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# A Feminist Oversight: The Reproductive Rights of Women in Prisons

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A FEMINIST OVERSIGHT: THE REPRODUCTIVE RIGHTS OF INCARCERATED  
WOMEN

A thesis submitted in partial fulfillment of the requirements  
for the degree of  
Master of Humanities

By

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I HEREBY RECOMMEND THAT THE THESIS PREPARED UNDER MY SUPERVISION BY Rebecca Marie Burgan ENTITLED A Feminist Oversight: The Reproductive Rights of Incarcerated Women BE ACCEPTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF Master of Humanities.

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## ABSTRACT

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Historically, the value of a woman has been based on her ability to produce healthy and successful (male) children, leaving little room for worth based on intelligence or other achievements. Second wave feminists made significant strides for women's reproductive choices, acknowledging that motherhood is not the only way for a woman to have fulfillment or value. While women throughout the United States have more access, opportunity, and choice, women in United States prisons have not benefited from the same advancements in reproductive freedom. The denial of women's reproductive freedoms in prison can be attributed to the high costs of pregnancy care, the common assumption that prisoners do not deserve rights, and to ensure that their children eventually contribute to the labor force provided by prisoners. Despite their commitment to earning autonomy for all women over their own bodies, many feminists have overlooked the exploitation of incarcerated women and their children.

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## I. INTRODUCTION

*“To imprison a woman is to remove her voice from the world, but many female inmates have been silenced by life long before the transport van carries them from the courthouse to the correctional facility.” – Wally Lamb (qtd. in Willingham, 2011, p. 55)*

Susan Moss knew that she was pregnant when she entered the state correctional institution in Niantic, Connecticut for stabbing and killing her husband (Watterson, 1996). She told the guards that she was pregnant immediately when she arrived, but they ignored her requests for medical attention and told her that spotting happens to everyone, and was not an issue with her pregnancy (Watterson, 1996). After ten days of increased bleeding, she “aborted right in the cell” (Watterson, 1996, p. 133). The prison doctor sent her an ice-pack to place on her stomach, and a nurse did not come to her cell until the day after she passed the baby (Watterson, 1996). She was then given milk and vitamins, but it was already too late (Watterson, 1996).

Approximately 6 to 11% of women enter United States prisons pregnant, or become pregnant after they arrive (Clarke, Rosengard, Rose, Herbert Peipert, & Stein, 2006). Many of their experiences are similar to that of Susan Moss, in that they are not given proper healthcare, or even the proper nutrients to sustain a pregnancy. Miscarriages are common, and if the woman does have a full-term pregnancy, her child is at risk for many health and developmental problems. As a result of the risks posed by pregnancy in prison, many inmates would benefit from the ability to prevent or end

pregnancy through the use of birth control and abortions, but these reproductive health options are not afforded to incarcerated women. Despite the importance of gaining reproductive rights for women within the feminist movement, feminists have not been motivated to advocate for the same rights for women in prisons.

Women are denied reproductive rights in prison for a number of reasons, including exorbitant healthcare costs, the desire to keep women and criminals at the bottom of a social hierarchy, and a need for laborers within the prison industry. Underlying all of these causes are efforts, however conscious, to keep racial minorities marginalized by their disproportionate criminalization and imprisonment to that of white women and men (Collins, 2010). The denial of reproductive healthcare and the inability to choose whether to use birth control or have an abortion have left many women in United State prisons in a position where they are forced into motherhood, and subsequently denied the right to raise their children. As a result, the children of incarcerated women often experience developmental and behavioral problems that heighten their chances of entering the cycle of imprisonment themselves (Covington, 2003). The reproductive rights that incarcerated women are denied every day – adequate reproductive healthcare, the right to choose if, when, and how to have a child, and the right to make choices for the well-being of themselves and their children – are rights that white, middle-class feminists have struggled through many waves to earn for themselves.

While women have been struggling to attain equal rights for centuries, feminism first became a movement in the United States towards the end of the nineteenth century, in what later became known as the “first wave” of feminism (MacLean, 2009). While many first wave feminists were active in the abolitionist and temperance

movements, they were primarily middle- and upper-class white women who fought for entrance into the public sphere and the right to vote. Toward the end of the first wave, women began to make strides for women's reproductive health, but even Margaret Sanger, who devoted her life to legalizing birth control, did so for primarily eugenic purposes (Carey, 2012). First wave feminists were active in the years leading up to the passage of the 19<sup>th</sup> Amendment, and while they continued to fight for women's rights in the years following, their achievements were often overshadowed by United States events like the Great Depression, World War II, and the Red Scare (MacLean, 2009).

As a result, when women's rights came to the forefront of the nation's attention again during the 1960's, it seemed as if feminism had arisen again like a "tidal wave" of activism, or the second wave of feminism (MacLean, 2009, p.3). The second wave was characterized by women's struggle for autonomy over their bodies and sexual decisions, as well as women's efforts to find satisfaction outside of motherhood and the domestic sphere (MacLean, 2009). Second wave feminists were active during, and heavily influenced by the Civil Rights movement, but they were criticized for their lack of inclusiveness of women of color.

By 1990, the activism of feminists of color led to movements like Black Feminism, which took into account the experiences of women at the intersection of race and gender, and fought for their unique interests. Black feminists understood that "because women of color experience racism in ways not always the same as those experienced by men of color and sexism in ways not always parallel to experiences of white women, anti-racism and feminism are limited, even on their own terms" (Crenshaw, 1997/2010, p. 485). During the same period of time, a new generation of



middle-class, white feminists emerged – the third wave – who had a different relationship to feminism, as most of them had grown up with the rights that the first two waves had worked to attain (MacLean, 2009). Third wave feminists were heavily influenced by the criticisms of Black feminists and other feminists of color, and therefore, adopted inclusion as one of the primary goals of the third wave. Despite efforts of the third wave to overcome the oppression of all women, as well as to value the interests and experiences of all women, there is a large population of lower-class women and women of color still lacking reproductive rights within United States prisons.

This thesis will begin with a historical exploration of the feminist movement, specifically in relation to the inclusion of women of color and the efforts to gain reproductive rights for women. It will then examine the lack of reproductive rights afforded to incarcerated women, which can be attributed to the high cost of inmate healthcare, the desire for social control over women and criminals, and the need for labor in the profit-driven prison industry. The thesis will also look at the effect that a lack of rights for women in prison has on the continued marginalization of women of color and their children. Finally, it will analyze the shortcomings of feminist efforts to put an end to the injustices experienced by women in prisons.

White, middle-class feminists have not become active in the movement for prison reform because they have been heavily influenced by the status of prisoners in public society and they have not had exposure to the issue through channels like the media and academic discourse. Despite the importance of inclusiveness to third wave feminists, they also lack self-interest in prison reform because of its disproportionate impact on women of color. It is important that third wave feminists lead the effort for prison reform

in the United States. Even though the white, middle-class women who make up much of the third wave are not directly impacted by imprisonment to the extent of low-income women of color, the denial of reproductive rights to any woman threatens the rights that feminists have struggled for centuries to attain.

## II. FEMINIST THEORY

### INTERSECTIONALITY

During the first wave, feminists were heavily criticized for their lack of attention to the multiple oppressions that women of color faced. At the Seneca Falls Convention in 1848, which is remembered as one of the most important moments in first-wave feminist history, Elizabeth Cady Stanton (1848/2010) spoke the words “we hold these truths to be self-evident: that all men and women are created equal” (p. 67). While her argument was progressive, women of color felt excluded from the feminist movement because black women were still enslaved in the South. During the first wave, there were a number of white women abolitionists, as well as a number of black women’s rights advocates. However, most women who considered themselves feminists were elite, white women, focused on interests like the right to vote, which was not viewed as attainable for enslaved black women who were not yet considered citizens of the United States legally or in public opinion.

Three years after the Seneca Falls Convention, Stanton and other first-wave feminists were publicly criticized for overlooking women of color when Sojourner Truth (1851/2010) gave her infamous “Ain’t I a Woman?” speech, in which she argued for a place within the Women’s Rights movement. Truth (1851/2010) asserted that she and other women of color may not have the same life experiences as white women, but they

deserve the same rights and the recognition that, though different, women of color are women, too. Despite being urged by women of color to expand their interests, first wave, white feminists continued to focus on and achieve their own self-interests, such as the right to an education, the right to vote, and entering the public sphere more completely.

As middle-class, white feminists began making progress toward equal access to jobs and control of their bodies during the second wave, their progress led to “liberation theories” being formed within the discourse of female criminality (Pollock-Byrne, 1990). These theories suggested that crime was becoming more widespread and violent among women because the Women’s Liberation Movement had motivated women to commit crimes that were viewed as masculine in nature (Pollock-Byrne, 1990). Not only was liberation argued to have given women more motivation to commit crime, but criminologists like Freda Adler and Rita Simon proposed that the Women’s Liberation Movement provided women with more access to crime (Sudbury, 2003). For example, they believed that women’s increasing arrest rates for new types of crime like “fraud and embezzlement” could be attributed to newfound opportunities for women in the workforce to achieve business and management positions (Sudbury, 2003/2012, p. 453).

In reality, in 2012, the greatest percentage of arrests for women remained prostitution, at 67.7% (Federal Bureau of Investigation [FBI], 2012). While fraud was one of the top five causes for women’s arrests, it was usually in the form of welfare fraud, as opposed to corporate fraud committed by liberated business-women (Lahm, 2013). Adler and Simon’s liberation theories have also been disproved by the nature of the violent crimes that women commit. When women are arrested for violent crimes like murder and assault, the victims are most often their children or their significant others,

which demonstrates that women are still largely confined to the domestic sphere and are not motivated to commit new crimes based on new liberation (Lahm, 2013). Sudbury (2003/2012) argues that another major problem with liberation theories is that they blame women's arrests on their criminality, rather than outside influences like poverty, thus victim-blaming and further marginalizing the low-income women of color who make up the majority of the population of women in prisons.

Liberation theories that overlooked the marginalization of women of color persisted, however incorrect they were, because many second-wave feminists felt that women needed to argue for their own self-interests in order to achieve equality with men. For example, on the issue of sexual and reproductive health, feminists fought for the right of women to make their own decisions and demand that their own needs be met (Folbre, 2004). They acknowledged that men used their individuality and own self-interest in order to assert power over women, and some feminists felt that it was important for women to learn to assert themselves in the same way (Folbre, 2004). Even though sexual and reproductive repression is an issue that all women faced, there was an understanding by many women that these issues needed to be overcome individually.

As a result, during the second wave, black feminists and other feminist women of color criticized mainstream feminism for its exclusiveness. These women united in their call for racial equality within a movement that stood for the equality of all women. In the opening of *This Bridge Called My Back*, a collection of feminist writings by women of color, editors Cherrie Moraga and Gloria Anzaldúa (1983) stated:

We are the colored women in a white feminist movement.

We are the feminists among the people of our culture.

We are often the lesbians among the straight. (p. 23)

These women of color argued that they had perspectives that would be valuable to women as a whole because they experienced not only oppression as women, but multiple interlocking systems of oppression in the form of race, class, ethnicity, and sexuality.

Pauli Murray (1964/2009) explained the difficult position of being a woman of color stuck at the intersection of discrimination based on her race and gender. Murray (1964/2009) used the example of the workplace discrimination that the civil rights bill was supposed to overcome for all black people. She argued that women are not truly included in the bill because an employer could fail to hire them based on their gender, or rely on their gender as an excuse if their race was the true issue (Murray, 1964/2009). Murray's example provided the perfect reasoning for why inclusiveness should be a primary goal for feminists and all human rights organizations. Because women of color are marginalized in multiple ways, it is easy for them to be left out of the communities of identity and activism in which they belong.

