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**Injustice Anywhere is a Threat to Justice Everywhere:
Why Mass Incarceration is a Feminist Issue, Too.**

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WGSS 330: Feminist Theory

Dr. Popple

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Long Analytic Essay

Over the past decade, our criminal justice system has become a national issue as social justice and human rights activists continue to expose horrifying stories of victims of mass incarceration. The dominant narrative that surrounds the issue of mass incarceration is typically that it disproportionately affects people of color, specifically men. Many people know of Kalief Browder, a New York teenager who took his own life after spending three years in Rikers Island, most of which were spent in solitary confinement, for allegedly stealing a backpack; a crime for which he was neither tried nor convicted. In March 2017, *Time* produced a six-episode documentary series exposing the devastating injustices of the criminal justice system in which viewers get a glimpse into the tragedy of Kalief Browder and just how this system severely failed him. Few people know of Marissa Alexander, a 31-year-old woman who served three years of a twenty-year sentence after firing a warning shot during a confrontation with her abusive husband who attacked and threatened to kill her, despite having a restraining order against him.

Black lesbian feminist Audre Lorde once said, “There is no such thing as a single-issue struggle, because we do not live single-issue lives.” Whether we choose to acknowledge it or not, intersectionality lives at the forefront of many of the issues society faces today. Decades of theory and activism remind us that people are often disadvantaged by multiple sources of oppression, and we cannot separate those sites of oppression, just like we cannot separate different parts of a single person’s identity. This means that taking on the patriarchy must also entail taking on other forms of oppression that intersect with patriarchal sexism to create hierarchies that allow some to choose whose lives are more valuable than others. So, that also includes addressing driving forces like classism and racism that fuel the prison industrial complex. Additionally, when engaging in feminist theory and practice we exhibit our ability to

think critically and compassionately about what is going on in the world around us and how it affects not only ourselves but others, too. Feminist engagement requires the capacity to care about others, draw connections between their struggles and your own, and empathize with and fight for justice from oppressions that are not always your own. Feminism began by fighting gender inequality and fighting mass incarceration is equally a matter of fighting for gender justice. When we talk about mass incarceration very seldom do we discuss the ways in which women are affected. While women represent a very small portion of those incarcerated in the criminal justice system, they are currently the fastest growing incarcerated population, far surpassing the growth of male prisoners.

This is not a new problem. Prison injustice demands our attention and while it may seem that attention is being drawn away from more pressing feminist issues, mass incarceration is not a separate issue. The problems that people of color face at the hands of police violence and incarceration are already a large part of the issues that we commonly address as feminists—racism, sexism, and classism. The way to help tackle and solve this problem is through a feminist theory that includes the narratives of incarcerated women when discussing criminal justice reform, understanding the ways in which people are differently impacted by multiple sources of oppression, and caring about and empathizing with disenfranchised populations. This feminist theory is necessary because mass incarceration is deeply rooted in a system of racial and gender injustice, and short-term solutions will not be enough to uproot this system of injustices. To solve this issue, we need to make the personal political and step outside of our own safety nets of privilege to address how mass incarceration and the criminal justice system's endless cycle of violence takes a devastating toll on people of color, the economically disadvantaged, and other disenfranchised groups.

This paper seeks to delineate the effects of the mass incarceration of women by drawing from previous feminist theories. I will first explain the issue of mass incarceration as it pertains to its effects on women. I will explain the intersectionality of the issue and why it is necessary to look at and critique it through a feminist lens. I will then discuss some of the solutions that have already been postulated, like the decommissioning of private for-profit prisons. From there, I will introduce my feminist theory, articulating its roots in existentialist feminism, postmodern feminism, and intersectional/Black feminism. Finally, this analysis will end with my suggestions for potential action, as well as weakness of this theory and how it can be improved.

