

Caged Women and Wombs: Mistreatment of Incarcerated Pregnant Women

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In a 2010 UCLA law review Michelle Rawlson, an incarcerated woman, was interviewed about her experience being pregnant in prison. She explained that in her first trimester she was experiencing pain, bleeding, and other symptoms which she reported to nurses multiple times and requested to see the OB/GYN. She was not examined until one day she collapsed. About the experience she said, “For well over a month, I was carrying inside of me a fetus with no heartbeat - a dead baby.”¹ In a Human Rights Watch study of women in US state prisons they interviewed Jane Doe about her pregnancy fathered by a corrections officer. Although the pregnancy was the result of a rape, she wanted to keep her baby. She was awoken at 4:00 am one night and taken from her cell to an abortion clinic, dragged through anti-abortion protests, and forced to go through the procedure.² These are not unique experiences. The US prison system does not accommodate pregnancy, and in fact usually harms it. In both the pre- and postnatal periods incarcerated pregnant women and their babies are at risk. Due to our federal system, prisons can differ greatly across state lines. This can make it difficult to systematically study experiences in prisons as it’s so variable. The study of pregnant women’s experiences in the prison system are incredibly important as the inequities they face will go unaddressed if we don’t understand them. The lack of regulations and oversight regarding incarcerated pregnant women is a huge problem with long lasting impacts. There must be federal regulations to protect all incarcerated pregnant women and their children.

A significant number of women admitted to prisons are pregnant. The study on pregnancy outcomes showed that on average 4% of admitted women were pregnant, but they also found that

¹ Robin Levi et al, “Creating the “Bad Mother”: How the US Approach to Pregnancy in Prison Violates the Right to be a Mother”, *UCLA Women’s Law Journal* 18, no. 1 (2010): 37

² Dorothy Q. Thomas et al, *All Too Familiar: Sexual Abuse of Women in US State Prisons* (New York: Human Rights Watch, 1996) 144-145

these numbers varied across states.³ Some states would go months without admitting pregnant women and some would admit much larger numbers. While pregnant women are not the majority of inmates, it is still a significant portion. Even if the numbers were smaller, it would still be necessary to have reasonable accommodations in place as pregnancy is inevitable among communities of women. Further, pregnant women may not be the majority, but mothers are. Many incarcerated men are also parents; however, women were much more likely to be the main caregiver for their children prior to imprisonment.⁴ Pregnancy is just one aspect of motherhood that prisons holding women must accommodate for. Given how many incarcerated people are parents, it is essential for those parents and their children that that relationship be kept in mind. Accommodating for pregnancy is just one element of this larger issue.

While most pregnant inmates arrive pregnant, some become pregnant while incarcerated. Women are often victims of sexual abuse from prison guards, the frequency heightened by the amount of power over incarcerated women and lack of accountability.⁵ When these women inevitably become pregnant, they face numerous denials of their autonomy. The sexual abuse of women at the hands of prison guards is in itself a massive issue that requires attention. When this abuse leads to pregnancy, these women lose all bodily autonomy. Not only is their autonomy violated by the assault, but they now have to make decisions regarding the baby. Sometimes, like in the case of Jane Doe from the intro, they don't even get to make the decision. The study Jane Doe was a part of featured women with other stories of being forced into abortions, denied abortions when they want them, and punished for having sexual relationships with guards.⁶

³ Ibid

⁴ Karen Heimer, Sarah E Malone, and Stacy De Coster. "Trends in Women's Incarceration Rates in US Prisons and Jails: A Tale of Inequalities." *Annual Review of Criminology* 6, no. 1 (2023): 85–106. doi:10.1146/annurev-criminol-030421-041559

⁵ Dorothy Q. Thomas et al, *All Too Familiar: Sexual Abuse of Women in US State Prisons*

⁶ Ibid

Because these guards have so much control over incarcerated women, women are not truly able to gain any justice following these experiences. There are not adequate regulations or oversight to protect women and their bodies while incarcerated, making their pregnancies traumatizing from the moment of conception. The trauma these women experience is plainly cruel.

