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THE SLAVE, THE FETUS, THE BODY: ARTICULATING BIOPOWER AND THE PREGNANT WOMAN

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Abstract: Many slaveholders attempted to justify the institution of slavery in the United States by claiming that the practice of slavery was actually in the interests of the slaves themselves. Not only are these arguments invalid because they justify inhumane treatment and the imprisonment of innocent human beings, they also contain a dangerous paternalism (a “speaking for”) that has not vacated the social sphere. Indeed, this same logic—the notion that bodies can be regulated and controlled for their own protection—is presently being used to speak for the fetus in order to justify fetal rights. Borrowing from Berlant (1997), these fetal rights arguments work against the interests of the mother, constituting pregnant women as chattel and reinforcing the governing logics of a fetal and infantile citizenship.

In the spirit of W.E.B. Du Bois, we contend that, “she must have the right of motherhood at her own discretion,” regardless of deployments of fetal citizenship (2007, p. 121). A pregnant woman should have the right to abort the fetus just as those enslaved had and have the right to freedom. Following Koppelman, we note that abortion restrictions result in the involuntary servitude of women to the fetus and effectively impede pregnant women from exercising their right to break a contract with the fetus. Consequently this essay argues that we have the responsibility to defend reproductive freedom based on the concept of prohibiting involuntary servitude.

Introduction

In a speech given to the Commonwealth Club in San Francisco, in August 1999, Senator John McCain explained his stance on abortion this way:

I'd love to see a point where [*Roe v. Wade*] is irrelevant, and could be repealed because abortion is no longer necessary. But certainly in the short term, or even the long term, I would not support repeal of *Roe v. Wade*, which would then force x number of women to [undergo] illegal and dangerous operations (Marinucci, 1999).

As a presidential candidate McCain's views have become much less confusing, and he now opposes abortion rights and favors overturning *Roe*. This past year, in an interview with "Meet the Press," McCain bluntly stated that he has "always been pro-life, unchanging and unwavering" (Conason, 2008). Apparently nine years and a presidential nomination race have changed Senator McCain's views. If this trend continues, it will not be long before McCain is making claims like his former opponent and fellow Republican Mike Huckabee. As the 2008 Republican primary race took shape, an interviewer asked Huckabee if use of the so-called "morning after" pill "counted" as an abortion. He stated in his answer: "Anything that ends the life after it has been fertilized to me is problematic, because it is a life at that point" (Scherer, 2007). Elaborating, the Baptist pastor and former Arkansas governor added that the time had come for the view that abortion is murder to prevail: "... it took us a long time to come to the conviction that slavery was fundamentally wrong and that it was not a political issue, but a moral issue."

Huckabee's comparison of the practice of abortion to the practice of slavery conjures up a certain kind of fetal body—a living body with rights—that is in danger without protections from the government. These conservative arguments, the same ones that would position the image of a black man being lynched alongside the image of an aborted

fetus, are attempting to equate the plight of the figure of the slave in U.S. history to that of the contemporary fetus. This slavery analogy must be challenged because it forces individuals to attach their citizenship to the decision that abortion is the murder of the fetus. The result is an infantile citizenship that enslaves us all to the act's immorality and requires that we demand abortion restrictions to secure the freedom of the fetus. By comparing "pro-life morality" to the abolition of slavery, many fetal rights advocates see themselves as speaking for a subjugated class of citizens who cannot speak on their own.

The problem here is that the very status of the fetal body is precisely the issue being debated. Unlike the bodies of the men and women who were enslaved and who abolished slavery, the fetal body presents a challenge for the pro-life position because its classification as a distinct life is continually in flux. Put another way, the gap between the adult body that usually serves as a sign of the citizen, and the body that is typically imagined as a fetus, helps us understand how pro-life rhetoric works. This move, we argue, invests the fetus with a body, a personhood, and a corresponding citizenship that is separate from and often at odds with its mother. If the pro-life stance is correct—that the fetus, like the slave, will one day be set free by law—the comparison must also be reversed to examine how the fetal body is ascribed rights and privileges.

