

UNSHACKLING INTERSECTIONALITY

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Abstract

In this essay, I call for an “unshackling” of intersectionality from the narrow and restrictive ways in which legal scholars and activists interpret and mobilize the theory and critique the single-axis framework that has been deployed by legal scholars and advocates in the context of mass incarceration. Specifically, I assert that a single-axis analysis of mass incarceration is insufficient to capture the broad impact of the prison and the raced and gendered logics that animate its operation. As a consequence of the failure to engage intersectionality in the context of the prison, legal scholarship on incarceration tends to obscure the centrality of Black women’s gender in the racialized system of control and posits Black men as the primary targets of mass incarceration. This undertheorization of incarceration also hinders the development of a framework that can account for why both Black women and Black men are vulnerable to multiple systems of social control.

Keywords: Race, Gender, Incarceration, Prisons, Criminalization, Policing

INTRODUCTION

Over the past thirty years, the theory of intersectionality has had a profound impact on legal scholarship and on our understanding of power and vulnerability to subordination. In two seminal articles, Kimberlé Crenshaw described the dynamics that cohered into the concept of intersectionality and engaged the ways in which hierarchies function to establish and reinforce the social marginality of women of color. Specifically, in *Mapping the Margins: intersectionality, Identity Politics and Violence against Women*, Crenshaw (1991) utilized intersectionality to highlight the invisibility of women of color within the larger feminist and antiracist movements that claim them as constituents. There, she noted that “[a]lthough racism and sexism often intersect in the lives of real people, they seldom do in feminist and antiracist practices. And so, when the practices expound identity as an either/or proposition, they relegate the identity of women of color to a location that resists telling” (pp. 1241–1242). The theoretical contributions of intersectionality have challenged prevailing contestations regarding race, gender and sexual orientation within institutional, doctrinal, and discursive spaces.

Over the past three decades, we have also witnessed the rapid expansion of various systems of surveillance, regulation, and incarceration as a mechanism of

Du Bois Review, 10:2 (2013) 471–483.

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doi:10.1017/S1742058X13000295

subordination for poor communities of color. Indeed, since the mid-1970s, prison populations have exploded. In the 1970s, roughly 250,000 people were incarcerated in U.S. prisons, including 5,600 women. Today, prisons house over 2.2 million people. Of that number, roughly 200,000 are women. This figure represents an increase of over 800% since 1977, making women the fastest growing prison population in the country.

The growth in the prison population has been led by the incarceration of Black women, who are three times as likely as White women to be incarcerated, often for nonviolent, drug-related offenses. The impact wrought by the mass incarceration of Black women cannot be overstated. When Black women are incarcerated, communities and families are devastated, traumas experienced by women are exacerbated, and resources for vital social services are diverted away from where they are most needed.

Yet, as the expansion of the prison has emerged as one of the most pressing social justice concerns in the country, the liberatory potential of intersectionality has not been fully realized in legal discourses regarding mass incarceration. This is particularly true in the analysis of conditions of confinement, the physical spaces that hold the bodies of Black and Brown women. Instead, intersectionality has been deployed in legal discourse mostly in the context of employment discrimination, reproductive autonomy, domestic and sexual violence, as well as to interrogate the way that social welfare programs and policies function. Absent an intersectional analysis, much of the legal scholarship on incarceration obscures the centrality of Black women's gender in the racialized system of control, and posits Black men as the primary targets of mass incarceration. This undertheorization of incarceration hinders the development of a framework that can account for why both Black women and Black men are vulnerable to multiple systems of social control. In this essay, I call for an "unshackling" of intersectionality from the narrow and restrictive ways in which legal scholars and activists interpret and mobilize the theory.

The need to "unshackle" intersectionality in the context of women's incarceration was brought home during a recent rally convened to draw attention to the suffering of women in California state prisons. On a cold winter afternoon, roughly one hundred people gathered together alongside a two-lane highway in Chowchilla, California. In the distance, a sign that directed visitors to the Central California Women's Facility was visible. Just across the street was the former Valley State Prison for Women ("Valley State"), which had been converted into a men's prison in response to a federal order to reduce the size of the prison population in the State of California. The shift in the prison population, however, did not equally benefit men and women.

