women’s rights by giving states the green light to regulate and try to discourage abortion at any stage of pregnancy. States can restrict women’s access to abortion so long as they do not impose an “undue burden” on women’s rights. As a result, many states now require women to listen to “counseling” designed to get them to change their minds and to wait 24 hours after being “counseled” before having the abortion. States are still obligated to allow abortions to protect women’s health and lives.
At some level, every specific position involves personifying fetuses and attempting to establish legal precedents that fetuses have rights, precedents that may be used to further restrict women and undermine abortion. Across the country, proponents have launched successful efforts to:

- Restrict women’s access to abortion;
- Criminalize women’s conduct during pregnancy so that State authorities can intervene;
- Implement “preventive detention” of pregnant women in jail or psychiatric hospitals if they use drugs or otherwise arouse suspicion;
- Adopt laws that recognize fetuses as independent victims of crime;
- Adopt regulations that recognize fetuses as independent beneficiaries of public programs, such as those that allow states to “enroll” fetuses in the Children’s Health Insurance Program;
- Adopt laws that privilege fetuses over women, such as state living will laws that automatically exclude pregnant women from exercising their right to die;
- Obtain court orders forcing women to submit to medical interventions against their will (and often their religious beliefs), such as cesarean operations or blood transfusions.

In 2004, a Utah case merged some of the worst of these trends, when Salt Lake City prosecutors charged a woman with murder for allegedly refusing to undergo a cesarean and giving birth to a stillborn baby. This case represents the incursion of fetal rights theories into new territory—applying criminal laws to the area of patient rights.

Conclusion

As these examples show, fetal rights politics undermines women’s rights, safety, and personhood without meeting its stated goal of helping fetuses, let alone children and families. There seems to be an inverse relationship between attention focused on fetuses—for instance, the fetuses of poor Black women who use drugs—and the children those fetuses become, reflecting the charge that fetal rights advocates are only “pro-life” until babies are born into families that need social support.

Even were it sincere, fetal rights advocacy would be a misguided strategy to solve social problems. If the goal is to increase access to health care and thereby improve birth outcomes, the logical solution is to enroll pregnant women in health plans. If the goal is to prevent violence against pregnant women, the logical solution is to adopt stricter gun control and provide meaningful assistance to battered women.

Ultimately, on this issue the Right has two goals: to move the fetus closer to the status of independent legal person, of citizen, so that abortion will once again be a crime, and to promote a view of the world that addresses health and human needs through the lens of crime control. These goals make clear the need for progressive activists to work together across their issue areas.
The Rebecca Project for Human Rights (RPHR) is a legal and advocacy organization for poor and low-income families struggling with the intersecting issues of economic marginality, substance abuse, access to family-oriented treatment, and the criminal justice system. RPHR integrates local grass-roots organizing with national policy work. RPHR represents the voices of families in the District of Columbia to illustrate the larger national need for public policy reform while challenging the insularity and disconnectedness that too often characterizes Washington, DC politics and national policymaking.

PRA: What is your current work?

RPHR: The Rebecca Project is a comparatively young organization (four years old). Crossing the River and Sacred Authority constitute our two primary constituent driven projects. Crossing the River is a twelve-month leadership development workshop for mothers in treatment that utilizes the written, spoken, and expressed word to give mothers a space to claim their voice and agency. Sacred Authority is RPHR's leadership project of mothers who completed comprehensive treatment and who are stabilized in their recovery. These mothers seek to advocate for the needs of other families with drug addiction issues and bridge the wide divide between Congress, policymakers, and the real lives of low-income families with substance abuse issues. The mothers present the uncontested truth of their own experiences by conducting meetings and briefings with Congressional staffers and national policymakers on the issues of poverty, substance abuse, and recovery.

PRA: What is the situation of the women with whom you work?

RPHR: Our members are parents in recovery from substance abuse, many of whom were also incarcerated as a result of their addiction. Most of the parents are single mothers who achieved their recovery from family-based treatment programs where they could heal without being separated from or losing their children.

Twenty-five years ago, the presence of women—especially mothers—was an aberration in the criminal justice system. Approximately two-thirds of all women sentenced in federal court were given probation, and women comprised less than 5 percent of all prisoners. That was before the war on drugs. Since 1986, following the introduction of mandatory sentencing to the federal drug laws, and its adoption by many states at about the same time, the number of women in prison has risen 400 percent and for Black women, the figure is 800 percent! Most of the women and mothers incarcerated for non-violent drug offenses are also suffering with substance abuse issues. In federal prison, for example, 87 percent of the women are struggling with issues of drug abuse. Rather than offering them treatment and rehabilitative services, they are criminalized for their addiction, and then incarcerated.