Absent a discussion of the pregnant woman and her rights, fetal citizenship is elevated and given access to justice through the values of morality and life. Comparing fetuses to slaves should, contrary to Huckabee's statement, reinforce the centrality of the pregnant woman and the mother's body to any conception of citizenship. Indeed, in opposition to this pro-life position, we articulate a reversal: the history of slavery actually warns us against subjugating women to a construction of pregnancy and re/production as subordinate to the sign of the fetus. Rhetorical constructions of the fetal body as analogous to the body of the slave only act to

devalue the pregnant mother and motherhood by enslaving both to the fetus.

Power over and through the body: The fetus as “slave”

Many of the laws regulating reproduction are attempts by the state to control the capacity and energy of pregnant women in order to “save the fetus.” Furthermore, comparisons between the fetal body and the slave body are being juxtaposed in order to harness claims of morality and to exert additional power over women’s bodies. As LaDelle McWhorter argues, “the anchor points for exercises of power are always bodies” (McWhorter, 2004). The target of regimes of power, she shows, is “*bodies*—their capacities, their energies, their pleasures.” The juxtaposition of the images of lynched slaves and aborted fetuses is an example of how two such regimes of power intersect and then consolidate their unique governing apparatus. McWhorter argues:

(I)n present-day discourse and institutions, race and sex intersect primarily at points where people think in terms of normality and abnormality or deviance, where people have major managerial goals for large populations, and where there is a strong desire to control human development. [...] if we are to overcome the oppressive effects of these conceptual instruments of power, we will have to address the specific and multileveled regimes of power within which they were conceived and in which they continue to function as categories of normalization. But understanding their genealogical similarities should make those analyses both less difficult to construct and more accurate and effective as antiracist and antisexist interventions in modern political life (p. 54).

Addressing “specific and multileveled regimes” implies that we cannot limit our analysis of regimes of power to present-day abortion discourse; consequently, we

gesture to a genealogy of slavery and its justifications as a crucial starting point. More specifically, we ask, how are arguments that resemble pro-slavery rhetoric appearing in the abortion controversy? Are there resonances between the position that “slaves need slavery for their own protection” and the position that abortion should be restricted because the fetus needs protection?

During the antebellum era, slaveholders and other defenders of slavery constructed justifications for slavery and its continuation, especially in the South. D.F. Ericson draws attention to one notable justification in defense of slavery: consent (Ericson 2000). Proponents of slavery were convinced that a lack of resistance was verification from slaves that they had agreed to their position in society, and reasoned that slaves had consented (indirectly) to their situation (Ericson, p 22). Slaves were perceived and constituted as generally obedient and content with their situation. Thomas Roderick Dew, a slave-holding humanities professor and eventual President of the College of William of Mary during the 1830's, was a well-known slavery apologist. In his piece, *Abolition of Negro Slavery*, he asserted:

In the debate in the Virginia legislature, no speaker *insinuated even*, we believe that the slaves in Virginia were not treated kindly; and all too agreed that they were most abundantly fed, and we have no doubt but that they form the happiest portion of our society. A merrier being does not exist on the face of the globe than the negro slave of the United States.
(Dew, p. 66)

This excerpt demonstrates that some slaveholders believed that slaves were happy and content with their status. Not only does this exemplify the naiveté of the slaveholders and the nature of this commonly held belief, it also exposes the rationale used to prove that slaves “consented” to their status because they were relatively happy and merry.

According to the apologists, the signs of pleasure or happiness obviously prove that these humans wanted to remain slaves. James Henry Hammond expressed a similar view in his "Letter to an English Abolitionist."

And to sum up all, if pleasure is correctly defined to be the absence of pain – which, so far as the great body of mankind is concerned, is undoubtedly its true definition- I believe our slaves are the happiest three million of human beings on whom the sun shines. Into their Eden is coming Satan in the guise of an abolitionist (Hammond, p. 192).