Women who were formerly held in Valley State were transferred over to Central California Women's Facility, causing significant overcrowding and exacerbating the preexisting medical neglect and human suffering within the women's prison. As a consequence of this population shift, the Central California Women's Facility became the most overcrowded prison in the state and the largest women's prison in the country, with over 3,700 women housed in an institution that was built to accommodate 2,000 women. Within the prison, administrators packed eight women into cells measuring just 387 square feet. In these overcrowded spaces and behind the closed walls of the prison, the predominately Black and Brown women held there were subjected to all manners of abuse, including sterilization, sexual assault by guards, solitary confinement, shackling during childbirth, and physical violence.

The small crowd was there to participate in a "Freedom Rally" organized by the California Coalition for Women Prisoners ("CCWP"). CCWP is a grassroots orga-

nization that centers racial and gender justice in its efforts to “challenge the institutional violence imposed on women, transgender people, and communities of color by the prison industrial complex” (California Coalition for Women Prisoners 2003). The Rally was convened in response to the overcrowding experienced by women in the Central California Women’s Facility. People in the crowd held signs, chanted, marched, and demanded that women be released to community-based programs to ease overcrowding. Formerly incarcerated women and their families testified to the horrors likely being experienced by women just a few hundred yards from where we stood, on the other side of the prison walls. Speakers powerfully described the conditions women experienced as a product of both the racism and sexism that rests at the core of the prison. In the few media reports about the Rally, however, the state’s failure to reduce overcrowding in women’s facilities was framed as “gender discrimination” (Smith 2013).

I tell the story of the “Freedom Rally” for two reasons. The first is to highlight the ways in which the protest and conditions facing women prisoners, who are disproportionately Black and Brown, were framed within larger discursive and activist frameworks. Elsewhere I have critiqued the “intersectionality problem” in the context of legal jurisprudence on conditions of confinement (Ocen 2012a, p. 1239). In this essay, I contend that the same is true of legal discourse. There is a reason why the media framed the protest as a problem of gender discrimination as opposed to race *and* gender discrimination. By and large, women of color are absent from antiracist discourses that critique mass incarceration as a mechanism of racial control. Those discourses focus on Black men. Feminist discourses that intervene into the policies and practices of mass incarceration often frame those interventions in terms of gender discrimination. In this respect, the Rally reflects the way in which our discourses on criminalization and incarceration are unable to comprehend the racial dimensions of women’s incarceration and the gendered dimensions of racialized mass incarceration. This failure to understand the raced and gendered dimensions of incarceration occurs despite the fact that Black women constitute approximately 35% of the total number of incarcerated women in California, though they make up just 7% of the general population of women in the state. Moreover, Black girls are represented at an even higher rate in juvenile detention facilities. Nevertheless, incarcerated Black women are largely invisible within broader feminist and antiracist organizing. This dynamic exemplifies what Crenshaw (2012) calls the “material presence and substantive absence” (p. 1428) of poor women of color within movements. Because there are few discursive frameworks to describe and resist the subordination confronted by incarcerated Black women, the silences surrounding their “material presence and substantive absence” reinforces their relative vulnerability to violence and imprisonment. One need look no further than the “Freedom Rally” for confirmation of this phenomenon, where Black women’s bodies were literally sacrificed by the state in the name of “remedying” overcrowding.

The second reason I tell the story of the Rally is to bring into high relief the ways in which much of the public discourse on incarceration engages the pathways to imprisonment, such as racial profiling or harsh sentencing regimes, but elides interrogation of the conditions that individuals encounter once incarcerated. These dynamics are also reflected in legal scholarship on incarceration. Indeed, antiracist and feminist legal scholarship has not sufficiently traveled in spaces where racialized bodies experience profound degradation and abuse. This occurs despite the fact that the practices within women’s prisons function to police gender identities in ways that are informed by ideas of femininity that are normatively grounded in performances of White womanhood. Because ideological constructs of Black women have placed

them outside of the scope of what Black feminists have called the “cult of true womanhood” (Giddings 1996, p. 47), they are disproportionately subjected to gender policing and punishment for the failure to satisfy racialized gendered expectations. Consequently, surveillance, criminalization, and incarceration have become an essential part of the policing of Black women’s gender identities.

