



## The Prison Citizen

by Sara Ahmed

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**Editors' Note:** In this issue of *DifferenTakes* Sara Ahmed reveals how the prison-industrial complex has produced a new category of citizenship in the U.S. — “the prison citizen” — whose rights are constricted both inside and outside prison walls. While this type of forced citizenship mainly affects prisoners and ex-prisoners, it threatens all of us with the prospect of undermining basic democracy. We are publishing this article simultaneously with issue No. 53, “Prison Abolition: Families in Strategies for Change,” to encourage readers to explore the ideas in both complementary articles.

— Co-editors Elizabeth Barajas-Roman & Betsy Hartmann

**T**he U.S. is the world's leading human incarcerator. Currently, there are over 2.2 million people imprisoned in the U.S. and the average per capita cost to house a non-violent inmate is an estimated 40 thousand dollars annually. As of 2007, yearly government spending for incarcerated persons was approximately \$50 billion dollars.<sup>1</sup>

Imprisonment creates a parallel society where identities and belonging are imported, replicated, and redefined within the context of complete control and discipline. Banished from outside society, “prison citizens” are the only formal citizens in the U.S. for whom an exception to the guarantees of citizenship exists.<sup>2</sup> A prison nation has been built and a new form of inclusion created around the experience of enduring punishment. From reception to release, prisoners live under a set of laws that is almost unrecognizable to the rest of the citizenry. Denied fundamental rights, access to safe medical care, and facing inhumane methods of punishment and deprivation, prisoners find comfort and unity with each other in order to survive isolation behind bars.

The number of female prisoners, now the fastest growing and least violent inmate population, has increased dramatically since the 1980's, with the total number now around 200,000 incarcerated.<sup>3</sup>

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While women historically have been denied equal citizenship rights, it is in the realm of punishment that these differences are especially stark. While there is a wealth of knowledge about how *male* inmates serve their time, there have only recently been studies about how *women* serve time in a distinct way. Punishment has an especially drastic effect on women, many of whom are the sole caretakers of their children and families. For female inmates, imprisonment does not just punish the individual; it punishes entire networks of citizens, children and adults alike, who are dependent on them.

The prison culture of women is distinct because it is based around importing gender roles from outside society. In a study of the world's largest women's prison, the Central California Women's Facility, the various identities that inmates took on helped them to create families behind bars.<sup>4</sup> Many of these family units, which crossed racial and ethnic lines, reflected dynamics similar to outside families with "children" and extended family members, allowing women to find sources of support.

"Prison citizenship" also includes participation in the political sphere of the prison nation through the legal system behind bars. The 1996 Prison Litigation Reform Act (PLRA) established Disciplinary Boards, made up of prison officials and guards. This act, which requires prisoners to exhaust intra-prison administrative remedies before seeking legal redress, has severely infringed on prisoners' ability to litigate their petitions by making access to courts nearly impossible. It has proven ineffective and coercive, allowing some of the most inhumane and unconstitutional prison conditions to persist. However, for prisoners this process is the sole way of legally engaging with the state about the status of their rights.

Additionally, punishment is recreated through prisons within prisons and bars within bars. Internal punitive measures force the "prison citizen" to serve time in either the Administrative Segregation Unit (prison's jail) or the Security Housing Unit (prison's prison). Inmates suffer the same social consequences of convicted citizens from the outside, such as being forced to leave their prison families, cellblocks, religious communities and jobs, to be placed under control within control and subjection to even greater episodes of discipline.

Violence has been built into the very nature of the prison by virtue of some of the technology that is

used to control inmates. Nicknamed the "devil's chair," the "torture chair," and the "slave chair" by lawyers and inmates, the seat is a restraining device that has led to countless incidences of abuse and deaths. As the guards call it, the "we care chair" has been used against juvenile, female, and minority offenders for non-violent behavior where they have been tortured and strapped down for as long as eight consecutive days.<sup>5</sup>

When the process of "corrections" is comprised of normalized violence and deprivation, it is essential to question how prisoners *would not* come to be shaped by these experiences. It is upon 'release' that the punishment takes another form and that they face additional challenges.

## Felony Disenfranchisement

With the Constitution establishing the permanent exclusion of criminals,<sup>6</sup> felony disenfranchisement policies, which occur *after* the offender has been released, intentionally stigmatize and bar ex-offenders from fundamental rights and privileges that would aid in their successful reintegration into society. Disenfranchisement occurs politically and socially, in the first case with the revocation of the right to vote. Regardless of the establishment of suffrage as a fundamental right in the Fifteenth Amendment, today over 5.3 million U.S. felons (approximately 50 percent of whom are people of color) are politically silenced.<sup>7</sup> While some states have created ways to reinstate voting rights (varying from automatic restoration to requiring a governor's pardon), these are arduous and costly procedures<sup>8</sup> and the Supreme Court has upheld decisions revoking a felon's right to vote.

