

WOMEN AND THE PRISON INDUSTRIAL COMPLEX:

THE CRIMINALIZATION OF GENDER, RACE AND CLASS IN THE "WAR ON DRUGS"

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The proliferation and privatization of prisons is a modern phenomenon and questionable practice. Critics of the rapidly expanding prison system see jail sentences as an easy way for the government to handle social problems such as poverty, unemployment and drug use. The use of private prisons is a money-making practice that is analogous to government spending on other violent, yet profitable venues such as the military. In her article "Masked Racism: Reflections on the Prison Industrial Complex," Angela Davis argues that "[t]aking into account the structural similarities and profitability of business-government linkages in the realms of military production and public punishment, the expanding penal system can now be characterized as a 'prison industrial complex'" (Davis, 52). This notion of the "prison industrial complex" is increasingly being used to characterize the massive business of punishment and corrections. In the following analysis, I will discuss the role of the "prison industrial complex" as a means of social control, and show how women are uniquely and disproportionately affected by this phenomenon. I will then analyze how the traditional roles of women within a patriarchal society (women as wives and mothers, or the social construction of the female gender as gentle, selfless and passive) complicate and exacerbate the subjugation of women "offenders." By using the "war on drugs" as a primary example, I will also show how the experiences of black women in urban areas differ from the experiences of white women in the criminal justice system. Finally, I will discuss the ways in which both the "prison industrial complex" and the "war on drugs" are enabled and encouraged by what Chris Cuomo, in "War is not just an event: Reflections on the significance of everyday violence," claims are the militaristic and violent structures and systems that shape everyday life, and how this militarism wages literal and figurative war on race, class and sex.

As of December 2001, the United States, the "land of the free," had 1.3 million people in prison. Another 4.3 million adults were counted as being former prisoners, bringing the total population of the United States who had served time in prison as of 2001 to an estimated 5.6 million (BJS, 2002). The Bureau of Justice Statistics states that

the female imprisonment rate has more than doubled since 1990, increasing from 44,065 women to 94,336 in 2001. An overwhelming 70 percent of these female arrests are attributed to non-violent crimes linked to drugs or property crimes (BJS, 2002). A comparison of female crime rates between 1977 and 1987 reveals that violent crimes committed by women whole declined while alcohol and drug related crimes tripled (Kurshan 20). By most accounts, violent crimes by women have remained constant or, in some cases, even declined, while imprisonment rates for women continued to rise steadily, most likely as a result of increasingly harsh penalties and sentencing for drug crimes.

Prisons were constructed to serve the same purpose for women and men, with the intention of both punishing those who were found guilty of crimes while protecting the public from dangerous offenders. However, as Nancy Kurshan points out in her article "Women and Imprisonment in the U.S.," "women's imprisonment has always differed from that of men, because "the imprisonment of women, as well as all the other aspects of their lives, takes place against a backdrop of patriarchal relationships" (1). It must be noted that the proportion of women in prison has always differed from that of men, because although there are fewer imprisoned women than there are imprisoned men, women go to prison at a higher rate in relation to their general population. Women have traditionally been sent to prison for different reasons than men; historically for crimes involving sexuality, for which men have never been punished, and more currently, crimes of property or poverty (Kurshan 1). Once women are in prison, they have very different conditions of incarceration, due to gender-specific needs that include privacy, health and reproductive care, which at best are poorly funded and inadequate, and at worst are completely ignored. The gendered power-dynamic that functions in society cannot be considered separate or unrelated to female incarceration; rather, it must be used as lens through which to view and analyze circumstances and conditions of the imprisonment of women.

Through studying the growing phenomenon of incarcerated women, a profile of the typical woman prisoner has emerged. Kurshan notes that the recurring portrait of the typical woman prisoner is "in study after study, that of a young, single mother with few marketable job skills, a high school drop-out who lives below the poverty level" (2). She goes on to explain, "Seventy-five percent are between the ages of

twenty-five and thirty-four, are mothers of dependent children, and were unemployed at the time of arrest. Many left home early and have experienced sexual and physical abuse. Ninety percent have a drug or alcohol-related history” (Kurshan 2). This profile is a clear indication that there is a specific type of woman who is likely to participate in criminal behavior and is thus likely to be arrested, and it is easy to see that circumstances of poverty, abuse and dependency often shape and influence the behavior of many women “offenders.”