The idea of earning rights for women with all varieties of life experiences also began to be acknowledged in theory written by radical, white feminists of the second wave, like the Redstockings group. The *Redstockings Manifesto* called for white feminists to expand their interests to include "that of the poorest, most brutally exploited woman" (Redstockings, 1969/2010, p. 183). They also argued that it is racial and economic privileges, which have been enabled by patriarchy, that have caused such a great divide between women.

Since women of color and radical, white, anti-racist feminists of the second wave started speaking out, inclusivity and intersectionality have become central issues of

importance in most of third wave theory. Kimberlé Crenshaw coined the term “intersectionality” in 1989 because she observed first-hand how women of color were marginalized not just because of their gender, but also because of their race and other contributing factors such as class or sexual orientation.<sup>1</sup> While women of color have been left out of the feminist movement based on their race, they have also been left out of anti-racist movements based on their gender (Crenshaw, 1997/2010, p.482). One of the primary examples of the exclusion of women of color from multiple human rights movements is JoAnne Gibson Robinson’s involvement in the Montgomery Bus Boycott in 1955 (Rowbotham, 1992).

Robinson was an active member of the Women’s Political Party at Alabama State College, but her efforts to combat the treatment of African Americans on public transportation were continuously ignored by white women in the organization, who did not view this as a reasonable cause (Rowbotham, 1992). Upon Rosa Parks’ arrest, Robinson took matters into her own hands by distributing a leaflet that encouraged African Americans in Montgomery to boycott the buses (Robinson, 1987). Once the leaflets were distributed and the boycott started gaining steam in the black community, Civil Rights leaders in Montgomery appointed Martin Luther King Jr. as the figurehead of the boycott because they felt it was important to have a religious, male leader

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<sup>1</sup> In “‘Home Truths’ on Intersectionality,” Jennifer C. Nash (2011) explains three stages in which intersectionality developed meaning within feminist theory. From 1967 to 1987, intersectionality was a broad concept without a name that focused on the significance of many factors such as race, gender, and sex, in shaping a woman’s experience (Nash, 2011). In 1989, the term “intersectionality” was coined by Kimberlé Crenshaw (Nash, 2011). According to Nash (2011), following 1990, intersectionality became synonymous with black feminism, because the concept had been primarily institutionalized by black feminists who formed organizations and developed theory on the subject. Despite its primary use by black feminists in the early 1990’s, Nash (2011) argues that intersectionality is now widely acknowledged as a theory that incorporates all races and other channels of oppression. Throughout all of its stages, the focus of intersectionality has been to examine how “structures of domination collide to produce experiences of oppression and identity” (Nash, 2011, p. 447).

representing the movement nationally, despite the movement being built on the efforts of women (Robinson, 1987).

Crenshaw (1997/2010) argues that, while identity politics are important for providing community amongst a group of individuals with similar experiences, there are a multitude of identities within each group. She believes that embracing multiple identities and having an “intersectional sensibility” will allow human rights movements to overcome oppression in a more complete way, as opposed to making strides that only impact individual oppressions (Crenshaw, 1997/2010, p. 482). As the third wave has progressed, other feminists have begun to value intersectionality as a means of overcoming oppression as well.

In 1990, Patricia Hill Collins helped create a new place for black women within feminism with her book, *Black Feminist Thought*. Black feminism presents black women as “agents of knowledge” (Collins, 1990/2000, p. 266) – knowledge that they gain from the experience of being marginalized in multiple and unique ways. Collins (1990/2000) argues that knowledge is the greatest tool that marginalized groups have to overcome their oppressors. By valuing the standpoint of separate communities of people, larger communities of oppressed people can be formed with a wider perspective and a greater understanding of the world (Collins, 1990/2000). Black feminism has become an important theory for all women of color not only because Collins and other Black feminists share and theorize about their own lived experiences, but they also understand that the knowledge of other marginalized groups is an equally important contribution to overcoming oppression as a whole. In “Building the Third Wave: Reflections of a Young Feminist,” Laurie Ouellette (1992/2009) observes that poor women of color are still



being excluded from the feminist movement. She argues that the main priorities of the third wave should be achieving intersectionality and gaining reproductive rights for all women (Ouellette, 1992/2009). She lays out an agenda for the third wave, in which “insisting upon birth control options for all women, and giving equal energy to addressing the lack of education opportunities, childcare, daycare, and healthcare options fundamental to the campaign for reproductive choice” (Ouellette, 1992/2009, p.165).

Jennifer Baumgardner and Amy Richards (2000/2010) demonstrate the continued importance of intersectionality to the third wave in their thirteen-point *Manifesta* that presents concrete goals for third wave feminists to accomplish. Some of their goals include the reproductive rights to birth control and the choice of whether or not to have a child, overcoming the “double standard in sex and sexual health,” and “equal access to healthcare, regardless of income” (Baumgardner & Richards, 2000/2010, p. 523). They write that the plan is to achieve these goals on behalf of all women, including poor and lesbian women and women of racial minorities.

More than a decade after feminists like Ouellette, Baumgardner, and Richards made their arguments for greater inclusiveness within the third wave, Rebecca L. Clark Mane (2012) argued that third wave feminists are still struggling to overcome a focus on whiteness within theory and discourse. Mane (2012) points out that the interests of women of color have become an important focus within third wave theorizing, but the way that this theory is presented still privileges whiteness and views women of color as “other.” The work of anti-racist feminists has been undermined because, within third wave discourse, feminism is depicted as post-racial, focusing primarily on racism as a historical issue within the women’s movement (Mane, 2012). Third wave feminist

discourse also has a tendency to generalize the theory of women of color as an overall critique on exclusivity and marginalization, without examining the many historical, social, and economic contexts from which these critiques have arisen (Mane, 2012). Mane (2012) quotes Chela Sandoval, who explains that, while the third wave has developed greater inclusion of women of color, they have been included as “a demographic constituency only, and [Black Feminism] not as a theoretical or methodological approach in its own right” (p. 71). The lack of intersectionality within third wave feminism has not only served as a disadvantage to feminist theory, but has also crossed over into other fields of study.

Sudbury (2003/2012) argues that one of the primary reasons that progress has not been made to gain rights for women in prison is that feminist criminologists have failed to take an intersectional approach to their studies. She states that feminist criminologists have been solely focused on gender and sexism within the criminal justice system and have failed to acknowledge the “racial profiling and racialized discrepancies” (Sudbury, 2003/2012, p. 454) that are a major factor in the prison experiences of a great number of incarcerated women. By failing to acknowledge the significance of racial and economic disparities in the criminal justice system, white, middle- and upper-class feminists are complicit in the systematic denial of reproductive rights and the control over women’s bodies, which they fought so hard to overcome for themselves, to continue among the large population of low-income women of color who are incarcerated in the United States today.

## WOMEN'S BODIES AND REPRODUCTIVE JUSTICE

Historically, women have been viewed by the western world as vessels, and recognized as important only for the reproductive capacities of their bodies. In “The Female Animal,” Carroll Smith-Rosenberg and Charles Rosenberg (1973) discuss how early medical professionals’ views about women’s bodies impacted women’s roles in society. Because women have the ability to carry children, motherhood became their sole responsibility and the means by which they were suppressed. Doctors believed that the uterus was directly connected to the brain and all other parts of a woman’s body (Smith-Rosenberg & Rosenberg, 1973). Any ailment that a woman experienced, including headaches and paralysis, were believed to be caused by uterine disease, which could be spurred on by exhaustion or “any imbalance” (Smith-Rosenberg & Rosenberg, 1973, p. 347). As a result, young, middle-class, white women were not supposed to leave the home, even to go to school, because thinking and learning were forms of over-exertion (Smith-Rosenberg & Rosenberg, 1973). It was believed that any energy a woman exerted was taking away from energy that could be used for reproduction.

Early understandings of women’s bodies were not only used to ensure women’s passivity in everyday life, they were also used as a justification of early theories regarding female criminality. Lower crime rates among women than men were explained by women being inherently weaker and unable to commit physical, violent crimes (Pollock-Byrne, 1990). It was also argued that women lacked intelligence, were “emotionally unstable,” and “more submissive” (Pollock-Byrne, 1990, p. 13), which caused them to be tempted into criminal activity by men.

In the late 19<sup>th</sup> century, criminologist Cesare Lombroso published research that he believed connected criminality to a person's physicality (Pollock-Byrne, 1990). Criminal women would possess many more physical defects than a non-criminal woman. Lombroso found that prostitutes, for example, often had characteristics like "heavy lower jaws, large nasal spines, simple cranial sutures, deep frontal sinuses, and wormian bones" (Pollock-Byrne, 1990, p. 11). Prostitutes and other criminal women did not fit into their gender norm because, physically and psychologically, they were thought to develop male characteristics. Lombroso argued that based on evolutionary development, non-criminal men were the most advanced, followed by criminal men, non-criminal women, and criminal women being the least developed (Pollock-Byrne, 1990).

Women of color and lower-class women have had a much different historical relationship to having their reproductive bodies controlled than that of elite white women. Birth control and abortion were originally, and in some instances still, used as methods of controlling the populations of poor and minority communities. During the 1930's, forced sterilization also became a popular method for controlling the populations of economically, racially, and socially marginalized, or "bad," women (Pollock-Byrne, 1990). Pollock-Byrne (1990) explains the reasoning behind sterilization:

The old imagery of the bad woman thus underwent considerable modification and embellishment in the Social Darwinist family studies. They showed her promiscuity to be a matter far more serious than mere personal immorality: the loose woman became a prolific breeder of harlots and a criminal type in her own right. (p. 14)

Pollock-Byrne (1990) demonstrates that there was a fear in the United States that criminal and immoral women would pass these traits to their children, which resulted in many United States citizens feeling a need to keep criminal women from reproducing.

In “The Racial Imperatives of Sex,” Jane Carey (2012) argues that even birth control, which is viewed as a key to women’s reproductive freedom, was popular for its use in progressing the white race. While white, middle-class women were encouraged to produce children within a responsible, familial context, poor women and women of color were forcibly prevented from reproducing. In the 1960’s, the Pill became a popular form of contraception for white women, as it could be taken daily (Kirk & Okazawa-Rey, 2012). Low-income women of color, however, were encouraged to take forms of contraception like Depo-Provera and Implanon, which prevented pregnancy for longer periods, ranging from three months to a year (Kirk & Okazawa-Rey, 2012). These contraceptive options have been aimed primarily at poor, African American, Latino American, and Native American women because they provide longer-term assurance that minority populations will not be able to reproduce (Kirk & Okazawa-Rey, 2012).

In 1970, New York legalized abortions, but some women of color who took advantage of them died of complications or were forcibly sterilized (Nelson, 2001). Poor and minority women also faced complications with birth because of the inadequate pre- and post-natal care with which they were provided (Nelson, 2001). Members of the Young Lords, the Black Panther Party, and other minority political groups made statements arguing that these reproductive issues were proof that “people of color were targets of mass genocide through population control” (Nelson, 2001).