Disproportional imprisonment has been a popular topic when it comes to discussing the incarceration of men of color. However, few have centered analysis on the disproportionate incarceration of women, specifically women of color. There has been a drastic rise in the number of women inmates in prisons and jails and those numbers are steadily increasing far faster than those of their male counterparts. Since 1985, the number of women in prison has increased at nearly double the rate of men (“Facts about the Over-incarceration of Women”). Looking through an intersectional lens, we see that some women, more than others, are also incarcerated at a disproportionate rate. Black women, the fastest growing prison population, are three times more likely than white women to be incarcerated, and Hispanic women are 69% more likely (Sentencing Project). Additionally, 21% of transgender women and nearly half (47%) of black transgender women have been incarcerated at some point in their lives (Grant et al. 163). These rates are far above the general population. The increasing rates of incarceration of women of color can largely be attributed to racial and socioeconomic factors at the intersection of criminality and victimization. Moreover, by looking at social and structural factors like substance

abuse, sexual abuse, and intimate partner violence in the lives of women of color, we can see how those factors contribute to a cycle of incarceration.

There are 231,000 women currently incarcerated in the United States, and a staggering number of them have not yet been convicted and are awaiting trial (Kajstura). Since women tend to enter jail in more vulnerable situations than men, they have a harder time navigating the criminal justice system. Women's experiences of abuse pose as a significant risk factor for incarceration. In fact, a vast majority of incarcerated women reported having some form of interpersonal trauma in their lifetime prior to incarceration, with 60-70% of incarcerated girls or women experiencing physical or sexual violence in childhood and another 70-80% of incarcerated women experiencing intimate partner violence in adulthood (Dichter and Osthoff 2). The experience of sexual or domestic violence largely contributes to many of the behaviors that lead to the incarceration of women. These experiences often lead women to flee, abuse drugs, or use violence to defend themselves or retaliate against their abusers. According to the American Civil Liberties Union (ACLU) many women are arrested for non-violent crimes such as prostitution, fraud, or drug-related offenses ("Facts About the Over-incarceration of Women"). Additionally, among female state prisoners, two-thirds of them are mothers of a minor child ("Facts About the Over-incarceration of Women"). Since incarcerated women often have lower incomes than incarcerated men, it is a challenge for women to avoid pre-trial detention due not being able to afford money bail.

Furthermore, many prisons and jails are ill-equipped to support the health needs of women such as providing basic hygiene and reproductive healthcare and failing to protect female inmates from sexual violence. Research has shown that incarcerated women tend to have higher rates of gynecological conditions, such as irregular menstrual bleeding, compared to non-

incarcerated women. While most incarcerated women are still menstruating, their access to menstrual hygiene products are inconsistent, inadequate, or entirely absent (Kravitz). This is alarming considering the billions of dollars the companies contracted to provide healthcare to prisoners make. Additionally, within custody, sexual violence continues to be a prevalent issue that incarcerated women face. At least 15% of women report being sexually assaulted while incarcerated by prison staff and other inmates, with queer and trans women more likely to experience sexual assault in custody (Piecora). Unsurprisingly, the injustices women face outside of prison are also the same injustices they are subjected to while incarcerated.

There are current solutions that target ways to reduce the number of people incarcerated in jails and prisons. Conservative approaches to combat mass incarceration often focus on reducing costs of prisons and prison spending (Clear and Frost 10). Other more liberal approaches center in on a four-step approach focused on policy changes like exempting non-violent offenses from jail time, strengthening cost-effective alternatives to incarceration and drug rehabilitation programs, differentiating between people currently in prison who continue to pose a threat to safety and those who are ready to re-enter society, and requiring regular, systemic evaluations of our criminal justice system (“Solutions”). The First Step Act (FSA), passed in October of 2018, addressed many of the solutions previously posed. The FSA was the pinnacle of a bi-partisan effort to improve criminal justice outcomes and reduce the prison population while maintaining public safety. Among other things, the FSA includes provisions for sentencing reform, shortened mandatory minimum sentences for non-violent drug offenses, and relaxes a federal “three strikes” rule, which imposes a life sentence for three or more convictions, and issues a 25-year sentence instead (Grawert and Lau). While the FSA is an extremely progressive

step in the right direction, it still has its shortcoming. Namely, it still allows for a mandatory minimum sentencing, and leaves two of the bill's key sentencing provisions prospective.