The mother's health during pregnancy is essential to the health of the baby. The prenatal care and diet while incarcerated is abysmal. While there are regulations that would require prisons to provide prenatal care, those regulations are mismatched across state lines. Not only are there differences in these regulations, but they often go ignored. For example, California prisons are legally required to provide pregnant women with extra milk, fruit, and vegetables, along with vitamins and anything else a physician may order for them.⁷ This is meant to supplement the standard prison diet which is already not very healthy. However, many incarcerated people have reported being served spoiled food. This goes against another standard that prison kitchens must maintain sanitary conditions.⁸ This is a basic standard that is necessary for all inmates, but these issues are especially harmful to pregnant inmates. Additionally, California prisons would not always distribute vitamins and supplements frequently enough to have an impact.⁹ Prenatal diet is highly correlated with birth weight, meaning this denial of basic care impacts not only the mother but the baby's health as well.¹⁰ While prisoners can purchase extra food through the commissary, that necessitates money. Unless they have someone outside putting money in their account, they have to work. If these pregnant women want to supplement their unhealthy diet with food from the commissary they must work. Depending on the job, working can be

⁷ Robin Levi et al, "Creating the "Bad Mother": How the US Approach to Pregnancy in Prison Violates the Right to be a Mother", 30-33

⁸ Ibid

⁹ Ibid

¹⁰ Ibid

dangerous for both the mother and the baby.¹¹ These women are denied a healthy pregnancy and have no way of aiding it.

Access to physicians and healthcare while pregnant is also essential to the health of the mother and baby. The prenatal health care women in prison receive varies greatly. In some cases, women report nurses being much nicer and feeling more welcomed when in a hospital.¹² However, others may be ignored, mistreated, and given poor information.¹³ This further exemplifies how variable care is and the necessity for federal regulations. The UCLA law review that interviewed Michelle Rawlson found other stories of women being ignored or feeling that physicians generally did not care about them.¹⁴ It's possible that Rawlson would've miscarried either way, it's also possible that she could have died. The denial of care she experienced was simply inhumane. A study showed that on average there were fewer preterm births in prison than outside of prison, preterm births frequently being due to less than perfectly healthy pregnancies.¹⁵ However, the study also found the number of preterm births varied greatly between individual prisons.¹⁶ This again, shows how little oversight there is over prenatal care in prison. If some women are receiving better care in prison on pure luck of which state they are in, there needs to be better regulations.

¹¹ Robin Levi et al, "Creating the "Bad Mother": How the US Approach to Pregnancy in Prison Violates the Right to be a Mother", 27-33

¹² Alice Cavanagh et al, "Lived Experiences of Pregnancy and Prison through a Reproductive Justice Lens: A Qualitative Meta-Synthesis." *Social Science & Medicine* (1982) 307 (2022): 115179–115179. doi:10.1016/j.socscimed.2022.115179.

¹³ Robin Levi et al, "Creating the "Bad Mother": How the US Approach to Pregnancy in Prison Violates the Right to be a Mother", 33-39

¹⁴ Ibid

¹⁵ Carolyn Sufrin et al, "Pregnancy Outcomes in US Prisons, 2016-2017", *American Journal of Public Health* 109, no. 5 (2019), 799-805

¹⁶ Ibid

Throughout pregnancy and up to birth women may be shackled, which can be dangerous for the mother. Shackling prisoners when transporting them is fairly standard, but it can cause a lot of pain and even blood clots for pregnant inmates.¹⁷ There have also been cases of women being shackled during labor.¹⁸ Not only is this dangerous but it is deeply degrading. While most states have restrictions on using restraints for pregnant women, these laws are often not clear and have large loopholes.¹⁹ Sometimes the restrictions are entirely ignored. This practice has been widely criticized for decades by health organizations and the UN Human Rights Committee, yet there's been instances of it as recently as 2022.²⁰ This is yet another example of how little protection women have while incarcerated. Not only this, but also the lack of oversight for the small amount of protection they do have.

