



INDIANA UNIVERSITY PRESS

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Source: *Meridians*, Vol. 2, No. 1 (2001), pp. 1-25

Published by: Indiana University Press

Stable URL: <http://www.jstor.org/stable/40338793>

Accessed: 20-01-2018 19:43 UTC

REFERENCES

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Race, Gender, and the Prison Industrial Complex California and Beyond

ANGELA Y. DAVIS AND CASSANDRA SHAYLOR

Women's Rights as Human Rights

A central achievement of the 1995 United Nations Fourth World Conference on Women in Beijing was the emphatic articulation of women's rights as human rights. In specifically identifying violence against women in both public and private life as an assault against women's human rights, the Beijing Conference helped to deepen awareness of violence against women on a global scale. Yet, even with this increasing attention, the violence linked to women's prisons remains obscured by the social invisibility of the prison. There, violence takes the form of medical neglect, sexual abuse, lack of reproductive control, loss of parental rights, denial of legal rights and remedies, the devastating effects of isolation, and, of course, arbitrary discipline.

Recent reports by international human rights organizations have begun to address the invisibility of women prisoners and to highlight the severity of the violence they experience. For example, Human Rights Watch and Amnesty International have specifically focused on the widespread problem of sexual abuse in United States' prisons. In 1999 the United Nations Special Rapporteur on Violence Against Women issued a report on her findings—which were even more disturbing than prison activists had predicted—from visits to eight women's prisons in the U.S. In general, although international human rights standards rarely have been applied within the context of the U.S., particularly in the legal arena, UN documents (such as the *International Covenant on Civil and Political Rights* and the *Standard Minimum Rules for the Treatment of Prisoners*) have been used

[*Meridians: feminism, race, transnationalism* 2001, vol. 2, no. 1, pp. 1–25]
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productively by activists to underscore the gravity of human rights violations in women's prisons.

The Prison Industrial Complex

As prison populations have soared in the United States, the conventional assumption that increased levels of crime are the cause has been widely contested. Activists and scholars who have tried to develop more nuanced understandings of the punishment process—and especially racism's role—have deployed the concept of the “prison industrial complex” to point out that the proliferation of prisons and prisoners is more clearly linked to larger economic and political structures and ideologies than to individual criminal conduct and efforts to curb “crime.” Indeed, vast numbers of corporations with global markets rely on prisons as an important source of profit and thus have acquired clandestine stakes in the continued expansion of the prison system. Because the overwhelming majority of U.S. prisoners are from racially marginalized communities, corporate stakes in an expanding apparatus of punishment necessarily rely on and promote old as well as new structures of racism.

Women especially have been hurt by these developments. Although women comprise a relatively small percentage of the entire prison population, they constitute, nevertheless, the fastest growing segment of prisoners. There are now more women in prison in the State of California alone than there were in the United States as a whole in 1970 (Currie 1998). Because race is a major factor in determining who goes to prison and who does not, the groups most rapidly increasing in number are black, Latina, Asian-American, and indigenous women.

Globalization of capitalism has precipitated the decline of the welfare state in industrialized countries, such as the U.S. and Britain, and has brought about structural adjustment in the countries of the southern region. As social programs in the U.S. have been drastically curtailed, imprisonment has simultaneously become the most self-evident response to many of the social problems previously addressed by institutions such as Aid to Families with Dependent Children (AFDC). In other words, in the era of the disestablishment of social programs that have historically served poor communities, and at a time when affirmative action programs are being dismantled and resources for education and health are declining, imprisonment functions as the default solution.

Especially for women of color, who are hardest hit by the withdrawing of social resources and their replacement with imprisonment, these draconian strategies—ever longer prison sentences for offenses that are often petty—tend to reproduce and, indeed, exacerbate the very problems they purport to solve.

There is an ironic but telling similarity between the economic impact of the prison industrial complex and that of the military industrial complex, with which it shares important structural features. Both systems simultaneously produce vast profits and social destruction. What is beneficial to the corporations, politicians, and state entities involved in these systems brings blight and death to poor and racially marginalized communities throughout the world. In the case of the prison industrial complex, the transformation of imprisoned bodies of color into consumers and/or producers of an immense range of commodities effectively transforms public funds into profit, leaving little in the way of social assistance to bolster the efforts of women and men who want to overcome barriers erected by poverty and racism. For example, when women who spend many years in prison are released, instead of jobs, housing, health care, and education, they are offered a small amount of release money, which covers little more than a bus ride and two nights in an inexpensive hotel. In the “free world,” they are haunted by the stigma of imprisonment, which renders it extremely difficult for a “felon” to find a job. Thus they are inevitably tracked back into a prison system that in this era of the prison industrial complex has entirely dispensed with even a semblance of rehabilitation.

The emergence of a prison industrial complex means that whatever rehabilitative potential the prison may have previously possessed (as implied by the bizarre persistence of the term “corrections”) is negated. Instead, the contemporary economics of imprisonment privilege the profitability of punishment at the expense of human education and transformation. State budgets increasingly are consumed by the costs of building and maintaining prisons, while monies dedicated to sustaining and improving communities are slashed. A glaring example of the misplaced financial investment in punishment is the decreasing state support for public education; for example, in California in 1995 the budget for prisons exceeded that for higher education.

