



Life Matters Journal

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Pregnancy in Prison Shackles and Separation

The number of incarcerated women has risen 800% since the 1970s.
How is pregnancy and childcare handled behind bars?

Sexual Abuse and Dehumanization of Incarcerated Humans

In light of the #MeToo movement, Maria Pane seeks to highlight the stories
of individuals who have been silenced and made invisible by the State.

Killing for Life: Organ Harvesting in China

More executions occur in China than in all other countries put together.
Christina Yao delves into this troubling fact and gives her opinion on China's
decades-long practice of harvesting the organs of executed prisoners.

LETTER FROM THE EDITOR

Dear friends,

On August 21, in solidarity with the National Prison Strikes, Rehumanize International expressed our complete support for prisoners nationwide and the demands they are making for the recognition of humanity and need for better health, safety, and labor policies for incarcerated humans. This solidarity, led by Herb Geraghty on the Rehumanize blog committed us to standing with the prisoners and using our resources to educate on the injustices prisoners face every day behind bars.



Within this issue, we are covering subjects from sexual and reproductive injustices behind bars to what is currently happening at the border and how dehumanization in U.S. Prisons is now growing to ICE Detention Centers. Christina Yao wrote two incredibly touching pieces: one highlights the beginning of life in prison when an incarcerated woman is pregnant and gives birth behind bars, while another covers China's use of the death sentence for organ transplants. Aimee Murphy also covered the history of U.S. eugenic policies and the still very present injustice of legal sterilization behind bars due to racism and ableism.

I invite you to think about our prison system and the injustices still present that cause our prisons to be resemble modern slavery. Prisoners need access to rehabilitation programs and a humane chance to be reformed. Maybe a more human-centered model would help? After all, the incarcerated are humans too.

With peace and love for every human life,

Maria Pane

P.S. Hi, I'm the new Executive Editor of Life Matters Journal. You can meet me at the Rehumanize Conference in October! I am very excited to continue the life-affirming, educational thought and discourse this journal brings to readers.

This journal is dedicated to the aborted, the bombed, the executed, the euthanized, the abused, the raped, and all other victims of violence, whether legal or illegal.

We have been told by our society and our culture wars that those of us who oppose these acts of violence must be divided. We have been told to take a lukewarm, halfway attitude toward the victims of violence. We have been told to embrace some with love while endorsing the killing of others.

We reject that conventional attitude, whether it's called Left or Right, and instead embrace a consistent ethic of life toward all victims of violence. We are *Life Matters Journal*, and we are here because politics kills.

Disclaimer: The views presented in this journal do not necessarily represent the views of all members, contributors, or donors. We exist to present a forum for discussion within the consistent life ethic, to promote discourse and present an opportunity for peer-review and dialogue.

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Get in Line:

Detainment Conditions at the U.S. Border

By Lauren Pope



On April 6, 2018, Attorney General Jeff Sessions issued a memorandum to prosecutors along the southwest border of the United States.¹

In the statement, he called for a zero-tolerance policy towards illegal border crossings. He claimed that the policy closes dangerous loopholes in the United States' immigration system and acts as a deterrent to those who "wish to challenge the Trump Administration's commitment to public safety, national security, and the rule of law."²

However, instead of blocking dangerous drug or weapons traffickers, this directive has turned the United States' system on its head. This policy has ensnared not only individuals who cross at an unofficial border crossing, a misdemeanor crime that does not negatively impact an affirmative asylum claim, but also those who cross the border at a port of entry.

Thousands of families have been detained and separated since the zero-tolerance policy has gone into effect. Children are kept in unsanitary and dangerous holding facilities where infections and pests run rampant. Initially there was a deadline for reunification, but children are still separated from their families and crying for parents who have been taken to unknown facilities. President Donald Trump claims this familial destruction will end if people "follow the law," but border patrol detains asylum-seekers regardless of

how they have entered the country.³

Immigration hardliners are quick to note that asylum seekers should always present themselves at ports of entry, which is a path to an affirmative asylum claim. However, the United States' government has been *illegally* preventing people from entering the country, if they suspect that the individual is attempting to seek asylum. Border Patrol Agents have intimidated individuals on the Mexican side of the border to prevent crossings. These agents have lied, saying that the United States does not have room for any more asylum seekers. Families have been kept waiting in the searing sun for days, with Border Patrol Agents never intending to let them in. This is illegal under the Immigration and Nationality Act,⁴ but it is happening at the United States' southwest border.⁵

Immigration opponents count on the complexity of the asylum law to muddle the issue and deflect blame from their policy consequences. Although, when examining these issues closely, there is a direct chain of cause and effect that leads to the unjust imprisonment of thousands of families.

