

# BURSTING THE FOUNDATIONAL MYTHS OF REPRODUCTIVE LABOR UNDER CAPITALISM: A CALL FOR BRAVE NEW FAMILIES OR BRAVE NEW VILLAGES?

MARY ROMERO\*

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When Tabitha Walrond, a 19-year-old welfare recipient, gave birth to her first child on June 27, 1997, she did what new mothers rich and poor are urged to do these days: she breast-fed her baby. But on August 27, seven weeks after leaving the hospital, the son she had named Tyler Isaac Walrond died in her arms of malnutrition.<sup>1</sup>

Tabitha Walrond “was charged with recklessly causing Tyler’s death by failing to nourish him adequately and failing to obtain prompt medical attention.”<sup>2</sup> This recent court case in the Bronx underscores the contradiction embedded in the myths of independence, autonomy, and self sufficiency in the jurisprudential constructions of justice that holds an individual responsible for failing to successfully fulfill her family obligation. The district attorney’s charges are based on the assumptions surrounding the naturalness of motherhood—namely, breast-feeding and caring for babies. Because she had breast reduction surgery, Walrond was biologically unable to successfully

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\* Professor, School of Justice Studies, Arizona State University; Ph.D. Sociology, University of Colorado, Boulder. My thanks to Adrienne Davis and Joan Williams for inviting me to participate in the symposium.

1. Nina Bernstein, *Placing the Blame in an Infant’s Death: Mother Faces Trial after Baby Dies from Lack of Breast Milk*, N.Y. TIMES, Mar. 15, 1999, at A21.

2. *Id.*

breast-feed her baby.<sup>3</sup> She lacked the assumed “natural” knowledge of assessing the baby’s health, and no public support was provided to assist her. Medical experts agree that routine pediatric checkups would have identified the problem, but Medicare declined to enroll Tyler despite Walrond’s numerous attempts,<sup>4</sup> delaying his enrollment until months after his death.<sup>5</sup> In addition, no one ever informed Walrond that her breast reduction surgery greatly increased her risk for difficulties in breast-feeding.<sup>6</sup> Even though Walrond received inadequate prenatal and postpartum health care, as well as being denied public access to health care for her baby, the state charged her as being responsible for the baby’s death. Unlike an earlier case where a Brooklyn prosecutor dropped similar charges against a young breast-feeding mother,<sup>7</sup> the Bronx District Attorney pressed on, arguing that photographs of Tyler eight days before his death constituted evidence that warnings and signs were obvious.<sup>8</sup> However, the baby’s father, Keenan Purcell, who assisted the district attorney in the charges against Walrond,<sup>9</sup> was not held responsible. Purcell abandoned Walrond when she was six months pregnant when he informed her that his new girlfriend was also carrying his child.<sup>10</sup> Although the court granted Purcell visitation rights, he never provided financial support to the mother or baby.<sup>11</sup>

Tabitha Walrond’s case exposes the cruelty and injustice of both designating an individual in the family with the role of caretaker and imposing that cultural and legal responsibility without public support. Unlike other institutions, the individual and not the family

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3. See *id.* (stating that although Walrond was unaware of it, she was at great risk for difficulties in breast feeding due to the breast reduction surgery she had when she was 15 years old).

4. See *id.* at A21 (stating that the Walronds made separate trips to at least three different city offices).

5. See *id.* (describing how the Medicaid cards arrived months after Tyler’s death).

6. See Bernstein, *supra* note 1, at A21 (claiming that Walrond was unaware of the difficulties in breast-feeding associated with breast reduction surgery).

7. See Nina Bernstein, *Prosecutor Drops Charges in Case of Infant’s Death*, N.Y. TIMES, July 16, 1999, at B3 (stating that the prosecutor’s decision came after consultation with a lactation specialist).

8. See Bernstein, *supra* note 1, at B1 (quoting the District Attorney’s spokesperson as saying, “All you have to do is look at the pictures . . . . Any reasonable person could look at this and say the baby looked like something out of Biafra.”).

9. See Bernstein, *supra* note 1, at B1 (stating that Purcell urged the district attorney’s office to hold Walrond responsible for Tyler’s death).

10. See Bernstein, *supra* note 1, at B3 (stating also that, according to Purcell, he and Walrond broke up when Walrond refused to get an abortion).