Corporations are intimately linked to prison systems in both the public and the private sector. The trend toward privatization is only one manifestation of a growing involvement of corporations in the punishment

process. While a myopic focus on private prisons in activist campaigns may tend to legitimate public prisons by default, placing this development within the context of a far-reaching prison industrial complex can enhance our understanding of the contemporary punishment industry. In the U.S., there are currently twenty-six for-profit prison corporations that operate approximately 150 facilities in twenty-eight states (Dyer 2000). The largest of these companies, Corrections Corporations of America (CCA) and Wackenhut, control 76.4% of the private prison market globally. While CCA is headquartered in Nashville, Tennessee, its largest shareholder is Sodexho Marriott, the multi-national headquartered in Paris, which provides catering services at many U.S. colleges and universities. Currently, CCA, Wackenhut and the other smaller private prison companies together bring in \$1.5 to 2 billion a year (Dyer 2000).

Though private prisons represent a fairly small proportion of prisons in the U.S., the privatization model is quickly becoming the primary mode of organizing punishment in many other countries (Sudbury 2000).¹ These companies have tried to take advantage of the expanding population of women prisoners, both in the U.S. and globally. In 1996, the first private women's prison was established by CCA in Melbourne, Australia. The government of Victoria

adopted the U.S. model of privatization in which financing, design, construction, and ownership of the prison are awarded to one contractor and the government pays them back for construction over twenty years. This means that it is virtually impossible to remove the contractor because that contractor owns the prison. (George 1999, 190)

However, to understand the reach of the prison industrial complex, it is not enough to evoke the looming power of the private prison business. Of course, by definition, those companies court the state inside and outside the U.S. for the purpose of obtaining prison contracts. They thus bring punishment and profit into a menacing embrace. Still, this is only the most visible dimension of the prison industrial complex, and it should not lead us to ignore the more comprehensive corporatization that is a feature of contemporary punishment. As compared to earlier historical eras, the prison economy is no longer a small, identifiable and containable set of markets. Many corporations, whose names are highly recognizable by "free-world" consumers, have discovered new possibilities for expansion by selling their products to correctional facilities.

In the 1990s, the variety of corporations making money from prisons is truly dizzying, ranging from Dial Soap to Famous Amos cookies, from AT&T to health-care providers....In 1995 Dial Soap sold \$100,000 worth of its product to the New York City jail system aloneWhen VitaPro Foods of Montreal, Canada, contracted to supply inmates in the State of Texas with its soy-based meat substitute, the contract was worth \$34 million a year. (Dyer 2000, 14)

The point here is that even if private prison companies were prohibited—an unlikely prospect, indeed—the prison industrial complex and its many strategies for profit would remain intact.

Moreover, it is not only the private prison—CCA and Wackenhut in particular—that gets reproduced along the circuits of global capital and insinuates itself into the lives of poor people in various parts of the world. Connections between corporations and public prisons, similar to those in the U.S., are currently emerging throughout the world and are being reinforced by the contemporary idea, widely promoted by the U.S., that imprisonment is a social panacea. The most obvious effects of these ideas and practices on women can be seen in the extraordinary numbers of women arrested and imprisoned on drug charges throughout the world. The U.S.-instigated “war on drugs” has disproportionately claimed women as its victims inside the U.S., but also elsewhere in Europe, South America, the Caribbean, Asia, and Africa (Stern 1998). In what can be seen as the penal equivalent of ambulance chasing, architectural firms, construction companies, and other corporations are helping to create new women’s prisons throughout the world.

Race, Gender, and the Prison Industrial Complex

Activist opposition to the prison industrial complex has insisted on an understanding of the ways racist structures and assumptions facilitate the expansion of an extremely profitable prison system, in turn helping to reinforce racist social stratification. This racism is always gendered, and imprisonment practices that are conventionally considered to be “neutral”—such as sentencing, punishment regimes, and health care—differ in relation to the ways race, gender, and sexuality intersect.²

The women most likely to be found in U.S. prisons are black, Latina, Asian American, and Native American women. In 1998, one out of every

109 women in the U.S. was under the control of the criminal justice system (Greenfeld and Snell 1999). But where these women are located within the system differs according to their race: while about two thirds of women on probation are white, two thirds of women in prison are women of color. An African-American woman is eight times more likely to go to prison than a white woman; a Latina woman is four times more likely. African-American women make up the largest percentage of women in state prisons (48%) and federal detention centers (35%), even though they are only approximately 13% of the general population (Greenfeld and Snell 1999). As the population of Latinas in the U.S. grows, so does their number in prisons. In California, for example, though Latinas comprise 13% of the general population, they make up around 25% of women in prison (*Characteristics of Population in California State Prisons* 2000). Though there is no official data maintained on the numbers of Native American women in prison, numerous studies document that they are arrested at a higher rate than whites and face discrimination at all levels of the criminal justice system (Ross 1998).

Given the way in which U.S. government statistics fail to specify racial categories other than “white,” “black,” and “Hispanic” (figures regarding women who self-identify as Native American, Vietnamese, Filipina, Pacific Islander, or as from any other racially marginalized community, are consolidated into a category of “other”), it is difficult to provide precise numbers of women from these groups in prison (Greenfeld and Snell 2000). However, advocates for women prisoners report that the numbers of Asian women, including Vietnamese, Filipinas, and Pacific Islanders, are growing in women’s prisons.³

The vast increase in the numbers of women of color in U.S. prisons has everything to do with the “war on drugs.” Two African-American women serving long federal sentences on questionable drug charges—Kemba Smith and Dorothy Gaines—were pardoned by President Bill Clinton during his last days in office. In the cases of both Smith, who received a twenty-four-and-a-half year sentence, and Gaines, whose sentence was nineteen years and seven months, their sole link to drug trafficking was their involvement with men who were accused traffickers (Newsome 2000).