The administration's literal roadblocks at ports of entry blocking the way into the United States drives desperate people to cross into the country outside of official channels. Asylum seekers, still attempting to follow the rules as closely as they can, then present themselves to border agents to file a claim once on American soil.⁶

At this point, the person who crossed unofficially and the person who crossed at the port of entry are indistinguishable in terms

of legality and process. Their claims are supposed to be processed, and they are either granted or rejected. The zero-tolerance policy radically changed this status quo.⁷

Instead of self-reporting asylum seekers being ticketed and then given a date to begin their asylum processing, they are now being *detained*. In fact, even the very few individuals who can somehow get through a port of entry have been detained. These are people who have not broken any laws.

Parents are not told where their children are being taken to or what the process is to regain custody. While undergoing deplorable living conditions in Immigration Customs Enforcement Agency (ICE) Detention Centers, they face the mental anguish of knowing their children could be facing the same, if not worse, conditions.

Stories have now exposed children who have been abused or attacked within the detention facilities, as well as toddlers who have been left to cry on the floor without any kind of human comfort. Proper medical care has been withheld, and there are reports of a child dying as the result of a facility acquired infection.⁸

Meanwhile, pregnant women have been left without proper prenatal care and have been left to miscarry within their cells. The safety of these vulnerable individuals is of little importance to an administration who views the policy of detainment solely as a deterrent to future asylum seekers.

After experiencing these abuses, parents face the agonizing choice of returning home to whatever horrors initially drove them away or never seeing their children again. In numerous instances, parents have been deported without their children.⁹

Parents who refuse to sign deportation papers see their children wrenched from their arms a second time or are told that by not accepting deportation, they have signed away their parental rights. In some cases, the government has declared these children wards of the state without making any attempts at reunification.

According to a Joint Status Report filed on August 16, 2018, 565 children remain separated from their parents. Of these, 366 children belong to parents who are currently located outside of the United States, likely because of deportation.¹⁰

Children's mental health professionals are currently examining the impact from separation and detainment. Videos taken at family reunions show traumatized children who do not react to the sight of their parents. These are signs of PTSD and RAD and could mean lifelong disability.¹¹

Essentially, these children are being used as blackmail to prevent people from continuing their legal applications for asylum. Blocking ports of entry to asylum seekers and detaining people for misdemeanor charges has created a crisis in which there is currently no legal way for anyone to claim asylum aside from the whim of a random agent. These asylum seekers are being arrested, detained, and traumatized as a "warning" to anyone who would try to come to the United States for asylum.

These dehumanizing outcomes are not the result of unforeseen consequences of a law and order prosecution, but rather the intended purpose of the policy change. After Senator Cruz proposed

Blocking ports of entry to asylum seekers and detaining people for misdemeanor charges has created a crisis in which there is currently no legal way for anyone to claim asylum aside from the whim of a random agent.

sending more judges to the border in order to ease the congestion of processing asylum claims and halt family separations, President Trump made his views on the issue very clear. He said, "I don't want judges. I want border security. I don't want to try people. I don't want people coming in."¹²

Notes

¹ Office of Attorney General. *Memorandum for Federal Prosecutors Along the Southwest Border*. Washington D.C. <https://bit.ly/2qeOzIH>.

² Wheeler, Lydia and Bernal, Rafael. "Session ordered 'zero tolerance' policy at border." *The Hill*, accessed September 3, 2018. <https://bit.ly/2qcPys7>.

³ Jamieson, Amber. "Trump Said It's 'The Law' To Separate Immigrant Children From Their Parents — But That's Not True." *Buzzfeed News*, last modified June 15, 2018.

⁴ The Immigration and Nationality Act states "immigrants within the U.S. who tell immigration officials they're afraid to return to their countries have the right to request asylum and to be immediately processed." Nathan, Debbie. "Desperate Asylum Seekers Are Being Turned Away By U.S. Agents Claiming There's 'No Room.'" *The Intercept*, last modified June 16, 2018. <https://bit.ly/2thpH3J>.

⁵ Ibid.

⁶ Ibid.

⁷ "Obtaining Asylum in the United States." U.S. Citizenship and Immigration Services, Department of Homeland Security. Accessed September 4, 2018. <https://bit.ly/2pfCMKt>.

⁸ Sacchetti, Maria. "Migrant Child Dies After Release From Detention, Attorney Group Alleges." *The Washington Post*, last modified August 1, 2018. <https://wapo.st/2Nh4anJ>.

⁹ O'Connor, Ema and Prakash, Nidhi. "Pregnant Women Say They Miscarried in Immigrant Detention and Didn't Get the Care They Needed." *Buzzfeed News*, last modified July 9, 2018. <https://bit.ly/2Q4Ef15>.

¹⁰ United States District court Southern District of California. *Joint Status Report, Ms. L v. U.S. Immigration and Customs Enforcement Act et al*, No. 3:18-cv-00428. San Diego: August 16, 2018. <https://bit.ly/2Ned05Q>.