11. See Bernstein, *supra* note 1 (stating that “[a]fter Tyler was born, Mr. Purcell went to court to secure visitation rights, and would have sought custody of the child, he said, except that he lacked the means to support him”).

becomes the unit of analysis. Yet, the individual's actions may be interpreted through the ideological lens of the assumed family.<sup>12</sup> The individual dependency of Tyler is privatized and treated as the sole responsibility of his mother.<sup>13</sup> The biological father of the baby is not delegated primary responsibility for dependency.<sup>14</sup> The court, however, maintained his patriarchal privilege—without obligation—by granting him visitation rights.<sup>15</sup> The problem of dependency is placed solely upon the mother and any joint responsibility is eliminated.

Caretaker narratives, such as that of Tabitha Walrond, lurk behind many of the major social issues of today: welfare reform, AIDS treatment, expansion of the United States prison system, and the struggle of baby boomers to care for their aging parents. Behind welfare reform are the narratives of mothers who place their children with aging parents, engage a home-bound neighbor, or find no other option than to leave their children alone in order to take the mandated low-paying dead-end jobs.<sup>16</sup> Other ignored narratives arising from welfare reform include persons with disabilities cut off from benefits and programs, who are thus forced upon family members for care.<sup>17</sup> There are the silent narratives of mothers,

12. The state prosecutes individuals for not adequately fulfilling their parental role all the time. These cases are not limited to sexual or physical abuse—crimes with which any individual may be charged—but the specific role of parenting. Waldron's case is not unique. Another recent example involved parents prosecuted for child abuse because they left their daughter sleeping alone while they went to the store for groceries. See *Parents Charged in Deaths of Young Children in Newark Fire*, N.Y. TIMES, Jan. 6, 1999, at B2. During their absence a fire broke out. See *id.* Authorities charged the parents with child endangerment. See *id.* Political discourse on caregiving does not address the contradiction involved in charging mostly poor and working class parents with child neglect, child abuse, and child endangerment when they are placed in impossible situations, lacking the necessary economic and social resources to fulfill their caretaker role.

13. See Ikimulisa Sockwell, Frankie Edozien & Rita Delfiner, *Jury Convicts Breast-Feed Mom of Starving Infant*, N.Y. POST, May 20, 1999, at 6 (quoting one juror as insisting that “no matter what, [Walrond] was the mother” and should have “taken responsibility when people started telling her the baby was too thin”).

14. See Ikimulisa Sockwell & Rita Delfiner, *Starved Baby's Dad Erupts in Court*, N.Y. POST, Apr. 30, 1999, at 20 (relating that Purrell rarely saw Walrond while she was pregnant, attending only one prenatal appointment, at which time Purrell informed Walrond he had impregnated another woman).

15. See Rafael A. Olmeda, *Dad of Starved Baby Blasts Mom*, N.Y. DAILY NEWS, May 21, 1999, at 7 (relating how Purrell arrived at Walrond's door accompanied by police officers).

16. See KATHRYN EDIN & LAURA LEIN, *MAKING ENDS MEET: HOW SINGLE MOTHERS SURVIVE WELFARE AND LOW-WAGE WORK* 125 (1997).

17. See, e.g., James L. Franklin, *Aid Groups Brace for Rise in Need: Loss of Welfare Benefits Expected to Take Toll*, BOSTON GLOBE, Nov. 29, 1998, at 1 (noting that under Massachusetts' program welfare recipients can “qualify for waivers or exemptions because of a mother's or a child's . . . [b]ut that will only work if the recipient knows enough to ask for the papers and can fill out a lengthy form that must be reviewed by officials in Boston before it can be approved”); Holly Mullen, *A Picture of Utah's Poor: Report Identifies Factors Commonly Found in Long-Term Welfare*

daughters, sisters, and friends taking on the everyday care of family members and friends with AIDS.<sup>18</sup> Similarly, statistical updates on the growing number of incarcerated Americans ignore the narratives of grandmothers forced into the role of primary caretaker for grandchildren whose mother serves a fifteen-year sentence for a drug offense.<sup>19</sup> News reports on dual-wage families fail to include the stories of working-class parents taking different shifts as a way to juggle childcare—the most recent plight of middle-class parents seeking affordable childcare—or those faced with the caretaking responsibility for chronically ill or dependent parents.