The separation women almost immediately experience after giving birth is undeniably traumatic, but there have been efforts to mitigate this. Several states, including Washington, have prison nursery programs that allow women to stay with their babies within the prison system.²¹ These programs can have huge benefits for both the mother and the baby. This can prevent children from entering the foster system, which can be traumatic in and of itself. A parent's arrest/incarceration can also have generational impacts that cause their children to be more likely to be incarcerated as well.²² By allowing this bonding time those issues can be mitigated.

Somewhat understandably, these programs are only open to some women. Generally, they are

¹⁷ Joe Hernandez, "More States Are Restricting the Shackling of Pregnant Inmates, but It Still Occurs," NPR, April 22, 2022, <https://www.npr.org/2022/04/22/1093836514/shackle-pregnant-inmates-tennessee>.; Robin Levi et al, "Creating the "Bad Mother": How the US Approach to Pregnancy in Prison Violates the Right to be a Mother", 40-42

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Joseph O'Sullivan. "New Mothers Can Stay with Their Babies at This Washington Prison," Crosscut, November 8, 2023, <https://crosscut.com/politics/2023/11/new-mothers-can-stay-their-babies-washington-prison>.

²² Katherine Stuart van Wormer and Clemens Bartollas, *Women and the Criminal Justice System* (Boston: Allyn and Bacon, 2000) 59.

only open to mothers who give birth while incarcerated, aren't incarcerated for violent crimes, and don't have a history of child abuse or neglect.²³ However, the Bedford nursery program in New York has also denied women if the father is a correctional officer, something not in the mother's control.²⁴ In late 2023 there were only three mothers in a Washington state prison nursery, and while those women have had a very positive experience, this is still a very small number. These programs prove that prisons can adequately accommodate pregnancy, proving that it's possible to be better.

In the moral panic around drugs in the 1990's, we saw the creation of the "crack baby". The unhealthy, low weight baby to an uncaring mother was an effective tool used by the media to portray mostly underprivileged women in a terrible light. This panic led to much harsher punishments for drug crimes. For many years after this, women incarcerated for drug related crimes made up large portions of the population of women inmates. A very key piece of evidence against these "crack mothers" was the low birth weight of these babies. However, the initial studies that described massive numbers of unhealthy babies being born were not entirely accurate. Some studies showed that cocaine usage during pregnancy did not have as much of a negative impact as the media portrayed.²⁵ Others showed that their frequency was not as massive as initially thought.²⁶ Additionally, among poor communities with low prenatal care access infant mortality rate for drug exposed infants is not significantly higher.²⁷

²³ Joe Hernandez, "More States Are Restricting the Shackling of Pregnant Inmates, but It Still Occurs,"; Robin Levi et al, "Creating the "Bad Mother": How the US Approach to Pregnancy in Prison Violates the Right to be a Mother", 59-63

²⁴ Dorothy Q. Thomas et al, *All Too Familiar: Sexual Abuse of Women in US State Prisons*, 298-299

²⁵ Assata Zerai and Rae Banks *Dehumanizing Discourse, Anti-Drug Law, and Policy in America : A "Crack Mother's" Nightmare* (Aldershot, Hants, England: Ashgate, 2002) 68-71

²⁶ Ibid

²⁷ Ibid

During incarceration inmates are largely overlooked, especially if they don't fall into the prisoner stereotype of a violent man. The issues women face outside of prison are often heightened when in such a controlling environment, their experiences of pregnancy being just one of many traumatic experiences. During conception, pregnancy, and birth incarcerated women are repeatedly denied care and autonomy. Frequently, their treatment is downright cruel. Considering the number of pregnant women and mothers are incarcerated, it's absolutely vital that there be federal regulations and oversight to protect these women. Not only for the mother themselves, but the children that get wrapped up in it as well. When these women are punished in cruel ways and mistreated, so are their children. These women deserve better treatment full stop, but it is vital to recognize the larger implications of their mistreatment. The US prison system must truly, without disregard or loopholes, accommodate the needs of pregnant women.

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