As demonstrated by the Freedom Rally and the overcrowding that precipitated it, a single-axis analysis of mass incarceration is insufficient to capture the broad impact of the prison, and the raced and gendered logics that animate its operation. Rather, an intersectional analysis is necessary to understand the functioning and expansion of the carceral state and the ways in which Black women and women of color stand at the intersection of larger social dynamics that render them vulnerable and incarcerable. As Crenshaw (2012) has noted, “placing women of color at the center of the discussion fundamentally challenges the existing discourse’s conventional parameters” (p. 1422). The act of centering Black women and the conditions under which they are confined highlights the contemporary mechanisms of what Julia Oparah (2012) calls “gender policing and racialized punishment” (pp. 256–257) and marks the prison as an essential site for the subordination of Black women.

An intersectional analysis reveals that Black women, rather than being marginal figures in mass incarceration discourse, are essential to our understanding of how the prison functions as a mechanism of racial control. When Black women are the focal point in the interrogation of mass incarceration, a broader narrative of incarceration becomes evident. In particular, we can see that the expansion of the prison grew out of a justificatory rationale rooted in ideological constructs of Black women that were ultimately deployed in such a manner that impacts the broader Black community. An intersectional analysis also elucidates how the prison operates to discipline, police and punish deviant gender identity performance in ways that are deeply raced, classed, and animated by heteronormativity. In short, the unshackling of intersectionality in the context of mass incarceration fundamentally alters how we understand criminalization and incarceration.

This essay will proceed in two parts. In the first part, I will describe the prevailing single-axis framework that is usually deployed in antiracist and feminist legal scholarship on mass incarceration and the limitations of such a framework. In the second part, I argue that an intersectional analysis which places incarcerated Black women at the center provides a more robust framework for understanding mass incarceration and the ways in which it functions to police race and gender identities.

SINGLE-AXIS MASS INCARCERATION DISCOURSE IN LEGAL SCHOLARSHIP

Although Black women are highly visible in the context of the racial and gendered operation of prisons, as they represent the fastest growing segment of the prison population, they are largely invisible in mass incarceration discourse. Feminist and antiracist legal scholarship on the subject of mass incarceration and prison conditions often utilize a single-axis framework of race or gender. Seldom are race and gender considered intersectionally. Indeed, antiracist scholarly and activist engagement with mass incarceration is often based on the experiences of Black men, while legal scholarship and advocacy on behalf of women prisoners is based on the views of White women. In short, racial discourse on mass incarceration ostensibly is not gendered (but gendered male) and the gendered discourse is ostensible not raced (but raced as White). The result is an incomplete understanding of the ideological

and political underpinnings of prisons generally and women's prisons particularly and of the conditions that exist within these prisons.

Scholarly Elision of Race and Gender in Mass Incarceration Discourse

Feminist Legal Scholarship

Often feminist legal scholarship on the subject of conditions of confinement in women's prisons proceeds from a normative position informed by the experiences of White women. Gender inequality or patriarchy is framed as the dominant axis of subordination confronting incarcerated women with respect to sexual assaults, cross-gender searches, and access to abortion. For the most part, this literature does not analyze the ways in which race shapes institutional practices. To the extent that race is engaged as part of the discourse, it is often as part of an "additive" approach or is relegated to the footnotes.

A primary example of this dynamic is found in feminist legal scholarship that centers on the rampant sexual abuse faced by women prisoners at the hands of male guards and in the context of cross-gender searches.¹ In much of this literature, sexual assault is framed as a mechanism to maintain dominance and control over women, which it certainly is. Sexual abuse of women, however, has also served as a particularized expression of racial dominance, both historically and contemporarily (Crenshaw 1992, p. 1467). These discourses ignore how constructions of Black women as sexually available influence the forms of violence imposed upon women prisoners.

A similar phenomenon operates with respect to scholarly engagements with the medical services provided in prisons and the reproductive rights of women prisoners. The discourse on reproductive rights largely centers on women's access to abortion.² While challenges to the failure of institutions to provide elective abortion services are significant given the hostility some courts have shown to the claims of women prisoners,³ such a narrow definition of reproductive rights overlooks the ways in which Black women have historically been punished for exercising their reproductive capacities and how they have been devalued as mothers (Roberts 1993, p. 1495).