PRA: How does this play out locally where you are?

RPHR: In the DC Women's Jail, for example, the majority of women behind bars are mothers to minor children and they are untreated addicts. Their incarceration is a result of a drug or drug-related felony. These mothers behind bars clearly illustrate that it is easier to end up in jail and be separated from their children than to access appropriate, family-based treatment. However, even in jail, the mothers are denied the opportunity to heal from their addiction. There is no treatment available in the DC jail or aftercare treatment for the mothers at the end of their incarceration. Many of the women will therefore return to their communities, without their children and still addicted to their drug of choice.

PRA: What are you advocating for?

RPHR: We are working, tirelessly, for comprehensive family-based treatment capacity expansion; family-based treatment alternatives to incarceration; sensible and just policy reform for parents struggling with substance abuse issues.

PRA: How does your work connect to the struggle for reproductive rights?

RPHR: The antebellum South deliberately constructed Black women’s sexuality as lewd, erotic, and innately lascivious. These denigrating images and constructions of African American female sexuality were critical to slavery’s sexual economy wherein Black women were bred, raped and sexually
abused. The denigration of Black women’s sexuality inextricably linked to the devaluation of the Black woman’s identity as a mother and her right to motherhood. Unfortunately, the historical practice of separating mothers of color and our children reaches into post-bellum public policy. Most recently and alarming is the systematic incarceration of mothers for non-violent drug felonies.

When mothers are placed behind bars for untreated addiction, their children are either placed in foster care or kinship care. During the period of incarceration, it is a struggle for incarcerated mothers to maintain an abiding connection to their children. Women’s prisons are often located in rural areas far from the cities in which the majority of inmates lived, making it difficult to maintain contact with their children and jeopardizing the prospects of successful reunification. Incarcerated mothers with children in foster care are often unable to meet court-mandated family reunification requirements for contact and visitation with their children, and consequently lose their parental rights. Most of these women and children are of color.

Indeed, a new and representative reproductive rights movement must honor that for women of color, the right to be a mother has been placed into question. The right for women of color to raise their own children, and to raise them with dignity, is key to a reproductive rights movement which recognizes the particular ways in which women of color are denied the right to mother.

PRA: How has Capitol Hill reacted to your advocacy?
RPHR: The interaction between the lawmakers and mothers in recovery is always transformative. There is a bipartisan lack of education on the particular ways in which parents suffer from addiction and the lack of family-based needs when seeking treatment and healing. For many of these lawmakers, just listening to the families allows for them to witness the impact of legislation on the real lives of poor parents struggling to stay clean and raise their children with dignity.

Our experience has been that Congressional staffers need to, and mostly want to, understand these policy issues from the lens of the lived experience. Supportive Democrats and Republicans have sought to understand the human and moral dimensions of the struggle around addiction and healing. We are committed to that politics of transformation, and the insistence that staffers learn these issues from a very human framework, rather than minimize these policy issues into vague abstractions.

PRA: How has the Right responded to your framework?
RPHR: Interestingly, the Right has been very supportive in understanding the issue of substance abuse in the lives of low-income families and supporting efforts for family-based treatment. Indeed, the so-called Right has, at times, outdone Congressional Democrats in their support. We have been very successful in our advocacy work because we have brought the Right into our efforts and connected their issues of morality and family values to the need for families suffering with addiction to be given the chance to heal as a whole family. I think the Left makes a terrible mistake in dismissing opportunities for connection and alliances with persons on the right. We have tried to do the work outside the tired confines of one-dimensional and ideological analysis.

PRA: Why haven’t you gotten support from the Democrats?
RPHR: When Democratic lawmakers demonstrate a lack of support for our concerns, it is because we are perceived as politically disposable to them. Low-income mothers suffering with addiction are politically unpalatable and stigmatized. An alliance with our communities is therefore construed as a burden, as an example of being soft on crime or supportive of bad mothering. Fortunately, there are Democrats who do respond to our issues from a place of moral conviction, an expansive notion of family values, and an understanding that the Democratic party must reclaim its place of defending the disenfranchised.