Felony disenfranchisement also includes the loss of certain social benefits of citizenship. The welfare ban for drug offenders, initially sponsored by Texas Republican Senator Phil Gramm, was passed in 1997 to fight the "War on Drugs" by serving as an example to dissuade others from participating in crime.<sup>9</sup> Since the 1980s the number of drug convictions has increased exponentially. In 1999 there were an estimated half million drug offenders incarcerated nationally, many of whom were first time and non-violent offenders. More than 70 percent of them were Black.<sup>10</sup> In addition, between 1986 and 1996, the number of women imprisoned for drug related offenses increased by 888 percent. Many of these women were the sole

caretakers of their children prior to incarceration.<sup>11</sup> If women are not offered welfare benefits post-incarceration, these costs will simply reemerge when they re-offend in order to support their families.

Policy changes also included adjustments to other welfare benefits, one of which was named "One Strike and You're Out." Starting in 1997, federal block grants were and are currently offered to state housing authorities as incentives to establish new screening and eviction procedures for felons attempting to live in public housing.<sup>12</sup> The process was made more intrusive by requiring background checks and allowing arrest information as grounds for disqualification. In the six months after the policy went into effect, 19,405 ex-offenders were denied housing.<sup>13</sup> While these laws are in place to punish individual offenders, they have ended up impacting entire networks of people by acting as a barrier to the reunification of mothers and children and by disenfranchising families who house felons during their reintegration.

Another barrier is the addendum to the 1998 Higher Education Act which prohibits drug offenders from receiving financial aid. Passed in July 2000, to date the policy has denied aid to nearly 200,000 people.<sup>14</sup> As Graham Boyd, the director of the ACLU's Drug Law Reform Project states, "[e]ducation is crucial to achieving employment, and that's the best way to keep people away from crime and out of prison."<sup>15</sup>

Due to background checks and certain occupational licensing bans imposed by the government (for careers in education, childcare, healthcare, and public service), felons face further disenfranchisement from the job market.<sup>16</sup> Because many female ex-offenders committed drug crimes and received minimal job training behind bars, they are severely stigmatized and unable to find legal means of sustenance.

Disenfranchisement also bars felons from accessing drug and alcohol treatment. Under policies such as the 1996 Welfare Reforms, which make specific exceptions for criminal records, people with a single felony conviction for drugs can be barred for life from receiving rehabilitation or any other help at the government's expense. Because many jails and prisons have diverted funding to security and punishment practices, inmates receive less treatment behind bars. Budget reports show that while two-thirds of allotted state funding went to law enforcement and incarceration, only one-

third went to prevention and rehabilitation.<sup>17</sup> When offenders do not receive assistance, relapse becomes the likelihood and the reality.<sup>18</sup> If the U.S. wants to reduce crime and cost, then these benefits *must* be extended to felons as a way of ensuring a safer and more law-abiding citizenry as a whole.

## The Law's Exception: Extra-Legal Justice

When the law formally establishes exceptions through felony disenfranchisement policies, it creates a space for citizens to practice extra-legal justice. For example, after researching and tracking two ex-offenders off of Maine's Sex Offender Registry online, which has more than 2,200 sex offenders' personal information posted, Stephen Marshall shot and killed them in their homes before killing himself.<sup>19</sup> While it would be difficult to blame the law for this kind of violence, it is easy to see the connection between the way that the law treats felons and how that affects the way members of society view them. Websites, such as Fugitive Watch!, appeal to each citizen who feels threatened by the possibility of crime. This website creates fear by posting pictures of wanted offenders in a style replicating state Sex Offender Registries. Robbery, murder, and sexual assault are listed with photos of each of the offenders alongside a plea for law-abiding citizens to keep a lookout with the possibility of a reward. These forms of rallying and solidarity encourage all community eyes to be on offenders, whether or not they have served their sentence. If the law makes exceptions that allow for government agencies, housing authorities, welfare groups, business employers, and educational institutions to employ policies that disenfranchise felons, then the law in fact *encourages* discrimination against and the further punishment of ex-felons attempting to reintegrate successfully.

## Conclusion

As of 2004, there were 13 million Americans with a felony conviction on their records.<sup>20</sup> When explicitly discriminatory policies affect such a significant percentage of the population, one must ask what the compelling state interest is and what is achieved when felons are barred from accessing certain rights that are deemed fundamental to a democracy? Parallel to incarceration where rights are suspended,

even upon release felons are reminded of their status as “prison citizens” who are subject to an entirely different legal system that disregards them as members of society. If we want a safer and more just society, we must leave revenge behind and move towards a more restorative response. There is a slippery slope in the lines of exclusion, and at any moment, the rights that law-abiding citizens take for granted can be revoked. So while the treatment of the “prison citizen” may be out of our sight, the possibility for punishment is not. When the law creates specific exclusions for a sector of our citizenry who are most in need of assistance, what assurance does it give us?