Another defining characteristic of the woman prisoner is race. Black women are disproportionately represented in the figure of total women prisoners, as nearly two-thirds of the female population in state and federal institutions are women of color. Kurshan references Audre Lorde's comment that in “a patriarchal power system where white skin privilege is a major prop, the entrapments used to neutralize Black women and white women are not the same” (1). One such entrapment that is currently utilized is the “war on drugs” which entails more aggressive searches for drugs, and harsher punishments for even minor drug-related crimes that result in the incarceration of more individuals for longer periods of time. In her book *Inner Lives: Voices of African American Women in Prison*, Paula C. Johnson points out the contradiction between current crime levels, which are at an unusual low, and incarceration rates of African American women, which are at an unprecedented high, and suggests that this disparity is a direct result of the strengthening of federal drug laws (6). The “war on drugs” is often claimed to be waged in defense of public safety and family values; however, it often results in much more harm than good for the African American community and family, with particularly devastating consequences for minority females

For example, “drug mother” laws are often responsible for reinforcing racist stereotypes and do little to address the need for prevention or treatment options for women who use drugs. In Wisconsin, legislation used to strengthen penalties against drug-using mothers became known as the “crack mother” law. It was passed after an unidentified black woman called “Angela” tested positive for cocaine use during two separate pregnancies (Szalavitz 6). According to the Congressional Black Caucus, by using the term “crack mother law,” legislators “evoke images of poor, typically black, ‘welfare queens’ having dozens of illegitimate children—even though the law also covers alcohol, powder cocaine, and other drugs more often used by white men and

women" (Szalavitz 6). Because of the social and racial stigma attached to crack cocaine, naming a "drug mother" law specifically after this drug is a way of discretely pointing the finger at a specific population, under the racist and inaccurate assumption that women of color are more likely to use drugs while pregnant. Images of the "crack mother" and the "welfare queen" are undoubtedly images of black women, and it is ironic and perhaps convenient that laws enforcing harsher punishments for drug crimes are being strengthened, while welfare programs and options for government assistance are being weakened. Current welfare reforms such as five-year limits for assistance, "Welfare to Work," which forces mothers out of the home and away from their children to work menial jobs, and the "Family Cap," which refuses to give a larger payments to women who have children while already on assistance show a dangerous shift in national concerns and priority. While social programs that may help to alleviate poverty and many of the root causes of drug crimes are growing weaker, priority is given to punishment and "justice," as if incarceration is an easy solution.

While black men face the temporary loss of their freedom of mobility if convicted of drug charges, it is only women who are at risk of losing permanent control over their bodies. In her article "Private Fists and Public Force," Anannya Bhattacharjee contests that "long-acting contraceptives, such as Norplant, have been used as tool of coercion in the criminal justice system" (13). While there is no debating the fact that a woman who uses drugs while pregnant or with children in her home should be held accountable for child endangerment or neglect, it is quite a different issue to use the "war on drugs" to jeopardize or revoke a women's reproductive rights. One specific incident took place in California's Central Valley, where a pregnant, African American, welfare recipient named Darlene Johnson was convicted of child abuse for exposing her unborn fetus to drugs. Her judge allowed her to "choose" between Norplant and a longer jail sentence (Bhattacharjee 13). This "choice" sends the disturbing message that convicted criminals must surrender the rights of their bodies to the state. Reproductive rights, which are considered among women's basic human rights, are reduced to a bargaining chip in a criminal justice system that seeks to control, thwart and repress a certain constituency. The oppression of one group on the basis of race or gender, coupled with the denial of the right to bodily integrity and freedom and the intrusion of aggressive public policy

(whose decision-makers are mostly male) upon the private sectors of women's reproductive liberties, paints a horrifying picture of state-perpetuated violence, and maps the minority female body as grounds for battle.

