

Prosecution Of Pregnant Women Consuming Substances

Posted on October 10, 2018

Substance Use During Pregnancy and Fetal Harm

Indeed, no mother in her right sense can give her newborn child crack cocaine or heroin, including other intoxicating substances. Moreover, it's a crime to harm a toddler right from birth. If not, why would a pregnant woman be allowed to engage in irresponsible activities like the usage of harmful substances that will affect the growth of the innocent being inside her womb? Doesn't the unborn baby have the right to live like any other human being walking on the face of the earth? What crime has the child committed that justifies the difficult life he or she may have once born due to the body or its organ's deformities? Definitely, the answers to these and other questions do not justify the reasons why a woman should use substances during the prenatal period. A pregnant woman should be the primary protector of the unborn child, but when engaging in harmful drugs turns her into an inhumane life destroyer who does not shy away from harming a being that cannot even defend or speak for itself. The government and other official agencies concerned with matters of human rights are responsible for the protection of those people and other living things that are at risk of harm from those around them. A pregnant woman carries within her a living thing that should become a concern of the prosecutor right from fertilization takes place. Consumption of substances puts the life of the fetus at risk, considering that the drugs can lead to undesirable outcomes like abortion, forced addiction, premature birth, disabled body organs, or even death. Hence, the expectant mother using intoxicating substances that can affect the unborn child as the drugs are passed to it through the placenta is eligible to face the wrath of the prosecutor and be charged with attempted murder, exploitation of a person's dependence, or putting the life of another human being at risk. Although specific considerations must be followed, nothing can justify risking the life of a being that has no clue of what is being done to it. Prosecuting the offender is one of the ways the government and official agents perform their roles in ensuring that the right to live, among other human rights and freedoms of the unborn child, is respected.

Public Debate on Prosecution and Treatment

Prosecution of pregnant women using intoxicating substances is a thing that attracts diverse opinions from the public, and some of them feel that they should not face the law and instead should be treated. Others who feel the concerned women are just irresponsible and ignorant support the notion that laws should be passed by the federal and state governments to be implemented on these women. However, the mixed reactions regarding the same have made it difficult for the legislators to

pass bills that criminalize the use of intoxicating substances by pregnant women because while others stand with the proposals, there are those opposing them; hence, they lack enough support to become laws. For instance, in the United States, only two states, Tennessee and South Carolina, consider it a criminal activity when a woman uses intoxicating substances during her pregnancy (How, 2018). The following document is aimed at conducting a meta-review of several variables to support the notion that women who consume intoxicating substances during their prenatal periods should be prosecuted. It's the responsibility of everyone in society to ensure that a child is born as healthy as possible and to achieve this, the right measures and procedures should be taken, and that includes mobilizing those with different opinions to trade thoughts and support the prosecution of drugs addicted expectant mothers. With the required numbers to pass laws by the legislators concerning the proposals, society will have played its part in protecting the welfare of unborn children. Moreover, there are federal policies, such as the regulations on the emergency response (CFR 42: part 51d), that support community response to substance use. The following report and others similar to it are some of the ways society can respond to substance use by preventing addiction by children because of the irresponsible behaviours of their mothers.

Legal Protection of the Unborn Child

It is a crime to introduce, coerce or administer intoxicating substances to minors, mainly whose consent does not apply. An unborn child is a human who is yet to start an independent life and only relies on what is provided to him or her by the mother. Everything the fetus requires while in the womb is provided to him or her by the mother through the fetus. The necessary provisions include antibodies that the unborn human being requires to survive and grow. Some of the intoxicating substances the pregnant woman uses are passed to the fetus together with the antibodies through the placenta, which enters his or her bloodstream to facilitate growth and development. Hence, the substance-using expectant mother consciously or unconsciously transmits drugs, including cocaine, alcohol, heroin, and others, to the fetus, and that is a form of administering intoxications to a minor, which is illegal. For instance, in the Czech and Slovak Republics, under the Penal Code, for all crimes, an adult is prohibited from exploiting or taking advantage of the dependence or obedience of another person, and one is eligible to face the law and be charged for exploitation. In this case, a pregnant woman is exploiting the dependence of the unborn child; thus, she's a criminal who is eligible to be prosecuted and sentenced according to the crime committed.

