

A FEMINIST RE-VISION: A CASE FOR A NEW PERSPECTIVE ON THE LAW
FROM THE NARRATIVES OF INCARCERATED WOMEN

By

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by

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To the prisoners who have changed the way I see the world by sharing their lives with me

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This project builds on critical research into the rapid rise of women in the U.S. prison system by articulating an understanding of incarcerated women as a distinct group with collective experiences that arise by virtue of their legal definition as prisoners. The formal framework of the law structurally subjugates incarcerated women, perpetuating domination over them by silencing their voices and rendering their experiences meaningless within legal discourse about prison conditions and civil rights in the court system of the United States. The work argues for a new vision of the law that would adopt a feminist epistemology, value experience as knowledge, and re-imagine the legal system of the U.S. in order to dismantle the structural oppressions of the dominant retributive system of criminal justice in the U.S.

I place my work within the context of my investment in the lives of incarcerated women as a current and future legal advocate for the rights of incarcerated women, as well as a feminist activist and scholar contributing to the growing body of critical

scholarship that has focused on the political and systemic roots and consequences of the rapid increase of incarcerated women in recent years. This work contributes to feminist and legal scholarship by focusing on the ways in which incarcerated women constitute themselves through narrative, and the ways in which formal legal structures systemically silence these narratives or strip them of significance within strict legal constructions that constitute “facts” within these dominant structures.

Rearticulating and adapting a feminist epistemology that frames incarcerated women as a collective group of individuals with both unique and collective experiences resulting from their incarceration, this work explores a variety of prison narratives articulated by women situated in different spatial and political spaces. The work engages theories of narrative that distinguish between the reinforcement of hegemony through narratives that reproduce dominant structures by particularizing individual experiences of oppression, and subversive stories that connect personal experiences of oppression to structural domination and challenge hegemonic systems of oppression. Because the legal frameworks for challenging prison conditions, abuse, and neglect have stringent formal requirements, subversive stories become impossible to articulate within the language of U.S. law. Legal discourse including the Constitution, federal laws, and U.S. case law create a space in which women prisoners are at once marginalized, silenced, and required to reinforce hegemony with their narratives as they are incorporated into legal discourse.

The development of an alternative dialogue between advocates and incarcerated women represents the potential for the development of collective consciousness of resistance to dominant legal narratives and the perpetuation of the prison-industrial complex.

CHAPTER 1 INTRODUCTION

Powerfully written stories and narratives may begin a process of adjustment in our system of beliefs and categories by calling attention to neglected evidence and reminding readers of our common humanity. Even the conservative judge Richard Posner has conceded that major reforms in law often come through a conversion process or paradigm shift similar to the one Thomas Kuhn describes and minority storytellers advocate.

—Delgado and Stefancic, Critical Race Theory: An Introduction

My first visit to a prison was almost two years ago. I had completed my second year of law school and was a summer intern at a prisoners' rights non-profit law office. In the company of a more seasoned intern, I swallowed my fear of the barbed-wire, gun-towers, and militaristic guards, submitted to the pat-down and document search, and allowed myself to be led through a metal detector and several locked solid metal doors in order to interview a woman whose arm had been injured during an incident. Walking into the interview, I understood that this woman, barring extraordinary circumstances, will spend the rest of her life in prison. I knew that when she spoke to us, she was framing her story to make us understand that despite the restraints on her ankles, wrists, and waist and her conviction for a serious crime, she was still a human being. I was unprepared for the hour-long wait following the interview during which the three of us sat in the small interview room, waiting for the count to be completed. I realized that even while I knew that the criminal justice system is far from just, and that the millions of people incarcerated in America's prisons and jails deserve human dignity and respect for their humanity, I had so few ways to connect with this woman because she had been

taken out of society forever. I sat there for an hour, trying to think of things to talk about to kill the deafening silence that would consume the room for minutes on end. I was completely unprepared for the reality that when a person is locked in a human cage essentially twenty-four hours a day, and has been for several years, you can't have a casual conversation about the weather because since her arrest she has not experienced the weather, or anything about the world, in the way most people take for granted.

That visit was my first, and it profoundly affected the way I view the functions of the prison-industrial complex in U.S. society. Since that first visit, I have conducted legal interviews with hundreds of people incarcerated by the Florida Department of Corrections, among them over 100 women, and have had the ability to correspond with even more women about the conditions of their confinement. My frequent personal interaction with female prisoners gives me access to their first-hand accounts of their experiences; they craft their stories for me as a legal resource in ways that are far different than the ways that they would frame these experiences if relaying them to friends, family, or other prisoners. During each visit, I must negotiate my role as a legal advocate with my desire to know the lives of the women with whom I am working. Because of my first encounter, and because I work with professionals who value the human rights and dignity of every inmate, I have developed interviewing skills that help me not only affirm the humanity of the interviewee, but get insight into that humanity and the ways in which the systemic dehumanization of the prison system breaks that down, even in the most optimistic and resilient inmates. These skills, however well suited to my future plans as a legal advocate for incarcerated women, are not traditional, methodical, or oriented toward social science research. These interviews are bound by the rules of

legal privilege and confidentiality, and are not sanctioned as academic research. I am left with a head full of stories that need to be told, but that I cannot tell. I am also left feeling as though it is not just that I want to tell these stories, but rather that I want them to be central to legal analysis and precedent; I do not want to have to refashion these stories to fit into the incredibly limited framework proscribed by the law for prisoners' rights litigation.

In the context of academia, my interest in finding a window into the ways in which women constitute themselves through their published narratives conflicts with my very real stake in the lives and stories of the women with whom I continue to work. While attempting to piece together a coherent analysis of women's prison writing, I have constantly confronted the reality that the majority of women in prison are systematically denied the right to express themselves in ways that can be heard by anyone, including prison activists and the legal community. Prison officials routinely denounce the voices of several inmates as unreliable when pitted against the voice of a single accused guard in the absence of independent evidence supporting inmates when grievances are submitted or reports are filed. Women are more reluctant to file grievances or litigation than male inmates (Aylward and Thomas 261), and face the incredible hurdles imposed by Congress and the courts.¹ In terms of legal discourse, both academic discussions that have attempted to incorporate feminist and antiracist critiques of the prison-industrial

¹ Arguably the most serious legislative obstacle imposed on prisoners and their advocates, the Prison Litigation Reform Act (42 U.S.C. §1997) (PLRA) was passed in 1996 in order to combat what was being described as "a flood" of "frivolous lawsuits" by prisoners in federal courts challenging prison conditions. The PLRA includes provisions that limit prisoners' access to the courts, including the requirement of filing fees, restrictions on attorney fees, limits on the types of damages that may be awarded (requiring actual injury), and the requirement that all administrative remedies be exhausted before a court may entertain a claim. For a comprehensive discussion of the PLRA and how it has impacted prisoners' rights litigation, see Matthew Clark's essay "Barring the Federal Courthouse to Prisoners." For additional discussion of structural obstacles facing women prisoners in the legal system, see Chapter 4 of this work.

complex and the narratives of women seeking relief under the existing legal framework, are incompatible with the legal landscape as it currently exists. The firm adherence to empirical “truth” and the fundamental “rule(s) of law” render critical approaches meaningless in terms of their actual impact on the lives of prisoners. Even when systemic abuses are documented and acted upon by courts or legislatures, the legal narratives that accompany such actions fail to acknowledge the centrality of women prisoners’ experiences, rendering them voiceless even when they are able to fit their narratives into the mold of legal reasoning.

In this historical moment, when women represent the fastest-growing prison population in the U.S., the number of people incarcerated in the U.S. surpassed 2.2 million at the close of 2004 (U.S. Dept. of Justice 1) and has continued to rise, and the systems of policing and mass incarceration the U.S. has perfected are being exported to other nations (Matlin xxx; Sudbury, Global Lockdown xiv-xv; Sudbury, “Transatlantic Visions” 133-138), this project seeks to critically evaluate the published prison narratives of several women speaking from very different spaces and apply a feminist critique to the ways in which the law limits the ability of advocates to act on behalf of these women who are systematically silenced by the legal system that imprisons them. Using the tools of Black feminist thought and narrative analysis to evaluate the ways in which women’s prison narratives represent both individual agency as well as collective knowledge borne of the common experience as prisoners, I hope to demonstrate that both these individual experiences as well as the collective experiences are forced into paradigms of legal discourse that render them silent and powerless in the law. I bring my perspective as a feminist legal advocate into these analyses in order to propose ways that feminist

research, scholarship, and activism can begin to address the silences that the prison-industrial complex relies upon in order to perpetuate itself, its profits, and its systems of social control.

The stories I have heard in my brief time working with prisoners range from horrific to heartbreaking and encompass everything in between. I have found that I have had to explain the legal constraints that will prevent their claims from being entertained by any court to far too many women who have experienced terrible neglect and abuse. The published narratives of women prisoners reveal, mediated though they are, that the issues affecting women incarcerated by the Florida Department of Corrections do not differ in meaningful ways from the systemic problems faced every day by women prisoners throughout the country. In this work, I hope to demonstrate the need for a reevaluation of the legal structures that systemically deny women prisoners rights, and the ways in which women's narratives highlight the silence that the legal system imposes on them.

For decades, a limited but rigorous body of critical academic and activist work has focused on the issue of the serious and expanding problems faced by women prisoners. The large body of scholarly research into the dynamics of oppression within the criminal justice system have often focused, at least in part, on the plight of women in prison, and particularly the ways in which modern conceptions of criminality and social control converge to marginalize and target poor women and women of color. Much of this research has focused on the structural oppressions that cause women to transgress the specific dynamics of the policies of criminalization and social control that target the poor and people of color, and highlight the violence and disadvantage they have faced both

before and after incarceration. Building on this research, this work seeks to critically evaluate the ways in which incarcerated women constitute themselves, the ways in which the law fundamentally fails to recognize or protect their rights while they are incarcerated, and some of the ways in which legal advocates and activists can begin to work for progressive changes. I call for a radical feminist re-vision of the law that would make the experiences of incarcerated women the starting point and center for the development of new kinds of legal analysis, discarding the notion that the experiences of incarcerated women fit into legal categories or constructed legal fictions that meet the legal structures currently available.

While this project explores a space in which the intersections of racism, sexism, and classism, among other oppressions, are profoundly implicated and amplified, the goal is to explore the “collective” experience of women prisoners as revealed through their narratives and to critique the spaces in which the U.S. legal system actively silences women. Using selective examples of women’s prison narratives written by a variety of women incarcerated in very different circumstances, I plan to use narrative analysis to tease out the ways in which the narratives are mediated, and the degree to which they support or reinforce the dominant conception of prisoners as deserving of punishment. While my approach is rooted in several forms of sociolegal analysis, such as critical race theory, Black feminist standpoint theory, and critical narrative analysis, the work remains rooted in interdisciplinarity, incorporating analytic tools and basic foundational substance from literary analysis, cultural studies, and poststructuralist thought. This work should not be viewed as committed to any particular discipline, but rather as an exploration of how the convergence of these analytic tools can be applied to the complexity of women’s

collective experiences in prisons in the U.S. Because women of color and poor women are disproportionately impacted by the trends in mass incarceration in the U.S., structural legal oppression affects significantly more women who have experienced, and continue to experience, multiple oppressions. Therefore, while this project takes intersectionality as a basis of departure, I will not directly address many of the issues involving the ways in which multiple oppressions function in the lives of women prisoners.

Synthesizing legal studies with an interdisciplinary approach to the analysis of narrative, I propose that while many narratives by women in prison function to reproduce hegemonic ideas about the purpose and utility of incarceration, the act of writing about one's experience is an expression of agency, limited though it may be. The narratives women prisoners write express many collective experiences, indicating systemic problems with the ways in which women in prison are treated throughout the U.S. These expressions are, by virtue of the structure of the legal system, rendered invisible in terms of the law, leaving women in prison, as well as their advocates, with few avenues for seeking relief from oppressive and dehumanizing conditions inside prisons. The law should be reimagined with a new, feminist epistemological center that values the experiences of women prisoners and recognizes them as valid sources of knowledge rather than as a class of persons that are "less than" full citizens.

In Chapter 2, I explore the ways in which scholars from various fields have theorized the role of mass incarceration in the U.S. and its impact on women. I outline the tenets of "Black feminist thought" that feminist sociologist Patricia Hill Collins proposes as an epistemological framework that recognizes the voices and collective knowledge of women of color and other oppressed or marginalized groups. I explore the

ways in which this epistemological framework has been applied by legal scholar Paula C. Johnson as she examines the realities of incarcerated women of color in her book Inner Lives: Voices of African American Women in Prison. I then synthesize the analytical tools of sociology and literary legal analysis in order to demonstrate my theoretical basis for analyzing narratives of women prisoners, as well as to argue that the legal structures limit the ways in which stories may be told in formal legal discourse, obscuring the agency of women prisoners. Given the ways in which prison narratives, often compared to slave narratives, can either reproduce hegemony or subvert it, I argue that the legal discourse is designed to silence subversive stories that challenge the dominant system of mass incarceration that has increasingly affected women prisoners in recent decades.