Even when prison conditions that focus on women's identities as mothers are examined, race is seldom interrogated. For example, when practices such as the shackling of pregnant women are examined in the context of conditions of confinement and the reproductive rights of women prisoners, race is omitted or given insufficient attention.⁴ The ways in which the use and imposition of the practice is reliant on historical ideological constructions of Black women prisoners as masculine, deviant, and dangerous is therefore subsumed under the overall rubric of gender. As a consequence, the ways in which race and gender are operating at the structural level is rendered invisible and largely uncontestable.

Antiracist Legal Scholarship

Similar dynamics occur in the context of antiracist legal scholarship. Over the last twenty years, antiracist legal scholarship has excavated the causal connection between race, crime, and the disproportionate incarceration of poor people of color. In so doing, the literature has examined the ways in which the criminal justice system is infected with racial bias at all levels of its administration, including surveillance, stops, arrests, charging, convictions, and sentencing as expressed through the "War

on Drugs,” for example. In particular, there are three areas where the role of racial discrimination and constructions of race have been prominent in this literature: racial profiling,⁵ prosecutorial discretion,⁶ and sentencing disparities.⁷ In exploring how racism functions to corrupt the administration of justice, legal scholars have employed an individual rights framework, relying particularly on the Fourth and Fourteenth Amendments. Little, however, has been said about the criminalization and incarceration of Black women, the prison itself, or the ways in which conditions of confinement are central to the project of racial control.

In the context of antiracist legal scholarship on the Fourth Amendment, for example, legal scholars have explored Supreme Court jurisprudence involving challenges to race-based searches and seizures by police. This scholarship has critiqued the Court’s insensitivity to race in examining police interactions with marginalized peoples as well as the Court’s inconsistencies in analyzing racial meaning in the context of police investigations. Much of this work notes that the Court has, on the one hand, embraced a colorblind ideology in which race has no meaning, while on the other hand adopting the notion that race has probative value in determining criminality in the contexts of police “seizures” of racialized subjects in public spaces such as street corners or predominately White neighborhoods. Such scholarship analyzes the racialized imagery that motivates such disproportionate encounters with the police, including historical stereotypes of Black men as dangerous and criminal. Very little, however, has been said about the ways in which Black women are subject to disproportionate stops and invasive searches at ports of entry such as airports, in retail establishments, and even within their own homes.⁸ While courts have upheld violations of Black women’s bodily integrity, there has been no sustained critique of the racial logic guiding such judicial decision making.

Coupled with the omission of Black women from discourses on racially discriminatory police practices, recent scholarship has framed mass incarceration as a system of racial control that functions to preserve White dominance, not merely a system fraught with occasional biases (M. Alexander 2010; López 2010). These scholars maintain that with the repudiation of explicit racial exclusion, crime, like the Black Codes that preceded it nearly one hundred years earlier, provides an avenue by which to destabilize the gains of Civil Rights Movement. The “War on Drugs” thus supplanted Jim Crow as the primary system of racial control. This literature has asserted that draconian sentencing policies, racially targeted enforcement, discriminatory use of discretion, and exclusions from social benefits and political participation have converged to marginalize poor Black populations in much the same way as Jim Crow (M. Alexander 2010). Viewed in this manner, antiracist legal scholars contend that the expansion of crime is a racial project, one that infuses contemporary racial understandings and animates the functioning of the modern criminal justice system.

While this scholarship is critically important in helping us to understand the role of incarceration and the language of crime in the maintenance of racial subordination in this “postracial” society, the use of Black men’s experiences as the normative standard for the operation of the system obscures the way in which gender mediates the functioning of the system. It also hinders our ability to understand the range of institutions that facilitate mass incarceration, overlooking punitive systems such as welfare. It also renders uncognizable injuries suffered by Black women, which are predicated on social constructions of them as deviant, dangerous, and sexually available. In short, this work fails to sufficiently analyze the way in which prisons may function as a means of both racial *and* gender subordination. Consequently, any attempts to introduce Black women into the mass incarceration

discourse are seen as a distraction from the “real” problem of the impact of incarceration on Black men.