Fetal Personhood and Human Rights

However, some individuals argue that a fetus is not a person, but that is incorrect according to the definition of a human. Anyone or anything relating to *Homo Sapiens* is a human being and has the same rights and freedoms as any other person, including the right to live. Moreover, biologists affirm that an embryo of 4 to 6 weeks is an independent human being from his or her mother whose only purpose is to provide food through the placenta (When, 2018). Besides, if the gender of the fetus can

be determined as early as 12 weeks in pregnancy, then what makes him or her something different from a person, and that should be treated anyhow the mother likes? (Dabbagh, 2018). Further, it is debated that a fetus cannot survive outside the womb because it is entirely dependent on what is provided to it through the placenta. Leave alone the fact that technology has made it possible for the fetus to be put in an incubator until it fully develops. Can a several-month-old baby survive on its own without depending on the care of an older person? If not, there is no existing difference between distinguishing the rights of a fetus and those of a person. Evidently, a mother consuming intoxicating substances during the prenatal period that can potentially harm the unborn child is violating the rights of that human being enclosed in her womb because she can ruin his or her life, let alone lead to death. Prosecution of these offenders should be conducted without irrelevant considerations, such as the fetus might be a thing and not a person. Even animals are not human, and yet they are not supposed to be mistreated; then, why should an irresponsible woman get away with the crime of ruining the life of an unborn child only because he or she depends on her for survival?

Maternal Responsibility Addiction and Dignity

Human life is an element that should be valued with respect and dignity irrespective of size, age, or gender. Not only does a substance-consuming expectant mother disrespect the unborn child, but she also does not have any dignity within her. How can anyone consciously hurt an innocent human being only because she wants to satisfy her addiction needs? Addiction is something that is treatable, and even some laws and policies help rehabilitate addicted drug users. Although drug abuse is a crime mainly when illegal substances such as cocaine, heroin, opium, and others are involved, the courts prefer sending the offenders to a rehabilitation centre instead of a prison. An addicted pregnant woman who respects and values human life, including that of the unborn child in her womb, would seek assistance from the relevant institutions concerning her condition instead of continuously using intoxicating substances, knowing that she is putting the life of her child at risk. Moreover, most of these services are given to anyone willing since the federal government funds them; thus, there should be no excuse as to why the pregnant woman wouldn't consider the help to save herself and the unborn baby. For instance, the federal government of the US uses approximately \$6,120 every second in matters involving drug addicts to ensure that the offenders are assisted as much as possible (*Drug*, 2018). Therefore, there is no reason why a pregnant woman shouldn't be prosecuted for the consumption of substances. Illustratively, the continuous use of these harmful drugs is ignorance, negligence, irresponsibility, disrespect and lack of dignity by the expectant mother. The human rights regulations require the prosecution of all those who disrespect others by violating their rights, and a pregnant mother consuming intoxicating substances is no different. The Universal Declaration of Human Rights does not approve the violation of any person, and every country across the world has laws that are responsible for the prosecution of offenders. She should go through the legal processes any offender would be put through without consideration of any justifications either from her or others who support the notion that she should not be charged or punished.