Hammond's conception of pleasure allows him to contend that slaves are happy because "there is an absence of pain." This tautological definition is so broad as to be meaningless and ignores the endemic and soul-destroying pain of being enslaved. Paternalistic slaveholders could turn a blind eye to the injustices holding up the practice of slavery, believing the absurdity that they were providing pleasure to the slaves. They could thus rationalize treating slaves like objects in order to provide for their happiness. Thomas Dew referenced a lack of rebellions as evidence that his thesis (that slaves were content with their position) was correct, erroneously observing that there were surprisingly few slave rebellions during the over two hundred years of slavery in the United States (Dew; Jenkins).¹ Dew and Hammond, among others, believed that the consent of the slaves may not have been

¹ Thomas Roderick Dew in his defense of slavery tried to frame the insurrections that did take place as a result of the abolishment of slavery. He argued that insurrections rarely occurred when blacks were enslaved and that other crimes were more frequent. Furthermore, he pointed out that the threat of insurrection was very low (Faust, 1990, pp. 69-70). The first instance of slavery in North America was in New England when the settlers captured the Pequot American Indians and enslaved them in 1637. Later, the slave trade reached America and blacks were imported as slaves because they were better laborers. (Jenkins 3); Thomas R. Dew, "Abolition of Negro Slavery," *American Quarterly Review*, XII (1832) 189-265.

direct, but their actions served to confirm to the slaveholders that the slaves were not opposed to their standing in society.²

In the same way, advocates of abortion restrictions declare that when a woman consents to sex she is simultaneously consenting to the risk of pregnancy. This conclusion is flawed because even if the woman's consent to sex is explicit, she does not automatically consent to pregnancy in the same moment. For example, when a person decides to engage in a dangerous activity she recognizes that there is a risk of injury but does not necessarily consent to actually being injured. McDonagh argues that even an implicit consent to pregnancy is not sufficient to constitute consent (McDonagh, 1996). She provides the example of rape, noting that a woman who does not verbally and explicitly say "no" to sexual intercourse is not implicitly consenting to intercourse. Furthermore, Koppelman contends that women should have the right to abort the fetus even if they have consented to sex because, as reinforced by *Bailey v. Alabama*,³ a person has the right to break a contract at any point in time, despite prior consent to the agreement (1990, p. 491). Abortion restrictions result in the involuntary servitude of women to the fetus and effectively impede pregnant women from exercising their right to break a contract with the fetus. The Bailey case elucidates the notion that it is not permissible to criminalize a refusal of service to another person (or the fetus) because that would constitute a

² McDonagh compiled definitions of consent: it is a voluntary choice made by a person that is "direct" and "unequivocal... requiring no inference or implication to supply its meaning." The person expressing consent has to be willing to allow an act to take place upon the body in question without resistance (McDonagh 60).

³ *Bailey v. Alabama*, 219 U.S. 219, 241 (1911); Bailey, a black laborer, was charged with fraud after defying a one year contract and a forward advancement of \$15 for his service with the Riverside Company even though that fraud may not have been his intent. Justice Hughes stated that a criminalization of a lack of service imposes involuntary servitude. (Koppelman 491)

form of involuntary servitude (Koppelman, 1990, pp. 491-493). Koppelman concludes that it is illegal for the state to compel a woman to remain pregnant despite the fact she acquiesced to sexual intercourse.

The application of “consent” as a justification for slavery extended beyond the consent of blacks to slavery, for Ericson reveals how the “consent of the governed” was also deployed by slaveholders who proclaimed that the government enacted laws in support of slavery because “the representatives voted for what the governed desired (in the South that would consist of laws that supported and protected the institution of slavery)” (Ericson, 2000, p. 22). In the same way, pro-life members of society claim that restrictive abortion laws represent the desires of *all* the people and are thus made with the consent of the governed. Many citizens may endorse abortion restrictions, but the logic behind the “consent of the governed” argument is unsound because it ignores the ways that legislators exert biopower over pregnant women, just as slaveholders exerted biopower over their slaves. Slavery systematized the subordination of black men and women, for example, when slaveholders raped female slaves as a means to acquire more slaves. Paternalistic rhetoric is deeply embedded in the discourses that constitute slaves and fetuses, a disturbing tone common in justifications for slavery. As Ulrich B. Phillips and John David Smith contended, slavery was an educative system for the civilization of the seemingly savage but child-like blacks that needed the help of paternalistic slaveholders (Foster, p. 666).⁴