Centrality of Race and Gender in the Functioning of the Prison

The invisibility of Black women in antiracist and feminist legal discourse on mass incarceration obscures the role of ideological constructs of Black women in facilitating the creation of what Beth Richie (2012) calls the “Prison Nation.” According to Richie, the Prison Nation “reflects the ideological and public policy shifts that have led to the increased criminalization of disenfranchised communities of color, more aggressive law enforcement strategies for norm-violating behavior, and an undermining of civil and human rights of marginalized groups” (p. 3). Moving from the single-axis framework traditionally employed by feminist and antiracist legal scholars to an intersectional interrogation reveals the ways in which ideological constructs of Black women were deployed to provide the justificatory rationale for the expansion of the contemporary prison, and the way in which prisons function to police the race and gender identities of incarcerated women.

Rather than being of marginal significance in the march toward hyper-criminalization and mass incarceration of Black communities, ideological constructs of Black women served an essential function in the state’s deployment of policing to contain and control racially subordinate groups. Incarceration became a response to manage Black inequality that was allegedly caused by Black familial pathologies and Black women’s inability to conform to gendered expectations within the family. Indeed, the national report authored by Senator Daniel J. Moynihan (1965) entitled *The Negro Family: A Case for National Action* is a primary example of this phenomenon. In the report, Moynihan argued that the most significant cause of Black inequality was not institutional racism, but Black households headed by single Black women. As Patricia Hill Collins (2008) has noted, the image of the Black “matriarch” relied upon by the report rationalizes the subordination of Black communities and Black women: “[t]hese controlling images are designed to make racism, sexism, poverty and other forms of social injustice appear to be natural, normal and inevitable parts of everyday life” (p. 77). Against this backdrop, the Moynihan report constituted a racialized discourse regarding the ways in which Black women were failing to conform to gendered expectations of femininity, domesticity, and subservience to a male partner. Thus, ideological constructs of Black women as sexually deviant, and as incompetent single mothers that propagate pathology and criminality, displaced structural explanations as the cause of racial inequality.

Negative constructs of Black women authorized a divestment from institutional interventions to disrupt inequality, including the retreat from antidiscrimination legislation and the dismantling of vital social welfare programs. In political debates regarding social welfare reform, Black women’s bodies became the canvas upon which public derision and disgust were expressed, most notably through terms like “welfare queens” (Hancock 2004). These constructs of Black women were deployed as part of a broader neoliberal project which sought to shift policy away from addressing social problems through institutional interventions, such as robust social welfare programs, and toward relegating those problems to the “private” sphere of families and individuals (Hancock 2004; Weaver 2007). Problems like crime were blamed on Black women’s failure to adequately supervise their children, who, in turn, engage in criminal behavior. In other words, policy makers and the media alike viewed Black women’s households as criminogenic. The disparities and inequality confronting Black women and their children were conceived of as disorders to be

managed, regulated, punished, and contained through criminalization and the operation of the prison. The perceptions of Black women as pathways to disorder and criminality resulted in the hypervisibility and overrepresentation of Black women within a burgeoning system of mass criminalization and incarceration (Ocen 2012a). As a result of being targeted by the criminal justice system, today, Black women are incarcerated at three times the rate of White women.

The prison, once constituted, in turn functions to discipline and police gender identities within the physical confines of the prison. The conditions under which women are held reflect the relative value associated with their bodies, and act as mechanisms to police racial and gender identities. Incarcerated Black women are seen as defying normative gender identities, which are informed by the constructs of heterosexual White middle-class women, and are thus disproportionately subjected to various forms of harassment and violence within the prison. For example, in a documentary report on women's prisons in California by members of Justice Now (2009), it was found that "[s]taff hyper-sexualize women of color through abusive language, physical gestures, and other forms of harassment" (p. 2). This policing of gender takes on racialized dimensions as women of color, particularly Black women, have historically been denied access to normative standards of femininity. The racial and gender identity-policing within prisons is accomplished in a myriad of ways, but has particular salience in the context of the management of physical spaces and bodies. Those who are viewed as farthest from the normative feminine ideal are subject to the harshest forms of incarceration.