Legal Duties in a Civilized Society

Any civilized nation and individual must ensure that every human being is treated according to his or her rights. Although a pregnant woman is not unique in any civilized society making her ineligible to make mistakes, unlike some situations such as involuntary miscarriages, however, she has a lot of chances to treat the innocent human being in her womb with respect. She has to be aware that what she is doing to herself by using the intoxicating substances does not harm just her but affects the unborn child too (Bhuvaneswar, 2007). It is justifiable when she consumes the drug without pregnancy because there might be other significant variables promoting her to use them, and it is the main reason why the government prefers rehabilitation of drug abusers rather than punishing them by sending them to jail. But in this case, it is different because she has another life within her that she should be on the frontline, protecting from anything or anybody trying to harm him or her since she is the primary provider. Hence, when she consumes intoxicating substances when pregnant, she conducts herself irresponsibly and in an uncivilized manner. She does not consider that she might live her entire life in regrets, knowing that she is the primary cause of the difficult life her son or daughter is going through just because she was unable to control her need for harmful drugs during her pregnancy. Furthermore, she might lead to the premature birth of the baby or even cause his or her death due to the progressive consumption of the substances. Who knows whether that was her only chance to conceive, and she just wasted it? She will live a desperate, childless mother who once had a chance of giving birth to a healthy child, but she destroyed it the moment she refused to seek help regarding her addiction condition during her prenatal period. Hence, to save a needy pregnant woman in society from all these regrets, the best the government can do is to introduce policies that criminalize the consumption of intoxication by pregnant women. Prosecuting them saves the mother and the child since they are both put under the guidance of responsible agencies, ensuring that she gives birth to a healthy baby as much as possible. The prosecution can include administering them to special institutions where their activities and movements are limited, making it impossible for them to access and consume harmful drugs (Flavin, 2010). They will undergo essential processes while in prison or other recommended institutions under the control of the government's official agents, and by the time they are through with their sentences, they will lead a happy, drug-free life with their healthy children. Hence, the two human beings will have unknowingly or knowingly benefited from the prosecution.

Conclusion on Prosecution and Intervention

In conclusion, prosecuting pregnant women consuming intoxicating substances is not unfair to them. Still, rather it is a way of helping both the mother and the child to ensure each one of them has a happy ending (Flavin, 2002). To some people, it might seem like an offence on the expectant mother, but it has not since desperate times call for extreme measures, and undoubtedly, this is one of those situations. Besides, why show mercy to a person who does not care about another human being's life? The pregnant woman should be prosecuted and sentenced at least to reduce her exposure to

anything that might harm her and the unborn child in her womb. Furthermore, it will be a sign of the government's irresponsibility toward the people they are meant to protect and take care of inconsiderably. Also, society has a role in ensuring that they protect everybody within it as a sign of respect and dignity among themselves since ignoring pregnant women who are on the verge of destroying someone's life is not justifiable, and they are no different from her. Hence, despite the differing opinions concerning the notion, it is an opportunity for everyone to decide which side one is, the protector or the destroyer.

References

- Bhuvaneswar, C. G., Chang, G., Epstein, L. A., & Stern, T. A. (2007). Alcohol use during pregnancy: prevalence and impact. *Primary care companion to the Journal of clinical psychiatry*, 9(6), 455.
- Dabbagh, S. (2018). *Fetus as Human Being: Where is the Cut-off Point?*. *PubMed Central (PMC)*. Retrieved 9 March 2018, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3713799/>
- Drug Abuse Policy*. (2018). *DrugAbuse.com*. Retrieved 9 March 2018, from <https://drugabuse.com/library/drug-abuse-policy/>
- Flavin, J. (2002). A glass half full? Harm reduction among pregnant women who use cocaine. *Journal of Drug Issues*, 32(3), 973-998.
- Flavin, J., & Paltrow, L. M. (2010). Punishing pregnant drug-using women: Defying law, medicine, and common sense. *Journal of Addictive Diseases*, 29(2), 231-244.
- How States Handle Drug Use During Pregnancy (2018). Retrieved from <https://projects.propublica.org/graphics/maternity-drug-policies-by-state>
- Scholarlycommons.law.case.edu*. Retrieved 9 March 2018, from <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1028&context=healthmatrix>
- Should Pregnant Women be Subject to Criminal Prosecution for*. (2018). *Law.uh.edu*. Retrieved 9 March 2018, from <https://www.law.uh.edu/healthlaw/perspectives/Reproductive/980623Pregnant.html>
- When Does a Human Life Begin? 17 Timepoints | DNA Science Blog*. (2018). *DNA Science Blog*. Retrieved 9 March 2018, from <http://blogs.plos.org/dnascience/2013/10/03/when-does-a-human-life-begins-17-timepoints/>