Angela Davis (1991/2010) explains that, throughout the nineteenth century, “...women were being ideologically incarcerated within their biological reproductive role, essentialized as mothers...” (p. 448). Aside from the history of eugenics within the birth control movement, the original intent of birth control was to be used as a family planning tool among wholesome, middle-class, white families (Gordon, 1990). In *Woman’s Body, Woman’s Right*, Linda Gordon (1990) asserts that the primary purpose of birth control was not to prevent motherhood, but to provide for a “healthy, happy maternity” (p.107). By using only natural forms of birth control, women could actually become better mothers because they could control the timing of when they had their children. This timing would allow mothers to give each child the individual love and care that he or she deserved.

Despite the activism for women’s rights surrounding the birth control movement, Gordon (1990) argues that “voluntary motherhood in this time period remained almost exclusively a tool for women to strengthen their positions within conventional marriages and families, not to reject them” (p.113). As a result, women came to be seen as objects, and therefore, unable to make decisions about their own lives and bodies outside of a “conventional marriage” (Gordon, 1990). Because women’s bodies were a major channel through which men asserted their control, gaining bodily autonomy became a major priority of second wave feminism.

During the 1970’s, women began speaking out against the control that men had over their health and reproductive care. In *The Male-Feasance of Health*, A Woman’s Health Collective (1970/2009) brings to light the fact that women make an average of “25 percent more visits to the doctor per year than men,” they use “50 percent more

prescription drugs than men,” and “70 percent of all health workers...are women” (p. 97). Despite this, men fill the majority of doctor and supervisory positions, while women are left in subservient positions like nurses and receptionists (Women’s Health Collective, 1970/2009). A Women’s Health Collective (1970/2009) explains that women leave it up to men to make decisions regarding prescriptions, abortion, childbirth, and even what information about a woman’s health is disclosed to her. The women in A Women’s Health Collective (1970/2009) argue that women patients and women healthcare workers should form an alliance to ensure that the best decisions are made regarding women’s health.

In the past decade, there has been a resurgence of women taking control of their reproductive health by becoming or utilizing midwives and doulas. Women medical professionals are sought out for pregnancy, childbirth, and other reproductive health issues because they are known to advocate for the interests of their women patients. Male doctors are still most widely used for childbirth in the United States, and they have a history of using practices like having women lie on their backs during labor, using forceps, and performing unnecessary C-sections (Kirk & Okazawa-Rey, 2012). All of these methods make delivering a baby easier for the doctor, but do not take into account the ease of labor or safety of the mother (Kirk & Okazawa-Rey, 2012). Despite decades of effort by women to take control of their own reproductive healthcare, men still dominate the medical field.

In *Of Woman Born*, Adrienne Rich (1976) discusses the patriarchal history of childbirth and asserts that women need to regain control of their pregnant bodies and birthing decisions. For most feminists, regaining this autonomy also included the right to

decide if, when, and how she gets pregnant, and whether or not to continue her pregnancy. Despite making progress through legislation like *Roe v. Wade*, the Freedom of Access to Clinic Entrances Act of 1994, and the legalization of over-the-counter sales of the morning after pill, Linda Gordon (1990) foresaw in 1990 that conservative Americans would continue to push for restrictions to access and funding for birth control and abortions. She predicted that the Supreme Court would allow states to individually outlaw abortions, and argued that access to abortion based on a woman's social class would "return to conditions of the 1960's: privileged women will travel to states where abortion remains legal...while more poor women will be injured and will experience enforced pregnancies and childbirth" (Gordon, 1990, p. 486).

While the *Roe v. Wade* decision still prevents states from fully banning abortions, the federal government and many states have passed restrictive legislation that makes abortion illegal and less accessible in a growing number of circumstances. For example, on January 28, 2014, the United States House of Representatives passed the No Taxpayer Funding for Abortion Act (Bassett, 2014). This act prevents new Affordable Care Act insurance plans from covering abortions, and restricts states from allocating "privately-raised funds to subsidize abortion care for low-income women" (Bassett, 2014, para. 2). Despite the name of the act, it was already made illegal to use taxpayer funding for abortions under the Hyde Amendment, which was passed in 1977 (Kirk & Okazawa-Rey, 2012). As predicted by Gordon (1990) almost 25 years ago, the growing restrictions on birth control and abortion have not had a wide-ranging effect on middle-class, white women, who do not need subsidies and taxpayer help in funding their abortions. The legislation does, however, make abortion less attainable for low-income women of color.



The women in prisons are overwhelmingly poor, African American, Latina, and Native American (Sudbury, 2002). By looking at how birth control, abortion, and reproductive rights were historically treated in these communities, it would seem that prisons would be pushing for their inmates to have access to these methods of population control. In reality, incarcerated women are routinely denied access to birth control, and when they do become pregnant in prison, they are not afforded the right to choose an abortion or the right to proper pre-natal care to ensure a successful pregnancy.

### III. REPRODUCTIVE RIGHTS IN PRISONS

It is not uncommon for women to enter into prison pregnant or to become impregnated while incarcerated. The number of pregnant women in prisons fluctuates between 6 and 11% of incarcerated women (Clarke, et al., 2006). Even though women are imprisoned with only female inmates, there are still opportunities for them to become pregnant while incarcerated. Apart from the six states that still allow conjugal visits for inmates, a study of sexual victimization in prisons and jails in 2008 reported that “female inmates [are] disproportionately victimized by both other inmates and staff,” as opposed to male inmates (Guerino & Beck, 2011, p. 1).

In 2003, the Prison Rape Elimination Act (PREA) was passed in the United States in order to gather information about sexual abuse within prisons, which would in turn be used to combat this abuse (Kirk & Okazawa-Rey, 2012).<sup>2</sup> In 2011, PREA data reported that there were 902 substantiated acts of sexual victimization in both women’s and men’s state prisons that were reported by the prison staff (Beck, Rantala, & Rexroat, 2014). As of 1999, however, there have been only 23 lawsuits against correctional institutions for sexual misconduct towards female inmates by male staff members (Worley, Marquart, & Mullings, 2011).

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<sup>2</sup> One major problem with the PREA data is that the first study that was conducted “‘focused solely on prisoner-on-prisoner assaults in male prisons’” (qtd. in Kirk & Okazawa-Rey, 2012, p. 422), completely overlooking staff-on-inmate assaults and assaults in women’s prisons (Kirk & Okazawa-Rey, 2012). The oversight of women’s prisons in the PREA data has been corrected in more recent years, but the gap in the data collection from 2003 remains.

The Rape, Abuse, and Incest National Network [RAINN] (2009) estimates that five percent of rapes will result in pregnancy. RAINN (2009) does acknowledge that there are multiple factors that could either raise or lower this percentage. For example, the number of pregnancies could be lowered by the type of rape that is committed (not all being possible to result in pregnancy), the rapist wearing a condom, or medical issues that prevent the victim from becoming pregnant (RAINN, 2009). The number could be raised by multiple instances of intercourse between the same rapist and victim, which was not accounted for in the original study (RAINN, 2009). While five percent is a small number, sexual abuse is a definite contributing factor for women becoming pregnant inside of prisons, especially when the incarcerated women are denied contraception.

Women prisoners have also been known to seek out sexual relationships with staff members in order to gain more control of their environment (Worley et al., 2011). Inmates rely on relatives outside of prison to fund their commissary accounts, but women often do not have family and friends who can afford to or want to support them while in prison (Chammah, 2012). As a result, some inmates use their relationships with guards in order to barter for goods like snacks or cigarettes, to fill the sexual void that prisons cause, or to attain more lenience with the prison rules (Worley et al., 2011). Regardless of why sex takes place between inmates and staff, as well as which party truly has the power in the relationship, these sexual encounters are seldom reported because of their illicit nature. Because inmates and staff fail to report sex in prisons, the issue remains largely invisible, leaving little evidence to substantiate any need for sexual health programs or contraception for inmates, as well as allowing sexual abuse and the exploitation of incarcerated individuals to continue.

Despite growing evidence of a need for contraception in prisons, birth control is not provided to incarcerated women. An American Civil Liberties Union [ACLU] (2012) report on all of the prisons in Pennsylvania revealed that not a single woman was allowed to use contraception during her imprisonment as a means of preventing pregnancy. This was also a policy in all of the county jails, despite women's short-term stays and the increase of pregnancy risk that accompanies inconsistent use of contraceptives (ACLU, 2012).

Once a woman in prison is pregnant, possibly due to the unavailability of birth control, the rights that she has during her pregnancy fail to provide her with choices about how her own body and her child are handled. For instance, incarcerated women are often denied access to abortions during their pregnancies.<sup>3</sup> Even though United States laws are in place to provide these services to women prisoners, they are often ignored because of high costs, lengthy legal processes, and geographic inaccessibility. It is difficult and expensive for women to get permission and transportation to go to an abortion clinic in the city (Roth, 2010). Most prisons are located in rural areas because there is more space to house large prison campuses, and rural communities often have an interest "in securing prisons as a means of economic development" (Jensen, Gerber, & Mosher, 2004/2011, p. 387). Most states have one prison facility for women, at most, so it is possible that a

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<sup>3</sup> There is an overwhelming abortion stigma in the United States that not only dissuades women from choosing abortion as an option, but could also be a reason why prison staff prevent abortions in their prisons. Norris, Bessett, Steinberg, Kavanaugh, De Zordo, and Becker (2011) describe how abortion providers are known to be harassed, and even murdered because of the stigma surrounding their work. They interviewed many people affected by the abortion stigma, and discovered that abortion providers suffer from "stress, professional difficulties..., fear about disclosing one's work in social settings, and burnout" (Norris et al., 2011, p. 5). Norris et al. (2011) found that even people associated with women who obtain abortions or abortion providers are affected by the stigma to a certain degree. These abortion supporters have reported feelings of "ambivalence, guilt, sadness, anxiety, and powerlessness" (Norris et al., 2011, p. 6). It is possible that people making decisions to approve or deny abortions for incarcerated women could be motivated by a desire to avoid the effects of abortion stigma in their own lives.

woman could have to travel across an entire state in order to attain an abortion while being imprisoned. Geography places added financial strain on an inmate seeking an abortion because they often are responsible for paying the cost of transportation and increased security measures needed to leave the prison grounds (Roth, 2010).

In some prisons, women must be heard before a judge in order to get permission to leave for an abortion (Roth, 2010). The process for being heard before a judge is often so arduous and time-consuming that by the time a woman's case is accepted, it is too far into the pregnancy for an abortion to be a viable option (Roth, 2010). Other prisons require that women have a friend or family member make the arrangements for the abortion, which potentially interferes with a woman's right to keep her abortion private (Roth, 2010).

In "Incarcerated Women and Abortion Provision," Sufrin, Creinin, and Chang (2009) describe a situation in which being incarcerated made one woman's abortion particularly difficult. The woman was being held in a Missouri prison and made an official request for an abortion approximately nine weeks into her pregnancy (Sufrin et al., 2009). Her request was denied because the Missouri Department of Corrections did not allow prisoners to be transported to an abortion clinic unless it was medically necessary (Sufrin et al., 2009). According to Sufrin, "by the time she had been informed of the policy, reached legal counsel, sought an emergency court order and defeated two attempts by the state to appeal the emergency order, nearly two months had elapsed" (Sufrin et al., 2009, p.6). The woman's case was taken to court in 2007, and although the court ruled in her favor, attitudes about the rights of incarcerated women were revealed. In his opening statement, the counselor arguing against the woman stated, "A woman's

right to an abortion is fundamentally inconsistent with incarceration” (qtd. in Sufrin et al., 2009, p. 6). This statement demonstrates the widely held belief that prisoners have sacrificed their basic human rights, and for women, this includes their reproductive rights.