Chapter 3 explores women's prison narratives, including the ways in which the physical and emotional spaces from which women write affect their ability to create subversive stories. Political prisoners occupy a significantly different space inside prison than women who are writing as part of a sanctioned class, and the construction of these narratives differs from the narratives produced by researchers or journalists based on the interviews they conduct with women. While all of these narrative forms carry certain common themes, the degree to which they actively challenge the structure of prison, or acknowledge the oppression of prison, varies dramatically based on the level of mediation to which the narrative was subjected. In Chapter 4, I explore the ways in which the legal system, specifically through its treatment of prisoners as a separate class of people, constitutes women prisoners in ways that are at odds with a feminist conception of experience, and collective experience, as valid knowledge. Without a meaningful voice in the law, women prisoners are forced to inhabit a world controlled by

a legal system that actively undermines their ability to constitute themselves in their own terms. While activist groups have created meaningful alternative narratives about women prisoners' experiences inside, in order to affect meaningful change these conceptions must be integrated into the mainstream legal discourse, or represent the beginning of an epistemological shift in legal discourse. I conclude with recommendations for continued work toward change and discuss both the obstacles the present legal climate poses to these changes as well as the positive steps portions of the legal and activist communities are making in working toward progressive change.

As an advocate working on behalf of incarcerated women in Florida, I have listened to countless pleas for relief or redress by women who have suffered every kind of imaginable harm as the result of their position as prisoners whose every need must be supplied by a system of "corrections" that sees them as undeserving of basic human dignity. I have seen women with truly horrific physical scars that are the result of neglect, abuse, and self-harm. The law, which structurally disallows women spaces in which they may frame their stories in their own terms, requires women and their advocates to reframe their stories in dominant terms, and even then limits the redress that is available to them. As an advocate, feminist, and activist, my purpose here is to create a space in which the dialogue about women in prison in relation to the law can be reimagined as a dialogue *with* women in prison in order to redefine the terms of the discussion and ensure that women, whose very lives are indeed central to the debate, are legitimated as valid sources of knowledge and truth.

CHAPTER 2 BACKGROUND, LITERATURE REVIEW, AND METHODOLOGY

I cannot imagine a place where one might stand and have a clearer view of concentrated disadvantage based on racial, class, and gender inequality in the country than from inside the walls of a women’s prison. There, behind the razor wire fences, concrete barricades, steel doors, metal bars, and thick plexiglass windows, nearly all of the manifestations of gender domination that feminist scholars and activists have traditionally concerned themselves with—exploited labor, inadequate healthcare, dangerous living conditions, physical violence, and sexual assault—are revealed at once. That gender oppression is significantly furthered by racism and poverty is undeniable from this point of view; women’s correctional facilities constitute nearly perfect examples of the consequences of the multiple subjugation and the compounding impact of various stigmatized identities. The convergence of disadvantage, discrimination, and despair is staggering.

—Beth Richie, “Feminist Ethnographies of Women in Prison”

There has been significant social science, activist, and sociolegal scholarship done in the past two decades examining the ways in which changing public policies have led to the staggering increase in the prison population in the U.S. Feminist scholars, critical race theorists, as well as other social scientists and activists have noted and critiqued the policies and their impact on women, paying close attention to the ways in which heightened policing and criminalization, as well as the cut-backs in public programs and the collateral consequences of high rates of incarceration on the political power of marginalized groups have disparately impacted communities of color. While most of the critical research on mass incarceration trends in the U.S. has focused on the ways policies of heightened surveillance and criminalization resulting in mass incarceration have targeted and disparately impacted communities of color and the poor, my intent is to build on this research by exploring how women prisoners, who have the common

experience of incarceration, have attempted to constitute themselves inside, and how the law prevents both their individual narratives as well as their collective experiences from having a cognizable meaning under the law because of their specific position *as prisoners*. The review of the following literature demonstrates both the underlying foundation of interdisciplinary and critical scholarship from which my analysis departs, as well as the theoretical and methodological tools I will use to examine both women's prison narratives as well as the legal discourse that excludes these narratives.

Academic Research into Women in Prison

On June 14, 2005, the Public Safety, Sentencing and Incarceration Reform Caucus of the U.S. House of Representatives hosted a "luncheon briefing" with a panel of women discussing their personal experiences and policy recommendations titled "The Girlfriend Problem: How Sentencing Laws Affect Women & Children." The stated goal was to put faces on the grave statistics that demonstrate that the harsh sentencing laws related to drug offenses disparately impact women, particularly women of color, and collaterally impact millions of children in the U.S. (Public Safety, Sentencing and Incarceration Reform Caucus, press release). This (late) recognition by the government that something is terribly wrong in the processes of criminal law is far behind the work of many scholars and theorists, who have been arguing for years that the heightened surveillance and control the state has extended into the lives of women, largely based on race and class, has functioned as a form of social control. The dearth of empirical research that addresses the unique circumstances of women of color in relation to the criminal justice system is outlined and critiqued in the chapter "Black Women and the Justice System: Raced and Gendered into Submission," part of Katheryn Russell-Brown's sociolegal book Underground Codes: Race, Crime, and Related Fires. Her work is an examination

of the myths, realities, and evidence of structural oppressions in the U.S. legal system and public perceptions of crime. In the chapter focusing on women in prison, Russell-Brown highlights the myriad ways in which African American women have been targeted by the criminal justice system in the era of mass incarceration, and the ways in which they have often been overlooked, at least in part because the sheer number of women in prison is smaller than the number of men in prison (121). Her research into the staggering increase in the rate of incarceration of women helps frame one of the underlying assumptions of this work: that women have an increasingly significant stake in the future of punitive policies in the U.S. Far from facing the limited question of what is deemed criminal or how punitive structures are developed in future, women prisoners and their advocates already face the serious issue of how currently incarcerated women are being treated and how their voices are constituted (or silenced) in the law with relation to the conditions of their confinement.

Recently, feminist scholars have interrogated the ways in which the image of criminality has evolved into fuel for a system that targets poor women, and particularly women of color. In her book Killing the Black Body: Race, Reproduction, and the Meaning of Liberty, Dorothy Roberts argues that the interlocking oppressions of racism, classism, and sexism encourage reproductive rights policies and legal philosophies that vilify and often criminalize the behaviors of poor women of color, degrading their ability to act as fit mothers and encouraging punitive acts against them. She highlights both the subtle and less-than-subtle ways that a white supremacist ideology is reinforced by the media: for example, she compares the way in which Meg Ryan's severely alcoholic character in the film *When a Man Loves a Woman*, as a middle-class white woman, is

able to redeem herself after neglecting her children during her alcoholic episodes to the way in which the construction of a “crack baby epidemic” vilifies poor black women by targeting a specific substance abuse issue that is associated with inner-city neighborhoods, though the realities of crack use span racial divides (178-9). She notes that the discussion surrounding “crack babies” depoliticized the issues of race and class that belie the ways in which the state fails to provide adequately for its citizens:

“Punishing [black mothers addicted to drugs] assuages the nation’s guilt for an underclass of people whose babies die at rates higher than those in some Third World countries.

Making Black mothers criminals appears far easier than creating a health care system that ensures healthy babies for all our citizens” (179). Similarly, the authors of the collection

Policing the National Body: Race, Gender, and Criminalization speak to the various ways

in which surveillance has become a means of social control in low-income or minority communities. In the introduction, Jael Silliman writes: “Though surveillance and policing differ according to whether they are there to protect or to criminalize, both kinds of interventions further extend state control over individual and collective bodies” (xvi).

In her foreword to a symposium on “Gender Issues and The Criminal Law,” Roberts argues that while a “grand feminist theory” resulting in an “egalitarian criminal justice system” is an impossibility, there are unifying principles that feminist scholarship of criminal law should aspire to:

[I]t should center on the political nature of both the commission and the definition of crime; it should search beyond the appearance of preferential treatment to reveal deeper biases in the law; and it should account for the interplay of race and class, along with gender, in the criminal law’s treatment of women. Ultimately, this critique of criminal law’s patriarchal components should yield a feminist vision of criminal justice that questions traditional notions of harm, culpability, and punishment that are so readily accepted. (14)

These feminist principles, including analysis of the intersections of race, class and gender, have been applied in different ways by activists and scholars who critically engage, and fundamentally challenge, the validity of the U.S. criminal justice system and its reliance on incarceration. Both Roberts and the authors of the essays in Policing the National Body tap into the ways in which legal structures, both inside and outside of the context of criminal law, manipulate and control the lives of women in oppressive ways. These authors contribute significantly to the discussion of the ways in which legal doctrines evolve in racist, sexist, and classist ways that fundamentally reinforce white supremacy in formal, though subtle ways, and offer insights into a potential feminist revision of criminal law. While they do not address the specific legal discourse that silences women *prisoners*, their work speaks to the larger critique of the law and how it marginalizes women and their experiences.

Women prisoners occupy an extremely distinct space within U.S. society that is analogous to, but distinct from, the position of any other marginalized groups in U.S. society. In an overview of the history of the incarceration of women in the U.S., Nancy Kurshan explores the ways in which “patriarchy and white supremacy interact in the imprisonment of women” (26). Written in 1995, when the statistics on the rapid influx of women in prison were displaying a new relatively trend, her work outlines the historically specific and changing attitudes toward women, race, and class that have converged to create an atmosphere in which the vilification and punishment of women is embraced, but in which the distinct needs of women are not met in systems and facilities “designed, built, and run by men for men” (21). Posed as an initial historical reflection on the “current reality” of women in prison in the U.S., her work calls for more research into the

levels of privilege that emerge, possibly on racial lines, within prisons for women, as well as the impact of mass incarceration on families and communities of color (26). This work, both early and brief in comparison to several of the more developed feminist and antiracist theoretical works challenging the system of mass incarceration, serves as a sort of introduction to the more recent works that have, most often through collective efforts, brought together thinking from several disciplines and perspectives in order to look at the serious nature of mass incarceration on marginalized groups within U.S. society.

Because of the convergence of this historical moment, when the trends Kurshan identified over ten years ago have done nothing but rapidly increase and the developments in the law since 1995 have further structurally marginalized incarcerated women, I believe that contributing yet another critical perspective on the condition of women in prison is essential.

Several dedicated academics have focused on unraveling the forces that have created the huge increase in women in prison in recent decades, analyzing the developments in the law that have contributed to the current crisis of mass incarceration, particularly the ways in which these policies have affected women. In her essay “Imprisoning Women: The Unintended Victims of Mass Imprisonment,” feminist criminologist Meda Chesney-Lind argues that criminal law in the U.S. essentially marginalized and ignored women until they became the “unintended” targets of the “war on drugs” and several other “‘get tough’ sentencing policies” were implemented as part of the nation’s move toward mass incarceration (Invisible Punishment 79). She outlines the ways in which policy changes indirectly targeted women and how these policies have led to the ever-increasing numbers of women in prison because these policies were not

conceived with any consideration of women's experiences (80). Her fundamental argument is that "gender plays a major role in the forces that propel women into criminal behavior. For this reason, gender must be taken into account in the crafting of effective responses to their problems" (83). Her research as a feminist criminologist is focused on how gender, race, class, and other factors affect the lives of women and how these lives collide with the law resulting in what she posits are unfair sentences. She argues against "vengeful equity," the result of the "misguided" application of the law written for men to women in the same ways without regard to gender (91), and for the "decarceration" of women, who are largely non-violent "offenders," as a first step toward reversing the trend toward mass incarceration generally (94). Her work is both a serious analysis of the trends that lead to the mass incarceration of women as well as a serious attempt to create a new feminist vision of the law that would be more "just" for women. My intent is to build on her conceptual foundation that the law unjustly targets women, and considers the ways in which women prisoners, who have already interacted with an unjust system, negotiate their survival inside. Further, I want to interrogate the ways in which legal discourse distorts and silences the voices of women in prison, enhancing the mechanisms of social control that the criminal justice system already imposes, often invisibly, on women.

As another facet of the critical analysis of the criminalization of women, feminist criminologist Beth Richie's essay "The Social Impact of Mass Incarceration on Women" focuses on the ways in which the systemic trend toward mass incarceration has affected women, by constituting them both as the subjects of increased surveillance and control by

the system as well as by eroding familial relationships and degrading the salience of women's victimization in public discourse about violence in society (137). Richie writes

The complex intersection of issues relating to race and gender is seen in a variety of social institutions. In an era of mass incarceration, these effects are magnified, both directly through increased social control and indirectly through their impact on other relationships. Thus, we can now see the interplay among processes that include the divestment of health and human services from low-income neighborhoods, increasingly rigid public policy restrictions that disproportionately affect women, and the expanding penal industry. (136)

In this connection between the “complex intersection” of race and gender within the structural systems of policies, laws, criminalization, and incarceration to the lives of women, particularly women of color and poor women who need the services that have been divested, Richie links her work and the work of critical feminist criminologists to the work of prison activists. Explicitly, Richie concludes her essay with a discussion of women as antiprison activists, noting that “[w]hile low-income women of color occupy an extreme position of structural disadvantage, their struggles, pain, and triumphs over despair offer key lessons for organizing and policy reform” (147). Thus, while her work is based more in reform than many of the activist scholars and theorists discussed below, her work connects the academic discourse to the activist community and recognizes the value and validity of activist theory. By connecting the work of critical social scientists to the work of antiprison activism, Richie's work serves as a critical nexus between scholarly analyses and the real work of activism on behalf of women in prison. While her analysis is focused on the lives of women before and after incarceration, my analysis is focused on the voices of incarcerated women, collectively and individually, and the ways in which the law actively silences these voices by shutting them out of legal discourse through formal legal forms and exclusive structures. Like Richie, I see feminist antiprison activism as an essential space in which resistance to hegemonic norms

can create an alternative discourse that challenges the epistemological foundation on which the U.S. legal system currently relies.