Ultimately, what is most concerning about the solutions proposed or enacted above is that they do not address gender-specific issues, and fail to address the root problems that make certain individuals disproportionately more likely to cycle through the prison industrial complex. It is important that legislators and policy makers acknowledge and understand women's unique path into the criminal justice system. Moreover, while it is important to address policies that keep people in prison at an inordinate rate, unless these approaches ensure women-centered issues are included in these reforms, moves towards ending mass incarceration will not be successful. The only effective approach to ending mass incarceration is one that does not leave women behind and includes them in the conversation.

This approach is one that my feminist theory seeks to address through its roots in Existentialist feminism. Simone de Beauvoir, a French existentialist philosopher, argued that women have historically been defined by their relationship and proximity to men. Rosemarie Tong explains that, according to de Beauvoir, "men named 'man' the self and 'woman' the other" (174). De Beauvoir explains that biological and physiological facts about women—such as her role in reproduction, her weakness relative to man, etc.—stems from society's selective interpretation of women in order to keep them subordinated and limit their capacity for personhood, consequently essentializing men and masculine-identified traits and experiences. Ultimately, de Beauvoir says, women's liberation requires the elimination of men's desire to control women (176). Women are defined and differentiated with reference to man. He is the Subject and Absolute; she is the "other."

In *The Second Sex*, de Beauvoir argued that women have been defined by men and if they attempt to break this association, they risk alienating themselves. De Beauvoir postulated that “humanity is male and man defines woman not in herself but as relative to him; she is not an autonomous being...Man can think of himself without woman. She cannot think of herself without man” (de Beauvoir 163). By making man the essential and woman the inessential, dominant narratives in society are centered around male experiences. For centuries, criminal laws have been conceived and constructed by men, for men, and against men. Laws that seem to be put in place to protect women, such as prohibiting prostitution, are often enforced in a way that imposes physical threats of violence towards women. Consequently, women have remained at the margins of thought about what kinds of people are impacted by the criminal justice system. In a system that gave men the affirmative privilege to control women—whether that be through violence, manipulation, or coercion—rather than focusing on the prosecution of men as the overwhelming perpetrators of sexual and domestic violence, women are punished for defending themselves.

The essentialization of men and their experiences as universal needs to be reflected upon, especially the emphasis on men as the self and women as other. Postmodernists found that the complexity of individuals in society made it impossible to speak categorically of “women” or “men,” or to use theories like patriarchy and class as a universal analysis of oppression. Postmodern feminists reject traditional assumptions about truth and reality, ideas centered on an “absolute” world that is phallogocentric and emphasize the plurality and multiplicity of women as distinct from men. Additionally, they reject that there is a single explanation or method to take for women to achieve liberation. Postmodernist feminist, H  l  ne Cixous, found useful the rejection of binary thought, emphasizing that there exists dichotomies in dominant literature that

cast unnecessary binary oppositions by coupling concepts and terms of polar opposites, where one is always privileged over the other (e.g. activity/passivity) (Tong 187). Rather than accept the dominant phallogocentric narrative, Cixous urges, “woman must write her self: must write about women and bring women to writing, from which they have been driven away as violently as from their bodies—for the same reason, by the same law, with the same fatal goal. Women must put herself into the text—as into the world and into history—by her own movement” (224).

We cannot establish universal narratives as a means of understanding and explaining society. When we urge women to share their own lived experience, we shift from a male-dominated narrative to one that is inclusive of all, allowing us to gain a better perspective of the issues faced by a diverse group of individuals in society. Effective change does not occur in a society that imposes binary narratives, where one side is dominant and the other is non-existent. Tong writes, “for Cixous, feminine writing is not merely a new style of writing, it is ‘the very possibility of change, the space that can serve as a springboard for subversive thought, the precursory movement of a transformation of social and cultural standards’ (188). Ultimately, the feminist challenge is to change and adapt male-dominated narratives of criminal laws and practices to the concerns of women who are often left out of the picture.