¹¹ Cohen, Amy J. M.D. "They Are Struggling": A Child Psychiatrist Writes from a Texas Shelter." *InStyle*, last modified June 25, 2018. <https://bit.ly/2CinQmT>.

¹² Smith, David and Phillips, Tom. "Child separations: Trump faces extreme backlash from public and his own party." *The Guardian*, last modified June 19, 2018. <https://bit.ly/2l7we6q>.



Killing for Life: Organ Harvesting in China

By Christina Yao

Middle school teacher Zhong Haiyun, who lived in the Jiangxi province of China, was given a poster in 1976 that was critical of Hua Guofeng, Mao Zedong's successor as Communist Party chair. The poster was made by her friend Zhu Yi and given to her for safe keeping. When the authorities found this the poster, Haiyun was arrested for "counter-revolutionary" offenses. Her execution was scheduled for April 30, 1978. Haiyun was shot twice in the heart, but before she had died medical personnel came to take both her kidneys.¹

Dr. Enver Tohti, who performed organ harvesting in China in the 1990s, compared his job to something out of George Orwell's *1984*. "How did the most respected people in society turn into murderers? This is the most asked question to me." Dr. Tohti recounted how, working in one surgery in 1995, he was told to gather a large team and then brought to a site outside the hospital. He was told to wait until he heard a gunshot. Officials brought him a man in civilian clothing who was shot in the chest but still alive. He was then told to extract a liver and two kidneys from the man. At the time, Tohti thought he was doing his duty to "eliminate enemies of the state."²

Organ transplants are viewed as one of medicine's biggest success stories. These operations open up many legal and ethical debates, however, with the main concern being how to obtain enough organs and distribute them fairly. No country has ever come up with an adequate number of organs, but China has tried.³

China's organ program started in the 1960s but was not publicly announced until 1974. In the late 1970s, kidney, liver, lung, and heart transplants increased across the country. After 1983, two factors helped revitalize the program. The first was *Yan-da*, or the "crackdown on crime" campaign, that started in 1983. This increased the list of crimes punishable by death in China, adding offenses such as drug dealing to the list. Police officers had "arrest



quotas" to fill and were encouraged to arrest as many people as they could to show enthusiasm for the government's campaign. These measures increased the number of criminals sentenced the death, who provided more organs available for transplant.

The second factor was the introduction of a drug called Cyclosporine A (CsA) to China. CsA helps the body not reject foreign tissues, resulting in the first-year survival for a kidney transplant patient jumping from 50% in the mid-1980s to over 90% in 1991. By 1984, at least 98 hospitals around China were performing organ transplants and The Organ Transplantation Registration Center was established in the city of Wuhan.⁴

China is a unique country in the scale and width of crimes it uses the death penalty for.⁵ More executions occur in China than the rest of the world put together. In 2015, the world at large committed fewer than 2,000 executions, not including China. In 2010, however, China alone had about 5,000 executions.⁶

China has a decades-long practice of harvesting the organs of executed prisoners. The Chinese government claims that this practice has stopped and that organs now only come from voluntary donations. Some claim that this is false and that prisoners are still forced to give up their organs.⁷ Although there is no direct evidence of a link between the rising demand for organs and the rise in the number of executions in China, Human Rights Watch Asia has suggested it exists. Most of the accounts of human rights abuses surrounding this issue are account witnesses, but the consistency of these accounts makes them more credible.⁸

According to human rights lawyer David Matas and journalist Ethan Gutmann, Chinese doctors coordinate with prison officials so inmates can be executed when patients need organs.⁹ Surgeons match prisoners with recipients often on a first-paid, first-served business.¹⁰ In 1994, a Chinese surgeon admitted to removing prisoner's kidneys the night before their execution in 1988. A former

inmate from a northern Chinese jail reported that on the morning of their executions, inmates would be given a drug to prepare their organs for removal.¹¹ There are also accounts of prisoners being shot in such a way that they don't die immediately and of lethal drugs being used so the body doesn't go through as much trauma that damages the organs.¹² Surgeons are often present at executions, so they can remove the organs.¹³

One of the main ethical concerns in organ donation is the consent of the donor. Even countries that automatically register their citizens to be organ donors have an "opt-out" option. One cannot expect informed consent from a prisoner in shackles and solitary confinement, as is the case in some Chinese jails.¹⁴ Since prisoners and families are told about an execution only hours before it happens, consent is even more difficult to obtain.¹⁵ A former Chinese judge reported that no attempt was made to gain consent from prisoners or their families. There are also accounts of coercing family members by offering financial compensation for their loved one's organs.¹⁶ If a family does not consent to a loved one's organs being taken, they can be billed large amounts of money for the prisoner's "board" while in jail. They can also be charged for the cost of the bullet used to shoot their loved one or the cost of cremation. If the body is cremated, the family will have no way of knowing if the organs were taken. This practice undermines the United Nations-affiliated Transplantation Society's standards, particularly the UN's standards for doctors treating prisoners.¹⁷