With a focus on “critical resistance to the prison industrial complex” (Critical Resistance Publications Collective; Richie in Invisible Punishment 147), activists and scholars have produced extremely powerful collections and theoretical works arguing for the abolition of incarceration. These works critically challenge dominant structures of oppression in society, and link these oppressive ideologies to capitalist exploitation of labor and racist, sexist, and classist notions of social control. Building and theoretically expanding upon the critical empirical research of scholars like Russell-Brown, Roberts, Chesney-Lind, and others that demonstrate statistical disparities in the representation of marginalized communities within prisons, activist scholars like Angela Y. Davis, Joy James, and Julia Sudbury have contributed extremely important critical insight into the ways in which domination and control are exerted through the perpetuation and exportation of the prison industrial complex. These connections form a foundation for my work as they make critical links between prison as an instrument of sexist, racist, and classist social control and the validation of domination through legal structures. While it may be through slightly different channels, the legal structures that these scholars indict as unjust function as the necessary prerequisite for my work as I am focused on the lives of women who have been imprisoned, and the legal mechanisms that make their resistance to the structural domination of their lives essentially impossible, and certainly impossible if they insist on defining their own terms. Re-visioning legal systems that do not rely on mass incarceration or increased social controls through criminalization is a core element my work proposes.

From within this body of abolitionist literature, Joy James, in the compilation of U.S. prison writings that she edits and introduces titled The New Abolitionists: (Neo)Slave Narratives and Contemporary Prison Writings, makes connections between the legal structures of the U.S. and the racism that is apparent from statistical analyses of the modern prison population. She argues that the Thirteenth Amendment,¹ with its notable exception of those in prison from the abolition of slavery in the U.S., highlights the way in which the “[l]egal narratives materialize and manifest in political practice(s)” (xx). She notes that not all traditional slave narratives challenged the structural oppression of slavery, and similarly, not all modern prison narratives challenge the fundamentally racist and exploitive system of incarceration society in the U.S. has embraced. Julia Sudbury and other authors, in Global Lockdown: Race, Gender, and the Prison-Industrial Complex, connect the systemic oppression of the prison-industrial complex to the international oppressions that face women internationally. Connecting race, class, gender and nation in their analyses, the authors of the essays in Global Lockdown refuse to create either “a fragmented mosaic of unconnected stories” or a “master narrative of global women’s oppression;” rather, they use the local to connect the commonalities of the global (xvii). This incorporation of both the individual and the collective, the connection that exists between very different women prisoners because of their common (though certainly not identical) experiences with oppression and incarceration, reflects the fundamental tenets of Black feminist thought that shapes my analysis of women prisoners as having both individual and collective experiences that

¹ The Thirteenth Amendment and its impact on legal discourse about prisoners’ rights is discussed further in Chapter 4 of this work.

must be made cognizable, and actionable, under the law in order to affect progressive change.

Within the context of U.S. prisons, the connections between the experiences of women are far more discrete than the generalized oppression experienced by the global community of women. In *Are Prisons Obsolete?*, Angela Davis comprehensively destabilizes normalized notions of incarceration as an inevitable aspect of society and punishment, arguing for a complete shift in vision that would allow alternative visions of justice to emerge:

An attempt to create a new conceptual terrain for imagining alternatives to imprisonment involves the ideological work of questioning why “criminals” have been constituted as a class and, indeed, a class of human beings undeserving of the civil and human rights accorded others. (112)

This conception of prisoners as a class, separated by law from society both during and after their incarceration, is at the heart of the critiques of the legal system I wish to raise. Additionally, this destabilization of the hegemonic norm that maintains the oppressive status quo is at the heart of the new feminist vision of the law toward which the law should move. Because legal doctrines separate prisoners as a “class,” and the development of incarceration as an accepted punishment for thousands of women has coincided with policies that have, whether inadvertently or not, targeted women so that they now represent the fastest growing prison population in the nation, my analysis builds on the arguments of antiprison scholars by focusing the ways in which both the individual and collective voices of women prisoners are structurally excluded from the law, as well as the epistemological shifts in the very conception of the structure of a retributive model of “justice” as an appropriate response to what, in most cases, are merely societal constructs of criminality.

My primary purpose in this project is not to discuss the structural oppression that affects women, particularly women of color, resulting in the disproportionate rates of incarceration; my goal is to discuss the ways in which women's peculiar position as "prisoners" with gendered, raced, and classed bodies, are structurally silenced by the law. Each woman incarcerated in the U.S. has been involved with the law; every detail of her life is controlled by those who are in power over her because of her experiences with the law. The argument I am asserting is that a feminist re-vision of the law needs to be developed so that the experiences of incarcerated women become cognizable to the law in the terms that women prisoners define for themselves, rather than forcing them, along with their advocates, to create legal fictions that rob their experiences of their original value and significance. This fundamental, epistemological shift incorporates the theoretical visions that have been asserted by several feminist and antiracist scholars and activists, and is rooted in feminist theory that has spoken directly to the issues of intersectionality that studies of women in prison have also focused on; however, for the purposes of this analysis, I want to examine women prisoners as a collective group with a certain level of shared experience that connects them by virtue of their condition of incarceration.²

Feminist Theory

In this paper, I draw my feminist theory primarily from the work of feminist sociologist Patricia Hill Collins. Collins, in her book Black Feminist Thought:

² I do not wish to imply that sexism is superior to other forms of oppression with this claim; rather, I want to distinguish my work (which acknowledges that most women in prison experience some form, and often multiple forms, of intersectional oppression but seeks to analyze their position as women prisoners in relation to the law) from the work of the distinguished academics and activists who have comprehensively made the connections between criminalization and other forms of oppressive social control exerted upon marginalized groups.

Knowledge, Consciousness and the Politics of Power, critiques traditional feminist theory that necessarily privileges one standpoint over others; she, throughout her book, defines “Black Feminist Standpoint” as one arising out of black women’s movements, the everyday lived experience of African American women, and the necessarily segregated spaces that historically and locally place Black feminist standpoint as a group consciousness (Collins 24). She describes standpoint as an epistemology from which one can start with the everyday lived experiences of African American women and develop research that places these experiences at the center of that research. She further critiques approaches to intersectional oppression that play the game of ‘who is most oppressed’ or ‘who has the best standpoint;’ she argues

Each group speaks from its own standpoint and shares its own partial, situated knowledge. But because each group speaks from its own truth as partial, its knowledge is unfinished. Each group becomes better able to consider other groups’ standpoints without relinquishing the uniqueness of its own standpoint or suppressing other groups’ partial perspectives. (270)

In the context of incarcerated women, this notion of a collective group standpoint is an essential component of my analysis. Though Collins defines a standpoint that is borne of the collective experiences of African American women in the U.S., the tenets of this epistemology are useful tools in the analysis of women prisoners, who make up a discrete minority of prisoners, segregated legally by their gender, within the distinct class of prisoners that the law has constructed in the U.S. By analogy, her analysis of Black feminist thought can be applied to the group consciousness of incarcerated women.

Collins defines “epistemology” as “an overarching theory of knowledge” that “investigates the standards used to assess knowledge or *why* we believe what we believe to be true” and “points to the ways in which power relations shape who is believed and why” (252). Collins highlights the importance of narrative to feminist research and

activism, explaining that the “narrative method requires that the story be told, not torn apart in analysis, and trusted as core belief, not ‘admitted as science’” (258). According to Collins, the existence of “safe spaces” in which marginalized groups can speak freely has helped African American women shape a counter-hegemonic discourse and epistemological foundation for assessing knowledge and legitimating truth that have contributed both to resistance against dominant oppression and to the survival of African Americans within the dominant oppressive social structure (101). Core tenets of the epistemology Collins presents are the “ethics of caring,” and the “ethic of personal accountability.” The ethics of caring “suggest that personal expressiveness, emotions, and empathy are central to the knowledge validation process” (263). The ethic of personal accountability acknowledges that “people are expected to be accountable for their knowledge claims” and that “claims made by individuals respected for their moral and ethical connections to their ideas will carry more weight than those offered by less respected figures” (265).

While Collins’ work addresses the specific epistemology developed through experience by African American women, Collins acknowledges that “the actual contours of intersecting oppressions can vary dramatically and yet generate some uniformity in the epistemologies used by subordinate groups” (269). Because of the distinct social, legal, and physical space incarcerated women inhabit as unique individuals and as a collective group with shared experiences and knowledge, the extension and adaptation of Collins’ epistemological theory to an analysis both of women’s prison narratives as well as the legal narratives that confine and silence the experiences of women prisoners seems appropriate. Additionally, remaining focused on both the collective experiences and the

individual voices of women prisoners, trusting their narratives as truth and valid knowledge, shifts the focus of the oppressive structure of the law onto the women whose lives are deeply affected by its machinations. In a feminist re-vision of the law, those whose lives are most deeply affected would have more of a claim to shape the structure of the law, rather than those imbued with hegemonic power of domination or a personal stake in gaining power over others.

In a particularly good example of text that, from a Black feminist standpoint, addresses several audiences, remains accessible throughout, self-consciously employs feminist methodologies, and is also a call for political change as well as a resource for further study, Paula C. Johnson's book Inner Lives: Voices of African American Women in Prison displays how social science research can be used as a tool for education while maintaining its political integrity as a text focused on the needs, experiences and the humanity of African American women. The text demonstrates how the application of Collins' feminist theory to the lives of incarcerated African American women is both appropriate and effective. Johnson's text, which incorporates the narratives of women prisoners as well as significant empirical research demonstrating the convergence of oppressive forces that have led to the rapid increase in the population of African American women in prison, serves as an excellent example of one type of research that feminist scholars with roots in Black feminist standpoint as an empirical position might explore in future. Her work is sensitive to both the ways in which women prisoners experience their lives in relation to the law from behind bars, as well as the structural oppressions that shape their collective experiences. I discuss it at length below because in many ways it illustrates one way that a Collins' empirical position has been applied in

a sociolegal context by a critical race scholar; Johnson's work, however, is more holistic and far-reaching in its analysis than this project, which turns on a conceptualization of women prisoners as a collective group rather than developing a race-specific analysis.

Johnson's introduction begins with a letter from an incarcerated woman Johnson interviewed two weeks before she received the letter. It opens the text by displaying the way in which Johnson, as researcher, places the stories and words of incarcerated women at the center of her work. Immediately following the letter, Johnson introduces her work by positing that incarcerated African American women are "among the most invisible members of American society" and that "African American women's voices. . . are rarely heard on crucial concerns about social policy, criminality, and the administration of the criminal justice system in the United States. Instead, these women are often absent from academic and social policy discussions relating to their lives" (3). Johnson, as a critical legal scholar, cites Patricia Hill Collins' Black feminist theory as the grounding for the methodology of her work (Johnson 4). As her argument unfolds, Johnson utilizes both statistical evidence as well as the life histories and experiences of the subjects of her study to define the historical and political power structures that characterize the unique position of African American women, focusing particularly on their interaction with their communities and the criminal justice system. She presents the life stories and narratives of African American women who are currently incarcerated or formerly incarcerated, as well as the narratives of family members, friends, activists, judges, lawyers, and prison officials, in order to gather a complete picture of the women affected by the criminal justice system for her varied audiences.

As Michelle Jacobs notes in her review of the book, “Professor Johnson offers African American incarcerated women an opportunity to push back the veil of invisibility and claim for themselves the right to control their stories and their images” (798). While Johnson did edit the narratives that were compiled from notes she took during extensive interviews with the subjects in order to make them more accessible and linear, she allowed the participants to approve their narratives and let them make edits to reflect their unique voices (Johnson 53). Additionally, Johnson asked the women’s permission to photograph them and includes the photographs with their narratives: “[T]he visual images are integral to this book in order to include realistic and recognizable images of African American women who are or have been incarcerated” (Johnson 9). From a Black feminist standpoint, the knowledge produced by the women’s narratives, and the way in which those narratives retain their unique voice, would be a “better” truth than one imposed upon them from either dominant sources or the researcher. Johnson notes that the work “is not a scientifically devised statistical study” (13) but rather a “life history” methodology filtered through a Black feminist lens which, Johnson stresses, offers a partial insight into the invisible lives of African American women in relation to the criminal justice system. She also notes that “[a]s the center of this analysis, the intrinsic value of African American women’s experiences and perspectives are not predicated on comparisons or distinctions from others’ life experiences” (13). The respect for the voices of women prisoners, and the steadfast determination to ensure that these voices, though certainly mediated in this context, remain as true to the women’s narrative voice as possible, is challenging to the dominant order as Johnson ties these narrative experiences collectively to the systemic injustices of the criminal legal system.