Indeed, the racialized policing of gender identity begins the moment that women set foot in the prison. For example, in California, when women enter prisons they are evaluated to determine what level of security will be utilized during their incarceration. The levels of security range from minimum to maximum, with maximum security representing the most restrictive and harshest conditions within the prison. To determine where women will be placed, prison administrators aggregate a variety of "stability factors" (California Department of Corrections, 2008). As recently as 2012, California prison administrators added points to a woman's classification score based on factors including whether she was unmarried prior to entering prison and whether she had a stable employer for more six months prior to her incarceration. These "stability factors" constitute state policy that reflects normative standards for what constitutes safe and appropriate gender identity performance. These normative standards embraced by the state of California are also deeply racialized. Indeed, one recent study found that only 21% of women in prison are married and there were significant disparities across racial groups. Given that incarcerated Black women were found to have lower rates of marriage, this stability factor had the disproportionate impact of subjecting Black women to higher security classifications.

Similarly, prisons often use sensory deprivation to police race and gender identities. Indeed, Black women are often disproportionately subject to placement in solitary confinement units. Women who were "disruptive" were disproportionately placed in solitary confinement. Women were placed in these units for committing infractions as minor as spitting on a guard or attempting to hurt themselves. Moreover, women were placed into these cells more often than men for minor infractions (Shaylor 1998, p. 384). For committing these minor infractions, women are held in tiny, isolated cells with limited light for up to twenty-three hours a day, where they experience ongoing degradation and sexual harassment.

Solitary confinement was not only used in such a way to police women's gender identities or as a means to punish women for failing to adhere to gender norms, its use was also deeply racialized. Indeed, legal scholar Cassandra Shaylor (1998) inves-

tigated the use of solitary confinement in Valley State Prison for Women and found that of the fifty-two women held in isolation facilities, over 40% were Black and 21% were Latina. While these representations of women of color in solitary confinement track roughly with their representation in the general prison population, the treatment of women of color within these spaces was deeply racialized. Women in these spaces are often referred to in animalistic terms and the use of racial epithets against them are common, reinforcing the “otherness” that has justified Black women’s subordination.

The racialized and gendered contours of punishment are brought into high relief with respect to the ways in which the prison operates to control women’s fertility. The regulation and control of the reproductive capacities of Black women has been a primary mechanism of facilitating Black subordination in the United States, beginning with slavery. The current iteration of “Black woman as criminal” provides the contemporary basis for violation and dehumanization. Women in California state prisons have been subjected to medical sterilization without their consent (Johnson 2013; Justice Now 2009). The Human Rights Documentary Project, which is run by women of color who are incarcerated in California institutions, found that in “a number of cases, hysterectomies and oophorectomies have been used as the first response to problems such as uterine fibroids or cysts, when far less invasive remedies were available” (p. 4). Some women were sterilized immediately after having given birth (Justice Now 2009, pp. 4–5). This practice has targeted women of color and other women who are viewed as gender non-conforming or transgender. In this way, the denial of reproductive autonomy serves to punish those who are constructed as “deviant” and therefore undeserving of being mothers.

Not only does the prison function in gendered ways to prevent women deemed undeserving from having children, it also punishes women for making the choice to have children while incarcerated. In at least thirty-four states across the country, women are shackled at the arms, belly, and ankles at various stages during their pregnancies, up to and including childbirth. These pregnant women who are incarcerated, who some studies suggest are as high as 5% of the population in women’s institutions, are being punished for occupying a space, motherhood, in which they are deemed not to belong. Humiliation, dehumanization, and denial of dignity are harms that accompany this form of state violence. As I have argued elsewhere, the practice is normalized within institutions because of the ideological constructs of Black women, who are the paradigmatic subjects of women’s incarceration (Ocen 2012a).

An intersectional analysis reveals that prison functions not only as a mechanism of racial control by policing and warehousing Black and Brown bodies, but also as a mechanism of racialized punishment that is deeply informed by gendered norms. In the context of the women’s prison, those who are subject to the harshest forms of punishment within the confines of prison are those who are viewed as the most “deviant” from prevailing racialized gendered norms. A critical realization derived from an intersectional analysis of the women’s prison is the cognizability of the ways in which the prison reinforces the “otherness” of Black women’s identities and therefore reinforces the broader subordination of Black identity more generally.

