

KILLING THE BLACK BODY

RACE, REPRODUCTION, AND THE
MEANING OF LIBERTY

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the clinic after it moved to the Urban League building and hired a Black physician and social worker and two Black nurses.

Although Sanger hoped that the Harlem clinic would demonstrate Blacks' ability to use birth control effectively, she nevertheless resisted giving the Harlem Advisory Council control over the clinic's operation. She felt that her clinic met a need that "the race did not recognize" for itself.¹²⁶ She, like other whites in the birth control movement, saw the role of Black leaders and health professionals as facilitating their organizations' efforts among the Black population. They incorporated Blacks in their advocacy to help raise funds and to give legitimacy to the movement's projects in Black communities. But Black members of advisory councils were not invited to participate in national planning, nor were they allowed to manage the clinics that served Black patients.

Despite its limited role, the Harlem Council succeeded in influencing the clinic's approach to issues of race. In addition to the change in the staff's racial composition, the clinic's promotional materials began to respond to the Harlem residents' fears of race suicide and experimentation. For example, the Harlem clinic's pamphlets inserted the word "harmless" in its description of contraceptives and distinguished between birth control and sterilization, emphasizing that birth control is "merely a temporary means of preventing undesired pregnancies."¹²⁷

As the Depression made it increasingly difficult to fund the Harlem clinic, Sanger was forced in 1935 to relinquish the clinic's management to the New York City Committee of Mothers' Health Centers, affiliated with the American Birth Control League. The committee slashed the clinic's services and treated the advisory council with even greater paternalism than Sanger had, prompting council member Mabel Staupers to write, "If the Birth Control Association wishes the cooperation of Negroes . . . I feel that we should be treated with the proper courtesy that is due us and not with the usual childish procedures that are maintained with any work that is being done for Negroes."¹²⁸ The League closed the clinic a year later.

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By the 1940s, eugenics had been discredited both as bad science and as an excuse for racial hatred. Numerous scholars, such as Franz Boas and Otto Klineberg, had demonstrated scientific errors in the movement's theories about inherited traits. The Carnegie Institute rescinded its support for eugenic studies at Cold Spring Harbor in

1939, and Harry Laughlin resigned as secretary of the Eugenics Record Office, marking the end of eugenics as an official social program in the United States. American eugenicists who had initially supported the German sterilization law were shamed by its eventual connection to the Nazi Holocaust.¹²⁹

Along with this repudiation of eugenic theory, the development of the constitutional doctrine of reproductive autonomy and the changing view of mental retardation have spurred a major reform of sterilization law in the last fifty years. The American Eugenics Society changed its name in 1972 to the less offensive Society for the Study of Social Biology, which still publishes the journal *Social Biology*. But the eugenicists' reign had taken its toll. Between 1929 and 1941, more than 2,000 eugenic sterilizations were performed each year in the United States.¹³⁰ It has been estimated that a total of over 70,000 persons were involuntarily sterilized under these statutes.¹³¹ Moreover, the eugenicists' way of thinking about reproduction and social inequality left a lasting imprint on American policy debates.



THE NEW REIGN OF STERILIZATION ABUSE

The last nail was barely in the coffin of eugenic theory before it was revived in the 1960s by genetic explanations of racial differences in intelligence promoted by scientists such as Arthur Jensen and William Shockley. In the early 1970s, Edgar R. Chasteen published *The Case for Compulsory Birth Control* and the well-known biologist Garrett Hardin argued in *Exploring New Ethics for Survival* that supporting children gave the government the right to strip their parents of the capacity to produce more.¹³² The civil rights movement had successfully agitated for legal reforms that gave Black Americans greater access to housing, jobs, welfare benefits, and political participation. The white backlash included a new, more subtle form of social engineering. As mandatory sterilization laws were repealed across the country, Black women fell victim to widespread sterilization abuse at the hands of government-paid doctors.