PRA: So who do you consider the opposition?
RPHR: Our opposition is those persons uncomfortable with the authentic voices of those suffering with substance abuse and recovery issues. Our opposition is those persons attached to a narrative which denies humanity to our parents and children. I cannot say that there is a political party or ideology that makes up our opposition. Our work is very bipartisan: we have allies in most expected as well as unlikely of places. Rather than approach the work from the ideological praxis of Right versus Left, we are trying to explore an approach that prioritizes the politics of humanism.
PRA: What is it going to take to create the changes you seek?

RPHR: Well, for the first time since 1997, we have achieved federal funding for family-based treatment. As a result, 14 more family-based treatment programs are available for our families to heal together. However, what we need is an entirely new discourse, owned by neither political party, which emphasizes our worth as mothers, as children, and as families. When we can create a culture which does not create hierarchies out of our children’s needs and opportunities; when there is a sense that our healing, that my own well-being, that my own family’s well-being relies on, depends, is inextricably tied to others. Then, perhaps, our families will know the dignity that they so deeply deserve.
Additional Resources

California Coalition of Women Prisoners (CCWP)
1540 Market St., Suite 490
San Francisco, CA 94102
Phone: 415-255-7036 ext. 4
http://www.womenprisoners.org

CCWP raises public consciousness about the cruel and inhumane conditions under which women in prison live.

Civil Liberties and Public Policy Program
Hampshire College
893 West Street
Amherst, MA 01002
Phone: 413-559-5416
http://clpp.hampshire.edu

A national organization that educates and trains new generations of reproductive rights leaders, the Civil Liberties and Public Policy Program organizes an annual activist reproductive rights conference for students and young advocates, provides student internships under its Reproductive Rights Activist Service Corps, publishes a campus newsletter for young activists, and trains emerging leaders under its New Leadership Networking Initiative. CLPP is affiliated with the Population and Development Program at Hampshire College. Both programs connect reproductive rights activism to other social change work.

Legal Services for Prisoners with Children (LSPC)
1540 Market St., Suite 490
San Francisco, CA 94102
Phone: 415-255-7036
http://www.prisonerswithchildren.org

LSPC advocates for incarcerated parents, children, family members and people at risk for incarceration with a focus on women prisoners and their families.

Committee on Women, Population and the Environment (CWPE)
P.O. Box 55108
Atlanta, GA 30308
Phone: 404-222-9089
http://www.cwpe.org

CWPE is a multi-racial alliance of feminists that works to expose the human rights violations that follow from population-based analyses. One of CWPE’s initiative is to resist the unethical tactics of the cash-for-sterilization program known as C.R.A.C.K.

National Advocates for Pregnant Women (NAPW)
153 Waverly Place, Sixth Floor
New York, NY 10014
Phone: 212-255-9252
http://advocatesforpregnantwomen.org

NAPW works to protect and advance reproductive liberty and the rights of women through: litigation and litigation support, challenging efforts to establish fetal rights under the law and to expand the war on drugs; public education on case law, legislation, and social science data regarding the war on abortion and the war on drugs; and grassroots organizing, supporting women directly affected by punitive policies.

Ibis Reproductive Health
2 Brattle Square
Cambridge MA 02138
Phone: 617-349-0040
http://www.ibisreproductivehealth.org

Ibis works to increase the reproductive health choices open to women, and to enhance women’s autonomy in exercising these choices. Ibis conducts original research, both clinical and social science, analyzes and critiques policies and protocols that limit reproductive choice, and interprets and disseminates research findings that can help shape laws, policies, and practices.

Rebecca Project
1752 Columbia Road, NW, Third Floor
Washington D.C. 20009
Phone: 202-265-3907
http://www.rebeccaproject.org

The Rebecca Project for Human Rights is a national legal and advocacy organization for families struggling with the intersecting issues of economic marginality, substance abuse, access to family-based treatment, and the criminal justice system.

Statements


This statement focuses on the intersection of both State and interpersonal violence, particularly violence against women. The statement calls for strategies that challenge the criminal justice system and that also provide safety for survivors of sexual and domestic violence. It critiques the anti-violence movement for its reliance on the criminal justice system and provides recommendations for action.
Books/Reports


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Endnotes Available Online!
All citations and references are available at www.defendingjustice.org or by contacting PRA.