Slave owners presumed they were helping the blacks by exposing them to a “superior culture” and educating them about racial inferiority (Ericson, 2000, p. 25). According to some slaveholders, abolishing slavery would jeopardize the

⁴ Ulrich B. Phillips was the author of *American Negro Slavery*, a defense of slavery in the South post-Revolutionary War era and into the early 1800s. Additionally, John David Smith is the author of *An Old Creed for the New South: Proslavery Ideology and Historiography, 1865-1918*.

development of human progress, in particular the progress and development of blacks.⁵ Dew was concerned with the impact of emancipation on progress:

An emancipation of our slaves would check at once that progress of improvement, which is now so manifest among them. The whites would either gradually withdraw, and leave whole districts or settlements in their possession, in which case they would sink rapidly in the scale of civilization; or the blacks, by closer intercourse, would bring the whites down to their level. In the contact between the civilized and uncivilized man, all history and experience show, that the former will be sure to sink to the level of the latter (Dew, p. 56).

Slavery was seen as a means to elevate society from its primitive state, a mechanism, according to George Fitzhugh, for the strong to protect the weak (Ericson, 2000, p. 110).

Paternalistic rhetoric turns women, like slaves, into children who need guidance, especially with regards to making decisions about abortion and pregnancy. Laws such as informed consent are the state's attempt to persuade women to make the "correct" choice by providing them with detailed information about abortion and its effects on the fetus. These laws presume that pregnant women are unaware of what an abortion actually is or its consequences. After being presented with biased information, women are then forced to wait twenty-four hours before selecting the procedure again. Abrams suggests that this form of paternalism denies women the ability to make their own independent choices (Abrams, 1995, p. 488). Informed consent and the twenty-four hour waiting period are just a few of the more blatant examples of paternalism in anti-

⁵ Evidence of the belief of racial inferiority is seen in Dew's *Abolition of Negro Slavery*; "... the slave is not only economically but morally unfit for freedom. And first, idleness and consequent want, are of themselves sufficient to generate a catalogue of vices of the most mischievous and destructive character." (Dew 53)

abortion rhetoric. Justice Stevens in *Planned Parenthood v. Casey* points out in his dissent that the waiting period relies on flawed notions about a woman's ability to make important decisions.⁶ Each limitation on abortion is another paternalistic move by the state to control the pregnant woman and make sure she does not act irrationally. Just as slaveholders pointed out the benefits of slavery for the slaves, the Justices in *Casey* defend abortion restrictions by contending that it may be better for the psychological health of the woman not to have the procedure, and that the waiting period thus allows for the woman to make a proper decision.⁷

The similarities between slavery and abortion restrictions do not stop there. Despite the separation of church and state, religion plays an important role in everyday life and politics as a whole. Likewise, during the era of slavery, apologists justified slavery by alluding to its presence in the Bible. Defenses of slavery contained in the Bible ranged from the Hebrews having slaves to Jesus not condemning Rome's brutal forms of slavery. Other slavery proponents would point to a letter by Paul to Philemon that advises a servant return to his master and serve him obediently (Ericson, 2000, p. 19). Thornton Stringfellow, a Baptist minister and a prominent slaveholder in Virginia, focused his works on the benevolent aspects of bondage (Faust, 1981, p. 136). In his essay, *A Brief Examination of Scripture Testimony on the Institution of Slavery*, he drew on the authority of the Bible in order to prove his point:

...we have shown from the text of the sacred volume, that when God entered into covenant with Abraham, it was with him as a slaveholder; that when he took his posterity by the hand in Egypt, five

⁶ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992)

⁷ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992)

hundred years afterwards to confirm the promise made by Abraham, it was done with them as slaveholders; that when he gave them a constitution of government, he gave them the right to perpetuate hereditary slavery [...]