By World War II involuntary sterilizations in the South had increasingly been performed on institutionalized Blacks. The demise of Jim Crow had ironically opened the doors of state institutions to Blacks, who took the place of poor whites as the main target of the eugenicist's scalpel. South Carolina reported in 1955, for example, that all of the twenty-three persons sterilized at the State Hospital

ver the previous year were Black women.¹³³ The North Carolina Eugenics Commission sterilized nearly 8,000 "mentally deficient persons" in the 1930s and 1940s, some 5,000 of whom were Black.¹³⁴ A study of sterilization in state institutions in North Carolina published in 1950 gives a chilling account of government-sponsored mayhem that continued well into the 1940s.¹³⁵ The State Hospital for Negroes in Goldsboro seems to have been in the grisly business of operating on the Black patients confined there for being criminally insane, feebleminded, or epileptic. Before the war, the hospital had a full-time surgeon on staff. Nearly two hundred men were castrated or given vasectomies at a rate far higher than for white men at other institutions. Men convicted of attempted rape or whom hospital authorities considered unruly were castrated to make them "easier to handle." Because they were not considered intelligent enough, none of the patients was asked for consent. All of the doctors and most of the other hospital staff were white.

But most sterilizations of Black women were not performed under the auspices of the eugenic laws. The violence was committed by doctors paid by the government to provide health care for these women. During the 1970s sterilization became the most rapidly growing form of birth control in the United States, rising from 200,000 cases in 1970 to over 700,000 in 1980.¹³⁶ It was a common belief among Blacks in the South that Black women were routinely sterilized without their informed consent and for no valid medical reason. Teaching hospitals performed unnecessary hysterectomies on poor Black women as practice for their medical residents. This sort of abuse was so widespread in the South that these operations came to be known as Mississippi appendectomies." In 1975, a hysterectomy cost \$800 compared to \$250 for a tubal ligation, giving surgeons, who were reimbursed by Medicaid, a financial incentive to perform the more expensive operation—despite its twenty times greater risk of killing the patient.¹³⁷

Fannie Lou Hamer, the leader of the Mississippi Freedom Democratic Party, informed a Washington, D.C., audience in 1965 that 60 percent of the Black women in Sunflower County, Mississippi, were subjected to postpartum sterilizations at Sunflower City Hospital without their permission.¹³⁸ Hamer had suffered this violation herself when she went to the hospital for the removal of a small uterine tumor in 1961. The doctor took the liberty of performing a complete hysterectomy without her knowledge or consent. This practice of sterilizing Southern Black women through trickery or deceit was confirmed

by a number of physicians who examined these women after the procedure was performed.

Sterilization abuse was not confined to hospitals in the South. In April 1972, the *Boston Globe* ran a front-page story reporting the complaint by a group of medical students that Boston City Hospital was performing excessive and medically unnecessary hysterectomies on Black patients.¹³⁹ Among the charges were: surgeries were performed for "training purposes"; radical and dangerous procedures were used when alternatives were available; medical records did not reflect what had really been done to patients; patients were pressured into signing consent forms without adequate explanation; and doctors treated patients callously, adding to the women's anguish.

In one case, a teenage girl who was twelve weeks pregnant came to the Boston hospital for an abortion. She was told that it was too late for her to have a regular abortion and that a hysterectomy was necessary. When the medical student who observed the operation asked a resident why such drastic action was taken, the resident replied that the doctor "wanted a hysterectomy done for the experience." Another woman was given a tubal ligation without her knowledge following a cesarean section; the doctor falsely listed the procedure as an appendectomy. In response to reporters' questions about the allegations, the chairman of the obstetrics and gynecology department at Boston University Medical School replied that one should not condemn the entire service "because of one bad apple."¹⁴⁰

The director of obstetrics and gynecology at a New York municipal hospital reported similar outrageous practices: "In most major teaching hospitals in New York City, it is the unwritten policy to do elective hysterectomies on poor black and Puerto Rican women, with minimal indications, to train residents."¹⁴¹ A study by Dr. Bernard Rosenfeld of Los Angeles County Hospital released in 1973 confirmed that "doctors in some cities are cavalierly subjecting women, most of them poor and Black, to surgical sterilization without explaining either potential hazards or alternate methods of birth control."¹⁴² "The majority of these women signed a medical consent form, not to be sterilized but rather placing their faith in the doctor to discover and rectify the so-called trouble," explained Naomi Gray of Black Women Organized for Action at a 1974 conference on Black women's health.¹⁴³ Another tactic was to offer tubal ligations to women while they were in labor.¹⁴⁴ In 1968, a group of Black doctors at the Watts Extended Health and Family Planning Group called for federally financed birth control projects to remain under community control.¹⁴⁵

