



We Need Reproductive Justice NOW!:

An Argument for Abolition

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I. Introduction

The purpose of this paper is to draw the parallels to reproductive justice and the need for prison abolition. In order to ever actually achieve reproductive justice, we must abolish the prison industrial complex. Upon incarceration, many freedoms are stripped from the person. Of these freedoms, the incarcerated person loses their medical freedoms, their freedom to parent their children, and their freedom to bodily autonomy. This paper will work through the tenants of Reproductive Justice and the way in which the carceral system bars us from achieving reproductive justice.

Additionally, I want to address the use of the term “women” throughout this paper. The research is still incredibly lacking in terms of the way trans incarcerated people are treated and the healthcare received by that community. In using the term “women”, I am using the language from the various resources I have used.

II. Prison Conditions

A. Introduction

The United States overwhelmingly relies on incarceration as a means of punishment and dealing with any inconvenience. Over 1 million people sit in U.S. state prisons on any given day. These individuals are overwhelmingly poor, disproportionately Black, Indigenous, Hispanic, and/or LGBTQ, and often targeted by law enforcement from a young age.¹ Generally, the United States criminal policies have discarded the goal of prison rehabilitation, emphasizing unembellished punishment as the objective of imprisonment.²

¹ Wang, Leah, *Chronic Punishment: The unmet health needs of people in state prisons*, Prison Policy Institute (Jun. 2022).

² Angela Y. Davis, *Abolition: Politics, Practices, Promises* 111 (2024).



These prisons are usually extremely unsafe, dirty, and do not create a space in which people can expand their education, skills, or manage their health. Prisons spend a very small portion of their budgets on helping people better themselves or “rehabilitate” during incarceration. Incarcerated folks are stripped from their families, stripped of their freedoms and subject to many harms.

B. Lack of Access to Healthcare for Incarcerated Persons

Prisons are overwhelmingly overpopulated, unsafe, and violent institutions. Violence linked to women’s prisons remains obscured by the social invisibility of the prison.³ In prisons, violence takes many forms including medical neglect, sexual abuse, lack of reproductive control, loss of parental rights, denial of legal rights and remedies, and the devastating effects of isolation.⁴ Violence is not only physical, but also has mental and emotional effects. Those experiencing incarceration long term may develop mental and physical disturbances from experiencing imprisonment itself and by being cut off from their families.⁵

The most salient example of habitual violence in prisons is the lack of access to decent healthcare.⁶ Medical neglect in prisons reflects and extends the lower value society places on the provision of preventative care and treatment to poor women of color outside of the prison.⁷ While an incarcerated individual’s health issues may begin before arrest, incarceration often exacerbates problems or creates new ones.⁸ Being locked up in and of itself causes lasting damage to one’s health and to loved ones’ health, including children born to justice-involved parents.⁹ HIV rates are at least ten times higher among incarcerated persons than among people outside of prison and the rate is higher among women than men.¹⁰

³ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 147 (2024).

⁴ *Id.*

⁵ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 155 (2024).

⁶ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 157 (2024).

⁷ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 160 (2024).

⁸ Wang, Leah, *Chronic Punishment: The unmet health needs of people in state prisons*, Prison Policy Initiative, <https://www.prisonpolicy.org/reports/chronicpunishment.html#toc> (Jun. 2022).

⁹ *Id.*

¹⁰ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 147 (2024).



While institutions of incarceration are legally and constitutionally required to provide access to health care, no mandatory standards or oversight systems exist.¹¹ Medicaid does not cover care for incarcerated individuals and most private insurers suspend coverage; thus, carceral facilities/agencies are responsible for paying for health care costs.¹² Many facilities will contract a private prison health company to administer an agreed-upon set of health care services.¹³ Some facilities charge patients a co-pay to access health care services, which deters people from seeking care.¹⁴

1. Healthcare for Incarcerated Trans Folx

Transgender issues are reproductive issues because both domains recognize that the definitions of womanhood, birthing, and mothering do not fit neatly into the male-female binary, a construct that feels oppressive, anachronistic, and invisibilizing to some people.¹⁵