The physical, symbolic and political significance of sterilization as a form of drug punishment and addiction "treatment" is particularly devastating to underprivileged and/or minority women and families. There have been many legislative proposals that have attempted to sanction the use of Norplant as a consequence for all women whose babies were born addicted to drugs. Not surprisingly, these attempts have affected and involved a "disproportionately large" number of African American women (Scully 63). While no law mandating sterilization as a punishment for drug-addicted mothers has ever been approved by the government, this tactic has been encouraged as a valid and preferable option by communities and private organizations. For example, in 1997 the Stanton, California based, non-profit organization "Children Requiring a Caring Kommunity" (also known by the clever acronym CRACK) began a campaign that they claimed would assist in "population control." They offered women with substance abuse problems \$200 if the woman could prove that she was using a permanent or temporary form of sterilization. They advertised with billboards in primarily Hispanic and African American, low-income communities in Los Angeles to solicit interest and as a result, over sixty percent of permanent sterilizations recorded in conjunction with CRACK involved Latina or Black women (Scully 64). Scully points out that the strategies that organizations like CRACK use to terminate the reproductive capacities of these women "are a clear result of the propaganda of the war on drugs being aimed at women and children" (64). In this context, drug control is explicitly linked to population control, and population is in turn inevitably linked to and assumed to be solely the problem and responsibility of the woman. The campaign's overtly sexist, racist and classist undertones clearly show that they see a specific population in need of "control."

Such "solutions" do not even begin to address the problem of drug addiction, they merely serve to exploit poor women who are desperate enough to sell their civil liberties for the price of \$200. Furthermore, the idea that handing out money to individuals who admit to having a drug problem is a way to help the community is laughable. This program only stipulates that a woman is made unable to have any

additional children. It makes no mention of the fact that the woman may already be a mother, who if given additional income to spend as she chooses, may very well purchase \$200 worth of drugs and endanger the children that she already has. Programs or policies that encourage sterilization as an answer to drug addiction are only searching for a quick fix and a means to eliminate a "problem" population. Scully claims that programs which advocate the elimination of the reproductive rights of drug-addicted mothers reinforce stereotypes of these women as primarily black and incapable of rehabilitation, while portraying their children as "helpless, hopeless, potentially violent and ultimately not worthy of being born" (64). Rehabilitation, which would most benefit the mother and any previously born children or other family members, is more costly and time-consuming and is therefore not encouraged or funded. By equating a "caring community" with bribe-induced sterilization, programs such as CRACK send the message that it is better to reduce, rather than assist, "problem populations" that suffer from drug addiction or poverty.

Another controversial aspect of women's incarceration is the current debate over whether mothers, if they are the sole or primary caregivers to their children, should be granted any degree of leniency in their sentencing. This suggestion is explored by Myrna S. Raeder in the book *Gendered Justice: Addressing Female Offenders*. Raeder points that considering mothers entitled to special treatment is usually met with strong opposition from a legal standpoint. However, she acknowledges that most patterns of gender socialization designate and predict that the mother will be the child's primary caregiver. When the mother is incarcerated, it is not likely that the father is present in the child's life or willing to care for the child alone (176). Statistics of children who have one incarcerated parent tend to back up Raeder's assertion. When a father is incarcerated, ninety percent of children live with their mothers, but when a mother is incarcerated, only twenty-five percent of children live with their fathers (Simon and Ahn-Redding 100). Although it appears to be "unjust" or "unequal" to give women who have children shorter sentences or special privileges, perhaps it should be considered that the patriarchal society that we live in is already unjust and unequal, and places a disproportionate amount of pressure and responsibility on women to be primary caregivers. It should also be considered that if the goal of the criminal justice system is ultimately to better society, it should be noted that the separation of children from their mothers has adverse effects on the

child. It would significantly benefit families and communities if every effort were made not to keep incarcerated women away from their children for unnecessarily long periods of time, as occurs under laws that uphold mandatory minimum sentencing.