How could doctors who had taken the Hippocratic oath treat their patients so brutally? Doctors confided to author Gena Corea during the 1970s that they believed sterilization was the best way to reduce the undesirable population growth of the poor. Dr. C, chief of surgery at a northeastern hospital, for example, gave Corea his opinion that "a girl with lots of kids, on welfare, and not intelligent enough to use birth control, is better off being sterilized."¹⁴⁶ "'Not intelligent enough to use birth control,'" Corea added, "is often a code phrase for 'black' or 'poor.'" Another doctor explained the justification for violating patients' autonomy: "As physicians we have obligations to our individual patients, but we also have obligations to the society of which we are a part. . . . The welfare mess . . . cries out for solutions, one of which is fertility control."¹⁴⁷

Another doctor who abided by this philosophy was Dr. Clovis H. Pierce, the only obstetrician in Aiken County, South Carolina, who accepted Medicaid patients. Dr. Pierce demanded a different kind of payment from the indigent Black women who came to him to deliver their babies. Marietta Williams, a twenty-year-old Black woman on welfare, charged Dr. Pierce with refusing to deliver her third child unless she allowed him to sterilize her. He also threatened to take her to court if she did not sign the consent form. When Dorothy Waters balked at the suggestion of sterilization during her last visit before the delivery, Dr. Pierce warned her, "Listen here, young lady, this is my tax money paying for this baby and I'm tired of paying for illegitimate children. If you don't want this sterilization, find another doctor."¹⁴⁸ Dr. Pierce ordered one woman who refused the procedure to be discharged from the hospital, but her mother intervened. (The frightened patient ultimately left the hospital on her own.) Dr. Pierce told the local press that his policy was to require sterilization after delivery of a welfare mother's third baby, a measure he said was to reduce the welfare rolls.¹⁴⁹ The doctor sterilized eighteen welfare mothers at Aiken County Hospital in 1972, of whom sixteen were Black. (Pierce had been paid in the preceding eighteen months hospital fees totaling \$60,000 of taxpayers' money.) The Department of Social Services refused to intervene on behalf of these women when they sought government assistance.

Nial Ruth Cox became pregnant in 1964 at age seventeen while living in North Carolina with her eight brothers and sisters and her mother, who were supported by welfare. Ms. Cox reported that, when she turned eighteen, a caseworker told her that because of her "immorality" she would have to be sterilized temporarily or her family

would lose their welfare benefits.¹⁵⁰ The doctor told her that the effect of the procedure "would wear off." Cox's mother consented to her daughter's sterilization under a North Carolina law that allowed sterilization of mental defectives under age twenty-one if their parent consented. Cox underwent the operation, which left her permanently infertile, although there was no evidence that she was mentally defective.

Then came the case that exposed the astounding extent of sterilization abuse. Fourteen-year-old Minnie Lee Relf and her twelve-year-old sister Mary Alice Relf were the youngest of six children of a Black couple living in Montgomery, Alabama. The Relf parents were uneducated farmhands, who survived after migrating to the city on relief payments totaling \$156 a month. In June 1973, nurses from the federally funded Montgomery Community Action Agency asked the Relfs for permission to admit the youngest Relf sisters to a hospital for injections of the long-acting experimental contraceptive Depo-Provera. Mrs. Relf, unable to read or write, signed the consent form with an "X." Apparently believing that their race and poverty made these young girls candidates for birth control, the nurse had been giving them regular shots. But that spring Washington had ordered an end to the hormonal injections when they were linked to cancer in laboratory animals. Instead, the Relfs later learned, their daughters were sterilized.

In July 1973, the Relfs turned to the Southern Poverty Law Center for help and a class action lawsuit was filed in federal court demanding a ban on the use of federal funds for sterilizations. The lawsuit uncovered the shocking magnitude of sterilization abuse across the South. Judge Gerhard Gesell found that an estimated 100,000 to 150,000 poor women like the Relf teenagers had been sterilized annually under federally funded programs.¹⁵¹ A study discovered that nearly half of the women sterilized were Black. In *The Legacy of Malthus*, Allan Chase points out that this rate equals that reached by the Nazi sterilization program in the 1930s.¹⁵²

Health care workers used a variety of tactics to trick or pressure these women into "consenting" to the surgery. Like Nial Cox, some women were coerced into agreeing to sterilization under the threat that their welfare benefits would be withdrawn. Doctors forced others, such as Marietta Williams and Dorothy Waters, to submit to the operation before they would deliver their babies or perform an abortion. The court found that "patients receiving Medicaid assistance at childbirth are evidently the most frequent targets of this pressure."