In 2004, 4.1% of women self-reported that they were pregnant upon entering prison (Maruschak, 2008). Despite this, the prenatal care needs of incarcerated women are often not addressed. When a pregnant woman enters prison, it is highly possible that she suffers from a substance addiction. As soon as women enter prison, pregnant or not, they face “forced withdrawal” from any substances they abused prior to their conviction (Pollock-Byrne, 1990, p. 64). Experiencing withdrawal while pregnant can be extremely harmful to a woman’s fetus, and sometimes results in a miscarriage (Pollock-Byrne, 1990). Most prisons also do not offer the nutritional options that women need to develop a healthy baby (Pollock-Byrne, 1990). The prisons continue to provide starch-heavy diets and do not offer pre-natal vitamins, which can lead to health complications for the child (Pollock-Byrne, 1990). If a woman is able to carry her pregnancy to term inside of prison, she faces even more dangerous circumstances when it comes time to give birth.

In “Obstructing Justice,” Rachel Roth (2010) discusses how incarcerated women have reported starting their contractions, but not being allowed to see a nurse or receive medical attention because of prison procedures such as the count or lockdowns. When incarcerated women are transported to a hospital for childbirth, they are often restrained, even if they are not violent offenders (Amnesty International, 2000). Using restraints on women during childbirth can cause unnecessary pain and be dangerous because it does not allow the woman to change positions for easier birthing, or allow her to be easily

transported to an operating room if complications occur (Amnesty International, 2000). Because of these factors, many incarcerated women report having stillbirths and premature births, often resulting in death or disability (Roth, 2010).

Even after giving birth, women who have been transported out of prison to a hospital are subject to vaginal searches when they return to prison, despite their heightened risk of infection (Pollock-Byrne, 1990). Incarcerated women also face immediate separation from their newborns in most cases, and therefore have no control over decisions made for their new child (Pollock-Byrne, 1990). Knowing that she will probably not receive proper medical care during and after her pregnancy in prison, woman may see abortion as a beneficial option to avoid harming herself or her baby. However, as already discussed, many women prisoners are not afforded the reproductive right to make this decision.

One of the most well-known accounts of a woman experiencing pregnancy and childbirth in prison is that of Assata Shakur. Shakur was an active member in the New York chapter of the Black Panther Party who was imprisoned in 1973, and eventually convicted, for the murder of a state trooper in a shoot-out on the New Jersey Turnpike. Shakur (1987) was also on trial for an armed robbery, and as a result of an oversight on the part of her guards, was detained during her trial in a private cell with her supposed robbery accomplice, Kamau. In her autobiography, Shakur (1987) explains how she and Kamau were grateful for the opportunity to be alone with someone they knew well and cared for, after spending so much time isolated within their prison walls. They both had a strong desire for the emotional and sexual intimacy that prison denied them, so they took advantage of being detained together, and Shakur (1987) was impregnated. When she

first discovered that she was pregnant, Shakur (1987) tried to notify the prison doctor, but he continually insisted that she was merely constipated. Further into her pregnancy, Shakur (1987) experienced intense pain and weakness, so she tried to consult the prison doctor again. He informed her that she was at a high risk of having a miscarriage, but “it’s probably nothing serious” (Shakur, 1987, p.126). The doctor’s instructions were to relax in her cell for a while, “and if you go to the bathroom and see a lump in the toilet, don’t flush it. It’s your baby” (Shakur, 1987, p.126).

About a month into her pregnancy, Shakur (1987) was given permission by a judge to have a visit from her own gynecologist, who ensured that she was immediately transported to the hospital. While there, her feet were kept shackled to the bed, and she was continually guarded with guns at the ready (Shakur, 1987). She was served pork daily, and began to starve because her Islamic faith prevented her from eating it (Shakur, 1987). When Shakur (1987) went into labor, there were police and media surrounding the hospital, and two officers were ordered to be in the room with her while she gave birth. There were also demonstrations outside of the hospital, fighting for Shakur (1987) to have the right to choose the doctor who delivered her baby. Her daughter, Kakuya, was born at 4:00 a.m., and Shakur was transported back to the prison and separated from her daughter later that day (Shakur, 1987).

Shakur’s trial and imprisonment were heavily documented throughout the 1970’s in news media and in Shakur’s autobiography *Assata*. She gained even more publicity after her escape from prison, being the first woman to make the FBI’s Most Wanted Terrorist list, and having a \$2 million reward offered for her capture. She has also had her story spread by popular members of the rap community, like Common and her nephew



Tupac Shakur, who have taken up her cause. Because of the publicity surrounding Shakur's trial and pregnancy during her incarceration, it would seem that more of the American public would have been outraged by her treatment in prison, specifically surrounding her pregnancy; this ultimately could have brought more attention to the reproductive rights of incarcerated women. However, Shakur's story has been plagued by images of her as a bad woman, a bad mother, and a cop-killer. As a result, there has been a lack of action taken to overcome the injustices done to Shakur, and therefore, many women's experiences of pregnancy in prison today continue to be not much different than Shakur's. Janneral Denson is another woman of color who was criminalized and, though not a prison inmate, had her reproductive rights overlooked while she was in United States custody during the birth of her child. In a testimony in *Inner Lives*, Denson describes her experience of being detained by U.S. Customs officials during her pregnancy. She was traveling home to the United States from Jamaica while she was seven months pregnant, and was suspected of trying to smuggle drugs (Johnson, 2003). Despite the fact that Denson's cavity search came up clean, she was taken to a hospital, given a laxative, and told that she must pass three clear stools before she could be released (Johnson, 2003). She said, "I was scared to death for my child. I told the agent, that's a laxative and pregnant people should not take a laxative. I refused to drink it. They again handcuffed me to the bed; I laid there that night crying for a long time" (qtd.in Johnson, 2003, p. 42). The next morning, Denson was forced to drink the laxative, but she immediately threw it up (Johnson, 2003). She was eventually released after passing two clear stools (Johnson, 2003). Even though this story did not take place in an actual prison, it demonstrates how suspected criminal women have been known to

be treated during their pregnancies. These women are not in situations where they can make their own decisions based on what they believe are sound medical choices.

Ironically, despite the growing evidence of sex within prisons, and the refusal of prisons to provide inmates with access to birth control and abortions, the Ninth Circuit Court of Appeals has deemed procreation “fundamentally inconsistent with incarceration” (Bozzutti, 2003, p.626). The court made this decision in response to a male inmate who wished to have a child with his wife, and planned to mail her a container of his sperm so that she could be inseminated (Bozzutti, 2003). The courts agree that procreating while imprisoned would not result in desirable circumstances for either of the parents or the child. However, they have failed to acknowledge that prisoners having children is a reality that the prisons themselves are doing nothing to change.

Family planning services across the United States have begun to reach out to women in prisons as a result of growing awareness of the severe lack of services provided while incarcerated. Organizations like Planned Parenthood of Eastern Texas make visits to prisons in order to teach classes on sex, contraception, reproductive health, and parenting (Donovan, 1996). However, these organizations have no means of providing contraception to prisoners, they can only educate them in hopes that they will begin using it once their prison sentence is over. Prisons also have failed to show any support for these reproductive health programs, and agencies like Hutzell Hospital in Detroit have had to spend as much as \$5,000 a year from their own budgets to cover wages for the educators, any program materials, and transportation to and from prisons (Donovan, 1996).

There have been a few efforts made by the courts to improve upon women's reproductive health in prisons. For example, in 1976, the court case *Estelle vs. Gamble* established that state prisons are required to provide "constitutionally adequate" medical care for its inmates (Lahm, 2013). The court did not, however, specify what "constitutionally adequate" medical care entails, leaving plenty of room for state prisons to avoid making improvements. The other problem with *Estelle v. Gamble* was that it determined that a ruling for cruel and unusual punishment must take the intent of the prison staff into consideration (Call, 1995/2011). This set a precedent for future health care cases in that inmates could only win their cases if they could prove that the staff had deliberately denied them adequate care (Call, 1995/2011).

In the 1977 case, *Todaro vs. Ward*, the Bedford Hills Correctional Facility in New York was ruled to be in violation of the 8<sup>th</sup> Amendment because of the severe lack of access to medical treatment that the women there received (Pollock-Byrne, 1990). The court found evidence that one woman had been denied treatment for an infection for so long that she could have become sterile (Pollock-Byrne, 1990). Despite these minimal improvements, reproductive rights have continued to be denied to incarcerated women because of high health care costs, the public opinion that prisoners do not deserve rights, the social control of women, and the possibilities that these women hold for the prison-industrial complex.

#### IV. CAUSES AND EFFECTS OF A LACK OF REPRODUCTIVE RIGHTS

##### COST

In 2007, the average cost of maintaining a state-level prison inmate was \$24,000 (Lahm, 2013). Approximately 12 percent of this cost is used for medical care, with the costs of caring for aging inmates, or inmates with HIV or Hepatitis C rising to almost \$70,000 (Lahm, 2013). The price of providing reproductive healthcare for women would increase these costs substantially because of the wide range of services that women require.

One of the primary reasons that women have limited access to abortions within prisons is the extensive costs for which prisons would become responsible. Most prisons do not have the capability to perform abortions in their facilities, and therefore, they must transport prisoners to off-site locations for the procedure. As a result, it is not only the cost of the abortion that has to be taken into account for prisons, but the cost of transportation and extra guards to transport the prisoners as well (Pollock-Byrne, 1990). Many courts across the United States have decided to only uphold a prisoner's right to an abortion if the woman pays all of the expenses (Pollock-Byrne, 1990). The average cost of an abortion in the United States is \$413, which does not include the added costs of transportation and guards for which incarcerated women would be responsible (Jones, Zolna, Henshaw, & Finer, 2008). This makes abortion an impossibility for most women, who make an average of \$60 a month at their prison jobs (Kirk & Okazawa-Rey, 2012).

An inmate at the New York City Correctional Institution for Women on Riker's Island expressed the reasoning for the severe lack of medical care that she and her fellow inmates experienced: "They used all their money to build this place. Now they don't have enough money to run it" (Watterson, 1996, p. 257). The prison at which this woman was housed on Riker's Island cost \$24.2 million to build, but did not include provisions in its expenses for the women to have a medical professional on staff 24/7, or even fruits and vegetables with their meals (Watterson, 1996). The inmate reported seeing multiple women have miscarriages who were five or six months pregnant when they arrived at the prison, but their pregnancies could not withstand the harsh, unhealthy conditions (Watterson, 1996).

In order to save money, prisons have even gone so far as to use for-profit medical corporations as their healthcare providers. Kirk and Okazawa-Rey (2011) argue that "because the main motive is profit rather than providing services," the healthcare provided by these for-profit corporations is "sometimes worse than prison-run healthcare" (p. 441). *The New York Times* did an investigation on Prison Health Services (PHS), which is a popular medical contractor used by prisons in New York state (Kirk & Okazawa-Rey, 2011). The investigation found that PHS was able to save prisons so much money because it reduced current staff and hired less-qualified medical professionals, it over-utilized nurses for tasks outside of their training, and it decreased the number of prescriptions given to inmates (Kirk & Okazawa-Rey, 2011).

Not only is the cost of healthcare a deterrent for provisions of adequate inmate care for the prison system, the inmates often cannot afford, or do not want to pay the fees that prisons require to attain treatment. The fee in many prisons for an inmate to visit the

medical staff is around \$3 (Kirk & Okazawa-Rey, 2011). While this number seems outrageously low compared to doctors outside of prison, it is exorbitant for an inmate making only cents an hour (Kirk & Okazawa-Rey, 2011).