According to a report by former Canadian lawmaker, David Kilgour, along with David Matas and Gutmann, the Chinese government claims there are 10,000 transplants per year. But the report's authors could see there were more transplants just by looking at the numbers of transplants from China's biggest hospitals. Official statistics say that just 100 hospitals do organ transplants, but the report found 712 hospitals that do transplants. The report explains that this discrepancy is made up of organs from China's executed prisoners.¹⁸ Guttman and Matas did research checking hospital website data, reviewing medical publications, and calling hospitals. They estimate that there are 60,000-100,000 transplants each year.¹⁹

Many of the prisoners whose organs are harvested were arrested for their religious or political beliefs, particularly those beliefs in conflict with the Communist party. Many of the people being killed are ethnic and religious minorities, including Uighurs, Tibetans, underground Christians, and practitioners of the banned spiritual movement, Falun Gong. Amnesty International reports tens of thousands of Falun Gong arrested since a government crackdown in 1999.²⁰ According to the government, the group is an unregistered religion and a cult that intends to turn its members against the state.²¹ Falun Gong prisoners are forced to have blood tests and medical exams, with the results placed in an organ database.²² Wang Chunying, a follower of Falun Gong, was detained several times between 1999 and 2009. During his detention, the only healthcare he received was blood tests. Fellow Falun Gong Yin Liping was also arrested multiple times between 1999 and 2009. Liping not only had blood drawn while he was in jail but had other tests such as an MRI, an ultrasound, and a chest x-ray. These tests on Falun Gong members might have been for healthcare purposes, but they might also have been preparation for possible future organ harvesting.²³

From a utilitarian perspective, capital punishment makes sense.

Three hundred thousand organ transplants are needed by China each year. The Chinese government admitted in 2005, after decades of denial, that organ harvesting happens but claimed this was going to change. Beijing has said that since 2015 they no longer rely on prisoners to provide the "largest voluntary organ donation system in Asia." China's Foreign Ministry spokeswoman claims there are tight laws and regulations for organ transplants. She also says forced organ harvesting in China is fiction and that accusations don't have a factual foundation. In 2010, though, the chief of China's Organ Donation Program committee said 90% of organs came from prisoners. In 2014, China said it would switch to volunteer-donation only. But this could not satisfy the need for organs. Between 2012-2013, only 1,400 people signed up for the voluntary donation program.²⁴ In 2017, however, Matas and Guttman stated that they believe the harvesting of organs from prisoners is still happening.²⁵

Even those who favor the death penalty, at large, can agree that an individual who disagrees with the government should not be killed for their organs. Additionally, I hope people across the political spectrum can agree that no one should be imprisoned or killed because of their beliefs. With that consensus, perhaps we can move to answering the bigger question of whether the death penalty is moral at all?

Notes

¹ "China: Organ Procurement and Judicial Execution in China," Human Rights Watch 6, no. 9 (August 1994), <https://bit.ly/1n48LZ7>.

² Grainne Ni Aodha, "He Was Still Alive": Doctor Explains the Reality of Organ Harvesting in China," *The Journal*, July 6, 2017, <http://jrn.lie/3481690>

³ J. D. Briggs, "The Use of Organs from Executed Prisoners in China," *Nephrology Dialysis Transplantation* 11, no. 2 (1996): 238-240, <https://bit.ly/2w-pA11C>.

⁴ "China: Organ Procurement and Judicial Execution in China."

⁵ Briggs, "The Use of Organs from Executed Prisoners in China."

⁶ James Griffiths, "Report: China Still Harvesting Organs from Prisoners at a Massive Scale," CNN, June 24, 2016, <https://cnn.it/28UYNGD>.

⁷ PBS NewsHour, "Has China Really Stopped Obtaining Organs from Executed Prisoners?" May 29, 2017, <https://to.pbs.org/2BNqBN4>.

⁸ Briggs, "The Use of Organs from Executed Prisoners in China."

⁹ PBS NewsHour, "Has China Really Stopped Obtaining Organs from Executed Prisoners?"

¹⁰ "China: Organ Procurement and Judicial Execution in China."

¹¹ *Ibid.*

¹² Briggs, "The Use of Organs from Executed Prisoners in China."

¹³ "China: Organ Procurement and Judicial Execution in China."

¹⁴ Briggs, "The Use of Organs from Executed Prisoners in China."

¹⁵ "China: Organ Procurement and Judicial Execution in China."

¹⁶ Briggs, "The Use of Organs from Executed Prisoners in China."

¹⁷ *Ibid.*

¹⁸ Griffiths, "Report: China Still Harvesting Organs from Prisoners at a Massive Scale."

¹⁹ PBS NewsHour, "Has China Really Stopped Obtaining Organs from Executed Prisoners?"