Johnson, as Professor Jacobs notes, “gathers the threads of the narratives together and summarizes how the women’s stories support trends identified by empirical data. Her summary prevents us from getting lost in the compelling individual stories and losing sight of the overall concerns regarding imprisonment of African American women” (Jacobs 817). While Johnson’s recommendations for change may seem “tame” (Jacobs 817) given the compelling injustices demonstrated by many of the narratives,³ her recommendations do call for a total reassessment of how African American women are treated in the legal system, and call into question the validity of the incarceration and the criminal justice system as a tool for “preventing” crime. Johnson’s calls are directed at activists (or those who might become activists in light of what they have read), lawyers and other legal professionals, criminal justice professionals, as well as incarcerated or formerly incarcerated women who read the book and feel as if their voices are not only heard, but directing potential changes. This holistic approach to the experiences of women in prison places the experiences of women in the center of analysis and seeks to find solutions that appeal to a wide variety of advocates in the hope that both tangible change and additional research and critical analysis will be inspired. My project differs in that I examine at length the specific nexus of how women’s prison narratives are structurally defined by the law in formal legal discourse, and the ways in which this

³ Johnson’s recommendations include the following: a call for more comprehensive medical care and screening, more protections against physical and sexual abuse, respect for the life histories (often filled with abusive relationships) of women, more comprehensive substance abuse and educational programming, more particularized programming for African American women, more respect for the maintenance of women’s familial relationships (especially with their children), an end to the over reliance on incarceration, and more attention to the prevention of the incarceration of women (including attention to the racism, poverty, and abusive relationships, and substance abuse that are the roots of the “crimes” so many women commit). (238-282)

works against the ability of women prisoners to find either an individual or collective voice that is both cognizable in the law and defined in their own terms.

Narrative and the Structure of Law

The epistemological perspective outlined by Patricia Hill Collins and demonstrated by Paula C. Johnson is essential to the theoretical base of this project because it requires both individual and collective commitment to ideas, with the lives and experiences of those in that collective community as the center of what is “knowledge.” While engaging women’s prison narratives through the epistemological lens of Black feminist standpoint, with its focus on an ethic of care, etc., as well as the ways in which the law functions to shut out or reshape these narratives, I have engaged two sociolegal theoretical perspectives that deal with the ways in which narratives are constituted. The first deals with the ways in which hegemony is either reproduced or subverted through personal narrative, while the second addresses the ways in which law structurally limits the ability of women to make their experiences cognizable to the law.

In their article “Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative,” Patricia Ewick and Susan Sibley argue that narratives are “socially organized phenomena which, accordingly, reflect the cultural and structural features of their production” (200). They posit that not all narratives, even though they may represent expressions of agency by individuals in marginalized or oppressed groups, challenge the dominant ideological parameters from which they are bound. They make the distinction between “subversive stories” and “hegemonic tales” by arguing that

when narratives emphasize particularity, and when they efface the connection between the particular and the general, they help sustain hegemony. Conversely, when narrativity helps bridge particularities and makes connections across individual experiences and subjectivities, it can function as a subversive social practice. (200)

Ewick and Sibley argue that while narrative analysis may offer social science and legal scholars sources from which, if read through an epistemological lens that connects these to a larger picture of political and structural domination, new conceptions of what constitutes knowledge and truth may be gleaned, the essentially interactive nature of narrative as a form makes them susceptible to be used as vehicles for the reproduction of hegemony because narratives can obscure the “social organization of their production and plausibility” (214). They note that “formal legal processes are deliberately organized to adjudicate truth claims” and that the law favors specific, verifiable, and individualized stories of those seeking redress (215-6). The personal narratives that the law demands, they argue, require “a kind of radical individuation that disempowers the connections among persons and the social organization of their experiences” (217). In contrast, those articulating subversive narratives refuse to remain within the categories defined by the dominant ideological positioning, and insist upon both their own definitions of value as well as their own authority, even in the face of dominant discourse. Noting the “non-traditional” reflections of legal scholar and critical race theorist Patricia J. Williams as an example of how subversive narratives that “break the rules of legal discourse” can be used to by those in legal scholarship to “juxtapose the particular and the private with the legal abstractions that are supposed to contain them” (219), Ewick and Sibley argue that “subversive stories are narratives that employ the connection between the particular and the general by *locating the individual within the social organization*” (220, original emphasis). Thus, in my view, in order for the narratives of women in prison to impact the law in meaningful ways, there must be safe spaces in which women prisoners can tell their stories in ways that are subversive; additionally, these subversive stories must be

able to be entertained in the law, and the fundamental assumptions about truth and authority in law must be reimagined with the concept of collective and structural connections intact. The dominant legal discourse can not merely expand to incorporate more forms of narrative; the fundamental understanding of what is valued as “truth” and “knowledge” in the law must be redefined in ways that incorporate what are now considered “alternative” visions of justice that connect individual experience to larger structures of domination.

Other work that speaks to the ways in which the structure of law silences subversive challenges also informs my project. Australian scholar Regina Graycar, in her essay “Telling Tales: Legal Stories About Violence Against Women,” discusses the ways in which the violence women experience in their lives is washed out of legal discourse when the violence is not the central question before legal authorities. She notes that while feminist legal activism has brought many women’s narratives to light, she warns against the “assumption that new stories themselves will make a difference; that they will be able to be heard notwithstanding the structures within which they must be told” (298). She argues that not only do the “stock stories” about women and violence need to be challenged, but that framework in which the narratives are told needs to be “dismantle[d] and rearrange[d].” She notes that in the current legal structures, in Australia as well as the U.S., “experiences at the heart of a potential legal claim may need to be restructured so as to fit into a legal framework and in the process may lose their significance to the person affected” (300), meaning that “entirely new legal claims” should be constructed in order prevent the law from stripping the narratives of their meaning to the subjects. She posits that simply telling stories in the current frame, or changing “what judges ‘know’

about the world without altering the legal structures that determine how stories (ironically called by the law, ‘facts’) are understood” (309) will not affect the ability of the law, based on dominant ideological perspectives, to exclude that which challenges oppressive structures.

Both Joy James and John Edgar Wideman have identified mechanisms similar to those presented by Ewick, Sibley, and Graycar for the reproduction of a dominant narrative in both prison narratives and slave narratives, connecting the interlocking systemic, formal, and social systems of domination that mark these “hegemonic tales.” In his introduction to Mumia Abu-Jamal’s collection of essays Live from Death Row, Wideman writes

The formula for the neoslave narrative sells because it is simple; because it accepts and maintains the categories (black/white, for instance) of the status quo; because it is about individuals, not groups, crossing boundaries; because it comforts and consoles those in power and offers a ray of hope to the powerless. . . . (xxx)

Similarly, James argues that legal categories created by the state reflect the political practices from which they emerged; therefore, the narratives that reinforce racial and gender hierarchies perpetuate domination that is legitimated with the force of law (James xxv). All of these approaches to the analysis of narrative in relation to structural domination inform the ways in which I have evaluated both the spaces from which women prisoners write as well as the ways in which the law functions as an ever-increasing extension of political ideologies of supremacy.

Methodology

This project emerged as a result of my experiences conducting legal interviews, listening and recording their stories in prison settings. It began as an independent study project in which I explored the ways in which African American women throughout U.S.

history, as slaves, prisoners, and subjects of heightened structures of surveillance and social controls have constituted themselves through personal narratives. For that project, I chose to use narratives that were published in widely accessible collections or as mass-produced books, focusing mainly on the most well known and well-publicized sources in order to keep the piece focused on accessible literature. As I began to focus on this project and prison narratives specifically, I opened the research to a wider range of women's prison narratives, utilizing mainly general audience search engines like Google, Google Scholar, Amazon.com book searches, as well as reading lists from mainly undergraduate classes focusing on women's prison writing (which were available at the local feminist bookstore). As I read narrative after narrative, I began to see patterns emerge in the construction and mediation of the narratives written from different political and physical spaces,⁴ and sought to use examples from women from diverse backgrounds in terms of race, class, and literary space. I chose to use this wide range in order to display the ways in which women's narratives of incarceration are connected by their common relation to the law while in prison, even while they retain their unique identities and life experiences marked, particularly, by race and class.

I specifically chose to focus the most attention on widely available sources like the autobiographies of Assata Shakur and Angela Davis, the anthology of narratives Couldn't Keep It to Myself: Testimonies from Our Imprisoned Sisters edited by popular fiction author Wally Lamb, as well as the narratives of Johnson's Inner Lives because they represent some of the most pointed examples of spaces in which incarcerated women, in asserting agency, were either crafting "subversive stories" that connected their

⁴ I detail the distinct patterns and categories in Chapter 3 of this work.

experiences to larger systems of oppression or were relating their individual stories that echoed throughout many of the narratives that I read. It became my role as researcher, legal advocate, and feminist activist to connect all of these narratives to larger structures and create a subversive story about “women prisoners’ experience” in relation to the formal structure of the law.

Summary

Using these theoretical approaches to narrative that incorporate the ways in which the use of narrative can challenge the notions of “truth” and “authority” that underlie the dominant legal structures, along with the foundation of Black feminist epistemology which outlines a specific way of addressing both the collective and individual knowledge that women prisoners produce as central to a new understanding of the “truth” of their experiences, I have approached the narratives of incarcerated women as a collective articulation of the systemic conditions of oppression that they experience both as individuals and as a class. This paper, therefore, does not seek to define the ways in which the current formulation of the law ignores the ways in which interlocking oppressions function in women’s lives before and after incarceration as the majority of the academic research to date has, but rather the ways in which the structure of the law renders the actual experiences of incarcerated women meaningless in the face of the continued operation of the prison industrial complex. I do not want to ignore or downplay the significant structural and interlocking oppressions that women in prison experience, nor ignore the embodied reality that race and class play in their lives. Here, however, their status as prisoners and their engendered experiences in relation to the law are the focus.

CHAPTER 3 WOMEN'S NARRATIVES

Dear friends; one of my fellow prisoner left the following article on my bunk bed, I asked everybody around my cubicle if they saw anybody in my room, nobody saw anybody I do not know who drop the article, some of my fellow prisoners know I write theis [*sic*] PTO and that I write for some newsletters, so I concluded that the one who wrote the article wish to be hear [*sic*]. Here is her article

“NO CINDERELLA STORY”

“This story is based on facts seen and experienced in the federal prison system. Location and names are not provided for fear of retaliation against the inmate who wrote the article. . . . [reflections detailing the writers problems with prison sanitation and medical neglect follow]”

—Yraida Guanipa, Prison Talk Online¹

I have read and listened to countless stories by incarcerated women that are borne of terrifying conditions of systemic dehumanization, neglect, and abuse. In this chapter, I will analyze narratives written by women prisoners that have been published in order to examine the ways in which mediation and self-censorship allow women's voices to be co-opted in ways that reinforce dominant paradigms of punishment. In the analytical scheme proposed by Ewick and Sibley, both subversive stories and hegemonic tales can be produced by those who are marginalized; truly, in this analysis of women's prison writings, the need to construct an image of subordination often overshadows the fact that writing about oneself, or sharing one's story with a researcher or journalist, is an act of

¹ Some federal prisoners have internet access, and prisoner Yraida Guanipa uses this as a political tool, publishing a weekly blog titled “Prison Talk Online: Straight Talk Directly from a Prisoner on the Inside...” that relates her experiences in prison, her reflections on her experiences, and her resistance to the injustices of the prison-industrial complex. All of her entries may be viewed at <http://spaces.msn.com/prisontalk/>.

agency in itself, though it may conform to imposed boundaries. This chapter, therefore, will explore the ways in which women narrating from three distinct spaces: political prisoners, writing classes, and narratives related to researchers.² While all of these women have certain shared experiences, the ways in which they tell their stories, and the level of overt resistance and critique they are able to level at the prison system, displays just how successful the prison system has been at containing the voices of women prisoners, often silencing them before they are able to attempt to make their voices heard by the law.

In the context of political movements and shared history, cultural critic and writer bell hooks has noted that “[d]omination and colonization attempt to destroy our capacity to know the self, to know who we are” (Talking Back 31). Incarcerated women, faced with systemic dehumanization that prison, as well as other institutions of social control, inflict upon them at almost every moment of their lives, are challenged constantly to find agency and maintain a sense of self even as essentially every element of their institutionalized lives are structured to destroy their individuality and feelings of self worth. One tool women in prison use to maintain a sense of self is writing, if they are able. They write to friends and family; they write grievances challenging the system in making requests; they attend classes when they are available. These are the truly invisible writings that may never be seen as “literature,” but writings that challenge the dehumanization by asserting agency and selfhood. The published narratives that are generally available by incarcerated women or written about their lives based on long-term research fall very generally into three basic categories: the resistance writing of political

² For this section, “researchers” encompasses both academic researchers as well as journalistic researchers.

prisoners, the sanctioned writing of women participating in educational and writing courses, and the spoken narratives transcribed or interpreted by researchers and journalists. These distinct social and political spaces affect the ways in which women are able to maintain a sense of self, a sense of community, and a sense of connection to a larger political movement in resistance to the systemic dehumanization of the prison system.