The case eventually led to the passage of federal guidelines governing sterilizations subsidized by the government.¹⁶³

The coercive sterilizations of Black welfare mothers surreptitiously put into effect the proposals of legislators in several states that had failed to become law. During the 1960s state legislatures considered a rash of punitive sterilization bills aimed at the growing number of Blacks receiving Aid to Families with Dependent Children (AFDC).¹⁶⁴ In 1958, Representative David H. Glass introduced a bill in the Mississippi Legislature entitled "An Act to Discourage Immorality of Unmarried Females by Providing for Sterilization of the Unwed Mother under Conditions of this Act," which provided for the chancery court to order the sterilization of single mothers, most of whom were Black. The bill passed the House by a vote of 72 to 37, but was dropped in the Senate after national protest, which included a pamphlet entitled *Genocide in Mississippi* circulated by the Student Nonviolent Coordinating Committee (SNCC).

The Illinois, Iowa, Ohio, Virginia, and Tennessee legislatures considered similar proposals for the compulsory sterilization of welfare mothers who continue to have children out of wedlock. Although none of the sterilization proposals was enacted, Louisiana and Mississippi succeeded in passing laws making it a crime to give birth to two or more illegitimate children. After surveying a number of these sterilization bills, Julius Paul observed in 1968, "The surgeon's knife (sterilization) still seems to have the same magical quality in the minds of some people for 'saving' America from its shame, squalor, and various miseries of human or social instigation (especially poverty) as it did over sixty years ago."¹⁶⁵

Other women of color were also sterilized at startling rates. For several decades, private agencies, including the International Planned Parenthood Federation, and the Puerto Rican government, with the support of federal funds, waged a crusade to sterilize Puerto Rican women. Women on the island were encouraged to agree to "la operación" by armies of public health workers who offered it at minimal or no cost.¹⁶⁶ Dr. Clarence Gamble, who masterminded the Negro Project in the South, implemented a similar "experiment in population control" in Trujillo Alto, Puerto Rico, from 1950 to 1958.¹⁶⁷ The island-wide sterilization campaign was so successful that by 1968 more than one-third of the women of childbearing age in Puerto Rico had been sterilized, the highest percentage in the world at that time.

A similar effort on Indian reservations during the 1970s left more

than 25 percent of Native American women infertile. In four Indian Health Service hospitals alone, doctors performed more than 3,000 sterilizations without adequate consent between 1973 and 1976. For small Indian tribes, this policy was literally genocidal. One physician reported that "[a]ll the pureblood women of the Kaw tribe of Oklahoma have now been sterilized. At the end of the generation the tribe will cease to exist."¹⁶⁸ It is amazing how effective governments—especially our own—are at making sterilization and contraceptives available to women of color, despite their inability to reach these women with prenatal care, drug treatment, and other health services.

Ironically, while Black, Puerto Rican, and Indian women were being pressured into the operation, white middle-class women found it nearly impossible to find a doctor who would sterilize them. Most hospitals followed the "120 formula" prescribed by the American College of Obstetricians and Gynecologists: "if a woman's age multiplied by the number of children she had totaled 120, she was a candidate for sterilization."¹⁶⁹ Even then, she would need the endorsement of two doctors and a psychiatrist. Under this formula, a woman with three children would not become eligible until she reached age forty, and having no children would absolutely bar a woman from being sterilized.

Doctors' reluctance to sterilize middle-class white women continues today. Law professor Ruth Colker tells the story of her law school classmate who decided to be sterilized.¹⁶⁰ The university physician refused to allow her to undergo the procedure unless she agreed to attend several sessions with a psychiatrist, presumably to dissuade her from her decision. Professor Colker recognizes that the "physician's actions reflect the dominant social message—that a healthy (white) woman should want to bear a child." Indeed, the physician seemed to think that a white woman who decides not to have children must be suffering from some mental disorder.