We have also shown from authentic history that the institution of slavery existed in every family, and in every province of the Roman Empire, at the time the gospel was published to them. [...]

We have also shown from the New Testaments, that all the churches are recognized as composed of masters and servants; and that they are instructed by Christ by how to discharge their relative duties; and finally, that in reference to the question which was then started, whether Christianity did not abolish the institution, or the right of one Christian to hold another Christian in bondage, we have shown, that “the words of our Lord Jesus Christ” are, that so far from this being the case, it adds to the obligation of the servant to render service with good will to his master, and that gospel fellowship is not to be entertained with persons who will not consent to it!

I will propose, in fourth place, to show that the institution of slavery is full of mercy. [...] this institution was a motive for sparing the prisoner’s life. [...] (Stringfellow, p. 165).

This excerpt illustrates how Biblical examples of slavery and obligations of servitude were used to conclude that slavery was acceptable and necessary. Slavery apologists like Dew who asserted that no religious law prohibiting slavery existed (in Faust, 1981, p. 61) also contributed to the notion that slavery was acceptable in the eyes of God. To a Christian nation, the obligation of the servant to serve, as pointed out by the Lord, was seen as a compelling reason to maintain slavery. Additionally, Stringfellow points out that

historically slavery had good intentions: the desire to “save” lives.

Thus, to slavery apologists, the institution also served as a method for Christianizing the slaves. James Henry Hammond, a pro-slavery plantation owner who eventually was elected to Congress in the House of Representatives and later to the Senate, used the Christian conversion argument to defend his proposal to re-open the slave trade (Faust, 1981, pp. 168-169, 171). The Christianizing process was seen as a way to save the blacks from all the evils of the world. While paternalism may creep in through many justifications for slavery, the combination of proselytizing and missionary guilt within the religious justifications was particularly ironic. Stringfellow, for example, argued in his essay that the institution of slavery prevented the extinction of the slaves, an outcome that would have been certain if the slaves were freed:

In their bondage here on earth, they have been much better provided for, and great multitudes of them have been made the freeman of the Lord Jesus Christ, and left this world rejoicing in hope of the glory of God. [...] An officious meddling with the institution, from feelings and sentiments unknown to the Bible, may lead to the extermination of the slave race among us, who, taken as a whole, are utterly unprepared for a high civil state; but benefit them, it cannot. Their condition, *as a class*, is now better than that of any other equal number of laborers on earth, and is daily improving (Stringfellow, p 166).

Slaves are represented here as children who cannot take care of themselves. In the eyes of the apologists, freedom would condemn the slaves to death because they would be incapable of finding God and providing for themselves without the help of white slave owners. Today, religious discourse profoundly influences the public discussion of abortion restrictions. To abort a fetus is to kill a human life according to some religions, a belief that has an impact on

legislation concerning abortion at the state and national level. Speaking to an anti-abortion group in 2007, President George W. Bush invoked an explicitly religious argument against abortion and called on the adult citizen to protect the fetal one:

It is important for all Americans to remember that our Declaration of Independence states that every person has the right to life, liberty, and the pursuit of happiness. It also states that these rights come from our Creator, and that governments are formed to secure these rights for all their citizens. And we believe every human life has value, and we pray for the day when every child is welcome in life and protected into law (“President Bush Calls,” 2007).

As Bush rooted proper citizenship in religious faith, he invested the fetus with rights, and the pregnant woman became an afterthought when compared to the apparently vulnerable fetus. As we turn more directly to questions surrounding citizenship, it is important to note the common element of “servitude”—or the harnessing of the body for interests external to the body—between anti-abortion policy and the institution of slavery. Exploring this common element may open space for a new challenge against infantile citizenship that emphasizes equality, justice, and freedom from bodily intrusion.