²⁰ Griffiths, "Report: China Still Harvesting Organs from Prisoners at a Massive Scale."

²¹ PBS NewsHour, "Has China Really Stopped Obtaining Organs from Executed Prisoners?"

²² Griffiths, "Report: China Still Harvesting Organs from Prisoners at a Massive Scale."

²³ PBS NewsHour, "Has China Really Stopped Obtaining Organs from Executed Prisoners?"

²⁴ Griffiths, "Report: China Still Harvesting Organs from Prisoners at a Massive Scale."

²⁵ PBS NewsHour, "Has China Really Stopped Obtaining Organs from Executed Prisoners?"

Sexual Abuse & Dehumanization of Incarcerated Humans

By Maria Pane

In the light of the #MeToo movement, where people around the world are sharing their stories of being subjected to sexual harassment, rape, and abuse in the workplace, on college campuses, and in social settings, the world can see the dehumanization and injustice that individuals encounter every day due to sexual victimization. It happens frequently and it happens everywhere. The stories you can't as easily hear on the news or see on social media, though, are the ones of the individuals who have been silenced even more effectively than the average survivors of sexual misconduct and made invisible by the State. These are the individuals who experience sexual abuse behind bars, either by other inmates or the guards and administrators who have been entrusted with their care. They are the incarcerated men and women in our country, and they deserve to be heard.

In private and government-run prisons alike rape and sexual assault is a problem much as it is in the rest of society. According to the *Bureau of Judicial Statistics*, "In 2011-12, an estimated 4.0% of state and federal prison inmates and 3.2% of jail inmates¹ reported experiencing one or more incidents of sexual victimization by another inmate or facility staff in the past 12 months or since admission to the facility, if less than 12 months"² and that is if the incident had been reported. Meanwhile, in juvenile facilities, one in ten kids reported incidents of rape, sexual assault, or victimization, with 80 percent of those kids reporting that it was a staff member who victimized them.³ Because often prisoners do not have the means to easily or safely report the abuse and harassment, many are afraid to report it. As a result, countless cases are not heard at all and there is nothing these individuals can do to stop the harassment and abuse.

In 2003, Congress enacted the Prison Rape Elimination Act, or PREA, which permits zero tolerance for any sexual abuse in U.S. Correctional Facilities. For PREA to work, prison wardens have to be on board with the standards. There is training for staff members to learn proper ways to stop sexual assault and report incidences of it, as well as to provide prisoners with rape kits and counseling. In addition, auditors are supposed to survey institutions at random, questioning prisoners and employees about procedures. In exchange, the U.S. Government awards grant funds to correctional institutions that follow guidelines.⁴

However, whether these standards are being followed is another question. Since the standards were put into effect, there are still huge holes in the effectiveness of PREA—which is cause for great

concern, as human lives and dignity are at stake. Lovisa Stannow, executive director of *Just Detention International*, wrote an opinion piece for *The New York Times* in June detailing the ineffectiveness of PREA at the East Mississippi Correctional Facility, a private prison known for violence and sexual abuse. In 2015, an auditor praised the staff for its effectiveness in implementing PREA, while prisoners still described in detail their abuse and guards ignoring their cries for help.⁵

And this is in 2018, fifteen years after PREA was first signed into law.

Now, as the ICE Detention Centers are spreading in the United States under Donald Trump's presidency, the abuse and victimization is growing. *The New York Times* recently released an article, "Sexual Assault Inside ICE Detention: 2 Survivors Tell Their Stories," profiling two women who share their experiences of how guards took advantage of them, while they were being moved or held in detention centers. In the article, one woman explains, "I didn't know how to refuse because he told me that I was going to be deported. I was at a jail and he was a migration officer. It's like they order you to do something and you have to do it."⁶

Sexual victimization while somebody is behind bars is always unacceptable. To have a system of justice that is ineffective in stopping such victimization of individuals behind bars is both insensitive and cruel, especially when guards in power are part of the problem and the standards and audits that are supposed to keep guards in line are either being ignored or are failing.

Notes

¹ A jail is run by local authorities and usually holds inmates for a short amount of time, e.g. while they await trial for a misdemeanor. A state or federal prison has higher security and hold prisoners convicted of more serious crimes.

² Allen J. Beck, Marcus Berzofsky, Rachel Casper, and Christopher Krebs, "Sexual Victimization Reported in Prisons and Jails Reported by Inmates, 2011-12-Update," *Bureau of Judicial Statistics*, last modified December 9, 2014, <https://bit.ly/2P6gDZ0>.

³ Allen J. Beck, David Cantor, John Hartge, and Tim Smith, "Sexual Victimization in Juvenile Facilities Reported by Youth, 2012," *Bureau of Judicial Statistics*, June 2013: 4, <https://bit.ly/2NhD78H>.