The disparate experiences of women of color and white women led to a clash of agendas concerning sterilization. In the late 1970s, a group of women activists formed the Committee to End Sterilization Abuse and introduced in the New York City Council guidelines designed to prevent coercive sterilization. Their work served as a model for federal sterilization reform. The guidelines had two key provisions: they required informed consent in the preferred language of the patient and a thirty-day waiting period between the signing of the consent form and the sterilization procedure. The group also wanted

les to prevent the practice of obtaining consent during labor, immediately after childbirth or an abortion, or under the threat of losing welfare benefits.

In the eyes of birth control advocates seeking to make it *easier* for white women to obtain voluntary sterilizations, however, these requirements looked like further roadblocks in their path. Representatives of the National Abortion Rights Action League (NARAL) and Planned Parenthood testified *against* the New York and national guidelines.¹⁶¹ In 1970, a pro-sterilization coalition composed of the Association for Voluntary Sterilization, Zero Population Growth, and the American Civil Liberties Union (ACLU) launched Operation Lawsuit to challenge hospitals' refusal to perform elective sterilizations. Within two years, women seeking elective sterilizations brought twelve lawsuits against hospitals across the country.¹⁶² One plaintiff was Janet Stein, a twenty-seven-year-old mother of three whose request for voluntary sterilization was refused by a New York hospital.

Some pro-sterilization organizations had their roots in the eugenics movement. The Association for Voluntary Sterilization, for example, can be traced back to the Sterilization League of New Jersey, founded in the 1930s. By 1950, it had become a national organization known as the Human Betterment Association. When it shifted its political allegiance from the repudiated eugenics movement to the burgeoning birth control movement in the 1960s, it changed its name to emphasize its support for voluntary rather than compulsory sterilization.¹⁶³ Most of the organizations that opposed sterilization reform had no eugenic motive; they simply failed to understand the concerns of the poor minority women. Focusing on the obstacle the regulations would pose to middle-class white women, they ignored the ravages on minority women's bodies the new law would help to prevent. They mistakenly believed that protecting women's right to use birth control meant challenging any restrictions on access to birth control. They wrongly believed that any criticism of sterilization would give support to the enemies of women's reproductive choice. But there is nothing contradictory about advocating women's freedom to use birth control while opposing coercive birth control practices. The focus on the interests of white privileged women led to a myopic vision of reproductive rights.

In 1978, the Department of Health, Education, and Welfare issued rules restricting sterilizations performed under programs receiving federal funds, such as Medicaid and AFDC. The rules adopt the informed consent and thirty-day waiting period requirements advo-

cated by the Committee to End Sterilization Abuse. They also prohibit hysterectomies performed for sterilization purposes, as well as the use of federal funds to sterilize minors and mentally incompetent and institutionalized persons.

The federal regulations, however, have not stopped the sterilization abuse. In the absence of any civil or criminal sanctions or monitoring mechanism, the rules are often ignored. Court cases alleging medical malpractice against the physician provide for only limited damages. Nor do the regulations prevent physicians and other health care workers from urging women of color to consent to sterilization because they think these women have too many children or are incapable of using other methods of birth control. A study conducted by the ACLU shortly after the regulations went into effect discovered that many hospitals were blatantly defying the law.¹⁶⁴

Although sterilization is the leading method of birth control in the United States, its use is especially widespread among Black women. Data collected from the 1988 National Survey of Family Growth and 1990 Telephone Reinterview, the most recent national estimates of contraceptive use in the United States, show a dramatic racial differential. Between 1982 and 1990, Black women were less likely than white women to use contraception, but those who did were significantly more likely than their white counterparts to be sterilized (41 percent compared with 27 percent).¹⁶⁵ In 1990, some 24 percent of Black women had been sterilized while only 17 percent of white women had undergone the operation.¹⁶⁶ The racial disparity in sterilization cuts across economic and educational lines. One study found that 9.7 percent of college-educated Black women had been sterilized, compared to 5.6 percent of college-educated white women.¹⁶⁷ The frequency of sterilization increased among poor and uneducated Black women. Among women without a high school diploma, 31.6 percent of Black women and 14.5 percent of white women had been sterilized. In an eighteen-year study of low-income Black women in Baltimore who gave birth as teenagers, University of Pennsylvania sociologist Frank Furstenberg and two other researchers discovered that 56 percent had been sterilized at a relatively young age.¹⁶⁸

Current government funding policy continues to encourage sterilization of poor women. The federal government pays for sterilization services under the Medicaid program, while it does not make available information about and access to certain other contraceptive techniques and abortion. In effect, sterilization was for decades the only publicly funded birth control method readily available to poor women

of color.¹⁶⁹ As I discuss in the next chapter, the government has recently added Norplant, a form of temporary sterilization, to its arsenal. The selective funding of birth control options takes place within a broader context of misdirected government priorities that emphasize free family planning as a solution to poverty rather than the general improvement of community health.