There is significant discrimination shown toward trans incarcerated folx. Trans women are especially impacted by the sex segregation within the prison system, which is based on the civil status and appearance of the genitalia of those in question.¹⁶ As a result, trans folx are misgendered and placed in heightened danger. These housing allocations not only disrespects the person's lived identity, but it is detrimental to their health, especially their psychological health.¹⁷ Incarcerated trans women also face greater risk for sexual harm at the hands of their fellow prisoners or at the hands of the prison staff.¹⁸ One of the few quantitative studies done in the U.S. on this topic revealed that trans people experiences thirteen times more sexual violence than the rest of the prison population.¹⁹

In addition to being misgendered, many prisons do not offer or allow the incarcerated person access to gender affirming care or medications. Prisons/jails that do offer gender-

¹¹<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9851923/#:~:text=Health%20Care%20Delivery%20Behi nd%20Bars,standards%20or%20oversight%20systems%20exist.>

¹²<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9851923/#:~:text=Health%20Care%20Delivery%20Behi nd%20Bars,standards%20or%20oversight%20systems%20exist.>

¹³*Id.*

¹⁴*Id.*

¹⁵ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 196 (2017).

¹⁶ Gwenola Ricodean, *Free Them All: A Feminist Call to Abolish the Prison System* 66 (2023).

¹⁷*Id.*

¹⁸ *Id.*

¹⁹ Gwenola Ricodean, *Free Them All: A Feminist Call to Abolish the Prison System* 67 (2023).



affirming can often still be inconsistent, regardless of policies.²⁰ According to a staff attorney at the ACLU, “prisons often refuse to treat transgender people consistent with their gender and they also refuse to provide medically necessary healthcare.”²¹ Gender-affirming care can consist of many different things. Care can include puberty suppression, hormone therapy, and surgeries.²² Without the proper care, people seeking the care can struggle severely with heightened anxiety and depression.²³ The deprivation of hormone treatments physiological effects (fatigue, headaches, sleep problems, etc.).²⁴ In a 2015 transgender survey, 58% of respondents who were incarcerated in the prior year had been taking hormones before being imprisoned.²⁵ Of those, 82% had a prescription for hormones and more than one-third (37%) of respondents who had been taking hormones before their incarceration said they were banned from continuing to take their hormones once in custody.²⁶

2. Reproductive Healthcare

The abuse of incarcerated women through medical neglect recapitulates a long history of inadequate health care for women, particularly women of color, which is based in obsolete sexist and racist ideologies.

Reproductive healthcare in prisons is lacking immensely. Pregnant persons are provided limited prenatal care and in several US jurisdictions, are shackled during labor. People with uteruses wait months, and sometimes even years, to receive routine gynecological examinations that protect against the development of serious health conditions.²⁷ Incarcerated women have higher rates of chronic disease, substance use disorder, mental illness, and trauma as compared to

²⁰ Diaz, Jaclyn, Trans inmates need access to gender-affirming care. Often they have to sue to get it, NPR (Oct. 2022) <https://www.npr.org/2022/10/25/1130146647/transgender-inmates-gender-affirming-health-care-lawsuits-prison>.

²¹ *Id.*

²² Diaz, Jaclyn, Trans inmates need access to gender-affirming care. Often they have to sue to get it, NPR (Oct. 2022) <https://www.npr.org/2022/10/25/1130146647/transgender-inmates-gender-affirming-health-care-lawsuits-prison>.

²³ *Id.*

²⁴ Gwenola Ricodean, Free Them All: A Feminist Call to Abolish the Prison System 66 (2023).

²⁵ Diaz, Jaclyn, Trans inmates need access to gender-affirming care. Often they have to sue to get it, NPR (Oct. 2022) <https://www.npr.org/2022/10/25/1130146647/transgender-inmates-gender-affirming-health-care-lawsuits-prison>.