⁴ "PREA / Offender Sexual Abuse," National Institute of Corrections, Department of Justice, Accessed August 25, 2018, <https://bit.ly/2o6uh2K>.

⁵ Lovisa Stannow, "Standing by as Prisoners Are Raped." *The New York Times*, June 20, 2018, <https://nyti.ms/2o6v4AK>.

⁶ Emily Kassie, "Sexual Assault inside ICE Detention: 2 Survivors Tell Their Stories," *The New York Times*, July 17, 2018, <https://nyti.ms/2uDENRZ>.

Incarceration and Forced Sterilization in U.S. Prisons

By Aimee Murphy

The U.S.'s History of Eugenics Behind Prison Walls

Our retributive carceral system in the U.S. is steeped in injustice and rooted in dehumanization, so I suppose I shouldn't have been shocked to learn of a century-long history of forced sterilization within the United States justice system. Alas, I was gutted as I dove into that grotesque history of reproductive violence to research for this piece. Because, though the legal statutes have developed over time, we still remain in an ethically unsustainable legal situation in which reproductive coercion to sterilize inmates is, to this day, still considered licit in nearly every state in the nation. This is not to mention the blatant and systemic ableism that was and is pervasive in the effort to forcibly sterilize those deemed "unfit". The intersection of the rights of the incarcerated, racial minorities, and the physically and mentally disabled is crucial for understanding the gravity of this injustice and for creating a holistic effort to prevent and end all forms of reproductive violence.

Though there were hundreds of instances in the U.S. of forced sterilization in prisons prior to the 20th century, the history of incarceration and forced sterilization in the United States really began in earnest in 1907, when the state of Indiana passed a law allowing for the forced sterilization of "confirmed criminals," "idiots," and "rapists."¹ According to the research of Lutz Kaelber highlighted by the [Marshall Project](#), hundreds of men held in Indiana prisons were given vasectomies due to this law.² California soon followed in 1909, passing a eugenic law under which any person committed to a state institution, for mental health or criminal reasons, could legally be sterilized without their consent. Many young people deemed "deviants" for their criminal behavior were involuntarily committed to mental health institutions,³ and their sterilizations were justified as seemingly "necessary to protect the state from increased crime, poverty and racial degeneracy."⁴ In March of 1924, Virginia codified their own Sterilization Act, authorizing state institutions' superintendents to forcibly render any of their inmates infertile, since the "propagation of their kind" would be a "menace to society", since they believed that "heredity plays an important part in the transmission of insanity, idiocy, imbecility, epilepsy, and

crime."⁵ This ableist law would be the center of a Supreme Court case just three years later.

However, instead of the Supreme Court being an agent of justice and affirming the rights of all members of the human family to live free from such legalized surgical violence, in *Buck v. Bell*, the court ruled in favor of the Virginia law on the basis of a pre-emptive sort of elimination of criminals, implying with shameless ableism that all children of mentally disabled individuals would inherently be criminals. Justice Oliver Wendell Holmes wrote in the decision: "It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind."⁶

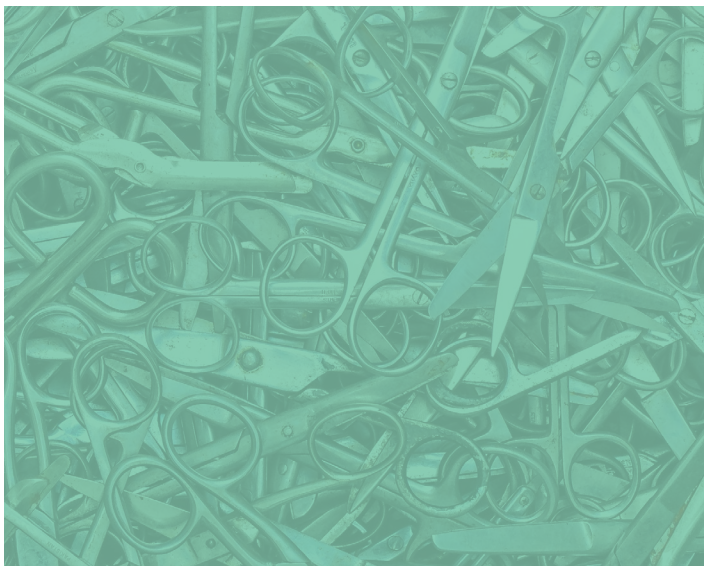
Following *Buck v. Bell*, Oklahoma made it far more explicit that they would be targeting criminals with forced sterilization when they passed their Habitual Criminal Sterilization Act of 1935.⁷ This law allowed the compulsory sterilization of any person convicted of two or more felonies, but specifically protected white-collar criminals from this reproductive injustice. In 1936, there was a riot at the McAlester State Prison protesting the forced sterilization and other dehumanization. The riot was instigated by several prisoners, including a one Jack Skinner, who was considered a "habitual criminal."⁸ Six years later, Skinner brought his case against forced vasectomy all the way to the Supreme Court in *Skinner v. Oklahoma ex rel. Williamson*.⁹ Because of the exclusion in the law for white-collar criminals, the court ruled that forced sterilization was unjust as punishment. However, unfortunately, they would not speak to whether sterilization qualified as "cruel and unusual punishment" for criminals *per se*.