The recent public outcry against torture of enemy detainees and foreign prisoners has raised the issue of how dehumanization is used as a technique for social control, and for the control over the bodies and minds of those who are incarcerated (Matlin *xxiii*). Recently, the Commission on Safety and Abuse in America's Prisons held the third in a series of panels dealing with issues of conditions in prisons in the U.S. The November 2005 panel, held in St. Louis, dealt with the issues facing prison guards; some of the primary issues of concern were the cultivation of an "us vs. them" mentality and the encouragement of sadistic practices that dehumanize prisoners and disregard their human dignity (Commission Report Summary 2). The opacity of the current corrections systems allows inhumane practices to happen invisibly; getting word out of prison walls is a difficult task for any prisoner, particularly if that prisoner fears reprisals or has internalized the notion that they deserve whatever conditions to which they are subjected by virtue of their having broken the law. The institutional culture that protects inhumane treatment and shields guards and supervisors from liability for indifference to inmate needs is one of the most oppressive forces at work in prison facilities throughout the nation (Commission Report Summary 2-3). Creating a climate in which women are afraid to assert themselves adds to the silence of women prisoners because even before

they can attempt to make their voices heard in the law, they must overcome the very real fear of mistreatment ranging from neglect of their essential needs to solitary confinement to physical abuse masked as security control.

For the general public, exposure to prison writing, whether creative or autobiographical, is relatively rare, although anthologies of prison writings have been on the rise in recent years (Huling *xvi*). Women are socialized to be silent, and the systemic dehumanization of incarcerated women and barriers to legal redress make women understand that their voices and experiences are, almost always, irrelevant in the eyes of the law that sanctions their imprisonment. Political prisoners, because they often remain connected to a movement and a community, often recognize and resist the injustices of the system, and they understand that their personal experiences are inherently political. Political prisoners, writing for the purpose of rendering their lives and their political movements visible as well as exposing and challenging the injustices they see, write and write often. The hurdles that they describe are not mere blocks to opening the wounds or the struggles of the past, but the systematic denial of humanity that allow them access to things like pens and paper. Their subversive stories connect their imprisonment and the injustices they experience to the larger systems of oppression and domination that they have experienced both in their experiences with the law and social structures. In my research, I have found writings and video interviews by several women who either knowingly broke laws they deemed unjust, challenged the systems of power in the United States that oppress people domestically and internationally, or belonged to organizations that challenged the authority of the United States government. These political writings connect the personal and the political and use the medium of the written word, mainly in

the context of autobiography, to display the ways in which an unjust state can impose its power on the bodies of those it wants to silence.

When it comes down to sheer numbers of published narratives, the writings of political prisoners have often outweighed the written or recorded narratives of the vast majority of incarcerated women, though more narratives are appearing in anthologies, reports, research, and online. For women who did not enter prison with revolutionary political consciousness, acts of resistance may be subtle, but the systemic problems women experience inside prison walls echo throughout their works. For these women, the public's access to their internal lives is granted only as they wish to open windows into their lives—which, understandably, is rare since the threat of retribution for speaking out against the oppressive system that controls every aspect of their lives remains omnipresent. Additionally, when one has been removed from one's family and friends, systematically dehumanized, and stigmatized throughout the procedure, it stands to reason that these women would guard very closely the humanity that they retain only by hiding it. The narratives that emerge from these women are coaxed—whether it is through creative writing classes such as the one led by bestselling author and Oprah Book Club favorite Wally Lamb at York Correctional Institution in Connecticut, or by researchers and journalists entering the prisons and getting to know the women, revealing the stories and the lives about which they have learned by spending time and knowing the women.³

³ A related but tangential issue is one of the epistemological stance and political leaning of the researcher or facilitator. For example, compare the description of Bonnie Foreshaw that follows her essay “Faith, Power, and Pants” in the arguably feminist compilation edited and facilitated by Wally Lamb (209), that places the women and their words at the center of the testimony to the small caption under her photo in Andi Rierden's work *The Farm* (109). Lamb's role as facilitator for women's voices and writing allows them to be the creators of knowledge, to be the creators of themselves, and to be more than their legal battles; in contrast, Rierden's caption reduces Foreshaw to her “crime,” failing to elaborate on the circumstances or

The reality of any of these narratives, however, is that self-censorship defines almost all of them. When women write or speak about themselves and their experiences, whether it is from a political perspective or a personal perspective, whether it is in a classroom or after release, differing levels of mediation make what is revealed further removed from the “authentic” self, or whole self, than what other autobiographical writing might reveal about its author. Reading into the narratives the spaces from which they were written, the freedom a person had while writing (was she released or imprisoned? In prison or in jail?⁴), as well as the purpose for the writing itself, I posit that incarcerated or formerly incarcerated women are driven to write in order to assert at least one version of themselves—they are driven to write to make their body, their autonomy, their individuality, visible. Most of these women write with the hope of impacting a larger community; they write with the hope of advancing a political cause, making injustice visible, or to prove that they are human in the most inhumane of our socially sanctioned institutions. While many of the narratives may serve to reify the hegemonic order by fitting into the model of a narrative of individual redemption learned through the acceptance of culpability and a rejection of their transgressive self, even those narratives that are couched in these terms challenge the dehumanization of incarcerated women and insist upon a space to be heard.

The conviction and resistance with which women write or tell their stories differ dramatically, both because each woman brings her own sense of self to the table, but also

Foreshaw’s feelings about the circumstances that led to her incarceration. Because these works deal with the same institution and include the narratives of some of the same long-term inmates, future scholarship could explore the different ways in which writers approach female inmates, and how their politics affect the way they present them as subjects or objects; actors or criminal offenders.

⁴ Though often subtle, the difference between the rights recognized for those incarcerated in jail awaiting trial and those who are in prison following a conviction can be extremely significant.

because each woman brings a different level of overt resistance to the work. While speaking to an interviewer and sharing her story, though not treading outside the rhetoric that prison officials would approve of, may be an act of extreme resistance and rebellion to one woman who has internalized the oppressive and dehumanizing nature of the system of criminal justice, it is no less an act of resistance for its failure to overtly challenge the hegemonic language of rehabilitation and punitive rhetoric. Asserting agency, asserting humanity, asserting individuality is an act of resistance in itself. It may not be the basis of mass movement in these times and in this political climate, but it is resistance. In order to recognize and legitimate the rights of the women who want to resist but face significant fear of retaliation, the law must fundamentally shift in order to allow their experiences to be cognizable to the law, and their experiences must be validated as knowledge.

Narratives of Political Prisoners

The narratives of women political prisoners represent some of the most subversive prison narratives written or spoken by incarcerated women. Both Angela Y. Davis and Assata Shakur wrote about their experiences inside after they were no longer incarcerated,⁵ while Laura Whitehorn's supporters were able to interview her while she was serving time in federal prison.⁶ The narratives of these women explore the ways in

⁵ Angela Y. Davis wrote her account of her experiences in detention after she had been acquitted and released, while Assata Shakur wrote her autobiography after she arrived in Cuba following a successful escape from prison following her conviction. Both women were targeted by the federal government because of their involvement with radical politics.

⁶ Laura Whitehorn, a white, lesbian, radical activist involved with several radical liberation movements from the 1960s onward, was incarcerated for 14 years for her role in a 1983 bombing of the US Capitol. She had participated in anti-imperialist, antiracist, and other liberatory direct action protest throughout her life, including work with the Black Panther Party and the Weather Underground. She has continued to speak out on issues ranging from Native American rights, prisoners' rights, GLBT rights, anti-war and anti-imperialist issues, and racism.

which their experiences are tied to both the experiences of other prisoners, as well as the ways in which their political causes challenge the oppressive order of the U.S. government and society.

As she relates her experiences with her incarceration and the attacks on her life, Angela Davis describes both her life as a political prisoner as well as her life before she became involved in the struggle for Black Liberation. When she was arrested and taken to the first detention center in New York City, it was one she had passed as a child, seeing the women inside not “quite as the criminals society said they were, but they did seem aliens in the world I inhabited” (Angela Davis 18). This image of women prisoners as “aliens,” which her work takes pains to point out is a socially constructed attitude that allows prisoners to be dehumanized, serves to highlight the way in which both the law and society alienate those deemed “criminal,” setting up a space in which dehumanization becomes acceptable. Invasions of prisoners’ physical bodies, as well as invasions of their abstract civil and human rights, become far easier when women in prison are deemed undeserving of any protections. Davis, however, ties her experiences to the collective experiences of women inside, insisting that her experiences of violation be connected to the systemic domination of women of color. Davis was searched repeatedly immediately after her arrest, and soon discovered that “[e]ach time prisoners left the jail for a court appearance, and upon their return, they had to submit to a vaginal and rectal examination” (Angela Davis 22).

Political prisoners, like Davis and Assata Shakur, who refused to submit to the imposition of the dominant discourse on their bodies and lives, challenge hegemonic narratives of captivity and control continually; their narratives serve as a record of their

constant subversion, as well as a connection between their individual experiences and the social organization that attempts to contain them. Assata Shakur, though describing a particular threat to her personal safety, uses her narrative to describe the very real threat of physical violence that women prisoners face, and their vulnerability to this kind of attack. She describes the way in which she would arrange metal cups by her cell door at night, to warn her of entering guards. One night, the cups warned her of the entrance of “four or five male guards standing in the doorway of [her] cell” (59). Because of the clatter of falling cups that called attention to their entry, they did her no harm; but the lasting effects of this incident on her, and her assessment of the treatment of political prisoners, speaks to the intensity of the dehumanization of these prisoners:

After that, no matter what jail i was in, i always found some way to barricade my cell. In prisons, it is not at all uncommon to find a prisoner hanged or burned to death in his cell. No matter how suspicious the circumstances, these deaths are always ruled “suicides.” They are usually Black inmates, considered to be a “threat to the orderly running of the prison.” They are usually among the most politically aware and socially conscious inmates in the prison. (59)

Prisoners with political consciousness, who are aware of the processes of dehumanization that are constantly in place to subdue and create what Foucault calls “docile bodies” in Discipline and Punish: The Birth of the Prison, and who resist and attempt to maintain a sense of self even with the experiences of dehumanization, threaten the entire structure of domination and control upon which the prison system in the United States relies. As a supporter of former political prisoner Laura Whitehorn states in the video Out: The Making of a Revolutionary, “When they go to the prisons, they’re locked down for 23, 24 hours a day; their visits are monitored, there’s all kind of units that they’re put in, sensory deprivation—all types of things that are intended to destroy them as human beings.” Basic needs of human dignity like privacy while using the toilet are withheld (Angela

Davis 48), lights are always on and will not be turned off, injured arrestees are held at gunpoint, even in hospital beds (Shakur 10). The tactics used to break political prisoners are fierce and overt, because those with power recognize that political prisoners do not acknowledge that power as legitimate. The dehumanization process becomes far more brutal for those who resist. These tactics, however, are used against incarcerated women to varying degrees every day if they challenge the absolute authority of prison officials, whether they are political prisoners or not. This systemic domination and dehumanization connects all women prisoners and their experiences.

Political prisoners, whose very crimes are based on challenging the dominant and oppressive order of U.S. society and the law, enter prison with an understanding of the ways in which their personal experiences are connected to a movement and a collective struggle against domination. The narratives of political prisoners, as discussed here and throughout this chapter, stand as some of the most subversive within the terms provided by Ewick and Sibley because they make the connections between the personal and the structural and challenge the very basis of “justice” that they view as a lie. These narratives also speak to the ways in which this type of feminist political consciousness, informed by their understanding of the connection between individual and collective experience, has an epistemological parity with the type of epistemology that Patricia Hill Collins calls Black feminist thought. The voices of political prisoners may carry more of the subversion than the narratives of women in other political spaces; however, the narratives of other women prisoners continue to express this connection, albeit in more subtle ways.

Narratives of Women Prisoners in Sanctioned Writing Classes

While only rarely offered, classes on writing allow women prisoners a space in which they are permitted to explore their sense of self, and may assert their individuality. While these classes, which are often taught by volunteers who are not part of the prison staff, may create a “safe space” for women to write subversive stories that expose the connections between their individual experiences inside and the systemic neglect, abuse and dehumanization that they have experienced and witnessed while inside, these spaces are also highly mediated because the women are always subject to surveillance and control, and few are prepared to outright challenge the system on a daily basis in the ways that political prisoners are. The women in these classes represent a wide cross-section of races and classes, although published narratives in this category represent the narratives of women who are able to read and write. It is within this type of space, however, that several women prisoners are able to develop an individual writing voice, and their narratives, though focused mainly on the individual experiences in order to seem less political or threatening in the event they are read by prison officials, do make connections to the collective experience of women prisoners, particularly if they are read as a collection that represents both the individual voices and the collective experiences. These narratives, however, expose many of the very mundane factors that serve to dehumanize women prisoners: from the strip searches to the delousing, the narratives written by women in sanctioned classes creates a map of the myriad ways that prisons, through their routine practices, strip women of their human dignity and force them to participate in those daily indignities.