Although the “war on drugs” claims to reinforce family values, the implementation of mandatory minimum sentencing does exactly the opposite. It is indisputable that current drug policies and regulations have direct and devastating impacts on family structure and particularly impact women and children. For example, because there are fewer correctional institutions for females than there are for males, a female drug offender is more likely to be sent further away from her family and home than a male who has committed the same offense (Simon and Ahn-Redding 98), making it significantly more difficult for incarcerated women to maintain the family support and stability that may be crucial to her child and to herself. Feelings of isolation, guilt and depression often follow the separation of women from the children once they are imprisoned because it is more likely that an incarcerated mother’s children will be placed in social services (Simon and Ahn-Redding 100). These inherent discriminations in the justice system unfairly create a worse sentence for the female and for the child, once again most likely minorities, than a male would have to endure for the same crime.

Another way that women in the family are disproportionately affected by drug sentencing is when the role of a caregiver of a child is decided upon after one or both parents have been incarcerated. When a mother goes to prison, fifty-three percent of their children are cared for by their grandmothers. These older women offer to take them in despite the physical and financial challenges in order to prevent the child being placed in social services. Monica Pratt, author of “Families Against Mandatory Minimums,” points out that “Female incarcerations often place three generations of women at risk and destroy families” (Murray 22). The exponential increase in incarceration of African American women involves older generations of the families with emotional, physical and financial burdens so immense that the impact has not yet been assessed. Pratt explains that older women tend to under-emphasize their social, physical and financial stressors so that they are not deemed too sick or unfit to be granted custody of the child (Murray 22). In these cases, race and gender intersect so that older African American women are disproportionately affected and harmed by

being forced to bear the brunt of caring for the children of incarcerated mothers and having no government laws or regulations that allow them to be financially compensated for taking in a child willingly.

Female offenders can also receive stricter treatment or a harsher social stigma attached to their incarceration because “bad behavior” violates the social expectations of a “proper” female. Gender complicates women's incarceration and punishments particularly for drugs because women who are addicts, and especially who are also mothers, are defying the stereotypical identification of a woman as selfless and pure. “Female addicts are seen as doubly deviant,” explains Sheigla Murphy, Ph.D., director of the Center for Substance Abuse Studies at the Institute for Scientific Analysis in California. “A drunk man is one thing, but a drunken woman is considered disgusting” (Szalavitz 4). Murphy also theorizes that the traditional expectation that a woman will take care of her husband and children and make the care of others her priority is destroyed by a woman using a substance for her own pleasure, simply because this type of “selfish” behavior is not socially acceptable for women, particularly mothers. Murphy suggests that this is one reason why our response to addicted women tends to be even more punitive than our admittedly-harsh treatment of male addicts (Szalavitz 4). Furthermore, when we consider the gender bias that exists in our society, we must also consider the double oppression of racism and sexism that is faced by African American women, particularly in this context, where race and gender become criminal offenses worthy of punishment. Preconceived gender roles and conventions further demonize women drug users, and often make the public favor harsher punishments for women users rather than encourage sympathy, rehabilitation and constructive social change.

In addition to incurring harsher social stigma for their crimes, women are often literally punished more strictly for drug crimes than men are, even when they have committed the least important role in the offense. Women often receive long sentences because they refuse, or are unable, to give prosecutors evidence about their husband's or boyfriend's crimes and connections. Indeed, a 1997 review of over 60,000 federal drug cases by the *Minneapolis Star Tribune* shows that men are more likely implicate female partners in a crime to get a shorter sentence than women are to implicate their male partners (Szalavitz 2). This system is set up to trap, capture and crucify low-level dealers or those who only have a minor involvement in a drug

sale—the marginal players who are much more likely to be women. Men are much more likely sell drugs in large quantities and in direct smuggling operations, are usually well-informed about the penalties they face, and tend to have information to trade with authorities to bargain for a decreased sentence (Szalavitz 2). Women who are unwilling to be disloyal to their partners or who simply do not have knowledge that is useful to prosecutors become the targets of lengthy mandatory-minimum-sentencing laws, even when they have committed the least offense. The subservient role that women play to men in the drug trade mirrors the subservient role that they are forced to play in many other social situations, and it is of little surprise that women are forced to bear the brunt of the law's injustice.