Fascinatingly, sterilizations in Oklahoma dropped off nearly completely after the *Skinner* case, despite the fact that forced sterilizations were appallingly still legal for those who were deemed "feeble-minded"—this demonstrated that the majority of the sterilizations happening in this state, (and likely in others, though other states continued used the discriminatory "feeble-minded" loophole, were indeed used as retributive punishment for criminals.¹⁰ Even still, California is documented as using compulsory castration as a condition of parole for convicted sex offenders as late as 1962.¹¹ Though the *Skinner* case was a marked improvement for prisoner's rights, reproductive coercion to sterilize was still very much a possibility within the post—*Skinner* legal framework.

The U.S.'s Shocking Contemporary Coercion of the Incarcerated

At the intersection of racism, ableism, and cruelty to prisoners lies the horrific history of forced sterilization of those incarcerated by the state. Perhaps shockingly, the United States Supreme Court has never overturned *Buck v. Bell*, the court case which enshrined the compulsory sterilization of those committed in state institutions into admitted law. Though the *Skinner v. Oklahoma* case in 1942 made it unlawful for criminals to be forcibly sterilized as punishment for crime, compulsory sterilization exists until today by the power of institutional coercion.

This sort of abuse of power by state officials is not, strictly speaking, illegal in most states in the U.S. today. A prime example



of this coercion came out of Georgia from 2005, when Judge Rowland Barnes ordered a woman convicted of killing her child to be sterilized as part of her sentence.¹² And in 2013, a report released by the *Center for Investigative Reporting* outlined the facts within the California carceral system: nearly 150 incarcerated women had been coerced into having tubal ligations performed within the years of 2006-2010.¹³ Following the release of this information, state senators in California introduced Senate Bill 1135 to prevent such coercion from happening again.¹⁴ State Senator Hannah-Beth Jackson, the bill's sponsor, made a statement saying, "Pressuring a vulnerable population into making permanent reproductive choices without informed consent is unacceptable, and violates our most basic human rights."¹⁵

As Jackson explored in her statement on SB 1135, by the very nature of the massive power differential at play between the state and those the state incarcerates, it should be clear that any attempt to promote, provoke, or induce a prisoner to have a permanent, non-reversible surgery that would prevent reproduction for the remainder of their life is inherently coercive, unjust, and violent. Informed consent is a near-impossibility in such a situation, when the power differential is so grave, in which that the incarcerated person is more or less treated as an object owned by the state. And without informed consent, any surgery performed—especially an irreversible one—is a violence against the patient.

This abuse and coercion is especially obvious in cases wherein the convicted person is prescribed sterilization as a condition of their parole or early release. There are several cases in the past five years that demonstrate this dehumanizing treatment of people convicted of crimes. In 2015, the Assistant D.A. in Nashville, TN, was fired for having made blatantly eugenic plea deals with several defendants in the prior five years. In one case with a defendant who'd had a history of mental illness, "Holmgren demanded the mother undergo permanent sterilization as part of any plea that would place her in mental health care instead of prison."¹⁶ And just last year, in 2017, in White County, TN, Judge Sam Benningfield offered 30 days off prison sentences if prisoners had vasectomies (for men) or hormonal birth control implants (for women).¹⁷

By viewing our nation's present abuses of the population of incarcerated people through the lens of our nation's past—our nation's deep roots of racism, ableism, and eugenics—we can see that the contemporary coercion is merely an extension of the forced sterilization policies that targeted the racial minorities and mentally and physically disabled in prior generations. There are still underlying unscientific ideas at play in our modern era: dehumanizing ideas asserting that all children of disabled people, of racial minorities, or of a person convicted of a crime will be genetically predisposed to commit crimes as they age. We must stand up for the inherent dignity of humans with disabilities, humans of racial minority backgrounds, humans who are incarcerated, and all of their children, born and preborn.

Notes

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⁶ *Buck v. Bell*, 274 U.S. 200 (1927). This ruling may be read in full on the Cornell Legal Information Institute website: <https://www.law.cornell.edu/supremecourt/text/274/200>.

⁷ Okla.Stat. Ann. Tit. 57, §§ 171. (Ruled unconstitutional, therefore is no longer listed in Oklahoma contemporary statutes.)

⁸ Nourse, Victoria. 2008. In *Reckless Hands: Skinner v. Oklahoma and the Near-Triumph of American Eugenics*. New York: Norton.