When Carolyn Ann Adams was arrested and incarcerated for embezzlement, her whole world turned upside down instantly. As a white, upper-class businesswoman, she

was unaccustomed to having her life scrutinized, having her property taken, or being treated as less than human. The law had been in place to protect her, not control her. She entered jail in a Chanel suit with matching heels (Lamb et al. 68). When she was convicted and taken to York Correctional Institution, she eventually participated in Wally Lamb's writing course and wrote about her experience upon entering York Correctional Institution. After she had been checked in and issued her number and badge, she writes

The officer who escorted me to the showers had spiked hair thick with gel, gold posts up the sides of her ears, and uniform pants tucked into her boots, Nazi-style. "Take everything off," she ordered.

"Even my bra and panties?"

"What did I just *say*, you stupid bitch?"

I undressed and stood naked before her.

"Now, turn around, bend over, spread your butt cheeks, and cough." There I stood, a woman who had been too inhibited to appear naked before her husband unless it was in the dark, now facing this hostile stranger under the glare of fluorescent lights. Ashamed, I obeyed her because I had no choice. (71)

Ms. Adam's physical exposure and dehumanizing treatment in these first hours in prison is a common story—one echoed in almost every account of the process of intake at York Correctional Institution and other institutions. The dehumanizing intake procedures and subsequent degradation of women prisoners cuts across lines of race and class, even as those markers remain significant to the women prisoners as they constitute themselves through narrative. Some women, like Tabatha Rowley, experienced the next intake procedure—the delousing—as even more traumatic than being physically exposed. The chemicals destroyed her hair, which she identifies as one of the ways she sees her "self" and the development of her "self" as she has changed styles and gone through phases of her life (99).

Of the delousing process, Ms. Rowley writes

Having my hair Quelled turned it dry and brittle. Strands stood up like porcupine quills and the prison commissary didn't sell the right products to calm it down again. I felt angry, bitter, and confused. And true to a pattern that I have since come to recognize and understand, I made my hair a convenient scapegoat. I decided to chop off my dreadlocks. . . . Until I got to jail, I never imagined there'd be a time when I'd lose control over my where my hair went or who got ahold of it. I put my dreads in a brown paper bag and packed them into my bunk drawer until I could figure out how to send them home. (Lamb et al. 100)

Believing in what she calls "ancient history" that using her hair someone could cast a spell on her, she saved her hair intending to send it home to be burned, as was her habit. She was frightened when her belongings were confiscated and her hair earned her a Discipline Ticket for possession of "potential escape items" (101). Without regard for her beliefs or the basic human dignity of being able to control one's hair, prison stripped her of an autonomy that was essential to her sense of self.

While both Ms. Adams and Ms. Rowley have been able to find some sense self-worth, their experiences echo the experiences of countless women who are dehumanized from the beginning of their terms in prisons around the nation. The experience of losing control over the most basic decisions like who will see you naked and what will happen to your stray or cut hairs connects incarcerated women throughout the U.S. The ability to have a sanctioned space for writing about these experiences, and having the importance and validity of their feelings valued by their teacher and those who read and learn from the text have aided them in resisting the complete annihilation of the self that some women suffer while inside. These daily indignities, however, are essentially unassailable in the law, as there is no space in which the voices of women prisoners can define, in their own terms, what indignities are significant. A feminist vision of the law, that centers on the experiences of women prisoners as true and valuable knowledge, must be

imagined in order to create a space in which this knowledge can be legitimated and serve as the foundation for cognizable claims that reshape the way society conceives of punishment.

Narratives of Women Prisoners as the Subjects of Research

Some of the most mediated narratives of women prisoners come through the work of feminist social scientists and journalists who have made women prisoners the focus of their research. While most of these researchers approach women in prison in order to make connections between the experiences of their subjects and the systemic problems in the criminal justice system, the narratives that are drawn out of women tend to be the most focused on the individual and contain the most institutionalized language of redemption that reifies the hegemonic conception of punishment as deserved even though the research itself often challenges dominant models of punishment and oppressive policies by displaying the negative and corrosive direct and collateral impacts that these punitive policies have. These narratives, though they represent resistance to the annihilation of agency and self by asserting the humanity of the individual, sometimes fall into what Wideman and James have identified as “neoslave” narratives that reify the dualisms promoted by the hegemonic order (Wideman *xxx*; James *xxiv*). The researchers, however, attempt to make connections between the experiences of the individual and structural oppression, speaking to the continued active challenge to the dominant order.

While presenting the life stories of the women inside MCI-Framingham, Christina Rathbone as a journalist does more than report what she hears from them. She reports what she sees, and interprets things so that her work becomes both an avenue for the women’s stories to be told and an avenue for Rathbone’s reflections on the effects of prison on the women she has come to know. Writing of mentally unbalanced inmates,

she writes “prison itself tends to work on your personality like one of those funhouse mirrors at the fair. It doesn’t distort so much as simply exaggerate what’s already there” (32). She goes on to say the “[a]lmost all the women I’ve met at Framingham have become exaggerated versions of themselves in one way or another. It is as if, lacking different experiences to reshape themselves, they repeat the same responses to the same stimuli over and over, until only those components of their character evolve” (33). Given the level of dehumanization women in prison suffer, and given the histories of oppression and abuse that many women enter prison with, how can they find these pieces and not lose their humanity, their “selves,” to these exaggerated caricatures of human beings that prison reduces them to?

The experiences of dehumanization as related by the women interviewed in Paula C. Johnson’s work Inner Lives spell out the ways in which the system dehumanizes them, but do not necessarily indict it or relate it to systemic oppression. These women tend to challenge the system, resist the dehumanization, in ways that will at once protect them as individuals, by employing rhetoric of change and redemption, but also stressing that this redemption has been borne of what one woman calls “hell” in a letter to Johnson following her interview:

[A]lthough I committed a terrible crime, it doesn’t really describe the type of person I am on the inside. . . . I have done a lot more good in my life than wrong. Most of the time prisoners are only defined / judged by their crime and nothing else matters. My experiences in prison have been like living in hell, especially for the first seven years. It has also been a very productive experience because I have learned so much about who I really am. . . . While enduring hardships, I learned just how strong I was and the importance of staying focused on long term and short term goals. . . . So, as you put everything together for your project I pray that you will put together the whole picture about who I am. (2)

The woman who wrote these words is serving a life sentence for murder in a New Jersey prison. Johnson notes that the interview she had with Cynthia two weeks before

receiving the letter was long, but that there was much more that Cynthia needed to say, and that she was struggling “to communicate the depth of her feelings about her life prior to incarceration and during her prison experience. . . . She wrote about her acquired self-awareness and perseverance and stated: ‘I never thought that I would even be able to express the things I’m saying in this letter, so I came a long way.’” (2-3). This struggle to communicate and express emotion comes, at least in part, from years of dehumanization within the prison system, where inmates are indeed reduced to numbers and the sums of their crimes.

At this moment, it is useful to recall the vehement defense of prisoners’ humanity, and need to express that humanity through communication and writing, by Supreme Court Justice Thurgood Marshall in his concurring opinion in Procunier v. Martinez (1974), which affirmed the First Amendment rights of prisoners to uncensored mail:⁷

When the prison gates slam behind an inmate, he does not lose his human quality; his mind does not become closed to ideas; his intellect does not cease to feed on a free and open interchange of opinions; his yearning for self-respect does not end; nor is his quest for self-realization concluded. If anything, the needs for identity and self-respect are more compelling in the dehumanizing prison environment. Whether an O. Henry writing his short stories in a jail cell or a frightened young inmate writing his family, a prisoner needs a medium for self-expression. (416 U.S. 369 at 428)

While for some there may be a space for self-expression, self-discovery, or other forms of communication, for many incarcerated women there is nothing but fear of the system in which they are imprisoned. They want to stop the neglect, dehumanization, and abuse, but they are afraid of the retribution that speaking out may bring upon them. The courageous act of asking for help from an advocate while inside, or expressing

⁷ This opinion has since been severely limited with regard to most inmate correspondence and essentially overruled as Departments of Corrections have conformed their policies to the guidelines laid out in this and later decisions.

dissatisfaction or disdain for both the overt and more subtle abuses to which the prison system subjects women, shows that a core of humanity remains; a sense of self and self-worth remains and writing remains an act of resistance. These acts of resistance, however, are rendered meaningless by the nature of the legal frames that require women's narratives to fit inside extremely restrictive and individualized parameters that depoliticize and obscure the collective experiences of neglect and mistreatment that define the narratives women write, both for publication and directly to advocates as appeals for help.

Discussion

The tension between self-censorship and self-expression marks the work of all women prisoners, especially when they attempt to connect their experiences as individuals to larger political struggles, challenging the normalcy of the domination they experience. Because the law only recognizes claims that fit into the tightly regimented system that perpetuates domination, the voices of women expressing what they truly feel as full citizens and human beings is both discouraged through dehumanizing and delegitimizing tactics at the institutional level as well as rendered silent or meaningless in the larger legal discourse.

In her book Sisters of the Yam: Black Women and Self-Recovery, bell hooks stresses that in the modern world, many of the coping strategies that African Americans have used to protect themselves from the wrath of whites have turned in against themselves and now cause harm (14). She writes, "Lies hurt. While they may give the teller greater advantage in one arena, they may undermine her well-being in another" (15). She writes that the "art of dissimulation" hurts because it is about lies: "Dissimulation makes us dysfunctional. Since it encourages us to deny what we

genuinely feel and experience, we lose our capacity to know who we really are and what we need and desire” (15). But what if one is captive in an environment that denies one humanity? How does an incarcerated woman preserve a sense of self without protecting herself through performance? Wally Lamb acknowledges this tension: “Prison is not a place where trust is given easily, and a writer who shares her work in progress risks exposure. That risk taking must be honored. . . . [I]n taking on the subject of themselves—making themselves vulnerable to the unseen reader—they have exchanged powerlessness for the power that comes with self-awareness” (Lamb et al. 5). While Lamb notes the way in which the act of telling one’s story is an act of resistance in itself, his comment does not account for the ways in which the mediated narrative that a woman in prison might produce could potentially reify the dominant discourse about crime, punishment, and personal accountability. He speaks to the kind of personal accountability that Collins addresses, but not the tangible retribution that overt resistance may bring. From inside prison walls, political prisoner Laura Whitehorn notes that self-censorship, while damaging in many ways, is sometimes essential:

I think Mumia has said it the best when he said that prison is daily death. And it is not just because of the isolation and being removed from your community, but because of the self-censorship and the self-repression that naturally come from knowing that anytime that you step out of line you’re gonna get a lot of flack and that sometimes you’re gonna endanger other people. (Out: The Making of a Revolutionary)

Challenging structures of dehumanization and oppression while inside is dangerous. Laura Whitehorn’s interview was filmed while she was serving time for conspiring to bomb the U.S. Capitol. She was well aware of the risk of imprisonment, and had a sense of self that was likely harder to assault than most prisoners’. But even political prisoners, using Angela Davis and Assata Shakur as examples, wrote about their experiences after

they had either been acquitted (Davis) or escaped from prison and the U.S. (Shakur). The space from which women write, because that space leaves them open to any level of assault by those in power over them, is dangerous; therefore, their narratives must often cloak their subversion in the language of individual responsibility rather than overt connections to the larger system of domination.

Incarcerated women writing about themselves in sanctioned spaces, such as in Lamb's classroom, write about this tension and reveal its existence in their daily lives through their writing. Brenda Medina, seventeen years old but confined in maximum-security because of her involvement in a gang-related crime, writes about her first day in jail after her arrest: "Another officer passing looked in and sneered. 'Feel like a big woman now?' No, I wanted to tell him. I feel like a scared little girl. Instead, I stared back, stone-faced, and said nothing. Weakness was a tool they could use against me. I had to show them how hard I'd be to break" (Lamb et al. 166). On the ride from jail to prison, she keeps telling herself not to cry, not to let them see her cry (167). Once in prison, women taunt her, saying she doesn't look tough, doesn't look like a murderer. "*That's because I'm NOT a murderer, stupid!* I wanted to scream back. Instead, I held my tongue and wore my couldn't-care-less-what-you-think mask. If I let them know they could get to me, prison would get a lot harder than it already was" (168-9). However, having the space for writing the reality about her feelings and her life helped her keep her "sanity in this place of confusion" (175).

