The discourse of conflict: A new reading of court-ordered Cesareans


Despite modern medicine's emphasis on patients' rights and autonomy, paradigms meant to ensure patients receive the respect and consideration they deserve during their medical care, women's ability to control their reproduction and birthing in the U.S. remains insecure. Ever since the 1970s, women whose goals of vaginal labor and delivery have appeared to conflict with the rights of others--namely, their fetuses' and their physicians'--have been court-ordered to undergo Cesarean section deliveries, and are sometimes compelled into compliance with the use of physical force. "The Discourse of Conflict" analyzes this phenomenon through the historical and contemporary medical practices and legal paradigms that have coalesced to allow for the issuance of court-ordered Cesareans. Through a feminist post-structural lens, it focuses on the discourses employed in the medical, legal, and popular realms that, along with institutionalized practices, have worked to create powerful normative expectations for pregnancy and birthing that allow women little choice in the trajectory of their care. This dissertation argues that when women resist or reject their physicians' recommendations of surgical deliveries, they are positioned in specific ways that signify their transgressions, prevent alternative explanations for their decisions, and naturalize the need for legal force. Within the clinical realm, such women are framed as noncompliant patients who irrationally reject physician expertise and modern medical care. When their cases of noncompliance are presented to a judge and a court order is issued, they are represented as irresponsible mothers and citizens. Together with concomitant depictions of rational authority figures and victimized fetuses, the imagery constructs a hopelessly flawed individual who is in need of intervention. In addition to the symbolic and real costs for women--the majority of whom are women of color--the problem with this practice and its focus on "poor" decisions and "bad" behavior obscures a far larger set of problems within healthcare and law: the ongoing and troubling presence of raced and classed meaning, and the centrality of "defensive" obstetrical practices that have pushed the national Cesarean rate to 32 percent. Without changes, these systemic problems layered with entrenched discourses will ensure obstetrical court orders will continue in the future.

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