Sentencing is not the only aspect of the criminal justice system that fails women. When women are able to seek help for drug problems, they can rarely find effective assistance that is gender specific. “At a structural level, most existing drug treatment centers are abusive to women. They are not set up to deal with women's experiences,” says Sheigla Murphy, who has studied the issue for decades (Szalavitz 5). Many centers, particularly the long-term residential programs called “therapeutic communities,” have programs that are based upon the model or profile of a male addict, and do not address issues or patterns that are specific to women drug abusers. The Bureau of Justice statistics points out that fifty-seven percent of women in state prisons reported that they were physically or sexually assaulted at some point in their lives, and as many as forty-seven percent of female inmates (compared thirty-seven percent of male inmates) had at least one immediate family member who had been incarcerated (BJS 2000). These statistics, among many others, point to patterns of behavior and cycles of abuse that often characterize female inmates and drug users that are often not taken into consideration during the rehabilitation process. It is with this type of information that we can see how truly ineffective and racially biased legislation such as the “crack mother” law is, which demonizes black women and portrays drugs as a problem solely of the black community. A program that addresses needs that are specific to the female experience of addiction must be implemented, or the “war on drugs,” as well as the lives of many minority women and families, is sure to be lost.

In these ways, the “prison industrial complex” is a violent institution that inflicts punishment rather than rehabilitation, and that fosters animosity and racism

instead of assistance and compassion. Angela Davis compares the rapidly expanding system of private prisons, and its “devouring” of human bodies to other violent systems such as the military. She says:

All this work [of regulating imprisonment], which used to be the primary province of government, is now also performed by private corporations, whose links to government in the field of what is euphemistically called “corrections” resonate dangerously with the military industrial complex. The dividends that accrue from investment in the punishment industry, like those that accrue from investment in weapons production, only amount to social destruction. (52.)

As in traditional warfare, spending on weapons and military personnel inevitably leads to innocent victims and casualties. Similarly, increased spending and utilization of private prison system will produce women of color as “victims” of the “war on drugs” and make casualties of their children, families and communities.

In addition to Davis’s analysis, the concept of and potential for inherent and state-supported violence can also be evidenced through the prison system and through the “war on drugs” as part of a continuing culture of violence and perpetual “war.” Chris Cuomo argues that war can not be viewed as an incident that is separate or independent from society, but rather that it is essential to recognize the militaristic and violent structures and systems that shape everyday life as contributors to and forms of war. Cuomo suggests that a feminist analysis of war is particularly effective and necessary in seeing war as an ingrained and interwoven aspect of twenty-first century life, as “part of an enmeshed continua or spectra of state-sponsored and other systemic patriarchal and racist violence” (69). The increasing growth of and reliance on the “prison-industrial complex” in the United States, and the use of a strengthened drug policy to disproportionately affect women of color are examples of a system that utilizes violence and punishment as a means of social control.

Militarism in everyday life, especially when its practices and enforcement are aimed specifically toward minorities, undoubtedly impacts conceptions of race, gender and gendered relationships. The increasing reliance on and growth of the prison system in the “war on drugs” as a tool of punishment, fear and control over women and minorities most definitely qualifies as the type of “state-sponsored violence” to which Cuomo refers. The vision of war as a continuous cycle impeding

upon the lives and minds of the American public will, as Cuomo suggests, make it likely that citizens will become accustomed to dualisms such as "war and peace," "good and bad" and "right and wrong." These black-and-white terms and ways of thinking leave little room for the gray areas of race, class and sex that are often undeniable forces in social conflicts such as the "war on drugs," and the racist and patriarchal violence that is present in every day social institutions. Our country continues to favor legislation that is unsympathetic to the specific needs of women and mothers, and it continues to cut expenditures on social programs such as welfare while the "prison-industrial complex" engulfs the poor. In this way, the prison system is a means of violence that serves to oppress and punish an ever-increasing number of African American women, and the "war on drugs" remains a war on the black community, family and the female body.

