

Ten Reasons Why Prisons are Bad for Reproductive Freedom

by Eesha Pandit

The nightly news is riddled with gruesome tales of increasing crime in our communities. Daily, battles are fought and lost in the 'war on crime' and the 'war on drugs,' both of which are pseudonyms for the criminalization of poverty. Are our communities stronger and healthier as we become increasingly dependent on systems of incarceration to solve social problems? The answer is an emphatic no. Further, prisons and the criminal justice system at large have specific consequences for women's reproductive freedom. Here are 10 reasons why women's health and reproductive rights advocates should think critically about prisons, their impact on women and their role in our society.

1. Prisons devastate families and communities.

The U.S. has the largest number of people in prison in the world, and women are the fastest growing prison population. Since 1980, the number of women incarcerated has risen by almost 500%.¹ Family ties and relationships are inordinately strained when a mother is incarcerated. About 78% of women in prison have children, but they are often incarcerated in federal prisons out of state or in state prisons in remote towns.² Less than half of these women are able to see their children and families. Furthermore, incarcerated women are at a high risk of losing their children. According to the Adoption and Safe Families Act of 1997, a woman loses her parental rights to a child who has been in foster care for 15 of the previous 22 months. Thus, a great majority of women who must place their children in foster care during their incarceration will lose them.³

Such facts raise larger questions about what effects prisons have on the social fabric of our communities. Prisons impact children, partners, wives, mothers and community members. Women often bear the burden of

supporting households in which a partner is incarcerated. Children of inmates are at risk of educational failure, joblessness, addiction and delinquency. Much of this devastation is caused by the so-called 'war on drugs' and mandatory minimum sentencing. The drug war does not promote and protect family values, as many would have us believe.⁴ Between 1986 and 1996, the number of women in prison for drug law violations increased by 421 percent.⁵ The vast majority⁶ of women are incarcerated for relatively minor, non-violent crimes. Instead of incarceration, these women need access to drug treatment, education and decent jobs.

2. Prisons pose a particular threat to women of color and poor women.

Women of color are the fastest growing prison population in the country today⁷ and most come from underprivileged and under-resourced environments. Almost half of all women in prison report that they have been sexually assaulted during their lifetime.⁸ Victims of sexual assault are more likely to be forced into homelessness and poverty, which often precede drug use, prostitution and committing economic crimes. Women of color and poor women are least likely to have access to the necessary treatment and counseling for sexual abuse. Instead of receiving such care, they are incarcerated and treated as criminals and not victims of a system that has failed to protect their rights.⁹

Once these women serve their sentences they are further denied access to the public services and support that they need to prevent themselves from winding up in prison yet again. Anyone who has been convicted of a drug-related felony is prohibited from receiving cash or food stamps and living in public housing.¹⁰ Thus, many women ex-prisoners are unable to provide for themselves and their children, continuing the cycle of punishing women not for crimes they commit, but for their poverty.

3. Prisons perpetuate the criminalization of sexuality.

Discrimination and oppression in society at large make certain communities more vulnerable to state violence. LGBTQ people often face increased violence from law enforcement officials, which jeopardizes their reproductive and sexual health. Until very recently, it was criminal for LGBTQ people to engage in sexual activity. Such legislation stems from the state's desire to control sexual activity in certain communities. Sex itself is not criminal — unless you are poor, LGBTQ, and/or a person of color. Likewise, sexual abuse by prison guards is often attributed to the hypersexuality of female prisoners, particularly women of color. The demonization of (female and queer) sexual deviance is commonplace in our culture, and because of our reliance on prisons, this translates into increasing numbers of women and LGBTQ people in prison.¹¹

4. Prisons are detrimental to women's overall health.

Women in prison are subject to some of the worst health services known to exist. The recent exposé in the *New York Times* regarding the now infamous Prison Health Services Company only scratches at the service of human rights abuses perpetuated against prisoners in the United States.¹² This violence affects the lives of women in very specific ways that often fly below the radar of mainstream prison reform activists.

Women are often denied very basic health care rights while in prison. Women in the California prison system are denied access to necessary medical diets, basic hygiene products like soap, shampoo and toothpaste, as well as essential medication.¹³ Women suffering from treatable diseases and mental illnesses are often denied medical treatment and access to health care and gynecological and reproductive services.¹⁴ Often such negligence causes exacerbation of their illnesses and leads to unnecessary, expensive and dangerous medical

procedures that could have been avoided with proper and preventative care. In extreme, but not entirely uncommon cases, this form of medical neglect results in death.