²⁶ *Id.*

²⁷ Angela Y. Davis, Abolition: Politics, Practices, Promises 161 (2024).



the general public.²⁸ Cervical and breast cancer rates are increased in part due to limited access to preventive health services before and during incarceration. Various structural barriers before incarceration may inhibit access to regular healthcare, resulting in higher rates of undiagnosed or untreated chronic illness upon prison/jail entry. Such disparities are amplified by incarceration, as imprisonment inherently exacerbates chronic conditions due to health risks such as stress, violence, sexual assault, injury, communicable diseases, and poor nutrition, sanitation and housing.²⁹

Many prisons don't feel the need to address or utilize any care for incarcerated persons seeking reproductive healthcare. Inside prisons, birthing people are subject to substandard gynecological care that often results in loss of reproductive capacity or leads to premature death.³⁰ Rather than taking concerns seriously and trying to remedy or heal the person, they will suggest a full hysterectomy, despite the person only being in their 20s.³¹ Sherrie Chapman, a Black woman imprisoned in California sought treatment for breast lumps for ten years and was continuously denied.³² When she was finally given medical attention, she was told she had developed a terminal condition.³³ Many incarcerated folx are forced to watch others deteriorate physically, and sometimes even die.³⁴

Studies have found that the majority of incarcerated women would like to access contraception in custody.³⁵ However, the diminished autonomy that is inherently part of incarceration can lead to overt and subtle contraceptive coercion.³⁶ Women have reported pressure from prison and hospital personnel to obtain contraception, including rewards for those who agree to long-acting reversible contraceptives (LARC) or sterilization, and punishment for those who do not.³⁷ The forced sterilization of individuals in the United States is an act of legally

²⁸ *Id.* at 162.

²⁹ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 157 (2024).

³⁰ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 162 (2024).

³¹ *Id.*

³² Angela Y. Davis, *Abolition: Politics, Practices, Promises* 157 (2024).

³³ *Id.*

³⁴ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 159 (2024).

³⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9851923/#:~:text=Health%20Care%20Delivery%20Behi nd%20Bars,standards%20or%20oversight%20systems%20exist.>

³⁶ *Id.*

³⁷ *Id.*



sanctioned reproductive violence. Compulsory sterilization is a practice that was bolstered by the eugenics movement and continues to act as a function of sexist, racist, and classist control.

The use of sterilization in prisons is not new. Sterilization has been used as a “solution” to women’s gynecological problems and resonates with racist practices women of color in the United States have experienced historically.³⁸ Starting in 1907, state governments sanctioned sterilization as a form of eugenics, to prevent anyone with undesirable traits—disabilities, poverty, a criminal record, specific racial backgrounds—from procreating.³⁹ This type of legislation justified the sterilization of approximately 60,000 Americans until the laws were phased out in the late 1970s.⁴⁰ But that doesn’t mean the practice actually ended: In 2013, the Center for Investigative Reporting found that at least 148 folx incarcerated in California received tubal ligations without their consent between 2006 and 2010.⁴¹

3. Pregnancy monitoring/appointments

Pregnancy presents specific medical needs for many people entering the criminal legal system, and prisons and jails are among the worst places to be during such a high-need time.⁴² Besides meager progress in addressing the inhumane practice of shackling pregnant people, many states fail to screen for high-risk pregnancies, or to make hospital arrangements for delivery, forcing some to give birth in the horrid confines of their cell.⁴³ In some state prison systems, miscarriages, premature births, and C-section births are much higher than national rates.⁴⁴ The prison/jail environment exacerbates pregnant people’s underlying risk factors for adverse outcomes through stress, inadequate nutrition, lack of exercise, and violence.⁴⁵

³⁸ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 162 (2024).

³⁹ Hunter, Lea, *The U.S. Is Still Forcibly Sterilizing Prisoners*, *Talk Poverty* (Aug. 2017), <https://talkpoverty.org/2017/08/23/u-s-still-forcibly-sterilizing-prisoners/index.html>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Wang, Leah, *Chronic Punishment: The unmet health needs of people in state prisons*, Prison Policy Initiative, <https://www.prisonpolicy.org/reports/chronicpunishment.html#toc> (Jun. 2022).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*



