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## Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy

In Dorothy E. Roberts's article *Punishing Drug Addicts Who Have Babies*, she presents a critique of the legal standards set on black women who give birth to drug-exposed infants. She argues that laws that overprotect fetal rights are done so to target black mothers disproportionately and, as a result, violate their constitutional rights. Roberts makes it clear right away that, most importantly, not all women are affected by this standard at all. Laws that attempt to protect fetuses from drugs are done so to target poor black women who are users of crack cocaine. Roberts argues that state intervention in poor black women's reproductive matters is a violation of black women's right to privacy and their equal protection rights and that the state's interest in protecting children contradicts the methods taken. In the end, Roberts's central purpose is to critique laws that purposefully target poor black women who are drug addicted and pregnant. She does this through a constitutional and intersectional analysis of race and the law, arguing that the law overprotecting fetal rights is purposefully constructed to target minority mothers.

Robert's analysis of the punishment of addicted mothers begins chronologically. Robert starts with the story of Jennifer Clarson, a 23-year-old who was the first to be criminally convicted for exposing a baby to crack cocaine. After exploring this first instance, Robert gives the surrounding context of the status of black women in the USA. This starts with how the USA framed the crack epidemic. It's noted that crack blew up in neighborhoods with many minorities and younger black women specifically. The laws of crack were strict on minorities, enacting mandatory minimums and such for using crack cocaine, something white people tended not to use. Roberts furthers the disparity by noting that poor black women are the ones being punished

for doing crack while pregnant, because poor black women are constantly getting help at government agencies, leading them to be punished more often than not after analyzing how the fact that prosecution and the laws were designed to purposely harm black mothers Roberts argues against this using a constitutional argument. She claims these laws violate the equal protection clause and right of privacy. The first constitutional argument, the equal protection claim, is that these laws disproportionately were created to harm black women, as seen by the incarceration rates compared to white women. The second argument was on the right to privacy. Roberts argue that confidentiality protects the right to abortion and the right to embrace one's motherhood. The right to privacy entitles the mother the right to choose and the right to proceed without criminalization; she uses the same logic from Roe v. Wade but applies it in both abortion and allowing the child to live.

In my opinion, I entirely agree with Robert's analysis. Now, while the state is and should be entitled to protect the children of drug-addicted mothers, the issue is that the government chooses to do so by selectively enforcing it, which is wrong. What the government is doing is punishing an underprivileged community and making them worse off. Robert notes that if they genuinely cared about fetal protection, they would provide the proper resources to stop impoverished communities and allow them to better themselves. I've taken classes diving into the United States justice system, and a key point is that the justice system has remained stagnant over the years. As time has passed, issues like segregation have changed and evolved and embedded themselves into the criminal justice system, with issues like mass incarceration and laws that. At the same time, it neutrally targets a specific community like Stop and Frisk. Black mothers being punished for drug addiction is not just an anomaly; it's a common standard. The

USA used to punish users of crack cocaine much harder than powder because minorities used to crack more, even though, chemically and effectively, they were the same. This system of punishing drug addicts who have babies is an extension of the era of mass incarceration and unequal punishment of minorities under the law compared to white folks. What makes this paper great is that the arguments are easy to digest, and the two constitutional arguments about equal protection and right to privacy are presented very simply and are easy to understand for any scholar in this area. In my opinion, she could have explicitly mentioned intersectionality, which is referenced in the struggle between being poor black women and dealing with the pressures of the government cracking down on drug users while also cracking down on mothers choosing to have children, and another layer of wealth disparities is at the forefront of the argument. After reading this article and getting to Robert's argument, I think this work provides even more insight into the criminal justice system in the USA and a great insight into the struggles of black women specifically. Many times, the analysis of women is one-dimensional. This takes a look at a couple of factories, poverty, race, addiction, and the law, and the fact that these women are being oppressed on a variety of fronts. It's a multi-layered analysis that not many papers do today. For a serious scholar, this paper lends itself to the excellent analysis of racial disparity in the criminal justice system. It's an excellent analysis of the constitutionality of the government's actions and evaluates the topics of intersectionality and its effects on black mothers. This paper is a substantial achievement, an excellent paper with excellent points. I would recommend this in any feminist and criminal justice class because its themes and analysis are that important and accurate.