The narratives mediated by researchers and journalists, because they are mediated by the researcher as well as the self-censorship of the women who are speaking from a space in which they are potential targets of retaliation, remain the most opaque in terms

of teasing out the tension between the “authentic” self and the “performative” self. The narratives are rife with institutionalized language that assuages officials that the women are not too political, while at the same time demonstrating the ways in which women self-censor—both for protection and to define the “self” that they want the world to read about. Accepting responsibility and accepting the punishment for their crimes is a common theme, although it is far less prominent in the narratives of women who believe that they were either wrongly convicted or far too harshly punished. Additionally, these narratives tend to focus more on the histories of abuse that either led to criminal behaviors or the self-defense that was deemed criminal by the law. Given their position as prisoners, these women challenge the authority and legitimacy of the system in ways that connect their experiences of loss and pain inside to the challenges they have faced throughout their lives, or the challenges they see before them, rather than by directly challenging the systemic oppression that they see on the inside. Their stories, however, if read through the epistemological lens outlined by Collins, represent the individual experiences that are parts of the collective experience of women prisoners.

What is impressive about all of the narratives, both written by the women themselves as essays, books or letters, as well as the narratives related to researchers and journalists, is that claiming space for one’s “self” within the dehumanizing world of prison, even if it is not overtly challenging structural oppression, is an act of resistance. Women write even when they are afraid; they speak out about the inhumanity of the system in both overt and subtle ways but humanizing themselves and their fellow inmates. The recognition of their own humanity and the humanity of others can be

painful, given the space from which they write. Laura Whitehorn, in an interview conducted during her incarceration, said

I think for me one of the hardest things about daily life in prison is the constant level of pain that you see around you, and that you hear when you walk past a phone and you see a woman sobbing because she's just been told that her daughter ran away from the people she was staying with while the mother is locked up. Or you just experience the look on a woman's face when she hangs up the phone after she's talking to her three-year-old child who barely knows who she is anymore because she's so far away she can't get visits. (Out: The Making of a Revolutionary)

The tension between performance, self-censorship, trust, and the authentic self remains a constant conundrum for women incarcerated in the current system. There is no way to combat the hate and dehumanization with pure authenticity and love. The system is far too skewed in favor of oppression. The majority of the women entering prisons today suffer from what seems to be every imaginable disadvantage and have suffered abuse and oppression already in life. Wally Lamb notes that “[t]o imprison a woman is to remove her voice from the world, but many female inmates have been silenced by life long before the transport van carries them from the courthouse to the correctional facility” (9). Silence can both protect them inside prison but at the cost of the expression of their inner lives. In the context of prisons, the formation of self, particularly for women, is a very complex task that few facilities even acknowledge. Writing, when in safe or sanctioned spaces, seems to be one way that women inside can grapple with their voices, their lives, and their sense of self as it has evolved and continues to evolve. Both the narratives written by women and the narratives related to researchers contribute individual portraits of experience that contribute to the larger, collective experience of women prisoners. This collective experience, which resembles Black feminist thought in many ways, including the ways in which claims of truth are established and both

individual and collective experience are valued, needs to be incorporated and expanded upon. Johnson's work in Inner Lives represents one way in which these experiences, mediated though they are, can be collected and connected to the larger struggle against the domination and social control of women through heightened criminalization.

Unfortunately, at this moment the structure of the law systemically denies women a voice that can have a meaningful impact of the conditions of their incarceration; their challenges to the injustices in the system are not legitimated by the mechanisms of legal narratives that force their stories to become effectively meaningless in terms of the impact on their daily lives.

CHAPTER 4 LEGAL FICTIONS

The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

—42 U.S.C.S. §1997(e)¹

Within formal legal discourse in the U.S., prisoners, and particularly women prisoners, are constituted in ways that are totally incompatible with my reading of Collins' epistemological perspective that places women prisoners and their experiences at the center of analysis, respecting their knowledge as "truth" in meaningful ways. Because prisoners are written out of the legal protections that are extended to most citizens, they are already at a disadvantage in terms of gaining a meaningful voice in the law; women, as a significant but defined minority within the population of prisoners in the U.S., are often marginalized and rendered invisible even when legal discourse does account for prisoners generally. The legal fictions that separate those who are incarcerated and those who are not join with the legal fiction that "gender blind" correctional facilities are both possible and desirable to render incarcerated women voiceless in the law. While activist groups have succeeded in creating alternative legal narratives that constitute women in prison as individuals experiencing systemic abuses

¹ This is one subpart of the federal statute that is known as the Prison Litigation Reform Act that became effective in 1996.

and neglect, these narratives have only been able to create an alternative to the dominant narrative, which allows the reality of women prisoners' experience to remain invisible to the law, much like the violence against women can be obscured by formal legal discourse as Graycar posits. Similarly, and in line with Ewick and Sibley's theory of the function of hegemonic tales, the law requires that women in prison conform their stories to preordained structures that render them meaningless in terms of affecting real change, and strip them of any subversive quality that they have as narratives.

In this chapter I will examine the ways in which the law structurally renders prisoners' experiences silent, and formally constitutes them as a class separate from the rest of U.S. society. By closely reading parts of the Constitution, case law that has developed defining prisoners' rights, and statutory language that limits prisoners' access to the courts, I will explore some of the ways that the U.S. legal system, which has already implemented and enforced a racist, classist, and sexist vision of criminality and "justice,"² has evolved into a system that does not provide any space in which prisoners, and particularly women prisoners, can seek redress or make their voices heard. I then discuss the ways in which two activist groups in California have created an alternate discourse about women in prison that challenges the dominant conceptions of women prisoners and brings women's voices and experiences into the center of their discourse.

Legal Discourse

From the text of the Thirteenth Amendment of the U.S. Constitution to legislation passed by Congress to limit the ability of prisoners to bring claims against state or federal officials for violating their civil rights, the formal legal barriers to the rights of prisoners

² See discussion of literature on the injustices in the system in Chapter 2, *supra*.

in the U.S. have a long and well-established history. The Thirteenth Amendment, often celebrated as a milestone for civil rights in the U.S., explicitly exempts prisoners from being compelled to work without compensation:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall be duly convicted, shall exist within the United States, or any place subject to their jurisdiction. (U.S. Const., amend XIII §1)

As many have noted, this explicit exclusion of prisoners from the protections against slavery signifies the formal recognition of prisoners as a class separate and apart from the general public (Are Prisons Obsolete? 112). In addition, the response of the various branches of government to the civil rights claims of prisoners contesting the conditions of their confinement illustrates the various ways in which the law silences the voices of prisoners and refuses to allow their subversive narratives undermine the authority of prison officials. In 1996, the Prison Litigation Reform Act (PLRA) became effective, setting unprecedented limits on the federal judiciary to entertain civil rights claims made by prisoners, and setting parameters that limit the ability of prisoners to access the courts, let alone plead claims that reflect their experiences (42 U.S.C. §1997e). Even mediated access to the courts is restricted, as the PLRA requires a showing of physical injury, severely limits attorney fees available to counsel representing prisoners, and requires prisoners to “exhaust” all administrative remedies made available by the confinement facility in order to even have a claim entertained in court. These barriers to access are significant, especially in the case of women prisoners, as research has shown that women are far less likely than men to be “jailhouse lawyers,” especially in the area of prison conditions (Aylward and Thomas 272).

The interpretations of the Eighth Amendment by the U.S. Supreme Court have also proved a significant barrier to prisoners challenging conditions of confinement and

neglectful treatment. One of the first cases to address the issue of medical neglect was Estelle v. Gamble in 1976 (429 U.S. 97). Gamble, a male prisoner injured during work detail sued the Texas prison officials, including the medical staff, for violating his Eighth Amendment right against cruel and unusual punishment.³ The Court noted that an “inmate must rely on prison authorities to treat his medical needs” and that “deliberate indifference to serious medical needs of prisoners constitutes ‘unnecessary and wanton infliction of pain’ . . . proscribed by the Eighth Amendment” constituting a cause of action for violation of the prisoner’s civil rights (429 U.S. 97 at 104-5). Gamble’s claim failed because he had received significant medical attention; however, the Court’s recognition that “deliberate indifference to serious medical needs of prisoners” represented the beginning of the erosion of prisoners’ ability to challenge the treatment they received while incarcerated, even though it is arguable that Justice Thurgood Marshall, writing for the majority, intended no such reading of the precedent set in Gamble.⁴ Five years later, in Rhodes v. Chapman (452 U.S. 337), the Court found that the condition of “double-celling” in a severely overcrowded Ohio prison did not violate the Eighth Amendment, reasoning, “the Constitution does not mandate comfortable prisons” (*Id.* at 349). The Court also noted that “a prison’s internal security is peculiarly a matter normally left to the discretion of prison administrators” (*Id.* at 349, n14), and reiterated the principle that the administration of prisons is a legislative and executive

³ The Eighth Amendment’s full text reads: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

⁴ In several subsequent prisoners’ rights decisions that redefined the way in which “punishment” was defined by the Court, as well as what constituted “deliberate indifference” or “prison conditions,” Justice Marshall would be in the minority and either join or write dissents or concurrences that included critiques of the ways in which Gamble and other decisions were being interpreted by the Court. See, eg., Rhodes v. Chapman (452 U.S. 337 at 369); Wilson v. Seiter (501 U.S. 294 at 306); Turner v. Safely (482 U.S. 78 at 100).

function, and not subject to minute judicial oversight (*Id.* at 351). Five years later, when assessing the validity of a regulation in a Missouri prison prohibiting some prisoner-to-prisoner correspondence in the face of a First Amendment free speech challenge, the Court again reinforced this position of “judicial restraint” (Turner v. Safely, 482 U.S. 78 at 85), and found that “when a prison regulation impinges on an inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests” (*Id.* at 89). In 1991, the Court addressed the issue of what an inmate challenging conditions of confinement as unconstitutional must show in order to prevail; Justice Scalia wrote for the majority:

The source of the intent requirement is not the predilections of this Court, but the Eighth Amendment itself, which bans only cruel and unusual *punishment*. If the pain inflicted is not formally meted out *as punishment* by the statute or the sentencing judge, some mental element must be attributed to the inflicting officer before it can qualify. (Wilson v. Seiter, 501 U.S. 294 at 300; emphasis original)

Even though both the prisoner bringing the claim and the United States argued against the inclusion of a state of mind element, the Court rejected the arguments, and went on to find that “[n]othing so amorphous as ‘overall conditions’ can rise to the level of cruel and unusual punishment when no specific deprivation of a single human need exists” (*Id.* at 305). Five years later, in Lewis v. Casey (518 U.S. 343), Justice Scalia would write a majority opinion for the Court requiring that actual injury be found to affect prisoners systemwide in order for systemic relief to be granted.

These opinions, when taken together and read beside the text of the PLRA and the Thirteenth Amendment, expose a legal structure in which prisoners must demonstrate individualized injuries, and place the onus of proving the “deliberate indifference” of specific personnel within the prison on the shoulders of prisoners, even if the prisoner believes that the cause of the mistreatment is systemic failure rather than individual

action. When women write narratives that challenge the systemic denials of human dignity, these narratives do not have a place in the law because they do not demonstrate the very specific, individual, intentional wrong that the law recognizes as a valid claim. As a legal advocate, when women tell me about the horrific conditions in which they are forced to live, or the negligent medical care that they receive, I am forced to explain the limitations of the law and the reasons why their very real experiences are simply not actionable. The deference that the Court extends to prison authorities further undermines the ability of prisoners, or their advocates, to make meaningful arguments regarding the general conditions of prison, negating the experiences of women prisoners who express the ways in which the dehumanization, neglect, and mistreatment affect their lives even in the absence of measurable, physical harm. An individual prisoner cannot make a claim of systemic failure within these parameters, and the access to coalition building and representation of counsel is severely limited by the restrictions imposed by the PLRA. The individual and collective voices of women in U.S. prisons, which have never been prominent, are structurally denied within this formal legal system.

Activist Discourse

Within the U.S. legal system, several advocates for women in prison have worked to make the voices of women inside both heard and respected by legislators and the courts. Two groups in California have been relatively successful in challenging the dominant narrative about women in prison; however, the impact of these challenges has been to create an alternative discourse rather than affect the dominant discourse or the constitution of the laws, echoing the problems of making violence against women visible in the law (Graycar) as well as the challenge of creating subversive stories that engage and challenge the dominant discourse by connecting the personal to the institutional

(Ewick and Sibley). While this alternative discourse is essential, and must be supported and encouraged, it has been unable to effectively challenge the structure of the law which remains a fundamental change that must be realized in order to effect widespread change for the conditions of incarcerated women.

The California Coalition for Women Prisoners and Legal Services for Prisoners with Children are both advocacy organizations working to actively challenge dominant discourse about women in prison; the organizations are very different in terms of the approaches that they take to action, however both are committed to reimagining ways in which the law constitutes incarcerated women. Working from different perspectives, both promote a vision of the law that would make women's voices central to questions that impact their lives both on the daily and structural levels.