CONCLUSION: UNSHACKLING INTERSECTIONALITY

Mass incarceration and imprisonment are understood as mechanisms of racial control, but they should be better understood as mechanisms of racial control that trade

on gendered logics as processes of control that operate through gender. The intersectional critique of mass incarceration reveals the ways in which Black women's racial and gender identities have shaped and have been shaped by criminalization and by the prison as an institution. Through this intersectional critique and the centering of Black women, we can illuminate how prisons engage in racial subordination through the policing of racialized gendered norms. As Andrea Ritchie (2006) notes, "law enforcement agencies uphold and enforce society's raced, gendered and class structures, conventional notions of 'morality,' and social norms established by dominant groups" (p. 142).

This intersectional analysis demonstrates that Black women, rather than being marginal subjects within mass incarceration discourses, are central figures in the operation of the prison as a mechanism for social control and therefore an essential element in any anti-prison project. As such, an intersectional analysis and the focus on Black women are absolute imperatives in the liberatory project of deconstructing mass incarceration as a system of racial control. Centering race and gender reveals the way in which the logics of incarceration trade on ideological constructs of Black women. These logics, however, do not only impact Black women. They shape the deployment of incarceration as a mechanism of social control that impacts racially subordinate groups more broadly. To remain silent in the face of this race and gender policing within prisons is to condemn ourselves to movements which fail to address the panoply of ways in which the prison functions and remains complicit in the maintenance of the Prison Nation.

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NOTES

1. For a prime example of this phenomenon, see Fletcher (2007); Krim (1995); Miller (2007); Parker (2002); Smith (2003); Smith (2006); Springfield (2000).
2. For an example of this dynamic, see Blumenthal and Brunie (2010); Budnitz (2006); Chandler (2003); Deason (2009); Egerman (2008).
3. See *Roe v. Crawford* (2008) (finding that the Fourteenth Amendment right of women prisoners were violated as a result of restrictions placed on elective abortions, the Court found that there was no Eighth Amendment violation because an abortion was not a "serious medical need" as required by Farmer); *Victoria W. v. Larpernter* (2004) (finding no Eighth Amendment violation where the state failed to provide abortion services); *Bryant v. Maffucci* (1991) (finding that delay in scheduling an abortion did not rise to Eighth Amendment violation). But, see *Monmouth County Correctional Institutional Inmates v. Lanzaro* (1987) (finding that an abortion is a serious medical need).
4. Examples of this dynamics can be found in E. Alexander (2010) (provides a summary of the proceedings in *Nelson v. Correctional Medical Services* and briefly describes the harms associated with shackling, but it does not situate the practice within the overall devaluation of the reproductive capacities of women prisoners generally or Black women in particular); Levi et al. (2010) (discussing the shackling of pregnant women in prison and placing the practice in the context of eugenics and welfare supervision. The authors argue for a remedy derived from a human rights framework rather than the Eighth Amendment. While the authors note the disproportionate number of women of color in prisons, they do not discuss the role that race plays in normalizing those practices); McCrary (2006) (summarizing the trend of shackling of pregnant prisoners and the changes to California law regarding the treatment of pregnant women in prison); Sichel (2007) (arguing that shackling pregnant women during birth violates both the Eighth Amendment and international human rights standards but does not discuss race or racialized aspects of the practice).
5. See Carbado (2002); Cooper (2009); Fellner (2009); Harris (2001); Maclin (1998); Thompson (1999); Witherspoon (2004).

6. For an example, please see Adams (2005); Davis (1998) (analyzing racial bias in prosecutorial discretion); McAdams (1998); Sapir (2003).
7. See Nunn (2002); Ogletree (2002); Sklansky (1995); Tonry (1995) (examining how racial bias infected contemporary punishment practices, particularly in the context of the “War on Drugs” in so doing, however, Tonry eschews any focus on Black women); Tyson (2007). There are, however, notable exceptions. See Johnson (1997); Roberts (1991).
8. See *Anderson v. Cornejo* (2004) (rejecting the equal protection claims of forty-six African-American women who alleged that they were racially profiled and improperly searched by United States Customs Service agents at the Chicago O’Hare airport upon reentering the country after foreign travel); *Williams et al. v. City of Antioch* (2010) (granting class certification to a group of African American, largely women, section 8 voucher holders in action alleging racial profiling of households and discriminatory police harassment of household members). See also Lapidus et al. (2005). All told, Black women represent the fastest growing segment of the prison population.

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