Considering only the federal system, between 1990 and 1996, 84% of the increase in imprisoned women (2,057) was drug-related. In the entire complex of U.S. prisons and jails, drug-related convictions are largely to

blame for the fact that black women are imprisoned at rates that are twice as high as their male counterparts and three times the rate of white women (Bush-Baskette 1999, 220). Harsh sentencing laws, such as mandatory minimums attached to drug convictions and “three strikes” laws, which can result in a life sentence for a relatively minor drug offense, have created a trap door through which too many women of color have fallen into the ranks of disposable populations.

Violence Against Women in Prison

Dorothy Gaines and Kemba Smith were fortunate, but they are only two of the women incarcerated during the Clinton years, during which more women than ever were sentenced to prison. What happens to the vast numbers of women behind walls? In the first place, contrary to international human rights standards, imprisonment means much more than just a loss of freedom. Women’s prisons are located on a continuum of violence that extends from the official practices of the state to the spaces of intimate relationships. Both public and private incarnations of this violence are largely hidden from public view. But while domestic violence increasingly is an issue of concern in public life, the violence of imprisonment rarely is discussed. Prisons are places within which violence occurs on a routine and constant basis; the functioning of the prison depends upon it. The threat of violence emanating from prison hierarchies is so ubiquitous and unpredictable that some women have pointed out the striking structural similarities between the experiences of imprisonment and battering relationships (Chevigny 1999).

Though many women prisoners have indeed experienced intimate violence, the profile of “the woman prisoner” tends to imply that this victimization in the “free world” is the cause of imprisonment. Such a simplistic causal link fails to recognize the complex set of factors related to the social and political legitimization of violence against women, emphasizing domestic violence at the expense of an understanding of state violence—both in the “free world” and in the world of prison.

Violence in prison is directed at the psyche as well as the body. Increasingly, prisons in the U.S. are becoming a primary response to mental illness among poor people. The institutionalization of mentally ill people, historically, has been used more often against women than

against men. However, for women who do not enter prison with mental problems, extended imprisonment is sure to create them. According to Penal Reform International,

[L]ong term prisoners may develop mental and psychic disturbances by imprisonment itself and by being cut off from their families. Mental problems also arise and may become chronic in big prisons, where there is much overcrowding; where there are few activities; where prisoners have to stay a long time in their cells in daytime.... (*Making Standards Work* 1995, 95–96)

Thus, this organization interprets the *Standard Minimum Rules for the Treatment of Prisoners* (SMR) as not only proscribing the incarceration of mentally ill persons in prisons, but as also calling for compassionate care by medical, psychological, and custodial staff of those who suffer mental and emotional problems as a consequence of imprisonment.

Most women in prison experience some degree of depression or post-traumatic stress disorder. Very often they are neither diagnosed nor treated, with injurious consequences for their mental health in and out of prison. Many women report that if they ask for counseling they are offered psychotropic medications instead. Despite legal challenges, prison regimes construct prisoners who suffer the effects of institutionalization as “sick” and in need of treatment with psychotropic drugs (Kupers 2000). Historically, this “medicalization model” has been most widely used against women (Dobash 1986).

As technologies of imprisonment become increasingly repressive and practices of isolation become increasingly routine, mentally ill women often are placed in solitary confinement, which can only exacerbate their condition. Moreover, women prisoners with significant mental illnesses frequently do not seek treatment because they fear harsh procedures (such as being placed in a “strip cell” if they say they are suicidal) and/or over-medication with psychotropic drugs. While women who have mental health concerns are mistreated, women with serious physical conditions often are labeled mentally ill in order to preempt their complaints—sometimes with grave consequences.⁴

Medical Neglect

At the historic legislative hearings recently conducted inside California women's prisons,⁵ prisoner Gloria Broxton declared: "They don't have the right to take my life because they thought I was worthless. I didn't come here to do my death sentence. I did a stupid thing, but I should not have to pay for it with my life" (Truth to Power 2000).⁶ As Broxton's words indicate, she would probably not be dying of endometrial cancer today had she been granted earlier treatment. Violence is promoted by prison regimes, which also divest prisoners of the agency to contest them. The most salient example of this habitual violence is the lack of access to decent health care—in prison, medical neglect can result in death. Widely accepted interpretations of UN documents, such as the *Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment*, and the *International Covenant on Civil and Political Rights* (Articles 6.1 and 7), and the *Standard Minimum Rules for the Treatment of Prisoners*, emphasize the importance of health care in prisons. "The level of health care in prison and medication should be at least equivalent to that in the outside community. It is a consequence of the government's responsibility for people deprived of their liberty and thus fully dependent on state authority" (Making Standards Work 1995, 71).