Shackling refers to the use of nonmedical restraints on a person for purposes of security and restriction of movement; this is distinct from medical restraints.⁴⁶ In thirty-eight states, the law permits authorities to shackle a person during labor and birth.⁴⁷ The risks of shackling an individual during pregnancy, labor and childbirth are numerous and obstetricians understand the interplay between patient comfort, labor progression, and the safety of both the pregnant patient and fetus.⁴⁸ Some of the major potential health consequences of shackling include the heightened risks of falling, delaying the access of necessary care because the shackles are in the way, severely limiting mobility of the shackled person, and making labor more difficult and even more painful/uncomfortable.⁴⁹

After birth, mothers are usually separated from their infant, either at hospital discharge or in the immediate postpartum period. This division inhibits bonding with the newborn and the initiation of breastfeeding.⁵⁰

III. Reproductive Justice

Reproductive justice is a contemporary framework for activism and thinking about the experience of reproduction and goes beyond the pro-choice/pro-life debate.⁵¹ Reproductive Justice is the right to maintain bodily autonomy, the right to have children, the right not to have children and the right to parent in a safe and healthy environment.⁵² The framework also demands sexual autonomy and gender freedom for every human being.⁵³ Achieving reproductive justice depends on access to specific, community-based resources including high-quality health care, housing and education, a living wage, a healthy environment, and a safety net for times when these resources fail.⁵⁴

⁴⁶ *Id.*

⁴⁷ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 225 (2017).

⁴⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9851923/#:~:text=Health%20Care%20Delivery%20Behi nd%20Bars,standards%20or%20oversight%20systems%20exist.>

⁴⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9851923/#:~:text=Health%20Care%20Delivery%20Behi nd%20Bars,standards%20or%20oversight%20systems%20exist.>

⁵⁰ *Id.*

⁵¹ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 9 (2017).

⁵² Sister Song, *Reproductive Justice: What is Reproductive Justice?*, SisterSong, <https://www.sistersong.net/reproductive-justice> (2024).

⁵³ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 9 (2017).

⁵⁴ *Id.*



A. Reproductive justice does not happen without Abolition

1. What is Abolition? What does it mean?

The term prison abolition has been around for longer than many people may know. Prison abolition asks people to think beyond prison and incarceration to imagine a world that is more community oriented, without the emphasis on punishment. To actually define the term ‘abolition’ is complicated. Abolition is not a form of idealism.⁵⁵ Abolitionism can only be “unfinished,” because it does not offer a “turnkey” process, but leaves room for imagination, and therefore by definition is infinite.⁵⁶ Abolition is not a utopia but a realistic objective since it would resolve the problems inherent to the criminal justice system and the problems it creates.⁵⁷ To abolish the prison system doesn’t mean to replace the current system but to think beyond the systems and to actually resolve the issue.⁵⁸ Abolitionism argues that prison cannot ever be reformed because it does not work.⁵⁹ The system itself needs to go.

The United States has the highest prison population rate in the world.⁶⁰ Over the past 40 years, the United States has spent \$1.5 trillion on this system that punishes the poor, exploits their labor, violates human rights, and sets up incarcerated persons for a life of exclusion and demonization.⁶¹ The United States has become far too reliant on an institution that does not serve any purpose other than perpetuating harm and stripping people of their rights. The answer is abolition.

2. The Relationship Between Reproductive Justice and Abolition

Reproductive justice uses a human rights framework to draw attention to – and resist– laws and public and corporate policies based on racial, gender, and class prejudice.⁶² These types of policies deny people the right to control their bodies, interfere with their reproductive decision making and prevent many people from being able to live with dignity in safe and healthy

⁵⁵ Gwenola Ricodean, *Free Them All: A Feminist Call to Abolish the Prison System* 18 (2023).

⁵⁶ *Id.*

⁵⁷ Gwenola Ricodean, *Free Them All: A Feminist Call to Abolish the Prison System* 18 (2023).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 215 (2017).

⁶¹ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 216 (2017).