In 2011, Texas' House of Representatives passed a bill that prevents taxpayers from having to spend money on prisoner healthcare by having inmates pay \$100 a year for comprehensive healthcare, as opposed to the \$3 per doctor visit that most state prisons require (Chammah, 2012). Supporters of the bill expected that it would raise \$5.7 million in 2012, but far fewer inmates have opted in for the plan than expected (Chammah, 2012). Even though the charge is not required for emergency room visits or for inmates who have less than \$5 in their commissary account, many inmates still feel that they cannot afford the \$100 charge. As a result, many inmates are choosing to forego the healthcare option and can only receive treatment if their ailments constitute an emergency room visit (Chammah, 2012).

An inmate at the Texas Department of Criminal Justice, for example, was exhibiting flu symptoms but did not want to waste the commissary money he had saved for food and everyday necessities on a visit to the doctor (Chammah, 2012). Later, the inmate ended up in the emergency room with pneumonia (Chammah, 2012). Jennifer Erschabek, the head of the Austin chapter of the Texas Inmate Families Association, explained that despite having saved the state a small amount of money in 2012, the bill will ultimately end up costing taxpayers even more money (Chammah, 2012). Because inmates are choosing to forego their basic healthcare, treatment for smaller ailments is put off until the problem becomes dire enough for an emergency room visit to be

required. This allows inmates to avoid paying any healthcare costs, and leaves the burden up to state taxpayers instead.

One important area of cost-saving progress that has been made towards inmate healthcare in the past couple of months is that prisoners are now eligible for Medicaid under the Affordable Care Act (Goode, 2014). Prisons in many states have begun utilizing this new access to insurance by signing inmates up as needed if they require a hospital stay over 24 hours (Goode, 2014). Inmates who are aware of it are grateful for this new legislation, which not only means they can have health coverage inside prison, but for many inmates, this is the first time they will ever be covered by health insurance (Goode, 2014). Devon Campbell-Williams, an inmate at the Multnomah County Inverness Jail in Oregon, explains how he can now receive care for his ankle, which he broke in 2007 (Goode, 2014). While covering inmates under the Affordable Care Act will shift a large amount of prison healthcare costs to the federal budget, it will save states and the prison industry millions (Goode, 2014). For example, the state of Ohio, which spent \$225 million on prison healthcare in 2010, estimates that it will save at least \$18 million a year by enrolling its inmates in a healthcare plan (Goode, 2014). It has not been determined whether the healthcare plan will include better reproductive care for women.

Goode (2014) explains that, while prison industry officials, states, and inmates are currently excited about the prospect of having healthcare coverage and lower costs, the full impact of having prisoners covered under the Affordable Care Act has not yet been seen. Goode (2014) quotes Avik Roy about a possible backlash against inmate coverage in the Act : “There can be little doubt that it would be controversial if it was widely

understood that a substantial proportion of the Medicaid expansion that taxpayers are funding would be directed toward convicted criminals” (para. 13). She suggests that the American public would not be supportive of funding health insurance for prisoners because of widely held opinions about the rights that incarcerated individuals sacrifice once they enter prisons (Goode, 2014).

#### PUBLIC OPINION AND THE SOCIAL CONTROL OF WOMEN AND CRIMINALS

Institutionalized racism, classism, and sexism are often overlooked as reasons that women become incarcerated, and instead the women are blamed for their poor choices and criminality. In 2002, Uggen, Manza, and Brooks (2004) conducted a Harris Interactive Omnibus Telephone Poll in order to gain an understanding of how United States citizens feel about the right of prisoners to vote, which is considered one of the most basic rights of citizens of the United States. The majority of Americans believed that people on probation or parole have the right to vote, even though over 30 U.S. states have laws preventing them from doing so (Uggen et al., 2004). Only 31 percent of Americans, however, believe that incarcerated individuals have the right to vote (Uggen et al., 2004). These statistics are very telling about the way in which people inside of prisons are viewed by the American public. If a person is on probation or parole, they have either not yet proven a need to be stripped of their rights, or they have proven that they have served their time and been rehabilitated to an extent where they have rights again. However, according to public opinion, people inside of prisons have given up their status as true American citizens, and are, therefore, not afforded the same rights as free Americans. The public opinion that prisoners do not deserve rights stems from a



desire in the United States for power and social control, which has often been attained by oppressing minority groups of people.

During the 18<sup>th</sup> century, an overwhelming need emerged for government and economic institutions to gain power by controlling human bodies (Foucault, 1975). Michel Foucault (1975) describes how the institutions created “docile bodies” (p. 135) by establishing regulations and routines through which they could control the human population. Systems of control were set up in schools, hospitals, and militaries and were enabled by the regulation of a person’s space, time, and activity (Foucault, 1975). Foucault uses the example of schools, in which a government is able to ensure power over its citizens by controlling and supervising the daily activities of its youth. Students spend the majority of their time in an enclosed space, supervised and taught by government employees. They follow a strict time schedule, and the goal is for students to learn all of the skills necessary to become productive members of society in the future (Foucault, 1975). However, common institutions have failed to assert their domination over criminals, and therefore, prisons were developed as a site of even more oppressive control and supervision, so that governments could ensure that even criminals are productive bodies.

Criminal women are situated in a position where they not only attract the control of governments for their criminal behavior, but society feels a need to control them because they have strayed from the moral expectations of their gender. As a result, women in prisons have been perceived to need “special, closer forms of control and confinement” (Pollock-Byrne, 1990, p. 36). Pollock-Byrne (1990) explains that early laws were put in place in order to maintain social control and a social hierarchy where

men ruled. There were laws that prevented women from being too vocal, and laws restricting adultery pertained only to women (Pollock-Byrne, 1990). Even before the earliest women's reformatories, fathers and husbands had the authority to send their wives and daughters to monasteries or poor houses if they violated the social code (Pollock-Byrne, 1990).

Nineteenth century theories of female criminality were a launching point for the belief that incarcerated women do not and should not have the right to reproduce. Lombroso believed that the population of female criminals was notably smaller than that of males because sexual selection was used as a tool to control the population of undesirable women (Pollock-Byrne, 1990). Because women criminals were, in Lombroso's belief, physically undeveloped and unappealing, no man would select them as a sexual partner (Pollock-Byrne, 1990). This led to an early understanding that criminal women could not reproduce, because they were unable to find someone willing to reproduce with them (Pollock-Byrne, 1990).

In the early 19<sup>th</sup> century, rescue societies and women's asylums emerged as more organized efforts to save and rehabilitate prostitutes and "fallen women", as well as to remove women who were believed to be immoral from the streets (Ruggles, 1983). Ruggles (1983) explains that the goal of these societies was "to be instrumental in recovering to honest rank in life those unhappy females, who, in an unguarded hour, have been robbed of their innocence, and sunk into wretchedness and guilt" (p. 65). Much like in the institutions that Foucault described, the women in rescue societies were placed in a controlled space where their daily routines were limited to prayer, repentance, and often labor-intensive work in the low-level conditions that the women had entered prostitution

to avoid (Ruggles, 1983). These actions were ultimately meant to “de-sex” prostitutes and return them to the pure and moral standing that society expected of women (Ruggles, 1983, p. 73). As can be expected, the societies and asylums were not successful in ending prostitution, and reformatories arose as even more structured institutions through which the government and the public could gain social control over fallen women.

Nicole Hahn Rafter (1990/2011) explains that the reformatory movement was promoted during late 19<sup>th</sup> and early 20<sup>th</sup> centuries by white, middle- and upper-class feminists looking to preserve the cult of “True Womanhood.” Rafter (1990/2011) performed a case study at New York’s Western House of Refuge at Albion, and discovered that the goal of women’s reformatories was primarily “sexual and vocational regulation” (p.34). These regulations would allow for the rehabilitation of women who had failed to meet social expectations of purity and morality (Davis, 2003). The history of women’s prisons as a place to de-sex women, as well as early beliefs that female criminals are not chosen for reproduction, has enabled a public understanding that reproduction is not a factor within women’s prisons. Despite being unable to fulfill the traditionally accepted method of production as women, which is reproduction, prison staff have developed other means of making female criminals productive, while still maintaining traditional gender roles.

At Alderson Federal Reformatory for women during the 1950’s, inmates were taught skills like cooking and cleaning that would prepare them for their proper social status as wives and mothers once they rejoined the free world (Davis, 2003). Davis (2003) points out that the skills taught in reformatories also worked to maintain social control of women of color, who would benefit from these skills in their social place as

domestic servants. Even modern prisons are structured in a way that keeps both women and men living within the socially acceptable functions of their own genders. As of 2013, the male inmates at the Lebanon Correctional Institution in Ohio had prison jobs primarily using tools and heavy machinery to produce all of the license plates for the state of Ohio. At the Ohio Reformatory for Women, however, inmates were confined to traditionally female jobs like sewing uniforms and embroidering flags. The work that incarcerated women perform in prisons not only ensures that women are limited to their traditional roles under patriarchy, but it also puts them under the control of the large, profit-driven prison industry.

#### PRISON INDUSTRIAL COMPLEX

The prison industry is a system in which the state and federal government, and in the case of private prisons, corporations, make large profits by benefiting from the cheap labor of prisoners. In 1994, the average cost of housing an inmate was \$21, 352 per year (which has currently increased to \$24,000), but each inmate employed by the Federal Prison Industry, Inc. generated \$24, 687 per year (Groh, 2013). The prison industry relies on the influx of new labor, in the form of prisoners, who are mostly from low-income, minority communities, to make this profit (Davis, 2003). Prisons provide such an attractive source of labor to companies because “inmates represent a readily available and dependable source of entry-level labor...” (Thompson, 2012, p. 41). For example, there are eighteen federal prisons in the United States whose inmates make furniture for pennies an hour, as opposed to the \$13.04 an hour that laborers outside of prison would make for the same task (Thompson, 2012).

Many prisons refer to themselves as self-sustaining because prisoners perform every task needed to run the prison, from the actual construction of prison walls, to growing and preparing food to be served to inmates, to cleaning, and even sewing their own uniforms. Self-sustaining prisons can be argued as a positive endeavor, ultimately saving millions of taxpayer dollars that go into running prisons each year. The reality is that self-sustaining prisons have been overrun by privatized and profit-driven prisons that exploit the cheap labor of inmates for economic gain, rather than economic conservancy (Thompson, 2012).

