

Books

Reproductive Justice Subverted: Race and Class on the Front Lines of the War on Women

BY PAMELA M. SALELA

Michele Goodwin, *Policing the Womb: Invisible Women and the Criminalization of Motherhood*. Cambridge University Press, 2020. 334 pp. \$29.99, ISBN 978-1107030176; online access (through Cambridge Core), ISBN 978-1139343244.

Goodwin, who is a legal scholar, bioethicist, and civil rights and feminist heavyweight, has produced a gripping and meticulously researched analysis of the ethics of the reproductive agenda of those who proclaim their mission to be the protection of life. Her research uncovers a legal maze of “pro-life” double standards and twisted interpretations of ethics that frequently criminalizes women of color and ultimately shows stark disregard for the potential lives they carry within them.

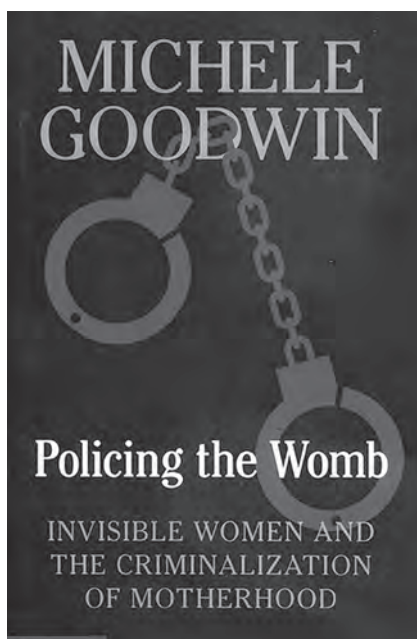
Goodwin begins by laying out the historic trajectory of the reproductive criminalization of Black women in the United States during and after the era of slavery.¹ Then she brings the discussion to the present with widely publicized case examples that many readers will already be familiar with. Feminists and other civil rights advocates have been stunned by situations in which women are criminalized for something as statistically common as a miscarriage (pp. 41–43) and by such heartbreaking cases as that of Bei Bei Shuai, a young woman who was charged for “murder of a fetus” after she attempted suicide because of shame about being pregnant (pp. 32–34). Goodwin unravels the legal labyrinths and shows the strategic routes such cases have traversed, revealing systemic biases at work that are below the radar of mainstream reproductive rights activists.

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Pregnant women are coming under siege for imperiling the health of their fetuses, even when there is no science to back up the claims. Goodwin points out, however, that white middle- and upper-middle-class women, who are privileged by the legal system, are not usually scrutinized for the same “offenses” as

lower-income women, Black women, and women of color. A case in point is the world of artificial reproductive technologies (ART), which involves a dangerous medical undertaking in which the outcomes of failure are known and tacitly acknowledged as simply the risks. The ART world has very little legal regulation and is inhabited by people with privilege who can afford complex and risky processes. For instance, ART involves the use of drugs and frequently results in multiple fetuses and deaths of fetuses. Yet it is celebrated in the media, and women publicly grieve when things don’t work out. Counter this with the way women of color and poor women are increasingly criminalized for “suspicious” miscarriages or for using drugs that aren’t nearly as powerful as those used in ART. Indeed, mass incarceration of women is rising at an alarming rate, and the leading cohort of those targeted for drug offenses is women.

This war lies below the radar. Goodwin invokes the analogy of the canary in the coal mine to illustrate the double standards of a racist and classist system that have been overlooked by mainstream reproductive activists. In doing so she demonstrates that the limited focus on abortion rights has left the cause for reproductive justice blindsided by pernicious and strategically designed battles that, having previously left mainstream middle-



and upper-middle-class women fundamentally unscathed, are now surfacing in ways that will affect all women.²

Aside from the criminalization factor, there is the sociopolitical ignominy of putting a laser focus on pregnant women. Targeting women for the fates of their fetuses is simplistic.

“Though women play an undeniably vital role in the care and gestation of fetuses,” Goodwin writes, “they do not exclusively control fetal health.... Environment, poverty, medical resources, and other factors significantly influence...fetal health” (p. 188).

Ultimately Goodwin argues in favor of abortion rights, but she insists, and her stringent work here demonstrates, that the rights of pregnant women, no matter what their de-

cisions are regarding the fate of the fetuses they carry, need to be at the heart of reproductive justice.

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This book recognizes the need to bring the use of child abuse statutes, feticide laws, and other fetal protection laws into view and out of the shadows of abortion and the discourses that dominate how scholars, activists, and politicians think about reproduction (p. 207).

Goodwin’s treatise covers a wide range of issues that have spun the web that is now before us — eugenics,

prosecution of fetal endangerment, criminalization of pregnancy, the chipping away of abortion laws, the compromised fiduciary relationship, and far more. Her scholarship is meticulous and piercingly insightful, and her work is essential for unmasking the race and class issues at the foundation of reproductive injustice. This book should be in all women and gender studies collections from undergraduate through graduate levels, and it will be of special significance in the disciplines of law and criminal justice. Included is an extensive bibliography organized in sections: case materials, statutes and legislative materials, civil society and advocacy organizations, government reports, books, articles (law journals, medical and health journals, other), films, videos, and other sources. Each chapter has extensive endnotes.

NOTES

1. In a talk she gave at the University of Illinois on February 22, 2022, Goodwin mentioned that the Fugitive Slave Act was the model for the current Texas law that makes it possible for citizens to target women suspected of having had abortions.

2. In a private audience with Goodwin before her public talk, I asked her directly about abortion rights activists and their impact on reproductive issues writ large. Part of her response was that the far right had brilliantly hacked away at the margins that had been untouched by abortion rights activists, thus making it easy to take abortion rights as well.

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