5. Prisons restrict reproductive choice.

Prisons function in several ways to prevent women from exercising control over their reproduction. The extreme medical neglect in the criminal justice system jeopardizes women's right to make their own reproductive choices by endangering their health and fertility. Often, the failure to screen for and treat sexually transmitted infections and cervical cancer leads to infertility and preventable hysterectomies.¹⁵

Further, detention centers, jails and prisons often interfere with a woman's right to an abortion. They require women to bear the cost of the abortion as well as security and transportation to a clinic. Often, a court order is required before women are taken to a clinic, causing such a long delay that the abortion is no longer possible when the necessary permissions are granted.¹⁶

Women who are pregnant at the time of their detention face a lack of adequate and available prenatal care. They report difficulty in accessing health care services and obstetricians. They are denied prenatal vitamins and the appropriate diet and work assignments. If they suffer from a drug addiction, they are denied the requisite medication to prevent unnecessary miscarriages and stillbirths.¹⁷

6. Women in prison face sexual abuse.

Women in prison face the threat of sexual violence on a daily basis. Seventy percent of guards who are responsible for monitoring women prisoners are men. These guards are responsible for supervising women prisoners throughout the day, including in the showers and bathrooms. A very high degree of rape, sexual assault, groping during body searches, and extortion occurs. To prevent women from reporting their abusers and to punish those who may have spoken out, guards use threats of physical assault and sentence extension and deny women visitation by their children and family members.¹⁸

7. Prisons negatively affect pregnancy and motherhood.

Law enforcement officials, judges and elected officials nationwide have sought to punish women for their actions during pregnancy, which may affect the fetus they are carrying. Women can be charged with child



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abuse, fetal homicide or drug trafficking if they test positive for drugs during pregnancy. Often women are tested for drugs without their knowledge. While in prison, the active endangerment or neglect of a pregnant woman can result in the termination of her pregnancy. Often the women themselves are held accountable and further punished for these outcomes.¹⁸ Women and children's advocates agree that women should engage in healthy behaviors that promote the birth of healthy children, yet they realize that a woman's substance abuse problem involves complex factors that must be resolved with treatment and social services, not incarceration. Thus, prisons violate a woman's privacy rights, criminalize a medical and social problem and offer nothing to help women have healthy babies.²⁰

Furthermore, irrational security measures dehumanize and endanger women during childbirth. In most states, it is standard practice to shackle all prisoners during transportation to medical facilities and during the medical visit. Pregnant women are routinely shackled during active labor and after they give birth; they are often restrained while they are giving birth as well. Illinois is the only state whose legislature has banned this practice.²¹

8. Prisons foster and perpetuate the injustices inherent in the criminal justice system.

With more than two million people behind bars, the U.S. has become the world leader in incarceration. Although women are currently less than 10% of the prison population, since 1995 women have been entering prison at a faster rate than men. Given such an alarming trend, it is crucial to understand the changing role of prisons in the larger criminal justice system to understand the challenges a system of mass incarceration poses to reproductive freedom.

Prisons and jails render women's reproductive rights expendable, even though the courts define these rights as essential. Women of color and poor women are increasingly vulnerable to such violation of their rights because access to resources and freedom from discrimination are key factors in obtaining reproductive autonomy. The criminal justice system's reliance on incarceration points to a broader contention between women and the state. State authority takes diverse and shifting forms that pose very difficult challenges to women trying to exercise control over their reproduction.²²

Resources

Amnesty International Women's Human Rights Program
www.amnestyusa.org/women/womeninprison

Critical Resistance: Beyond the Prison Industrial Complex • www.criticalresistance.org

Drug Policy Alliance
<http://www.drugpolicy.org/drugwar/>

Incite! Women of Color Against Violence
www.incite-national.org

Human Rights Watch Prison Project
<http://www.hrw.org/prisons/>

Justice NOW • www.jnow.org

The National Center on Institutions and Alternatives
www.ncianet.org/ncia

Prison Activist Resource Center
www.prisonactivist.org

Prison Legal News • www.prisonlegalnews.org

Prison Moratorium Project • www.nomoreprisons.org

The Sentencing Project • www.sentencingproject.org

9. Prisons do not make us safer.

Currently, activists that address the issue of state violence work in isolation from those that address domestic and sexual violence. Women of color and poor women who suffer disproportionately from both state and interpersonal violence are marginalized as a result.²³ The mainstream anti-violence movement has sought to protect women from domestic violence and battering by advocating for more involvement of police agencies. For communities of color and immigrant communities, this strategy is at times wholly ineffective because these communities face disproportionately a threat of violence in the home from the very same law enforcement authorities that are charged with their protection. In situations like these, home raids can take place at any time on tenuous legal grounds and women are left no recourse in the face of violence from both batterers and law enforcement officials.²⁴ Clearly, we need to re-evaluate the role of prisons and mass incarceration in our society. If prisons are not serving

the purpose of protecting the members of our society from violence and instead are jeopardizing women's rights and health, then the burden falls on each of us to challenge the injustices perpetuated by this system.

10. There are alternatives to prisons.

Many believe that we need new approaches and strategies to deal with violence in our communities. In order to come up with workable solutions, the first step is to let go of our desire to discover one single alternative system of punishment that would play the same role as the current prison and jail system. The

prison system is deeply entrenched in the social, cultural, and economic practices of the United States. We need to explore community based responses to violence that don't rely on the criminal justice system. Many ask: what about violent offenders? We need to call into question our analysis of violence as individual acts perpetrated solely by individual people, to the exclusion of examining it as a phenomenon symptomatic of larger structures of power and oppression. These are starting points. From here we can move forward to create structures that not only end violence, but advance freedom and human rights.

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