Including women at the forefront of criminal justice reform also requires us to deconstruct universal narratives of women’s lives and lived experience. Intersectional feminism is based on the premise of intersectionality—the idea that people are often disadvantaged by multiple sources of oppression based on their race, gender identity, sexuality orientation, etc. (Tong 86). The interconnected nature of these social constructions and categorization create overlapping and interdependent systems of discrimination and disadvantage. Women belong to a

multiplicity of identities, and thus have different experiences. In order to critique the criminal justice system and push for effective reform for all women, we must not only consider the gendered aspect of this issue, but the racial and socioeconomic aspects as well. We cannot talk about a universal experience of mass incarceration of women without ignoring the ways in which women of color are more disproportionately affected than white women—even more so for transgender women of color. For instance, Black women belong to the “identity” of being a woman and are subjected to sexism, but their identity as a *Black* woman also subjects them to racism as well. Audre Lorde precisely explains, “there is a pretense to a homogeneity of experience covered by the word sisterhood that does not in fact exist...” (Lorde 290). While the issue of mass incarceration requires solidarity between people of all identities, it is still important to understand the differences of experience and how that results in different forms of oppression.

My feminist theory transforms ideas rooted in existentialist, postmodern, and intersectional/Black feminisms. Existentialist feminism demonstrates why male narratives dominate society’s view of crime and reform and stresses the importance of including female narratives and concerns. Postmodernist feminism highlights the importance of rejecting universal analyses of oppression and male-dominated narratives, and instead encourages women to construct their own truths and realities through writing. This allows for narratives based on women’s lived experiences to also inform criminal justice reform. Finally, Black feminisms urges us to examine issues through a lens that explores how race, class, gender, and sexuality define the multidimensional forms of oppression women face. To successfully take on mass incarceration, not only must everyone be a part of the conversation, but they must also acknowledge and understand why the conversation is often framed in a way that places value on

some lives over others and project narratives that cannot be universal and reducible to a single experience.

The growing rates of women's incarceration severely affects the broader issue of mass incarceration despite not receiving the same amount of attention that we give men's incarceration. In states where prison populations are steadily rising, women's incarceration drive population growth. While in other states that push towards reducing the prison population, it attenuates the effects of prison reform. Considering that a large number of women whose experience with sexual or domestic trauma, substance abuse, and mental health issues have led to their entrance into the criminal justice system, alternative options to incarceration that remedy these underlying issues would be more effective and appropriate for women than prisons, which exacerbate these problems. The solutions I propose get at some of the root causes behind women's incarceration and are focused on the physical, emotional, mental, and economic well-being and livelihood of women prior to entering the system and after being released. My suggestions for action is as follows:

1. Address sexual and domestic violence and abuse in ways that do not involve police intervention. Involving law enforcement may retraumatize survivors who do not believe them or take them seriously. Specifically, for women of color who live at multiple sites of oppression, they are at a greater risk of being incarcerated and targeted by the police. So, instead of pushing for an approach to sexual and domestic violence that relies on other violent and oppressive systems, advocate for more domestic violence services that give survivors access to emergency services, housing services, counseling services, supportive services and children's services.

2. Destigmatize substance abuse as a criminal offense and focus more on rehabilitation than incarceration. Women who are economically disadvantaged often have an extensive history of drug and alcohol use, and a small percentage of those women receive treatment. Instead of incarcerating women into the system for non-violent drug-related offenses, provide more rehabilitation services that help treat women rather than criminalize them.
3. Eliminate pre-trial detention for women who pose no risk to themselves or others. Many women spend more time in jails and prison awaiting a conviction because they cannot afford money bail. If pre-trial detention could be used more sparingly, women would be less at risk of further violence they often face while incarcerated. Additionally, sentencing should be avoided for low-level crimes. Women who serve short-term sentences are more at risk of reoffending because they are too short to address the underlying reason behind incarceration, such as addiction or mental health problems, and too long to preserve factors that prevent women from reoffending, such as social relationships, housing, or employment. Instead, women should be referred to rehabilitation centers that equip them with the tools they need to reenter society
4. Spend more resources re-unifying families. A large percentage of incarcerated women are the primary caretakers of minor children prior to their incarceration. Not only does women's incarceration impact the livelihood of themselves and their children, but it also makes it significantly more likely for the children of incarcerated women to experience incarceration themselves. Providing family-centered services for incarcerated women and their children may help to strengthen and nurture family

relationships and increase community support for families of women during incarceration and following their release.