#### WORKS CITED

- Bhattacharjee, Anannya. "Private Fists and Public Force: Race, Gender and Surveillance." *Policing the National Body: Race, Gender and Criminalization*. Cambridge, Massachusetts: South End Press, 2002. 1-55.
- Bush-Baskette, Stephanie R. "The War on Drugs as a War on Black Women." *Crime Control and Women: Feminist Implications of Criminal Justice Policy*. Ed. Susan Miller. Thousand Oaks, California: Sage Publications, 1998. 113-121.
- Chandler, Cynthia and Carol Kingley. "Speaking Out Against State Violence: HIV-Positive Women Prisoners Redefine Social Justice." *Policing the National Body: Race, Gender and Criminalization*. Cambridge, Massachusetts: South End Press, 2002.
- Chesney-Lind, Meda. *Crime Control and Women: Feminist Implications of Criminal Justice Policy*. Forward. Ed. Susan L. Miller. Thousand Oaks, California: Sage Publications, 1998.
- Cuomo, Chris J. "War is not just an event: Reflections on the Significance of Everyday Violence." *Hypatia*. 11:4. 1996.
- Davis, Angela. "Masked Racism." *Sing, Whisper, Shout, Pray: Feminist Visions for a Just World*. Ed. Jaqui Alexander, et al. Canada: EdgeWork Books, 2003. 50-57.

- Johnson, Paula C. *Inner Lives: Voices of African American Women in Prison*. New York: New York University Press, 2003.
- Kurshan, Nancy. *Women and Imprisonment in the U.S: History and Current Reality*. <<http://prisonactivist.org/women/women-and-imprisonment.html>>.
- Loper, Ann B., ed.. "Women Coping in Prison.". Bureau of Justice Statistics. *Women Coping in Prison Study*, University of Virginia. 12 Sept. 2005. <<http://curry.edschool.virginia.edu/prisonstudy/home.html>>.
- Murray, Bobbi. "Orphaned by the Drug War." *The W-Effect: Bush's War on Women*. Ed. Laura Flanders. New York: The Feminist Press, 2004. 19-24.
- Raeder, Myrna S. "Gendered Implications of Sentencing and Correctional Practices: A Legal Perspective." *Gendered Justice: Addressing Female Offenders*. Ed. Barbara E. Bloom. North Carolina: Carolina Academic Press, 2003. 173-209.
- Renzetti, Claire M. "Connecting the Dots: Women, Public Policy and Social Control." *Crime Control and Women: Feminist Implications of Criminal Justice Policy*. Ed. Susan L. Miller. Thousand Oaks, California: Sage Publications, 1998. 181-189.
- Scully, Judith A.M. "Killing the Black Community: A Commentary on the United States War on Drugs." *Policing the National Body: Race, Gender and Criminalization*. Cambridge, Massachusetts: South End Press, 2002. 55-81.
- Simon, Rita J. and Heather Ahn-Redding. *The Crimes Women Commit, The Punishments They Receive*. 3rd ed. Oxford: Lexington Books, 2005.
- Sudbury, Julia. *Global Lockdown: Race, Gender and the Prison-Industrial Complex*. New York: Taylor and Francis Books, Inc, 2005.
- Szalavitz, Maia. *War on Drugs, War on Women*. On the Issues, Winter 1999. CHOICES Women's Medical Center, Inc.
- Women Coping in Prison. Bureau of Justice Statistics. Ed. Dr. Ann B. Loper. *Women Coping in Prison Study*, University of Virginia. 12 Sept. 2005. <<http://curry.edschool.virginia.edu/prisonstudy/home.html>>.