Citizenship as (opposition to) involuntary servitude

Just as many slaveholders argued that they were helping to protect the slaves, the pro-life movement tries to promote an image of the fetus in desperate need of the state’s good will—an unprotected person vulnerable to a wayward mother’s will. Fetal personhood transforms women into chattel and re-entrenches their inequality by treating them as a collective incubator. If a woman is forced into the position of property, it is reasonable to assert that her citizenship is jeopardized and uncertain. What happens to citizenship as a whole when the fetus is given access to its umbrella? Lauren

Berlant uncovers the true state of citizenship within the U.S. as a result of the independence of the fetus: “A nation made for adult citizens has been replaced by one imagined for fetuses and children” (Berlant, 1997, p. 1). Berlant names this “fetal citizenship” because both the fetus and the adults surrounding it begin to lack full citizenship: the fetus lacks full legal citizenship because it is contingent on the already limited rights of the mother, and adults lack full citizenship because they have ceded their reproductive rights to governmental control.

It appears, under the unified sign of citizenship, that this fetal standard can be used to compromise all other forms of identity, race and gender in order to create a more unified nation and “resolve” conflict (Berlant, 1997). Abortion restrictions are an example of creating fetal citizenship in that they attempt to resolve conflict between the woman and the fetus while washing away the woman’s identity based on gender or pregnancy. The pregnant woman is forgotten in the equation even though she is the essential component: she provides the body necessary for the fetus’s existence and survival. Representations of the independent fetus contribute to the constitution of the pregnant woman as a child with limited agency who needs help making important decisions in her life. In this way, Berlant suggests, “the pregnant woman becomes the child to the fetus” (Berlant, 1997, p. 85).

This process by which a paternalistic state controls the bodies of its citizens is familiar to the black population in the United States. By law, through prejudice in society, and in demonizing representations, blacks have been treated as less than human, as either uncivilized or unable to make proper decisions. Proslavery arguments propagated these views of blacks by positing the slave’s inability to survive in civilization without the help of their slaveholders. This rhetoric of inferiority, codified in the U.S. Constitution for many years, reinforced the idea that slaves were property

and unworthy of citizenship.⁸ Only after the Emancipation Proclamation and the 13th and 14th Amendments passed were blacks recognized as humans with a standing as full citizens. The problem in this instance is that personhood in the civil rights arena cannot be blindly applied in the context of the fetus. We align ourselves with Berlant (1997) when she claims that fetuses should not be added as “persons” to the concept of “people” because such a move would disrupt the “norms and principles of national embodiment” and the distinctions between the two groups (such as occupying an autonomous body and possessing ability to vote) would begin to disappear (pp. 97-98). Giving the fetus rights allows the state to speak for the fetus, denying the rights and citizenship of the pregnant woman who now exists to “serve” the fetus.

Likewise, the enslavement of blacks constituted involuntary servitude, a means of controlling the black body within the production of services and labor for the benefit of the slaveholders. In an attempt to link these instances, Koppelman (1990) notes that the Supreme Court has deemed involuntary servitude as compulsory labor that is provided by one person for the benefit of another (Koppelman).⁹ Is there a valid comparison between historical conditions of slavery as involuntary servitude and abortion restrictions as involuntary servitude? One of the many tragic effects of slavery was the slaves’ loss of control over their own bodies

⁸ At the Constitutional Convention the Three-Fifths Compromise between Northern and Southern States was created. For the purpose of representation in the House of Representatives, slaves were counted as three fifths of a person, thus allowing the South to have more representatives than if only the white population was counted. This dehumanized slaves and reinforced their position as less than human. Once again, slaves were only important as long as they benefited the white male property owner. Their own political situation was of no importance to slaveholders, other whites or the state (Berlant 18

⁹ *Slaughter House Cases* 83 U.S. (16 Wall.) 36, 72 (1873); *Plessey v. Ferguson*, 163 U.S. 537, 542 (1896); *Hodges v. United States*, 203 U.S. 1, 16 (1906); *Bailey v. Alabama*, 219 U.S. 219, 241 (1911).