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Pregnancy in Prison: Shackles and Separation

By Christina Yao

The female prison population has risen significantly in recent years,

increasing 800% since the 1970s—twice the rate of increase in the male prison population during this period. The War on Drugs in particular has led to more women being incarcerated, especially women of color.¹ The American Public Health Association states that 6-8% of incarcerated women in the United States are pregnant.²

In 2007, the US Marshal Service published policies and procedures for authorized use of restraining devices, including the use of these devices on women in labor, delivery, and postpartum recovery. This practice, often called “shackling,” is a common occurrence in US prisons despite outcry from human rights groups. In 2010, the National Commission on Corrective Healthcare, which accredits its correctional facilities, changed their standards to say women should not be in shackles during childbirth. However, these standards are voluntary, so this does not guarantee that the practice will stop. Although several states have enacted anti-shackling policies, 36 states, as well as the Immigration Customs Enforcement Agency (ICE), have taken no measures towards limiting the use of shackling pregnant inmates during transportation, labor, delivery, and recovery.³

There is compelling medical evidence against the use of shackles for pregnant inmates. The use of these restraints can compromise health care and hinder medical exams, tests, and treatments. Shackling pregnant inmates increases the risk of falls and decreases the inmates’ ability to break falls. Limited mobility can compromise the health of both the mother and the baby. Restraints interfere with labor and delivery, especially if the woman has a medical problem, such as hemorrhaging, or needs a cesarean. Post-delivery, the American College of Obstetricians and Gynecologists (ACOG) recommends the infant and mother are kept together for important bonding time. Shackles can interfere with this and not allow the infant to be held safely. Many of the women who give birth in shackles are non-violent offenders, and there is no reason to believe they would become violent. No escape attempts have ever been reported during

an inmate’s childbirth.⁴

Additionally, ACOG stresses the importance of not separating an infant and the mother as well the importance of accommodations for breastfeeding. If for some reason the mother and child must be separated, adequate visiting times should be provided. If breastfeeding is not possible, mothers should be allowed to pump their milk and have it brought to their infant.

Despite the unique issues presented by the incarceration of pregnant women, ACOG reports that 38 states have inadequate policies, or no policies, regarding pregnant inmates. Forty-one states don’t require prenatal nutrition counseling or appropriate nutrition for pregnant women in prison.⁵

A Better Way

Nine states currently have prison nurseries for women with young children in jail. Women have to qualify for the “privilege” of having their children with them.⁶

The oldest prison nursery was opened in 1901 at Bedford Hills Correctional facility in New York.⁷ The children and mothers live in a separate building from the rest of the other inmates. Many of the nursery participants have older children at home. The program allows the women time to bond with their babies—time that, as a result of poverty, they might not have in their daily lives outside of prison. The program allows inmates to adjust to motherhood and give solid thought to what their lives will be like after they are released. Mothers can get support, structure, and guidance while in prison.⁸

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Though the idea of a prison nursery may seem a novelty to Americans, it may not seem strange to those outside the States. In other countries, infants are often allowed to stay with their incarcerated mothers. In Frankfurt, Germany, children can live on the prison grounds until they go to school. Women with older children can go home during the day and check back into the prison at night. According to one 1987 survey,

the United States was one of five UN Countries that did not generally provide accommodations to mothers in women’s prisons.⁹

Prison nurseries have proven beneficial for women and children. When a prison nursery opened in Nebraska, there was a 13% drop in misconduct among women with children in the nursery. A 2009



study showed that half of the women whose babies had been taken away from them would be reincarcerated, versus 17% of women with children in a nursery. In one study, babies in prison nurseries were as likely to have a secure attachment to their mothers as children in a stable middle-class background, despite one third of the mothers in the study not being securely attached to their own parents. The children most likely to be securely attached were the ones who had been in the nursery for a year.¹⁰ ACOG reports that prison nurseries are beneficial to a young child's development. Pre-school age children who are separated from their incarcerated mothers are more likely to experience anxiety and depression than children in prison nursery pre-school programs.¹¹

It is crucial to care for children born to incarcerated mothers like any other children, starting before they are born. It is necessary to treat all inmates as people with basic human rights, including the access to the healthcare they need. This includes quality healthcare during pregnancy, delivery, and postpartum. The state and correctional facilities need to take into account what is best for the humans in their care, *and* their children, when making policies. Transforming our justice system into a human-centered model must include protections for incarcerated mothers and their children.

Notes

¹ Sarah Yager, "Prison Born," *The Atlantic*, July/August 2015, <https://bit.ly/2P5nX6R>.

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⁴ *Ibid.*

⁵ *Ibid.*

⁶ Yager, "Prison Born."

⁷ Stavola, "Pregnant in Prison."

⁸ Yager, "Prison Born."

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Stavola, "Pregnant in Prison."



Interested in getting involved?

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