Women in California prisons overwhelmingly have identified lack of access to medical information and treatment as their primary concern. At the hearings on conditions in women's prisons in California, witnesses reported that they often waited months to see a doctor and weeks for prescriptions to be refilled. For women with heart disease, diabetes, asthma, cancer, seizures, and HIV/AIDS, such delays in medication can cause serious medical complications or premature death. For example, Sherrie Chapman, an African-American woman imprisoned at the California Institution for Women, testified about extreme delays in treatment that led to the development of a terminal condition. Chapman sought diagnosis of breast lumps for ten years and was denied access to medical care. By the time she received treatment, she was subjected to a double mastectomy, and ten months later a hysterectomy. Despite the fact that at the time of the hearings her cancer had metastasized to her head and neck, she consistently was denied adequate pain management. As she testified: "I can't just go to the doctor and ask for help without being looked at and thought of as a manipulator, a drug seeker" (Truth to Power 2000). Her

requests for a compassionate release—in order to live with her mother until she dies—have been denied, and she will likely die in prison.

Tragically, all too often medical neglect in prison results in premature death. As Beverly Henry, a prisoner peer educator, testified:

I have seen women die on my yard, women that I was very close to and women that I knew. If I could see that the whites of their eyes were as yellow as a caution sign, why couldn't somebody else? I watched a woman's waist grow from approximately 27 inches to 67 inches because her liver was cirrhoted [a sign of advanced liver failure]. She could not wear shoes, she looked nine months pregnant, and every day she asked me: "Am I gonna die here? Am I gonna die here? Do you think this is what is gonna happen to me?" And she died. And there was nothing we could do about it. And I know that something could have been done. (*Truth to Power* 2000)

During an eight-week period at the end of 2000, nine women did, in fact, die in the Central California Women's Facility (CCWF) in Chowchilla, California. Though these women died of a variety of illnesses, all of their deaths were in some way attributable to severe medical neglect on the part of the prison.⁷ One of these women was Pamela Coffey, a forty-six-year-old African-American woman who complained of a mass on her side and swelling in her abdomen for several months but was denied medical treatment. On the night she died, she complained of extreme abdominal pain, swelling in her face and mouth, and numbness in her legs. Her roommates called for medical help, but for three hours no one came. She collapsed on the bathroom floor in her cell, and when a Medical Technical Assistant (MTA)—a guard with minimal medical training—finally arrived, he failed to examine her or to call for medical help. He left the cell, and Coffey's condition deteriorated. Her cellmates again called for help, but by the time the MTA arrived thirty minutes later, Coffey was dead. Prison staff then left her body in the cell for over an hour, further traumatizing her cellmates. Pamela Coffey's death exemplifies the severe medical neglect many women prisoners face, as well as the punishment all women are subjected to in an environment in which medical neglect is rampant. Many women are forced to watch other women deteriorate and sometimes die, and as a result must live in fear that they or someone they care about will be next.

Following the deaths, prison officials attempted to further criminalize the women who died by claiming that their deaths were attributable to

illicit drug use in prison, despite the fact that there was no evidence to support such a claim. Prison administrators thus easily relied on widely circulating stereotypes of women prisoners as drug addicts—stereotypes fueled by the “war on drugs”—to demonize women who died as a result of medical neglect. Prison staff also instituted a new practice of treating the cell of a woman who called for medical help after hours as a “crime scene,” which meant searching all of the women, upending the cell, and seizing property. Such a practice serves to make women fearful of calling for help because they or their cellmates will be punished. All of the women who died at CCWF were determined to have died of “natural” causes. Given that these premature deaths were preventable, they cannot be considered to be “natural.” On the other hand, given that women prisoners are systematically denied appropriate health care leading to the development of serious illnesses and premature death, medical neglect and death in prison have become, sadly, all too “natural.”

Women prisoners are consistently accused of malingering, and medical staff often use intimidation to dissuade them from seeking treatment. In order to complain about inadequate medical care, women must first file written grievances with the staff person with whom they have a problem. In other words, the recipient of the complaint is the only person who ostensibly can provide them with the care they need. Because there is only one doctor on each prison yard, women prisoners have told outside advocates that they rarely complain in order to avoid retaliation and the denial of treatment altogether. This process clearly violates the spirit of Rule thirty-six of the SMR, which encourages prison authorities to make confidential channels available to prisoners who decide to make complaints.⁸

Beyond the ongoing epidemic of medical neglect of individual women prisoners, prisons also operate to create and exacerbate public health crises such as Hepatitis C Virus (HCV) and HIV. Lack of treatment and callous disregard for individual women’s lives is even more frightening within the context of such massive infectious epidemics. HIV rates are at least ten times higher among prisoners than among people outside of prison, and the rate is higher among women prisoners than men (DeGroot, Hammett, and Scheib 1996). HCV has reached epidemic levels in California prisons—the California Department of Corrections estimates that 40% of the prison population is infected (Steinberg 2000). Because the Department of Corrections regularly fails to test women for HCV or to provide information about prevention, advocates for women prisoners believe the numbers to be considerably higher. Not only is there

a dearth of access to treatment but also to information about prevention. Women report that when they request to be tested for communicable diseases, they often do not get the results, even if they test positive. By virtue of this medical neglect, the prison promotes the spread of these diseases both inside prison and in the communities outside of prison to which women go when they are released.

Medical neglect in prison reflects and extends the lower value society places on the provision of preventative care and treatment to poor women of color outside of the prison. The abuse of women prisoners through medical neglect recapitulates a long history of inadequate healthcare for women, particularly women of color, which is often explicitly justified by sexist and racist ideologies.