⁶² Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 10 (2017).



environments.⁶³ Reproductive justice demands that the state not unduly interfere with women’s reproductive decision making, but it also insists that the state has an obligation to help create the conditions for women to exercise their decisions without coercion and with social support.⁶⁴ This framework connects the dots between many social justice issues and to traditional views of reproductive policies such as how immigration, incarceration and other processes and practices shape the reproductive lives of birthing people.⁶⁵

At the very core, the prison industrial complex directly stands in the way of reproductive justice. Individuals must have the ability to raise their children with the social supports they need to provide safety, health, and dignity.⁶⁶ Incarceration of birthing people during their most fertile time of their reproductive lives means that many end up subjected to reproductive abuses such as shackling during childbirth, denial of abortion and birth control services, visitation abuses, food scarcity leading to low-birth-weight babies and lack of privacy.⁶⁷ Upon release, many formerly incarcerated people are barred from accessing welfare services, public housing, student loans, and other social services, all of which would help the parent get back on their feet and be able to adequately parent their children.⁶⁸

Reproductive justice ensures certain rights, abolition ensures those rights are not attainable.

3. The Right to Bodily Autonomy

When a person is incarcerated, they are not able to move freely. Reproductive justice requires bodily autonomy. Bodily autonomy is defined as the right to make decisions about your own body, life, and future, without coercion or violence.⁶⁹ It includes deciding whether or not to have sex, use contraception, or go to the doctor.⁷⁰

⁶³ *Id.*

⁶⁴ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 169 (2017).

⁶⁵ *Id.*

⁶⁶ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 170 (2017).

⁶⁷ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 225 (2017).

⁶⁸ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 227 (2017).

⁶⁹ MSI Authors, *My body, my choice: Defending bodily autonomy*, MSI United States (2024),

<https://www.msiunitedstates.org/my-body-my-choice-defending-bodily-autonomy/#:~:text=Bodily%20autonomy%20is%20defined%20as,or%20go%20to%20the%20doctor.>

⁷⁰ *Id.*



When incarcerated, a person has very little say in when they will see a doctor. They are barred from freely communicating with loved ones and they are under around the clock surveillance. Every meal is planned for them, they are not allowed to go for walks in the neighborhood, they are not even able to shower in privacy. This system creates an air of fear among incarcerated persons because they must ask for everything. The power dynamics are excruciatingly apparent and are harming incarcerated folk.

In order to live in a world where reproductive justice can be achieved, abolition needs to become a reality.

4. The Right to Parent and to Parent in Healthy/Safe Environments

Not only does the reproductive justice framework provide the right to parent, it also asserts that a person has the right for a pregnant person to determine their own birth plans.⁷¹ These birth plans can include midwives and doulas, and the choice to have a home birth or use a birthing center if they should choose to.⁷² This is obviously not possible for an incarcerated mother. Incarcerated persons are not able to pick their birthing facility, or even their doctor.

Many incarcerated people already have children, whom they are not able to parent from prison. Almost 80% of incarcerated women have children for whom they were the primary caretakers.⁷³ The removal of a significant number of women of color, coupled with the alarming rates of incarceration for their male counterparts, has a disabling effect on the ability of poor communities to support families.⁷⁴ Oftentimes when the primary parent is ripped from the home, the children are placed into foster care.⁷⁵

Having an incarcerated parent had major and long lasting effects on their children. Experts note that children with an incarcerated parent can have low self-esteem, poor mental and physical health and other problems.⁷⁶ Mothers that are incarcerated often lose their rights to parent their child in the way they want to. It is common for children to not be able to visit their

⁷¹ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 188 (2017).

⁷² *Id.*

⁷³ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 163 (2024).

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 225 (2017).



parent regularly and when they do, there are not many avenues for affection. A parent and child are only able to embrace one another upon arrival and before the visitation ends. These visitations may not be as often as the parent or the child would like. It is also common for children to not have a way to visit their parent while they are incarcerated. By keeping the parent and child separated, the parent loses their right to parent their child - a right that is owed under the reproductive justice framework.