A common theme in all of these narratives is the designation of caretaking responsibilities as mere personal problems that must be resolved through the unpaid labor of women family members or the underpaid labor of women—usually women of color and immigrants.<sup>20</sup> The dependency of childhood, old age, and illness buried in each of these social issues constitutes a crisis in institutional arrangements. Current institutional trends—welfare reform, drug laws and the growing number of incarcerated mothers, the absence of a national health program, the need for dual-wage families, and insufficient wages to assure adequate savings for retirement—point to caretaking as a collective responsibility that needs a public solution. Yet, these narratives disclose a society that still considers caretaking a personal matter, one that can and should be addressed within the private space of the family.

These buried narratives of reproductive labor emerging among welfare reform, the working poor, dual-wage families, and the expanding industrial prison complex are the catalyst behind my enthusiasm for Martha Albertson Fineman's article, "Cracking the Foundational Myth."<sup>21</sup> Her analysis highlights limitations and pitfalls

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*Recipients*, SALT LAKE TRIB., Mar. 11, 1999, at A1 (citing "mental illnesses such as depression and chronic anxiety . . . substance abuse and severe behavioral problems among their own children, such as hyperactivity, delinquency and running away" as barriers facing Utah's chronic welfare recipients).

18. See, e.g., Krissah Williams, *Life-Changing Decision: Growing Number of Grandparents are Taking Up the Slack When Parents Fail*, HOUS. CHRON., Aug. 2, 1999, at 15 (reporting that social conditions such as "drug abuse, AIDS, child abuse, divorce, unemployment and welfare reform that requires teen parents to live at home with an older guardian has led to more grandparents becoming primary guardians").

19. See Jason DeParle, *Life After Welfare: The Grandmothers*, N.Y. TIMES, Feb. 21, 1999, at 1 (claiming that 1.4 million children live in households headed by grandparents—a 52% rise since 1990. Of these "skip generation" households, more than half of these households are headed only by a grandmother. ).

20. See *infra* note 72 and accompanying text.

21. See Martha Albertson Fineman, *Cracking the Foundational Myths: Independence, Autonomy, and Self-Sufficiency*, 8 AM. U. J. GENDER, SOC. POL'Y & L. 13 (2000).

in the political discourse on caretaking structured by ideologically loaded terms—independence, self-sufficiency, and autonomy. These concepts are essential to understanding how government delegitimizes support for families by maintaining that institutions belong to either private or public domains, while legitimizing subsidies to public domains only. Today's conservative political discourse accepts without question the Parsonian functionalist view of society, which places caretaking among the explicit functions, duties, and obligations of the family, and assigns the family to the "private" sphere of society.<sup>22</sup> Fineman demonstrates the inadequacies of political discourse that targets shortcomings of the American family when caregiving responsibilities are not fulfilled. Discourse limited to accepting the nuclear heterosexual family as the institution best suited to responsibility for dependency is shrouded in ideological beliefs like "natural," as well as "labor of love," "mother's wit," and "blood is thicker than water."

Unfortunately, the political climate at the end of the twenty-first century discourages us from exploring the collective alternatives proposed by Charlotte Perkins Gilman at the beginning of the century.<sup>23</sup> Instead, we are exhorted to turn our attention to strengthening the family in order to meet societal caretaking needs. This involves identifying the changing structure of family life and the increased demands and expectations placed upon the family. A closer look at the family will illustrate the inadequacies of the private/public division, as well as weaknesses in pursuing solutions limited to the family.

### I. BRAVE NEW FAMILIES AND THE WORKING WOMEN IN THEM

Despite the traditional nuclear family structure conjured by the sentimental Republican rallying cry of "family values,"<sup>24</sup> the nuclear family does not represent the only functioning family structure in the

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22. See generally TALCOTT PARSONS & ROBERT BALES, *FAMILY, SOCIALIZATION AND INTERACTION PROCESS* (1955). Parsons, a researcher in the social sciences, is considered the father of structural formalism, the theory on which much of the modern welfare system is based.

23. See CHARLOTTE PERKINS GILMAN, *THE HOME: ITS WORK AND INFLUENCE* (1972) (first published 1903).

24. See generally Rae Corelli, *The "Family Values" Thing: The Republicans Make a Major Issue of Moral Standards—And Celebrities Provide Some Examples*, *MACLEAN'S*, Aug. 31, 1992, at 32 (reporting on the "family values" agenda of the Republican party during its 1992 convention, culminating with a reference to then Vice-President Dan Quayle's attack on fictional TV character Murphy Brown for eschewing the nuclear family structure to bear and raise a child as a single mother).