Legal Services for Prisoners with Children (LSPC) addresses the legal needs of California's prisoners, focusing on the needs of women in prison that have been overlooked by other comprehensive advocacy organizations that do not take such a gender-specific approach to prisoners' rights advocacy. For example, in 2002, LSPC filed its objections to a proposed class action settlement agreement between California and a class of prisoners that related to the administration of medical treatment because the proposed settlement failed to address any gender-specific healthcare needs of incarcerated women even though women were represented by the class. Noting that "[n]one of the ten named plaintiffs in [the] action is a member of the relatively small but significant (6.5%) minority population of women prisoners," LSPC outlined the myriad ways the settlement failed to address the needs of incarcerated women including silence on the issues of pregnancy-related care, gynecological screening and care, and medical

evaluations after sexual assaults (Objections to Settlement Agreement 1-2). LSPC further objected to the language of the settlement that made implementation “subject to the availability of additional resources” (*Id.* at 24) because women’s prisons are routinely allocated fewer resources than men’s facilities due in part to the smaller populations, leaving women particularly vulnerable to government recalcitrance. Challenging legal analysis that ignores the gender-specific needs of women prisoners, LSPC remains committed to making the issues of women prisoners visible in the law.

The California Coalition of Women Prisoners (CCWP), often working alongside LSPC, is a network of women prisoners and advocates that is committed to directly addressing the needs of women in prisons and making their voices heard, although as a group it tends to be less associated with legal reforms that are based in current conceptions of the law. In 2000, CCWP was able to help organize legislative hearings at Valley State and California Institute for Women, where several women prisoners were able to testify directly to state legislators on the conditions of their confinement and the experiences that they had endured (CCWP, Legislative Hearing: Women Prisoners Tell It Like It Is). These women challenged the entrenched notion that actual injury is limited to those who directly experience the physical effects of “deliberate indifference” that is cognizable under the current law as a civil rights violation. Women testified about their experiences with medical neglect, sexual assault, and deplorable conditions. Among the women who testified was Charisse Shumate, whose conception of collective responsibility echoes an clear, challenging feminist standpoint for women in prison: “This is not about me. This is about we.” This vision of a collective standpoint for women prisoners engages Black feminist thought in both tangible and theoretical ways,

as it connects the experiences and the narratives of women in prison to a collective experience and challenge of that experience.⁵ This vision is also emblematic of the ways in which subversive stories, like the ones told by women prisoners at the legislative hearings, connect the personal to the political and the experiences of the collective. It does not diminish the need or value of the individualized expressions of personal experience that women prisoners contribute; however, in order to challenge the constructions of the law that require narratives to fit into proscribed boundaries, the value and importance of collective experiences must be reimagined and continually asserted.

Challenging Legal Fictions

In order to actualize real progressive reform in the law, the law must place the voices of those it has rendered powerless at the center of those reforms. In analyzing women's narratives and looking to the voices of women as the central bearers of truth within the system that controls their lives, my experience as a legal advocate has demonstrated to me that most incarcerated women understand the ways in which their experiences connect to the collective experiences of women in prison, and they understand the ways in which the system is designed to silence them. Many continue, however, to challenge the validity of this system by continuing to reach out for help and tell their stories to those they perceive as receptive to their narratives, particularly those who, like me, are receptive to those narratives in their own terms, and will work to ensure that their narratives will fit into the proscribed legal framework in order to make them heard; however, acceptance of this legal framework can serve to reify the hegemonic

⁵ I do not intend to equate the experiences of women of color to those of women in prison, nor do I intend to ignore the ways in which race and class intersect with the issues of women in prison. Rather, I want to demonstrate that the theoretical and critical positioning is similar in the sense that both demonstrate collective thought and experience.

order rather than challenge it. In future, legal advocates and activists need to work with women in prison to continue to challenge the normalcy and permanence of the current system, making the voices of women prisoners accessible while at the same time challenging the structural legal exclusion of prisoners' voices in the U.S. and internationally. By uncovering the "invisible" mechanisms that silence women in prison in the U.S., and looking to their narratives as spaces where they are able to voice their reality inside, legal advocates as well as scholars can work together to continue to challenge structural domination.

CHAPTER 5 CONCLUSIONS AND RECOMMENDATIONS FOR CHANGE

My experiences in jail and prison convinced me long ago that all judges should be required to serve time in prison before sentencing other people there, so that they might become aware of the degrading and anti-human conditions that persist in the prisons of this country.

—David Dellinger¹

Given the dominance of the retributive model of “justice” that has become entrenched in the hearts and minds of most people living in the U.S. today, coupled with the dominance of the legal precedent that values “objectivity” and “truth” as spoken by those in power over the lived experiences of those who are directly impacted by the law, I can not conclude this piece claiming to have immediate solutions to the serious problems with the law I have raised. Works like Paula C. Johnson’s Inner Lives, Joy James’ The New Abolitionists, and Angela Y. Davis’ Are Prisons Obsolete? are potent examples of ways in which the scholarly community is working closely with activists and women prisoners to challenge the dominant narrative that increased criminalization of behaviors that are deemed outside the norm and mass incarceration are reasonable responses to “problems” in society. The considerable research and writing that has been done on the oppressive nature of the criminal justice system in the U.S. makes a clear case for reevaluating the ways in which we as a society view and respond to poverty, oppression, and substance abuse.

¹ Taken from “Introduction to the 2000 Charles H. Kerr Edition.” Walls & Bars: Prisons & Prison Life in the “Land of the Free” by Eugene Debs.

The purpose here has been to explore the ways in which the law silences women in prison by denying them safe spaces in which they may define themselves in their own terms as well as through structural exclusion or legitimacy in formal legal discourse. The narratives of women demonstrate both the systemic failures of prisons to address the very tangible, daily needs of women as well as the impact that the denial of these needs has for individual women during their incarceration. In order for the experiences of women in prison to have a subversive impact, there must be avenues for making them heard and meaningful to the law. The current framework has become so limited, and forces women and their advocates to demonstrate intentional and sometimes sadistic behavior on the part of individual actors rather than systemic neglect or abuse in order to make a meritorious claim for relief or reform. These restrictions ignore the collective experiences of incarcerated women, as illustrated by their published narratives and buttressed by the framed narratives I have heard from women around the state of Florida while working as an advocate. Women prisoners, whether writing narratives or speaking to advocates, understand their experiences of dehumanization, neglect, and abuse in terms of how those experiences affect them on a daily basis, how they affect their lives in relation to other women prisoners, as well as how they affect their relationships and lives on the outside. Incarcerated women understand that they have been placed in a class, separate and apart from the rest of society, and most want to challenge the system, at least insofar as it has affected their life.

Women prisoners seeking advocacy or seeking avenues for making themselves heard on the outside often look to the law, as it is the avenue through which they arrived in prison and the institution that gives the prison system its authority over them.

Unfortunately, as case law has developed and laws and Constitutional Amendments have been drafted and interpreted to exclude prisoners from many fundamental rights, the law is not an ally for women prisoners. Indeed, the structure of the law demands that women frame their stories in strange and unfamiliar ways, tearing them from their meaning rooted in their experiences. Through this mechanism, the law disallows subversive stories that express collective experience, or individual experience that connects the individual to systemic problems. Women prisoners, activists, and advocates must continue to create spaces in which incarcerated women can share their stories with one another and help each other develop critical consciousness that transcends prison walls.

As Patricia Hill Collins notes

Based on their personal histories, individuals experience and resist domination differently. Each individual has a unique and continually evolving personal biography made up of concrete experiences, values, motivations, and emotions. No two individuals occupy the same social space; thus no two biographies are identical. . . . The cultural context formed by those experiences and ideas that are shared with other members of a group or community give meaning to individual biographies. (285-6)

By sharing their experiences with one another, and connecting their experiences of incarceration with outside activists and advocates, incarcerated women can cultivate a collective consciousness of resistance to systemic social controls legitimized by the legal structures of the U.S. Collins argues that “[g]aining the critical consciousness to unpack hegemonic ideologies is empowering” but that this critical positionality must also consist of “constructing new knowledge” (286).

In order to develop a feminist vision of the law that values critical collective consciousness, challenges must be made to the very structure of the legal framework that constricts the claims that incarcerated women are able to pursue. Deference to the authority and expertise of prison officials should not overshadow the claims of abuse and

neglect that women make every day. The system of retributive incarceration should be abandoned, as it does little to “protect” society from harm and inflicts grave harms upon those enmeshed within it or collaterally impacted by its machinations. If state and federal governments insist upon taking responsibility for the lives of those who violate their constructs of social controls and incarcerate them and strip them of their ability to function for themselves, they must institute stringent reforms that mandate respect for the humanity and dignity of every person in their charge. Given the exponentially increasing number of people under the custody and control of state and federal officials, it is impossible that they will be able to fund adequate prison and jail facilities with appropriate staff and services to meet the needs of prisoners. I say this not to argue for more funding for prisons, but rather to call for a complete reevaluation of what activities are rendered criminal and how we as a society should reclaim our responsibility to challenge issues like poverty, addiction, hidden violence, and loss of community that underlie the rapid growth of the prison industrial complex. Solutions proposed by feminist scholars such as Meda Chesney-Lind, Beth Richie, Dorothy Roberts, and Paula C. Johnson must be seriously examined, evaluated, and implemented in order to create a semblance of “justice” in the legal landscape of the U.S.

If feminist advocates in law are to have a tangible impact on the lives of incarcerated women, we must continue to demand that the legal fictions that pass for “truth” be erased and that the narratives of women, as well as the fundamental structural oppressions that they face throughout their lives, become a central part of the conception of the law. Continuing to reiterate that the barriers to justice are structural and not merely individual requires a new epistemological framework that incorporates what Patricia Hill

Collins and Paula C. Johnson have articulated as “Black feminist thought:” the narratives and experiences of women in prison must not be reduced to legal fictions that serve the purpose of meeting the base requirements for a *prima facie* case as currently defined within the structure of the law, they must become the foundation for new ways of thinking about the essence of the law, reimagining the law as systems for creating varied and vibrant communities rather than social controls that are imposed on the marginalized by the dominant.

To affect radical change, legal challenges must continue, such as the “Objections to the Settlement” entered by Legal Services for Prisoners with Children in the class action for prisoners’ rights that failed to address the gender-specific needs of women. Feminist legal advocates and scholars must continue to bring ideas for change to the table and insist upon the abolition of our reliance on mass incarceration. If we are able to persuade the legal community to acknowledge that systemic failures like medical neglect or dehumanization affect both individual women as well as women prisoners collectively, these radical changes may be possible. Women prisoners’ experiences must become, along with the extensive work on the injustice of the criminal justice system, foundations for reevaluating our system of crime and punishment.

In the current climate of a U.S. government and society obsessed with security, both at home and abroad, and a newly seated U.S. Supreme Court with three members solidly in favor of “originalism,”² feminist legal advocates, women prisoners, and

² Justices Scalia, Thomas, and Alito have demonstrated their ideological allegiance with the doctrine of “originalism” which seeks to determine the “original intent” of the framers of the U.S. Constitution when interpreting the meaning of the law. In reference to prisoners’ rights specifically, Justice Scalia authored several of the most restrictive opinions discussed in Chapter 4, *supra*, limiting the rights of prisoners, the rights they retain while incarcerated, as well as the formal rules they must follow when framing their narratives in legal discourse. Justice Thomas, concurring in Farmer v. Brennan, argues that the Eighth Amendment protection against “cruel and unusual punishment” does not create a cognizable right against

activists must rally to change the ways in which punishment is perceived as well as the ways in which the laws are written.

The hope for change lies in the voices of resistance inside prisons, activist communities, family support networks, and radical legal advocates. In these times, I remain hopeful for change as I meet more women prisoners actively resisting domination, antiracist and antiprison activists challenging popular conceptions of crime, and legal advocates dedicated to fighting for prisoners' rights. Recently, I was one of six individuals granted two-year Equal Justice Works Fellowships to work on legal advocacy for underrepresented communities throughout Florida. My project, funded by Equal Justice Works and the Florida Bar Foundation, will allow me to dedicate myself to advocating for women incarcerated throughout Florida for the next two years; I am encouraged because of the six Fellows, half have created projects that directly address the needs of women prisoners and women immigrant detainees. The legal community must continue to zealously advocate for incarcerated women, and these projects represent what I hope is just the beginning toward a fundamental commitment in the legal community toward tangible change.

cruel confinement: “‘Punishment,’ from the time of the Founding through the present day, has always meant a “fine, penalty, or confinement inflicted upon a person by the authority of the law and the judgment and sentence of a court, for some crime or offense committed by him”. . . Conditions of confinement are not punishment” (511 U.S. 825 at 859) (internal citations omitted). While Justice Alito has only recently begin hearing cases, the speculation from conservatives and liberals alike is that, based on his demonstrated record as a judge on the Third Circuit Court of Appeals, he is committed to conservative ideals and that his opinions would “align with those of Justices Scalia and Thomas” (Sekulow 16).

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BIOGRAPHICAL SKETCH

Virginia Hamner graduated with honors from Georgetown University in 2000. She received her Bachelor of Arts in English with a concentration in culture and performance and a minor in Women's Studies. She entered the University of Florida's Levin College of Law in Fall 2002, and became the first student to pursue the joint JD/MA program in Women's Studies in Fall 2003. Beginning in September 2006, Virginia will commence a two-year Equal Justice Works Fellowship with Florida Institutional Legal Services, a non-profit legal office in Gainesville that provides legal services to people institutionalized and incarcerated throughout Florida. She will be directing a project that will address the gender-specific needs of female prisoners through advocacy, education, community partnerships, and potential litigation.