Incarcerated parents must face large questions regarding who will take care of their child while they are incarcerated. If they are fortunate, they may have family or another parent able to provide care for the child. Alternatively, the children may go to foster care. Incarcerated parents are often leery of signing powers of attorney or documents giving temporary guardianship of their children to others because they worry that these documents may be used to terminate their parental rights.⁷⁷

Upon being released, contact with their children may not always increase. Many women cannot find their children after they are released, especially when laws allow termination of parental rights if the parent has been out of the child's life for two years or, under the federal Adoption and Safe Families Act of 1997, if a child has been in foster care for for fifteen of the past twenty-two months.⁷⁸ Most women leave prison with no place to live and without employment, they lack the resources to fight for their rights to reunite with their children, furthering them from their right to parent.⁷⁹ Because of the lack of resources and now having a history of incarceration, many parents are not able to raise their children in a safe or healthy environment, going further away from the goal of reproductive justice. A child deserves to be raised in a safe and healthy environment, having a formerly incarcerated parent means that parent has to work even harder to provide that for their child.

Incarceration of pregnant and birthing persons makes it impossible to achieve reproductive justice because they are not able to parent their children in the way that they deserve. Abolition of the carceral system is necessary.

⁷⁷ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 226 (2017).

⁷⁸ Loretta J. Ross & Rickie Solinger, *Reproductive Justice: An Introduction* 227 (2017).

⁷⁹ *Id.*



5. Right to have and not have children

Many incarcerated folx are actually incarcerated during their peak reproductive years. This obviously inhibits the person's right to choose to have children. Not only are they not in control of their reproductive freedoms, the government has historically stepped in and forced sterilization. Compulsory sterilization, also known as forced or coerced sterilization, refers to any government-mandated program to involuntarily sterilize a specific group of people. Sterilization removes a person's capacity to reproduce, and is usually done by surgical or chemical means.⁸⁰ In many prisons across the country, forced sterilization has been used as a 'remedy' for 'unfit mothers'. Sterilization has been used in sentence negotiations as well as when an incarcerated person complains of menstrual cramps. Consent is not always given before an incarcerated person loses their reproductive capacities.

The right to not have children should not dissipate once a person is incarcerated. In many prisons, there are not many ways for a person to terminate their pregnancies. Many jails and prisons do not provide abortion care and even if they do, the waiting period to receive care may take too long. A person should remain able to make their decisions whether or not to parent, regardless of their situations.

IV. Remedies/What to do

Not only are prisons predatory and extremely dangerous, they don't have a purpose in our society. The history of the prison reveals that this institution, which has emerged as the dominant mode of punishment, has been unable to solve the problem of crime but rather has become a site for violence, assaults on human rights, and the perpetuation of racism.⁸¹ The prison system preys on the most vulnerable and most cast aside by society - the very folx Reproductive Justice was intended to protect.

While working to make abolition a reality, there are many contributors to mass incarceration that can be addressed to help minimize the overincarceration of women and birthing persons. Additionally, these contributors impede on the reproductive justice rights of

⁸⁰ Wikipedia, *Compulsory Sterilization* (2024), https://en.wikipedia.org/wiki/Compulsory_sterilization#:~:text=Compulsory%20sterilization%2C%20also%20known%20as,by%20surgical%20or%20chemical%20means.

⁸¹ Angela Y. Davis, *Abolition: Politics, Practices, Promises* 92 (2024).



those affected as well. By examining these and making changes, folx have more control over their reproductive rights and are not submitted to incarceration.

A. Getting rid of Fetal Personhood Laws

One of the newer contributors of incarceration of birthing people are fetal personhood laws. There has been a steady increase in these types of laws across the United States, increasing in relevance and visibility after the overturn of *Roe v. Wade*. These types of laws are extremely dangerous because they afford unborn fetuses the same rights as people. By implementing these predatory laws, pregnant persons are more closely surveilled and prosecuted at higher rates simply because they are carrying a fetus. Fetal personhood laws permit a pregnant person to be charged with things like fetal homicide and chemical endangerment, often for miscarrying or choosing to terminate their pregnancies. These charges can carry lengthy prison sentences because they are often classified as felonies, contributing to the mass incarceration issue that is already apparent while also inhibiting the persons' rights owed to them following the reproductive justice framework.