For state and federal prisons, prison-made goods have been restricted from being sold on the public market as a result of labor laws that deem cheap inmate labor as “unfair competition” (Watterson, 1996, p.226). This has not prevented states and the federal government from saving or making money with the benefit of cheap prison labor.<sup>4</sup> Frank Eyman, the superintendent at Arizona State Prison, described the extent to which his prison is a money-making and saving industry for the state:

We just sell to state institutions... Yes, this is a big business... We have four farms within a distance of seven miles, worked by the male population... We also manufacture innerspring mattresses and make all license plates for the state and all the street signs. We have a printing company, a cotton gin mill, a dairy farm, a swine farm, beef cattle, and a big chicken ranch. We also make the barbecue grills and big picnic tables they put in rest areas all over the state. We also have a

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<sup>4</sup> It is not apparent exactly how the money that prisons make from their business endeavors is spent because the amounts are rarely accounted for in prison budgets and expenditures (Watterson, 1996). On top of failed reporting of prison profits, “government agencies don’t account for funds in terms of profit,” which makes it difficult to determine where the money is going (Watterson, 1996, p.226).

cannery for fruits, vegetables, potatoes, and tomatoes. We feed ‘em fresh seasonally and then can all the excess. We raise all our own food; everything they eat comes from here. Everything they wear comes from here. They even make the mattresses they sleep on. (qtd. in Watterson, 1996, p. 228)

Linda Evans and Eve Goldberg explain that in private prisons, even private corporations have the ability to profit from prison labor:

For private business prison labor is like a pot of gold. No strikes. No union organizing. No health benefits, unemployment insurance, or workers’ compensation to pay...Prisoners do data entry for Chevron, make telephone reservations for TWA, raise hogs, shovel manure, and make circuit boards, limousines, waterbeds, and lingerie for Victoria’s Secret, all at a fraction of the cost of “free labor.” (qtd. in Davis, 2003, p. 84)

Private prisons in the United States house approximately six percent of state prison inmates and 16 percent of federal prison inmates (ACLU, 2011). According to an ACLU (2011) report, the two largest prison corporations generated almost \$3 billion in revenue in 2010, and their top executives each made over \$3 million.

In his dissertation, *The Color of Corporate Corrections* (2013), Christopher Petrella found that the private prisons he studied have even greater percentages of racial minorities that make up their populations than government-run prisons (Palta, 2014). He found that private prisons have a choice of which inmates they house, and they look for the people with the lowest healthcare costs, which tend to be young people of color (Palta, 2014). The demand for young, healthy individuals who will be contributing to the

labor force within private prisons is strikingly similar to the demand for young, healthy slaves before the Civil War. Just like during slavery, the young people of color being chosen by private prisons are an important commodity because they will not only save the prisons healthcare costs, but they will be productive laborers for the prison industry.

In *Are Prisons Obsolete?*, Davis (2003) suggests that, similar to slavery, the prison system in America is an institution that is being used to further marginalize women and racial minorities. African Americans and other minority populations are overwhelmingly represented in prisons, and the population of women in prisons is growing faster than any other demographic (Davis, 2003). In a study of the populations of state and federal prisons in 2011, the rate of imprisonment for black women was 129 out of 100,000 United States residents and the rate for Hispanic women was 71 out of 100,000 (Carson & Sabol, 2012). The rate of imprisonment for white women was 51 out of 100,000 (Carson & Sabol, 2012). Of the United States population as a whole, 69% of women are white, while 13% of women are black and 16% of women were Hispanic or Latino (Collins, 2010). In relation to the percentages of the larger population that white women and women of color make up, the incarceration rate of women of color is staggering compared to white women.

The war on drugs was one of the primary ways that women were targeted as a source of labor for prisons. Since it began, the population of women in United States prisons has increased by 757 percent (Talvi, 2007). The war on drugs was initiated during the Reagan administration, despite evidence that drug use had been on decline for at least six years prior (Jenson et al., 2004/2011). It began with the intent of ending poverty and cleaning up the streets of America, and it became the top reason for arrest

among women (Martin, 1993). As a result of the war on drugs, the population of inmates in United States prisons and jails rose from 300,000 when the Anti-Drug Abuse Act was passed to over two million currently (Alexander, 2012). As of 2011, 48% of the inmates incarcerated in federal prisons were sentenced for drug crimes (Carson & Sabol, 2012).

Martin (1993) describes how low-income, minority communities were targeted in the drug war, because it was easier to remove people from the streets, as opposed to actually trying to cure the drug problem through community programs and services. She states, "Poor neighborhoods are actively policed, and poor and addicted women and men are put into jail for long periods of time, in the name of saving families, protecting children, preserving neighborhoods, and making the streets safe for families" (Martin, 1993, p. 311). Being a victim of the war on drugs usually resulted in much longer prison sentences than most other crimes so that even women caught using small amounts of drugs would act as a deterrent to other drug users (Martin, 1993). In 2001, the mean sentence for a drug offender was 41 months, while the sentence for a violent crime was 54 months and property crimes ranged from 15-19 months (Jensen et al., 2004/2011). For black prisoners, the sentence often reached time periods as long as 84 months (Jensen et al., 2004/2011).

Sudbury (2003/2012) recounts the story of Kemba Smith, who was sentenced to 24.5 years in prison for "conspiracy to distribute crack cocaine" (p. 459) as a prime example of how women of color were targeted by the war on drugs. Kemba never actually handled or distributed any of the drugs that earned her a prison sentence; she merely knew that her boyfriend used and distributed them (Sudbury, 2003/2012). However, the Anti-Drug Abuse Act passed by the Reagan administration made Kemba



eligible for a “mandatory minimum sentence” (Sudbury, 2003/2012, p. 459) just for knowing about her boyfriend’s crimes. Kirk & Okazawa-Rey (2012) explain that the sentencing Kemba received for involvement with crack cocaine was racialized and economically discriminatory:

Currently, possession of any amount of crack cocaine, mainly used by low-income people of color, carries a mandatory minimum sentence of five years, the same sentence as for possession of 500 grams of powder cocaine, mainly used by middle- and upper-middle-class white people. (p. 423)

As Martin (1993) described, the war on drugs was motivated by a need to salvage the families and children in low-income communities. The Bureau of Justice Statistics reported that since 1991, the number of children with a mother in prison has risen by 131 percent (Glaze & Maruschak, 2010). In reality, by sending so many women and mothers to prison, it worked to divide families and leave children to be raised by extended families or foster homes. As a result, many children of incarcerated mothers develop emotional and behavioral issues that will lead to their own arrests later in life. Separating mothers from their children and denying women the ability to prevent or end a pregnancy while in prison could be a method for the prison industry to ensure that the influx of labor will continue as the children of prisoners are set up to enter prison themselves (Sudbury, 2003/2012).

## THE EFFECTS OF DENYING REPRODUCTIVE RIGHTS TO INCARCERATED WOMEN

The Bureau of Justice Statistics reports that in 2004, 61.7% of women incarcerated in state prisons were mothers of minor children (Glaze & Maruschak, 2010). The children of incarcerated women already face a greater chance of ending up in prison due to an economic climate and conviction policies that place low-income, minority children at a disadvantage (Collins, 2010). However, the financial and psychological strain that many children face because of having a parent in prison exacerbates the likelihood of becoming incarcerated themselves later in their lives. According to Catherine Collins' (2010) research, in 2002, 38% of jailed inmates had a history of incarcerated mothers. In a study done of the children of incarcerated parents, 80% of children who had a mother in prison were arrested two or more times by the age of 18 (Eddy & Reid, 2003). The national average of youth arrests by the age of 16 is 10 to 12 percent, but the average for youth of the same age with incarcerated parents is as high as 30 percent (Eddy & Reid, 2003).

Pollock-Byrne (1990) describes how incarcerated women and their children suffer from harsh realities before they even enter prison:

By all accounts, the lives of women prisoners before prison often involved economic distress, victimization, and self-abuse through the use of drugs and alcohol. Often, they have had a series of negative relationships with men, being either exploited or physically abused. Children come early, and the women typically have little in the way of skills and resources to take care of their children. The women's families often have similar instabilities and economic

problems and are not able to care for the woman's children either, although typically that is where children are placed. (p. 78)

Their mothers' imprisonment also means that a child will be growing up in, at most, a one parent household, if not the foster care system. When a mother has a child while she is imprisoned, the prison policy is to have her child removed from her care immediately in over 40 states (Amnesty International, 2000). In most other states, the children of incarcerated women are not able to see their mothers once they have been discharged from the hospital (Amnesty International, 2000). When women do not have a support system of family to care for their children while they are in prison, the children are given up to the state (Pollock-Byrne, 1990). Once the state takes on the parental rights of a child, it becomes difficult for the mother to ever regain her rights, even after her time in prison is over (Pollock-Byrne, 1990). In most cases, it is required that a woman have a steady job and housing in order to regain the parental rights of her child (Kirk & Okazawa-Rey, 2012). Not only will losing a child likely cause emotional trauma for the mother, being separated from an incarcerated parent, especially the mother, can cause many developmental issues for the child later in life (Murray & Farrington, 2008).<sup>5</sup>

Infants of women in prison have been known to cry more than is considered normal, and they are often delayed in developing skills such as crawling (Pollock-Byrne, 1990). For school-aged children, a parent's imprisonment also "measurably increases the likelihood of physically aggressive behavior, social isolation, depression and problems in school — all portending dimmer prospects in adulthood" (Eckholm, 2009, para. 5).

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<sup>5</sup> According to Erik Eckholm (2009), a child with one or more parents in prison is two times more likely to be homeless. The chance of homelessness is even greater for children with their mothers in prison, because women prisoners are usually the "sole breadwinners" for their children before they enter prison (Pollock-Byrne, 1990, p.64).

Siegel's book contains qualitative research in the form of interviews that reveal the obstacles for children with incarcerated parents. The majority of the participants Seigel (2011) interviewed struggled with school, drug addictions, and their own incarcerations. While poverty, the culture of violence, and poor education were factors for the interviewees, they all attributed their own obstacles to the incarceration of their parents (Seigel, 2011). The adverse effects of children having an incarcerated parent can be attributed to a number of factors, including trauma brought on by the separation from a parent, economic strain while a parent is incarcerated, and living with the stigma of having a criminal parent (Murray & Farrington, 2008).

Even though separation is one of the primary factors that contributes to problems of children of incarcerated parents, Hairston (2003) explains that many custodial guardians of these children, as well as professionals within the prison system, believe that children having visits with their parents in prison is a bad idea. They believe that seeing their parents in prison will normalize incarceration for young people (Hairston, 2003).<sup>6</sup> While the normalization of the institution is a major factor in the incarceration of young people, denying children the ability to visit their mothers based on the fear of normalization could create a self-fulfilling prophesy (Seigel, 2011). It is possible that the prison industry is not working to put an end to this cycle because they are so invested in having a continuous influx of labor for their corporations (Alexander, 2012).

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<sup>6</sup> It has been observed in some cases that women in prisons tend to exhibit worse behavior when they have more communication with their children and family outside of prison (Lahm, 2013). This is likely because the visits and communication serve as reminders of what women are missing out on while they are incarcerated, which increases their levels of stress and unhappiness, causing them to act out (Lahm, 2013).

The theory of Black feminists, like Angela Davis, suggests that modern prisons are an extension of slavery, and incarcerated mothers are a method of ensuring continued free labor. In “Outcast Mothers and Surrogates,” Davis (1991/2010) explains the history of motherhood in relationship to slavery. Davis (1991/2010) describes how “slave women were *birth mothers* or *genetic mothers*...but they possessed no legal rights as mothers of any kind” (p. 448). Slave women were expected to produce children, and were often raped by their owners to increase production, which would also increase the amount of free labor available (Davis, 1991/2010). Willingham draws connections between the systemic rape of slave women and the rampant sexual abuse that takes place in United States prisons. The rape and abuse of incarcerated women is primarily used as an assertion of power and degradation by prison guards (Willingham, 2011). It is estimated that five percent of these rapes will result in pregnancy (RAINN, 2009).

Davis (1991/2010) describes how this inmate/staff relationship is similar to the slave/owner relationship in that “slave women who had been compelled...to engage in sexual intercourse with their masters would be committing the equivalent of a crime if they publicly revealed the fathers of their children” (p.448). Just like the children that resulted from the rape of slave women, the children of raped prison inmates have a greater likelihood of contributing labor to the prison industry later in their lives. This cycle of imprisonment could provide assurance for the prison industry that its influx of laborers will never diminish, but feminists and other human rights groups have made little effort to put an end to the cycle.