Reproductive Rights

Reproductive health care in prisons is equally informed by these ideologies and often equally abysmal. Pregnant women are provided limited pre-natal care, and in several U.S. jurisdictions, women are shackled during labor (Amnesty International 2001). Women prisoners wait months, and sometimes years, to receive routine gynecological examinations that protect against the development of serious health conditions.⁹ For some women, these delays, combined with a consistent failure of prison medical staff to address treatable conditions early, result in the development of serious reproductive health problems. Theresa Lopez, a young Latina in her twenties, developed and died of cervical cancer, a condition that is easily treatable in its early stages, because prison medical staff failed to provide her with basic medical treatment.¹⁰

In an interview with community activists recording women prisoners' oral histories, Davara Campbell described the politics of reproductive health in prisons:

In the 1970s I was suffering severe menstrual cramps and a tilted uterus. As a young woman in the criminal justice system serving a life sentence complicated by medical female "disorders" and subject to misdiagnoses by questionable, unprofessional, unethical medical personnel, it was recommended I have a hysterectomy. I was maybe twenty-years-old. Having some enlightenment about genocide, I felt

that the prospect of my being able to have a family was being threatened, so I escaped from prison to have a child. I had a son. He is now 28 years old, and I have four grandchildren who I would not have if I had given up my rights. Any imposition upon reproductive rights is an injustice against the well-being of family units—the rights of women, children, and grandchildren, or the promise of the future. (Campbell 1999)

As this account highlights, gynecological and reproductive health services in prisons are inadequate at best, dangerous and life-threatening at worst. Inside prisons, women are subject to substandard gynecological care that sometimes results in loss of reproductive capacity or leads to premature death. Often this inadequate care amounts to practices of sterilization, as Campbell's analysis highlights. The use of sterilization as a "solution" to women's gynecological problems resonates with racist practices that women of color in the U.S. have experienced historically.

In the contemporary efforts to justify the abolition of welfare, continuing accusations of over-reproduction directed at African-American and Latina single mothers legitimize differential claims to reproductive rights. Racist ideologies circulating outside prisons then enable the kinds of assaults on women's reproductive capacities inside prisons that are reminiscent of earlier historical eras, such as the forced sterilization of Puerto Rican and Native American women and forced reproduction of enslaved black women. Thus prisons operate as sites where those reproductive rights putatively guaranteed to women in the "free world" are often systematically ignored, especially where women of color are concerned.

Gynecology is one of the most problematic areas in prison health care. Historical connections with racist gynecological practices continue to live on within the prison environment. More generally, to say that imprisonment deleteriously affects the health of women is clearly a criticism of health care in women's prisons, conditions that have been abundantly documented by legal and human rights organizations. But it is also to raise questions about the inertia that appears to prevent significant change in health care conditions, even when there is acknowledgment that such change is necessary. Why, for example, do accusations of sexual abuse continue to hover around medical regimes in women's prisons? Why have women prisoners complained for many decades about the

difficulty of gaining access to skilled medical personnel? One of the ways to answer these questions is to look at the prison as a receptacle for obsolete practices—a site where certain practices, even when discredited in the larger society, acquire a second life.

There are children and families left behind in the “free world” on whom the imprisonment of women undoubtedly has a devastating impact. Almost 80% of women in prison have children for whom they were the primary caretakers before their imprisonment (Belknap 1996). The removal of a significant number of women of color, coupled with the alarming rates of incarceration for their male counterparts, has a disabling effect on the ability of poor communities to support families, whatever their constellation. When mothers are arrested, children are often placed in foster care and, in line with new laws, such as the Adoption and Safe Families Act of 1997, many are streamlined into adoption. All ties with birth mothers and extended families are thus systematically severed. In many instances, this process tracks children into juvenile detention centers and from there into adult prisons. For women who are reunited with their children upon release, the challenges for them are amplified by new welfare reform guidelines that prevent a former prisoner from receiving public benefits, including housing assistance. When previously imprisoned women are divested of their rights to social services—a move related to the political disenfranchisement of former prisoners in many states—they are effectively tracked back into the prison system. This is one of the modes of reproduction of the prison industrial complex.

Sexual Harassment and Abuse

The development of putatively “feminist” campaigns by prison administrators has had deleterious consequences for women in prison. The assumption that formal gender equality inevitably leads to better conditions for women is contradicted by the recent pattern of modeling the architecture, regimes and staff of women’s prisons after the men’s counterparts. The current tendency, for example, is to place gun towers in women’s maximum-security units in order to render them equal to similar men’s units. The hiring of male custodial staff, who have visual access at all times to women’s cells—even when they are changing clothes—and to the showers, creates a climate that invites sexual abuse. In U.S.

women's prisons, the ratio of male to female corrections staff is often two to one and sometimes three to one. Though this disproportion alone does not inevitably lead to abuse, the administration and culture of the prison creates an environment in which sexual abuse thrives.

Partly as a result of these increasingly repressive models, and partly because of the rampant sexist and racist ideologies that support and sustain women's prisons, routine sexual abuse and harassment amount to a veritable climate of terror. Among the many abuses women prisoners have identified are inappropriate pat searches (male guards pat searching and groping women), illegal strip searches (male guards observing strip searches of women), constant lewd comments and gestures, violations of their right to privacy (male guards watching women in showers and toilets), and in some instances, sexual assault and rape (UN Special Rapporteur on Violence Against Women 1999, 12–14).