5. Reform women's jails and prisons. Prison systems have been traditionally designed to respond to male behavior. Women inmates have significantly different needs. During incarceration, women should have adequate and quality access to hygiene products, basic reproductive healthcare, nutrition management, and mental health or substance abuse treatments. By addressing these needs while women are incarceration, they can leave prison in a better shape than they entered.

This plan for action is far from perfect. It relies too heavily on legislative actions, and with the steady growth of women's incarceration over the last few decades, it seems unlikely that this kind of change is to occur any time soon. Reducing the growth of women's prison population would mean changing the male-dominant narrative of crime in society and switching from a system of punishment to one of rehabilitation. While this may require years of gender-responsive reform, it is not entirely unachievable. This plan for action can be a catalyst for change. It does not necessarily have to start with policy changes enacted at the federal level. It can start right inside of our own communities. This might look like being supportive and understanding of those in your community affected by incarceration, as well as confronting the inner biases and stigmas we have about incarcerated women. Finally, although the actions suggested above take a gender-responsive approach to criminal justice reform, through addressing the needs of the most vulnerable populations, justice for other deserving populations is likely to follow. After all, the mass incarceration of women and the mass incarceration of men are not opposing issues; they are equally important and inextricably connected.

The mass incarceration of women is extremely harmful and counterproductive in all aspects. Historically, male-dominated narratives of incarceration and criminal justice reform prevail today, with women's issues of incarceration often being neglected. Our understanding of women's incarceration is crucial to addressing the overarching problem of mass incarceration of all individuals. It is important to understand the unique path in which women enter the criminal justice system. Their experiences of structural factors like substance abuse, sexual abuse, and intimate partner violence significantly contribute to the systemic cycle and growth of women's incarceration. A gender-specific approach toward criminal justice reform is likely to yield new ways to reduce the population of all prisons. There is no one-size-fits-all solution to mass incarceration. By looking at the multiplicity of incarcerated women's lives, and the various sites of oppression that serve as contributing risk factors of future incarceration, we can get at the root of mass incarceration and permanently reduce the growth of the prison population.

Works Cited

- Cixous, Hélène. "The Laugh of the Medusa." *Feminist Theory: A Reader*. By Wendy K. Kolmar and Frances Bartkowski. Boston: McGraw-Hill Higher Education, 2010. 224-230. Print
- Clear, Todd R., and Natasha A. Frost. *The punishment imperative: The rise and failure of mass incarceration in America*. NYU Press, 2015.
- de Beauvoir, Simone. "The Second Sex." *Feminist Theory: A Reader*. By Wendy K. Kolmar and Frances Bartkowski. Boston: McGraw-Hill Higher Education, 2010. 161-168. Print
- Dichter, Melissa E., and S. Osthoff. "Women's experiences of abuse as a risk factor for incarceration: A research update." (2015).
- "Facts about the Over-Incarceration of Women in the United States." *American Civil Liberties Union*, www.aclu.org/other/facts-about-over-incarceration-women-united-states.
- Grant, Jaime M., Lisa A. Motter, and Justin Tanis. "Injustice at every turn: A report of the national transgender discrimination survey." (2011).
- Grawert, Ames, and Tim Lau. "How the FIRST STEP Act became law—and what happens next." *Brennan Center for Justice* 4 (2019).
- Kajstura, A. "Women's mass incarceration: the whole pie 2018. Prison Policy Initiative. 2018." (2019).
- Kravitz, R. Correctional facilities and the menstrual equity movement. *Corrections.com*. (2019).

<http://www.corrections.com/news/article/49956-correctional-facilities-and-the-menstrual-equity-movement>

Lorde, Audre. "Age, Race, Class, and Sex: Women Redefining Difference." *Feminist Theory: A Reader*. By Wendy K. Kolmar and Frances Bartkowski. Boston: McGraw-Hill Higher Education, 2010. 289-293. Print

Piecora, Christina. "Female inmates and sexual assault." *Jurist* (2014).

Rosemarie. *Feminist Thought: A More Comprehensive Introduction*. Westview Press, 2013.

Sentencing Project. "Women in the Criminal Justice System: Briefing Sheets." (2007).

"Solutions." *American Civil Liberties Union*, www.aclu.org/other/solutions.