## V. FEMINIST ACTIVISM AND ITS LIMITATIONS

### EFFORTS FOR REFORM

Since 1990, there has been a small group of activists, including some feminists, fighting for the rights of mothers to raise their children while incarcerated. Their activism has manifested in 100 “mini-prisons” across the United States called Community Prisoner Mothers Programs (CPMPs) (Haney, 2013, p.112). These programs are capable of housing 20-150 women prisoners and their children at a time (Haney, 2013). If accepted to one of these programs, women are able to live with their children in a community prison environment (Haney, 2013). While these programs demonstrate that there are people fighting for the interests of mothers in prison, they only solve the problem of forced separation for a select few mothers and children.

The first problem with CPMPs is the small number of women being served. There are currently 112,000 women in United States prisons, and 70-80 percent of them are mothers (Lahm, 2013). CPMPs barely make a dent in the number of mothers and children that would like the opportunity to remain united throughout the mother’s incarceration. Once accepted into a program, women have reported being disappointed with the lack of parenting that they were able to do within a prison environment where they are, in a sense, treated as children themselves (Haney, 2013). All of the authority and decision-making lies solely with prison guards, and the mothers are given very little ability to make decisions on behalf of their children (Haney, 2013).

Another major problem is that children are subjected to the same structured prison environment that their mothers are, without having committed any crime of their own. For example, school-aged children are able to leave the prison to attend local schools each day, but are otherwise confined to the same prison walls as their mothers (Haney, 2013). Despite the bond that CPMPs allow the few prison mothers to retain with their children, the programs could possibly be contributing to the cycle of imprisonment by normalizing the institution for the next generation of prisoners.

Extended Family Visits are another effort that has been made in order to maintain the bond between families with incarcerated parents. During these visits, an inmate is allowed to have up to three visitors stay with them in a small home or hotel suite-like setting on the prison grounds for up to 72 hours (Lahm, 2013). In order to be eligible for these visits, the inmate must have a good behavior record and have no history of child abuse or violent offenses (Lahm, 2013). Prisoners must also show a marriage certificate or proof of a familial relationship with their children in order for their families to visit (Lahm, 2013). This requirement excludes non-traditional families who have children outside of marriage and non-biological children from participating in this bonding opportunity. In some states, like Washington, prisons charge up to \$10 a night for the inmate to have an Extended Family Visit (Lahm, 2013). Just as large fees pose a barrier for inmates receiving medical care, a \$10 fee for these visitations is an enormous sum for a prisoner to pay with their minute wages, making opportunities for Extended Family Visits uncommon.

Another attempted solution for the separation of incarcerated women and their children, which only a few state women's prisons have adopted, is the development of

prison nurseries. At the Ohio Reformatory for Women, a program was instituted in 2001 called Achieving Baby Care Success (ABCS), which sought to allow women to keep their babies with them in prison once they were born (Mawhorr & Ward, 2006).<sup>7</sup> The program enables women to be housed in a separate population within the Reformatory, and the women have a cell for themselves and their baby. They do not participate in any other programs offered by the prison, as being in ABCS and caring for their baby become their sole responsibility. Not only do they take care of all their babies' needs, the women in the program also participate in a multitude of parenting classes that range from breastfeeding, to car seat safety, to Shaken Baby Syndrome.

A study was conducted from 2001 to 2004 to determine how successful the new program was for women. It reported that, while 70 inmates were able to participate and raise their child in the prison throughout the three-year period, women of color were under-represented in the number of women who were eligible for and participated in the program (Mawhorr & Ward, 2006). Mawhorr and Ward (2006) explain that many women of color have been denied access to the program because they are more likely to have a "current or past conviction of a violent offense, offenses of child neglect and child endangerment, or previous contact with the Department of Job and Family Services" (p. 2).

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<sup>7</sup> I had the privilege to tour the ABCS program with my Penology class at Wright State University during the fall of 2013. There were two inmates in the program at the time, and they both seemed grateful to have the opportunity to raise their babies. I was excited to learn that some prisons have programs like ABCS, but quickly started to realize that the program had too many guidelines and rules for eligibility to effectively solve the problems of separation between a mother and her children while she is in prison. The woman giving the tour explained that the criteria that makes most women ineligible for the program is that the mother must be pregnant when she arrives in prison and have a sentence of two years or less. Her reasoning for these rules was that a child starts forming memories around the age of 2, and the mother must leave prison at the same time that her child does, so the child's birth and the mother's prison sentence must line up so that they can both be released before the child can form memories of being raised in a prison. I thought it seemed unlikely that many women would meet this criteria, and it is unfortunate that so many women will miss out on the opportunity to bond with their children.



The study conducted on the ABCS program determined that, for pregnant women who did not qualify for the nursery program, arrangements were made for the woman's child to be adopted, or in a very few cases, aborted (Mawhorr & Ward, 2006). Ultimately, despite the efforts of the program to teach incarcerated women mothering skills and allow them to bond with their babies, the study showed that the majority of the women would prove unfit to raise their child once they left prison, and therefore the child was handed over to the state (Mawhorr & Ward, 2006). Formerly incarcerated mothers are often denied the ability to raise their children once they leave prison because, with a prior conviction on their record, they are often "denied public housing and welfare benefits,...a large number of jobs exclude potential employees with felony records," and they suffer "the stigma of a criminal record" (Kirk & Okazawa-Rey, 2012, p. 418).

Even though a select few states have adopted measures that attempt to foster relationships between children and their incarcerated mothers, they have failed to overcome the effects of racial and economic disparities that have placed a disproportionate number of minority women in United States prisons. There has also been a lack of effort to improve the reproductive rights of women in prisons, leaving many women with little choice about whether they would like to be mothers in the first place. As a result, incarcerated women continue to produce children who have a heightened chance of entering the cycle of imprisonment themselves, thus ensuring the continued influx of labor for the prison industry (Eddy & Reid, 2003). Despite being a human rights issue that should be alarming to all people, the rights of incarcerated women appear to have raised the most attention from black and other minority women, possibly because they feel most affected by it. The lack of prison activism on the part of

white, middle class feminists suggests that the third wave still has progress to make in overcoming criticisms regarding the exclusivity of feminists that plagued earlier waves.

#### STATUS OF WOMEN PRISONERS AS MOTHERS

Feminists, however, may not be fully to blame for their lack of response towards the rights of incarcerated women. Just as women have historically been viewed as abject by society, prisoners are arguably placed in positions of alienation even more often. In *Powers of Horror*, Julia Kristeva (1982) defines abjection as anything that rejects societal norms to such a great extent that it cannot be accepted or even comprehended by those who adhere to those norms. She argues that abjection is caused by “what disturbs identity, system, order. What does not respect borders, positions, rules. The in-between, the ambiguous, the composite” (Kristeva, 1982, p. 4). One of Kristeva’s primary examples of abjection is in relation to motherhood. Mothers have become abjected from society because of the inherent need within a child to separate themselves from their mother and form their own identity (Kristeva, 1982).

Stephanie Covington (2003) argues that one of the primary reasons that incarcerated women are ignored is the abundance of negative stereotypes that are automatically assigned to mothers in prison. She explains that incarcerated mothers are “mostly portrayed as inadequate, incompetent mothers who are unable to provide adequately for the needs of their children” (Covington, 2003, p.76). According to Kristeva (1982), the abjection of crime is inevitable “because it draws attention to the fragility of the law” (p. 4). Kristeva (1982) suggests that abjection is a phenomenon that all mothers experience; when applying Kristeva’s theory to social views of incarcerated mothers, maternal abjection becomes coupled with the abjection of the criminal.

In *Maternal Thinking*, Sara Ruddick (1985/2013) sums up the patriarchal view of what it means to be a mother and argues that there are three demands placed upon all mothers – “*preservation, growth, and social acceptability*” (p. 33). To meet the demand of preservation, mothers must merely provide “minimal attentiveness” to their children, and work to keep them out of dangerous situations (Ruddick, 1985/2013, p. 33). For growth, Ruddick (1985/2013) explains that, while a multitude of people will contribute to a child’s emotional and intellectual development, it is the mother who is most responsible for ensuring growth, and the mother who will be blamed if her child does not reach appropriate levels of emotional and intellectual maturity. Social acceptability is a demand that Ruddick argues will vary across different social circles, but requires a mother to instill a sense of values within her children. Failing to meet these demands will result in women being alienated and ridiculed by their communities (Ruddick, 1985/2013).

While Ruddick works to deconstruct patriarchal views about motherhood, the ideas she discusses are popular among the American public. This poses a problem for incarcerated women because, behind prison bars, the demands on mothers that Ruddick refers to are impossible to meet. Being separated from her children would not allow a mother to ensure the safety and growth of her child, and being in prison is the ultimate violation of social acceptability. As a result, according to the patriarchal ideals of motherhood presented by Ruddick, women in prison cannot constitute true mothers, and therefore, any strides that feminists make for the rights of mothers would not apply to incarcerated women.

## INVISIBILITY OF THE ISSUE

Aside from the tendency to view prisoners from a point of abjection, the media, popular culture, and criminal justice scholarship do not present a well-rounded view of the common prisoner. Willingham (2011) argues that one of the main reasons the experiences of women prisoners are ignored is because people do not understand that it is an issue. The media presents the average prisoner as a male murderer, drug dealer, or rapist (Willingham, 2011). Criminal women are almost never portrayed in the news, except in the rare case that they slept with a student or murdered their children.

Willingham (2011) addresses the problem with a statement made by Victoria Law:

“Because women do not fit the media stereotype, the public does not see them and are not then aware of the disturbing paradoxes of prisoners as mothers, as women with reproductive rights and abilities, and as women in general” (p. 56).

It is important to note that, recently, women prisoners are having emerging roles in the media, though it is extremely limited.<sup>8</sup> For example, popular shows on Netflix like *Orange is the New Black* and Showtime’s *Weeds*, which were both created and written by Jenji Kohan, feature depictions of women’s lives before, during, and after incarceration. Aspects of these shows provide realistic portrayals of the trials of prison life for women: they depict racial divisions within prisons, violence, the inmate code, and families who have to continue their lives while their mothers, girlfriends, and daughters are behind prison bars (Matthews, 2013). However, these shows become problematic because of the harsh realities of prison that are not discussed.

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<sup>8</sup> The growing popularity of portrayals of women’s prisons in the media can most likely be attributed to the rampant growth of the population of incarcerated women in the United States. Many depictions of incarcerated women focus on the sexuality of inmates and the intimate relationships that develop within prisons, which further contributes to the entertainment value within the hyper-sexualized media industry.

Both shows are from the point of view of a white, middle-class woman whose life was going great until she made a few poor choices during a moment of vulnerability and ended up in prison. These shows provide a white perspective of prison, despite the fact that white women account for less than half of all women incarcerated in the United States (Lahm, 2013). According to a Bureau of Justice Statistics census, 50% of women are unemployed at the time of arrest, 70-80% have children, 50% self-reported drug use, more than 50% had experienced some form of abuse, and 30% had children before the age of 18 (Lahm, 2013). The primary characters that these shows portray are not characterized by any of these descriptions prior to entering prison, except that Nancy from *Weeds* is a mother.