According to international human rights standards, the rape of a woman in custody is an act of torture. Furthermore, violations of rights to privacy and preservation of human dignity are protected by the *International Covenant on Civil and Political Rights*. Recent studies by human rights organizations have confirmed that these international standards are routinely violated in U.S. prisons. Human Rights Watch, for example, found that sexual abuse is often related to perceived sexual orientations of prisoners (Human Rights Watch 1996, 2). Sexual abuse is also frequently linked to medical practices. Many women in California prisons have indicated that they avoid much-needed medical treatment because male doctors can force them to submit to inappropriate pelvic examinations regardless of their symptoms (Nightline 1999). However, only a small proportion of sexually harassed women report these incidents to prison authorities, not only because staff perpetrators are rarely disciplined, but also because they themselves may suffer retaliation.

Sexual harassment and abuse are also linked to the new technologies of imprisonment. For example, the rapidly proliferating “supermax units,” which isolate prisoners in individual cells for twenty-three out of twenty-four hours a day, render women even more vulnerable to sexual assault and harassment. In a legal interview, Regina Johnson, a thirty-six-year-old African-American woman in the Security Housing Unit at Valley State Prison for Women in Chowchilla, California, reported being required to expose her breasts to a male guard in order to obtain necessary hygiene supplies (Johnson 1998).

“Cell extractions,” a practice linked to the “supermax,” involve

subduing a prisoner, usually by means of restraints, and performing a strip-search before removing her from her cell. The involvement of male guards—although female guards also participate—especially imbues cell extractions with a very real potential for sexual abuse.

In the State of Arizona, the sheriff in Maricopa County has installed video cameras in the women's holding and search cells in the county jail; he broadcasts live footage of women in these cells on the internet at <www.crime.com>. Though such prurient monitoring is unacceptable in any detention setting, it is particularly disturbing in the jail setting because many of these women are pre-trial detainees who have not been found guilty of any crime and, therefore, presumably are not yet to be subjected to any form of punishment.

Policing Sexuality

Such sexual harassment of women, in the guise of being “tough on crime,” illustrates the myriad ways in which prisons attempt to control women and their sexuality through sexual violence. In the sexualized environment of the prison, prison guards and staff learn not to fear sanctions for being sexually abusive to women. At the same time, women's sexuality, both inside and outside of prison, is policed and punished. A significant number of women enter the prison system as a direct result of the criminalization of sexual practices. Laws against sex work in most United States' jurisdictions result in the arrest and conviction of thousands of poor women. Sex workers most often arrested work the streets, as opposed to working in organized environments such as brothels, parlors, or escort services. Street workers, who are disproportionately women of color, are most likely to land in jail. In several states, there is now a charge of “felony prostitution” for sex workers with a known HIV-positive status, carrying a mandatory minimum sentence of four years. The criminalization of sex work creates a cycle of imprisonment: women are arrested, sentenced to jail time and often charged heavy fines and court fees, which then force them back onto the streets only to be arrested again.

Such criminalization of women's sexuality begins at a young age; girls are now the fastest growing population in the juvenile justice system. Most often these girls are arrested for “status offenses,” which include

truancy, underage drinking, breaking curfew, running away, and prostitution. Boys are less likely to be arrested for similar behavior, reflecting an obvious gender bias, but race determines which girls will actually end up in juvenile hall. As in the prison system, communities of color are represented disproportionately in juvenile justice systems. Almost half of girls in juvenile detention in the United States are African American and 13% are Latina. While seven out of ten cases involving white girls are dropped, only three out of ten cases involving African-American girls are dismissed (American Bar Association and National Bar Association 2001). This increasing imprisonment of girls occurs despite the fact that the juvenile crime rate, particularly violent crime, has continued to decline since 1994 (American Bar Association and National Bar Association 2001). The targeting of girls of color for imprisonment in juvenile detention is a precursor to their later entrapment in women's prisons, because a majority of women in prison first entered the prison system as girls.

The anxieties about women's sexualities that circulate outside of the prison, and often lead to women's criminalization, are exacerbated and foregrounded within the prison. Guards and staff sexualize the space of the prison through their abuse of women, and in so doing not only cast women prisoners as criminal but also as sexually available.

At least since the publication of Rose Giallombardo's *Society of Women: A Study of a Women's Prison* (1966), the most salient characteristic of women's prisons is assumed to be women's intimate and sexual involvement with each other. Yet the ideological presumption of heterosexuality is policed more systematically than in the free world. Women's prisons have rules against "homosecting"—a term used within prisons to refer to same-sex sexual practices among prisoners. The racism and sexism associated with prison regimes intersect in the construction of women of color as hyper-deviant, and the addition of heterosexism means that lesbians of color face a triple jeopardy. A Latina lesbian couple at Valley State Prison for Women reported in a legal interview that masculine-identified prisoners are targeted for verbal harassment and sometime physical assault by male guards, while their feminine-identified partners are sexually harassed by those same guards (Mendoza and Garcia 1998). This gendered form of harassment exemplifies the ways in which gender identity is rigidly policed inside prisons.

Women's Prisons and Anti-Immigrant Campaigns

Women immigrants to the United States are policed and punished in myriad ways. Racist and xenophobic campaigns against immigrant communities, which particularly target people from Mexico and Central America (and increasingly people from Asian countries), have contributed to the criminalization of immigrants, the militarization of the U.S.-Mexico border, and the build-up of the Immigration and Naturalization Service (INS) as an arm of the prison system.