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## About the Author

**Sara Ahmed** graduated from Hampshire College in 2008. Her studies focused on incarceration and the application of legal theory to punishment and citizenship in the United States, with a specific concentration on women and juveniles of color. Her four years culminated in a project titled “The Prison Citizen: A Law and Policy Analysis of Belonging.” Currently, Sara is a Coro Fellow in Public Affairs and Democracy in New York City.

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## Notes

- 1 U.S. Department of Justice, “Prison Statistics. Summary Findings,” (June 30, 2007), <http://www.ojp.usdoj.gov/bjs/prisons.htm#findings>.
- 2 The Reconstruction Amendments (13th, 14th, and 15th) all explicitly create exceptions of the formal guarantees of citizens allotted in those amendments for criminal offenders.
- 3 The Sentencing Project, “Facts about Prisons and Prisoners,” (July 2008), [http://www.sentencingproject.org/Admin/Documents/publications/inc\\_factsaboutprisons.pdf](http://www.sentencingproject.org/Admin/Documents/publications/inc_factsaboutprisons.pdf).
- 4 Owen, Barbara, *In the Mix: Struggle and Survival in a Women's Prison* (New York: State University of New York Press, 1998).
- 5 Cusac, Anne-Marie, “The Restraint Chair,” in Herivel, T., & Wright, P., eds., *Prison Nation. The Warehousing of America's Poor* (New York: Routledge, 2003), 216-226.
- 6 The Thirteenth Amendment states that “neither slavery nor involuntary servitude, *except as a punishment for crime... shall exist*” and the Fourteenth Amendment states that “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens” and that representation will be apportioned to communities depending on the number of heads whose numbers cannot be reduced “*except for participation in rebellion, or other crime*” (emphasis added).
- 7 The Sentencing Project, “Statistics by State,” (November 25, 2007), <http://www.sentencingproject.org/StatsByState.aspx>.
- 8 U.S. Department of Justice, Office of Pardon Attorney, “Civil Disabilities of Convicted Felons: A State-By-State Survey,” (October 1999).
- 9 Allard, Patricia, “Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses,” (February 2000), [www.sentencingproject.org/pdfs/9088smy.pdf](http://www.sentencingproject.org/pdfs/9088smy.pdf)
- 10 King, Ryan S. & Mauer, Marc, “Distorted Priorities: Drug Offenders in State Prisons,” (September 2002), [http://www.sentencingproject.org/Admin/Documents/publications/dp\\_distortedpriorities.pdf](http://www.sentencingproject.org/Admin/Documents/publications/dp_distortedpriorities.pdf)
- 11 The Sentencing Project, “Women in the Criminal Justice System,” (November 25, 2007), [http://www.sentencingproject.org/Admin/percent5CDocuments/percent5Cnews/percent5Cwomenincj\\_total.pdf](http://www.sentencingproject.org/Admin/percent5CDocuments/percent5Cnews/percent5Cwomenincj_total.pdf)
- 12 Rubenstein, Gwen & Mukamal, Debbie, “Welfare and Housing- Denial of Benefits to Drug Offenders,” in Marc Mauer & Meda Chesney-Lind, eds., *Invisible Punishment. The Collateral Consequences of Mass Imprisonment* (New York, NY: The New Press, 2002), 43-44.
- 13 *Ibid.*, 47.
- 14 American Civil Liberties Union, “Injustice 101: Higher Education Act Denies Financial Aid to Students with Drug Convictions,” (Retrieved November 13, 2007), <http://www.aclu.org/drugpolicy/youth/10753res20020614.html>.
- 15 *Ibid.*
- 16 Allard, Patricia, “Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses,” (February 2000), [www.sentencingproject.org/pdfs/9088smy.pdf](http://www.sentencingproject.org/pdfs/9088smy.pdf)
- 17 *Ibid.*, p. 25.
- 18 Rubenstein, Gwen & Mukamal, Debbie, “Welfare and Housing- Denial of Benefits to Drug Offenders,” in Marc Mauer & Meda Chesney-Lind, eds., *Invisible Punishment. The Collateral Consequences of Mass Imprisonment* (New York, NY: The New Press, 2002), 33.
- 19 Gitikia, Ahuja, “Sex Offender Registries: Putting Lives at Risk? Double Murder of Maine Men Sparks Debate about Online Sex Registries,” (April 18, 2006), <http://abcnews.go.com/US/Story?id=1855771&page=3>.
- 20 Cardinale, Matthew, “Triple-Decker Disenfranchisement: First Person Accounts of Losing the Right to Vote Among Poor, Homeless Americans with a Felony Conviction,” (November 2004), [http://www.sentencingproject.org/Admin/Documents/publications/fd\\_tripledecker.pdf](http://www.sentencingproject.org/Admin/Documents/publications/fd_tripledecker.pdf).