(Condit, 1994, p. 71-72). In the same way, the combination of an unwanted pregnancy and restrictions on reproductive choice results in the dehumanization of pregnant women by situating them as chattel. Women who have unwanted pregnancies are often compelled to be mothers by the State, and are no longer in possession of free agency and control over their own bodies. They have become servants “with a special duty to serve others and not themselves” (Koppelman, 1990, p. 487). In this sense, women who are compelled to continue their pregnancy and become mothers without their own consent are encompassed by the definition of involuntary servitude.

If abortion restrictions create involuntary servitude, then the Thirteenth Amendment may protect the rights of a woman with an unwanted pregnancy to be free from involuntary servitude to the fetus (Koppelman).¹⁰, ¹¹ Citizenship, in theory, also means that blacks should control what they produce and that the white slaveholders could no longer control the labor and production of other human beings. The thirteenth amendment gives citizens control over their bodies and the productive capabilities they have—individuals own their own service. Production or produce—the core of what servitude and slavery are concerned with—also applies to women and their capability to (re)produce. When they are forced to serve interests besides their own, when they lose their identity and find themselves treated as (re)producers and not humans, pregnant women are positioned as the property of society and a vessel for the fetus. The Thirteenth Amendment makes no delineation

¹⁰ The Thirteenth Amendment to the Constitution:

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have the power to enforce this article by appropriate legislation.

¹¹ *Slaughter House Cases*, 83 U.S. (16 Wall.) 36, 72 (1873)

between people to which the amendment should apply (Koppelman, 1990, p. 488). We contend that the amendment and the concept should apply to pregnant women even if their servitude is generally not as extreme as that experienced by slaves. In other words, it should be illegal for the state to compel a woman to remain pregnant despite the fact she acquiesced to sexual intercourse just as it is illegal to possess slaves (p. 491).

Conclusions

It is important to think of abortion restrictions as a form of involuntary servitude because of the impact they have on women across the country. Addressing how regimes of power are conceived and implemented is necessary in order to challenge and resist these oppressive regimes (McWhorter, 2004, p. 54). To ignore the possibility that what women experience, when compelled by the state to carry a fetus, is involuntary servitude is to allow for the continuation of pregnancy slavery in this country. We do not intend to trivialize what blacks experienced under slavery and there is no doubt of the unfathomably severe, violent, widespread, and dehumanizing consequences of slavery in this country. Nevertheless, this does not mean that the logic behind the slavery of blacks and the control of the pregnant body cannot and should not be compared. The process by which women are enslaved through paternalism, a loss of rights, and the reduction to property is reminiscent of slavery.

Coming full circle, when we see images of a fetus juxtaposed with images of lynched black men, we cannot ignore this comparison. The aim of this juxtaposition is to associate the immorality of lynching with the immorality of aborting a fetus, but close scrutiny disrupts the aim itself by demonstrating the very tangible erasure of the pregnant woman and the inapplicability of the slave-fetus analogy. We have to challenge the representations of the fetus as

always outside of the womb because the woman's body existed before the fetus and is the pre-requisite for the fetus.

The pregnant body can become a site of resistance to state power because it no longer focuses on the separate entity that the body has the capacity to produce. This move helps explain that the fetus is not the enemy, for the real enemies are "those who would appropriate and solidify the symbolics of procreation in the service of social agendas hostile to women's procreative integrity" (Morgan and Michaels, 1999, p. 6). By focusing on the pregnant body, the fetus is "reconnected" to the woman and prevents her erasure, which is a necessary step to prevent the reduction of her citizenship to "fetal citizenship" and infantilization. Using slavery as the starting point for our research and analyzing how pro-slavery arguments are resurfacing in pro-life arguments today allows us to understand how power relations intersect and contribute to involuntary servitude. Our hope is that exposing the ways in which the state controls individuals through both pro-slavery and pro-life rhetoric could help challenge specific oppressive power structures surrounding citizenship.

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