The INS has shifted its focus from providing services to immigrants seeking refuge in the U.S. to enforcement and detention of individuals labeled "illegal aliens," thus establishing itself as a significant component of the prison industrial complex. In many cases, immigrants choose to travel to the United States in order to escape economic dislocation produced by global corporations (often U.S.-headquartered) in their own countries. The profit potential of INS detention centers mirrors that of state and federal prisons both for corporations and for state institutions. For example, the INS rents space in public and private prisons, as well as county jails, often paying twice what the state government would pay for the same beds (Welch 2000).

Immigrant rights and human rights organizations have documented conditions in INS detention facilities that violate basic human rights: detention of immigrants for inordinately long periods, sometimes years; denial of basic medical treatment; and forcing immigrants to sleep on cell floors. (American Civil Liberties Union 1993; Human Rights Watch 2000). Furthermore, the INS practice of purchasing space for detainees in state systems often means that detainees are placed in state prisons and jails that already face lawsuits over poor conditions. In New Orleans Parish Prison in Louisiana, for example, women detainees are housed in a jail that is being sued for sexual abuse of women prisoners (Welch 2000).

Beyond warehousing immigrants for the INS, state and federal prisons in the U.S. independently play a significant role in criminalizing and punishing women from other countries. In federal prisons, for example, approximately 30% of prisoners are foreign nationals (Federal Bureau of Prisons 2001), many of whom are in prison for extremely long sentences as a result of the "war on drugs." Many of these women face deportation upon conclusion of their prison sentence.

As a consequence of the Illegal Immigration Reform and Immigrant

Responsibility Act of 1996, immigrants who have criminal convictions have been deported systematically. This law added offenses that are considered misdemeanors in many states to the list of “Aggravated Felonies,” for which immigrants face mandatory deportation. Further, the law enabled the INS to use convictions from years before to justify deportation, and it eliminated the ability of judges to review the actions of the INS. As a result of this law, many women are separated permanently from their families in the U.S. and effectively are exiled to a country of origin to which they have no ties.

In states with larger immigrant populations, prisoners in the state system often confront dilemmas produced by the intersection of xenophobia and criminalization. In California, for example, Sylvia Rodriguez was dying in prison of metastasized cancer, but if legal advocates were able to secure a compassionate release for her, she would face deportation.¹¹ She was sixty-seven years old and had moved to the U.S. from the Philippines when she was nine years old. She knew no one in her country of origin and was suffering from a terminal illness, but the INS would not guarantee that they would allow her to go home to be with her family before she died. In the process of fighting for her release, she died in state custody.

Legal Challenges to Women’s Imprisonment

Over the past thirty years, prisoners have faced the steady erosion of laws that ostensibly protect them against the abuses of the punishment system. The Supreme Court of the United States has systematically dismantled civil rights protections for prisoners, making it virtually impossible for prisoners to demonstrate that their mistreatment violates the Eighth Amendment to the U.S. Constitution, a provision that is supposed to protect against “cruel and unusual punishment.” In addition to court decisions that detrimentally impact prisoners’ access to justice, the U.S. Congress has also undermined legal protections for prisoners. In 1996, with little opposition, the legislature passed the Prison Litigation Reform Act (PLRA), which creates almost insurmountable legal barriers to prisoners and their advocates seeking remedies in court.

One of the most difficult provisions of the PLRA requires a prisoner to “exhaust available administrative remedies” before seeking assistance from a court. This requirement fails to acknowledge how systematically the prison denies prisoners agency and basic human rights. Indeed, it

establishes a double-bind for the women who must fulfill it. The PLRA states that if there is any procedure in place, however flawed, a prisoner must prove that she has fulfilled the requirements of that procedure. In California, for example, a woman must first file a grievance form with the person with whom she has a complaint (e.g., the guard who sexually assaulted her or the doctor on whom she relies for treatment) and then pursue the complaint up several levels of review. Many women report that they never see the complaint again after they submit it at the first level. Others have described guards tearing up the complaints in their faces. But regardless of how fruitless the process may be, and considering that it ultimately most often fails, the fact remains that a woman cannot take a complaint to court without completing the procedure.

This process encapsulates and perpetuates the abuse of women inside. As the space of the prison becomes increasingly repressive, prison litigation “reform” only acts to obscure human and legal rights violations in prison, exacerbate the suffering of women inside, and facilitate the expansion of the prison industrial complex. As a result, women in prison in the U.S., the so-called “free” world, are neither free nor able to pursue legal remedies deemed basic and necessary human rights by international standards.

Organizing for Change

Despite the significant obstacles encountered by those who want to challenge conditions of their confinement, especially through traditional legal methods, women prisoners find many ways to meaningfully organize and contest the injustices of imprisonment. In many states, women prisoners organize formal or informal peer networks that provide information and support on a wide range of issues, including health care prevention and treatment, child custody, labor conditions, and legal rights. In New York, women at Bedford Hills Correctional Facility organized a program called AIDS Counseling and Education (ACE), which provides prevention and treatment education and support to women in prison about HIV and AIDS. In California, peer educators have organized against the spread of HIV and HCV in prison and have provided health care information about a variety of medical conditions. Women prisoners have also filed individual and class action lawsuits demanding protection of their legal and human rights. In Washington, D.C., Massachusetts, and

Michigan, for example, women successfully organized lawsuits challenging systemic sexual abuses in state prisons. The Legislative Hearings in October 2000 marked the first time in the history of California that proceedings were conducted inside women's prisons with prisoners serving as the primary witnesses. Approximately twenty women testified at two institutions on medical neglect, sexual assault, battered women's issues, and separation from their children and families. As a result of this testimony, two bills were introduced in the California legislature that will potentially have a far-reaching impact on health care in California prisons.