BIRTH CONTROL AS RACIAL GENOCIDE

The debate among Blacks over birth control, which began in the 1920s, persisted over the ensuing decades. In an article appearing in 1954 in the popular Black magazine *Jet*, Dr. Julian Lewis, a former University of Chicago professor, criticized Planned Parenthood's work in the Black community and warned that the wide-scale practice of birth control would lead to "race suicide."¹⁷⁰ Nearly twenty years later, in a controversial cover story in *Ebony* magazine entitled "My Answer to Genocide," Dick Gregory advocated large Black families as insurance against Black extermination. Gregory was especially wary of white people's motives underlying the promotion of family planning:

For years they told us where to sit, where to eat, and where to live. Now they want to dictate our bedroom habits. First the white man tells me to sit in the back of the bus. Now it looks like he wants me to sleep under the bed. Back in the days of slavery, black folks couldn't grow kids fast enough for white folks to harvest. Now that we've got a little taste of power, white folks want us to call a moratorium on having children.¹⁷¹

Gregory's views were not an aberration. A number of articles in both the white and Black press raised the possibility of a plot to eliminate Blacks through birth control services. Two studies by William Darity and Castellano Turner, published in the *American Journal of Public Health* in 1972 and 1973, showed a widespread worry among Blacks that family-planning programs were a potential means of racial genocide, especially if the programs provided sterilization and abortion and were run by whites.¹⁷² One reported that nearly 40 percent of Blacks surveyed believed that these programs were a scheme to exterminate Blacks. These fears were most prevalent among young, uneducated males in the North.

During the 1960s and 1970s, Black nationalists increasingly adopted the theory that birth control was a form of genocide. The Nation of Islam vehemently opposed birth control as a deliberate white strategy to deplete the Black population. A cartoon in *Muhammad Speaks* depicted a Black woman in an advanced state of pregnancy standing in a jail cell, with the caption: "My Only Crime Was Refusing to Take Birth Control Pills."¹⁷³ Another showed a bottle of birth control pills marked with a skull and crossbones. The Black Power conference held in Newark in 1967, organized by Amiri Baraka, passed a resolution denouncing birth control.¹⁷⁴ The May 1969 issue of *The Liberator* admonished readers that "[f]or us to speak in favor of birth control for Afro-Americans would be comparable to speaking in favor of genocide."

Even more mainstream organizations such as the NAACP and the Urban League reversed their earlier support for family planning as a means of racial progress. As head of Operation PUSH, Jesse Jackson in 1972 questioned the timing of the government's interest in family planning for Blacks, noting that its growth "simultaneously with the emergence of blacks and other nonwhites as a meaningful force in the nation and the world appears more than coincidental."¹⁷⁵ Fannie Lou Hamer, who had been sterilized without her consent, also viewed abortion and birth control as a form of racial genocide.¹⁷⁶ Some leaders went further to argue that increasing the Black population was essential for liberation. Marvin Dawes, leader of the Florida NAACP, asserted, "Our women need to produce more babies, not less . . . and until we comprise 30 to 35 percent of the population, we won't really be able to affect the power structure in this country."¹⁷⁷

Numerous Black women challenged the characterization of birth control as a form of genocide, as well as the "strength in numbers" argument. By the 1940s, Blacks were visibly organizing to increase the availability of birth control in their communities. At its national meeting in 1941 the National Council of Negro Women created a standing committee on family planning and passed a resolution requesting every Black organization to include family planning in its agenda "to aid each family to have all the children it can afford and support but no more—in order to insure better health, security and happiness for all."¹⁷⁸ This was the first time a national women's organization officially endorsed birth control. Black women's groups were also asserting greater independence from the white-dominated mainstream organizations such as Planned Parenthood. In a speech addressed to Planned Parenthood in 1942, Dr. Dorothy Ferebee admonished her