Of over 30 recurring inmate characters in *Orange is the New Black*, only two are shown to have been employed at a legal job, four have children prior to entering prison, five are explicitly shown as having used drugs, and while all of the inmates are understood to have experienced some form of emotional trauma before incarceration, no incidences of abuse are depicted. The main characters in *Orange is the New Black* and *Weeds* both have strong familial support from outside of prison, and despite the serious racial tension surrounding them, the characters are miraculously able to overcome the odds and potentially befriend all of the inmates, regardless of race.

Although these shows bring incarcerated women to the forefront of popular culture, they are problematic because of their unrealistic depictions. As the audience absorbs the harsh, gritty atmosphere of the shows written by a strong, feminist writer and producer, they are left feeling like they understand the realities of prison life. Their feelings are supported because they are exposed to the same stories about prison life by

“reality” shows like *Cell Block 6: Female Lock Up* and *Breaking Down the Bars*. A mainstream media source, *Washington Post*, published an article calling *Orange is the New Black* the “best TV show about prison ever made” (Matthews, 2013). The male author of the *Post* article, Dylan Matthews (2013), heralded the show for being true to prison reality – for example, there are no conjugal visits allowed at Litchfield Correctional Facility, but there are yoga classes. The media empowers viewers to believe that they are experts on the experiences of incarcerated women, and it is often overlooked that the main purpose of these shows is their entertainment value.

Sudbury (2003/2012) argues that media coverage and crime shows, no matter how realistic, create a greater fear of crime within the United States public, thus stirring up a false need for prisons and punishment. She explains that even when television shows make an effort to be racially diverse, viewers are bombarded with not only images of the inmate of color, but the criminal of color as well, further contributing to the “racialized fear of crime” (Sudbury, 2003/2012, p. 456). In his book, *The Rich Get Richer and the Poor get Prisons*, criminologists Jeffrey Reiman and Paul Leighton (2012) refer to the skewed view of crime that the media presents as a “carnival mirror.” Reiman and Leighton (2012) argue that the media presents less threatening crimes committed primarily by low-income people of color, like drug use and theft, as the primary dangers of society, which ultimately diverts attention from the further-reaching crimes of big business and the government.

Although criminal justice scholarship is intended to keep academics up-to-date and informed about criminal theory and criminal justice institutions, it can be argued that entertainment value is also a factor that has prevented incarcerated women from being

included in criminal justice discourse. Pollock-Byrne (1990) observes a “lack of interest in the female criminal” (p.9) that is apparent in the small sections, sometimes only two or three pages, devoted to women prisoners in criminal discourse. She explains that one reason for the exclusion of women is that the majority of criminologists are men – “the problem of crime has been seen through male eyes, and thus viewed as a male problem in a male society” (Pollock-Byrne, 1990, p. 9).

However, Pollock-Byrne (1990) argues that the main reason incarcerated women are overlooked is because they are less violent in the crimes they commit and their experiences in prison, which makes them less interesting to scholars. Male criminals are known for committing murders and assaults, and male prisons are known for riots and violent gang activity. Pollock-Byrne (1990) argues that when women are mentioned, the focus is often primarily on sexual abuse and homosexual relationships that develop within prisons, because that is where the entertainment value lies for the audience. Without visibility of the growing population of women in prisons and the injustices that women face while incarcerated, third wave feminists and the public as a whole do not have the motivation to fight for the rights of incarcerated women.

#### LACK OF SELF INTEREST

The first two waves of feminism were grounded primarily in the needs of white, middle-class women, and the third wave has made efforts to expand their interests to include the rights of all women. However, it appears that the majority of third wave feminists are ultimately putting the most effort into issues that will better their everyday lives (Crenshaw, 1997/2010). It is apparent that feminists care about all women, and they may be horrified by the injustices done to women in prisons, but in the end, they are more

likely to dedicate their time to activism that directly affects them, like access to birth control in the free world, as opposed to access to birth control in prisons, where statistics show that they are not likely to ever reside.

Kimberlé Crenshaw uses domestic violence as an example of how feminists have ignored the needs and oppressions of women of color. When feminists first began their campaign against domestic violence, it was important for them to recognize that it is not only an issue for racial minorities, but women of all races are subjected to domestic violence (Crenshaw 1997/2010). Crenshaw (1997/2010) points out that, despite the fact that women of color are disproportionately affected by domestic violence compared to white women, focusing on white women's self-interest in the issue was essential to mobilizing feminists to action. The huge impact of domestic violence on minority women was not a big enough impetus for middle-class, white women to join the cause because it did not have a direct effect on the quality of their lives.

During the 1970's, a movement of socialist feminists emerged that argued that capitalism was the primary oppressor of all marginalized groups, and gender and racial oppressions could not be overcome until capitalism was defeated (Chicago Women's Liberation Union [CWL], 1972/2009). Because socialist feminists see their oppressors as profit-driven organizations, it would seem that the prison industry would be one of the top priorities to overcome. In 1972, the CWLU made a list of criteria that a world free of capitalism and patriarchy would possess. The list included free access to adequate medical care, "people's control over their own bodies," free 24/7 community childcare, and the end to unpaid labor (CWL, 1972/2009, p. 111). All of these criteria would greatly improve the injustices faced by women in prisons, and give them the right to



make their own choices regarding reproduction and motherhood. The problem, however, is that even socialist feminists are primarily concerned about how these criteria will better their own lives (CWLU, 1972/2009).

The CWLU (1972/2009) document goes on to state that “we very successfully developed a black and white organization on the basis of self-interest” (p. 113). Women joined the CWLU (1972/2009) and participated in its activism primarily because of their needs for the childcare that it sought. Originally, white women joined in an effort to keep childcare centers open in their own communities, and black women subsequently joined because they desired these centers in their own communities. Despite the egalitarian stance of socialist feminists, it appears that the women of the CWLU acted in order to individually improve their daily lives, rather than to improve the lives of all people or to overcome oppressions.

Kirk and Okazawa-Rey (2012) discuss a number of organizations and initiatives that have been started to raise awareness of the injustices that take place within women’s prisons. Consciousness-raising websites, literacy and theater classes within prisons, and numerous documentaries are included in many of the recent efforts by women to benefit female prisoners (Kirk & Okazawa-Rey, 2012). However, Kirk and Okazawa-Rey (2012) point out that it is women with prior prison sentences who are “key to establishing supports and services for women in jails and prisons” (p. 429). Having had the experience of incarceration, formerly imprisoned female activists have the self-interest in reforming women’s prisons that the majority of third wave feminists lack.

However, there are concrete ways in which middle-class white women can find self-interest within the issue of women’s prisons. The reality is that women in prison are

largely affected by circumstances, like sexual exploitation and abuse, that have been at the forefront of second and third wave feminist agendas. In “A Woman’s Journey Home,” Covington (2003) discusses gender-specific experiences that women face during and after their incarcerations. She explains that much of women’s experiences, even leading back to their reasons for being imprisoned, are rooted in patriarchy (Covington, 2003). Many incarcerated women had their first experiences with criminality at a young age, usually after running away from home as a result of physical or sexual abuse (2003). A majority of the women incarcerated for prostitution or drug possession were first introduced to these crimes by the men they were dating (2003). While most middle-class, white feminists may not be as directly affected by the severe lack of rights offered to women in prison, the injustices that incarcerated women face threaten the progress that feminists have made in securing reproductive rights outside of prisons.

Rebecca Whisnant argues that “there exist patriarchal forces and structures which, regardless of how any particular woman feels about them or chooses to relate to them, objectively function to uphold the power and privilege of men while keeping women as a group down” (qtd. in Mantilla, 2007, p. 89). The criminal justice system in the United States is one of the patriarchal structures that all feminists should recognize as an opportunity to strengthen the rights of women as a whole. With more education and access to information regarding women in prisons, feminists can better understand that women’s reasons for being criminalized and ending up in prison are rooted in patriarchy, and hopefully will be motivated to add earning rights for incarcerated women to the feminist agenda.

## VI. CONCLUSION

As a result of exorbitant healthcare costs, the public opinion regarding prisoners' rights, a desire to maintain a social hierarchy with women at the bottom, and a demand for labor in the profit-driven prison industry, incarcerated women have been denied the right to reproductive healthcare, as well as the right to make their own reproductive decisions. Underlying the numerous reasons for the denial of rights to women in prison is the institutionalized racism and classism that is still rampant in the United States today. Reform of the United States prison system, headed by third wave feminists, will be necessary if the nation wishes to ever overcome its history of marginalizing, dehumanizing, and enslaving its minority populations.

Ultimately, alternative sentencing for mothers who have committed non-violent crimes would allow them the opportunity to raise their children from home and take care of their own health needs while still under community supervision. The passage of legislation to improve programs and healthcare within prisons that are specific to women and mothers would prepare women to enter back into the community once alternative sentencing is more widely used. Programs like parenting classes, education on healthy child development, and other skills training would increase the likelihood of breaking the cycle of incarceration. Implementing new policies to enable bonding between a mother and her children while she is in prison would also be beneficial to ensuring a smooth transition back into the community once community supervision is more widely used. Methods of bonding could include improved nursery or CPMP programs that allow

families to live together, or increased communication and visitation opportunities. Communication and visits would still be difficult for many families because of travel costs, so it would be important to make efforts to place women in prisons as close to their homes as possible. Because all of these legislative changes directly affect women's autonomy over their bodies and their choices as mothers, third wave feminists should be motivated to lead the efforts for prison reform or abolition.

Sudbury (2003/2012) acknowledges that the problem with reforming prisons is that it creates a greater monetary need to provide new programs and services. She predicts that the money for better healthcare and motherhood programs would be attained by the expansion of prison corporations, which will continue to rely on the new labor of inmates (Sudbury, 2003/2012). Imprisonment and the prison-industrial complex seem to be a never-ending cycle, which is why many prison activists, like Angela Davis (2003), view prison abolition as the only viable solution. The few feminists like Davis, who have devoted their activism to prison reform and abolition because they have experienced the United States prison system firsthand, will not be able to reform or put an end to the prison system by themselves. Attention and activism on the part of all third wave feminists would raise awareness and increase the chances of overcoming the injustices done to incarcerated women.

Throughout the second wave of feminism, consciousness-raising groups were one of the primary tools that feminist activists utilized in gaining support for women's rights. Consciousness-raising happened when small groups of women would gather to communicate about their oppression and discrimination, raise questions to one another, share their testimonies, and discuss ways to overcome the systematic oppression that they

faced every day (Sarachild, 1968/2009). With access to the internet and so many media outlets in the 21<sup>st</sup> century, the third wave has even greater opportunities to reach the American populace and educate them about the issues facing women in America today.

Aside from educating Americans about the injustices done to women in prisons, feminist organizations like Planned Parenthood can be at the forefront of activism for incarcerated women's reproductive rights. Until alternative sentencing or prison abolition takes place, feminist organizations can make efforts to extend their services to women prisoners by offering reproductive health and parenting classes, as well as birth control and abortion options to women in prisons.

In order for feminist organizations and individuals to become activists for prison reform or abolition, it will be important for white, middle-class feminists to adopt the intersectional agenda that they claim is so pivotal to the success of the third wave. As Karla Mantilla (2007) stated, "in order to work toward the liberation of women, women must undertake actions that not only benefit themselves in some way, but that benefit women's position as a class" (p.89). While they may not have a great likelihood of serving time in prison themselves, the self-interest in the rights of incarcerated women for white, middle-class feminists lies in the fact that the oppression of a single population leaves the door open for all other forms of oppression to exist.

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