Advocates for women in prison are increasingly locating their efforts to ameliorate conditions of confinement within the frame of a broader resistance to the prison industrial complex. Human rights instruments are deployed to emphasize the systematic denial of human rights further exacerbated by the contemporary corporatization of punishment. However, the strategic goal of this work is not to create better prisons but rather to abolish prisons insofar as they function as a default solution for a vast range of social problems that need to be addressed by other institutions. It is within this context that the most far-reaching challenges are emerging to the racism that has been bolstered by the expansion of prisons. In California, for example, a number of groups work collaboratively to develop more radical approaches of working with and for women in prison. Justice Now is an organization that actively contests violence against women in prison and its connections to the prison industrial complex by training students, family members, and community members to provide direct services to women prisoners in California in conjunction with community-based education, media, and policy campaigns. The California Coalition for Women Prisoners organizes activist campaigns with and for women prisoners to raise awareness about inhumane conditions and advocate for positive changes. Legal Services for Prisoners with Children provides civil legal services to women prisoners, support to prisoner family members, and it also organizes in the communities from which prisoners come. California Prison Focus investigates and exposes human rights violations in California prisons, in particular those in Security Housing Units and supermax prisons. Critical Resistance (CR) builds national campaigns framed by analyses of the prison industrial complex that foreground the intersections of race, gender, and class. In the course of these campaigns, CR encourages people to envision social landscapes where ubiquitous state punishment

will have been replaced by free education, health care, and drug rehabilitation, as well as affordable housing and jobs.

While national campaigns are rapidly advancing in the U.S., the World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance provides a major opportunity to learn from and share experiences with organizations in other parts of the world. Greater emphasis must be placed on the global reach of the prison industrial complex and the further proliferation of the gendered racism it encourages. It is especially important that the punishment industry be seen as a significant component of the developing global political economy. An overarching recommendation for action thus calls for international networking among organizations that acknowledge the link between prisons and racism and that locate the important work of providing services to imprisoned women within a strong anti-corporate and anti-racist framework.

Further recommendations for action include the decriminalization of drug use and the establishment of free drug rehabilitation programs that are not tied to criminal justice agencies and procedures. This would drastically decrease the number of women in prison. In conjunction with these decarceration strategies, local and transnational campaigns to prevent the construction of new public and private prisons are also necessary. Legislation is needed that makes state and federal governments, as well as individual perpetrators, responsible for sexual abuse and harassment of women prisoners. In line with human rights standards, women's reproductive and family rights must be guaranteed. This means that civilian boards with enforcement powers should be established to review and act upon the grievances of women prisoners, especially those involving medical neglect, arbitrary discipline, and sexual abuse. In general, more widespread education and media campaigns are needed to expand and deepen awareness of the central role women's prisons play throughout the world in perpetuating misogyny, poverty, and racism.

NOTES

This essay was prepared as a contribution to the report presented by the Women of Color Resource Center, Berkeley, Calif., U.S.A. to the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance, held on 31 August–7 September 2001, in Durban, South Africa.

1. Julia Sudbury offers an analysis of the growing trend toward privatization of prisons in England in particular.
2. For a discussion of intersectional analysis, see Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color."
3. Interview with Cynthia Chander, Co-Director, Justice Now, May 25, 2001; Interview with Heidi Strupp, Legal Assistant, Legal Services for Prisoners with Children, June 1, 2001.
4. For example, Jody Fitzgerald recently died at the Central California Women's Facility. In legal interviews with staff of Legal Services for Prisoners with Children, several women prisoners testified that prison staff ignored Ms. Fitzgerald's serious physical symptoms—claiming they were "all in her head"—and sent her to a psychiatric unit where she subsequently died.
5. Legislative hearings were conducted at Valley State Prison for Women on October 11, 2000, and at California Institution for Women on October 12, 2000. Twenty women provided testimony about medical neglect, sexual abuse and harassment, separation from their children and communities, and criminalization of battered women.
6. The contributions of women prisoners to this report were drawn from a number of sources: public testimony at legislative hearings; legal interviews with attorneys at Justice Now and Legal Services for Prisoners with Children; and oral histories recorded by community activists Cynthia Chandler and Carol Kingery. Names of women prisoners are used only when they offered public testimony or when they gave explicit permission for their names to be used. Otherwise the authors have assigned pseudonyms to protect their privacy.
7. Based on extensive interviews with women prisoners, reviews of medical records, and reports of outside doctors, legal advocates at Justice Now and Legal Services for Prisoners with Children concluded that all of the deaths of women at CCWF were attributable to medical neglect in one form or another.
8. See the discussion of prisoners' complaints machinery in *Making Standards Work* 1995, 37–40.
9. Legal interviews conducted by lawyers at Justice Now and Legal Services for Prisoners with Children with hundreds of women at Valley State Prison for Women, Central California Women's Facility and California Institution for Women reveal a pattern and practice of extreme neglect of women's reproductive health in prisons.
10. Theresa Lopez was a client of Justice Now who was granted compassionate release a few days before she died.
11. Ms. Rodriguez was a client of Justice Now.

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