Not only do these prosecutions increase incarceration rates of women and birthing people, they also increase the risk to babies by frightening women away from care and using tax dollars to expand the criminal justice system rather than to fund nurse-family partnerships that actually protect the health of the children.⁸²

B. Other Remedies

The cash bail system utilized in the United States Justice system eliminates the possibility of being released from jail, simply for being in poverty. The system perpetuates harm against those living in poverty, an issue that is more prominent in Black communities and other communities of color. The current cash bail system was designed to operate as a promise that the person will return for their next court date. This is not helpful and has not been proven to make enough of a difference in return rates. According to The Bail Project, on any given night in America, nearly half a million people sit in jail before trial, mainly because they can't afford to

⁸² Angela Y. Davis, *Abolition: Politics, Practices, Promises* 220 (2024).



pay their bail.⁸³ Pretrial incarceration causes an even more crowded system and is another contributor to mass incarceration.

Reforming the cash bail system, and moving away from it entirely, is a helpful remedy as the road to abolition is long and an uphill battle. The least restrictive form of bail is known as a recognizance bond, releasing the accused on their own recognizance, which allows defendants to be released pretrial without posting a monetary security and without having to comply with any court ordered conditions.⁸⁴ Families deserve to keep their loved ones and the arrested person should not face the dangers of incarceration because they are impoverished.

Bail reform is easy to implement and will help people stay out of prisons. More courts should use alternatives to cash bail.

Other remedies or possible solutions to the mass incarceration epidemic in the United States include shorter sentences, providing adequate healthcare to incarcerated persons, and creating better alternatives outside of prisons. Folks that were formerly incarcerated deserve to have access to welfare and other social services. Incarcerated persons deserve to give birth in sanitary and holistic conditions, not being shackled while enduring labor. Pregnant persons should have access to Obstetrics and Gynecology services to ensure they are safe as well as their fetus. These are a few of the things that can be implemented now, while working toward abolition of the prison system altogether.

V. Conclusion

Reproductive justice touches almost every piece of our lives. The rights owed under the reproductive justice framework include the right to bodily autonomy, the right to have children or to not have children and the right to parent those children in safe and healthy environments. Each of these are stripped from incarcerated persons in the United States.

Incarceration strips a person of their bodily autonomy; they lose all decision making rights, they lose their freedoms and they lose the right to care for themselves and maintain their

⁸³ The Bail Project, *The Bail Project/Our Approach*, The Bail Project (2023), <https://bailproject.org/our-work/>.

⁸⁴ Nicholas P. Johnson, *Cash Rules Everything Around the Money Bail System: The Effect of Cash-Only Bail on Indigent Defendants in America's Money Bail System*, 36 *Buff. Pub. Interest L.J.* 29, 29-36 (2019) (describing the cash bail system).



health. Incarceration takes the right the person has in choosing whether or not to become a parent. While incarcerated, a person is not usually able to get pregnant, and if they are, they lose the healthcare that they and their unborn child are entitled to. People can be incarcerated for choosing to terminate their pregnancy, further infringing upon their rights owed.

Incarcerated people have their parental rights ripped away. Parents that are incarcerated are not able to see their children on a regular basis, they are not able to actively parent their children. Having parents that are incarcerated also harms the child, there is not a way in which a parent can show up for their child from behind bars, with limited communication and no way of seeing their children everyday. Conditions are still bleak upon release. Society casts aside formerly incarcerated folks and they are no longer eligible to receive many social services benefits. Parents sometimes have a hard time reuniting with their children once they are released from incarceration. This does not provide a healthy or safe environment to parent.

While incarcerated, people lose their ability to decide whether they want to have children. Amid forced sterilization, lack of healthcare, and no means to control their reproductive journey, many are not given the choice. An incarcerated person should not get this decision taken from them. This decision belongs to nobody else.

Abolition plays a key role in creating a world in which reproductive justice can be achieved. In a world that exists with no prisons, is a world in which people can be in charge of their autonomy, they are able to be present in the lives of their loved ones.

In order to achieve reproductive justice, the prison industrial complex must be abolished.

“To reiterate, rather than try to imagine one single alternative to the existing system of incarceration, we might envision an array of alternatives that will require radical transformations of many aspects of our society.”

—Angela Davis, *Are Prisons Obsolete?*