

IN FOCUS

Shackling of Pregnant Inmates: A Violation of Human Rights ***Contributed by Krishanti Dharmaraj on behalf of The Peace Development Fund***

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"It was hard to be pregnant in jail. The prenatal care was horrible. I got gestational diabetes that wasn't treated. Once I got very sick and the ambulance came. The deputy wanted me to be shackled around my feet, but the ambulance driver refused. They argued and I was shackled by one arm to the gurney. In the hospital, they shackled both of my ankles to the bed. When I had to go to the bathroom I would be unshackled, attached by one ankle to a chain that didn't reach all the way to the bathroom and I would have to use a commode. This was when I was about 7 months pregnant. I went to court about 10 times while I was in jail. Every time, I had a chain around my stomach, my feet and my hands and would be attached to a male prisoner."



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Shackling pregnant women, including during labor, delivery and postnatal care, is a violation of human rights. Yet the United States remains the only industrialized nation to engage this practice. International law condemns shackling pregnant women as inhumane. Specifically, the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights (ICCPR) affirm that no one shall be subjected to torture, cruel, inhumane or degrading treatment or punishment. The United States ratified the ICCPR, and shackling is in clear violation of Article 7 of this treaty. The Convention Against Torture (CAT), which the United States also ratified, defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for punishing or intimidation." The United Nations Standard Minimum Rules for the Treatment of Prisoners provides specific recommendations on instruments of restraint, discipline, punishment, and on proper medical services. It can be argued that shackling pregnant women prenatally, during labor, delivery, and postnatal care contravene those recommendations.

Similarly, international law deems shackling of pregnant women as unnecessary. Most women have their stomachs shackled during labor and delivery, and two women in California and Georgia were shackled during C-section deliveries. The reasons given for shackling are the risk of flight and the danger posed by these women to themselves or to medical personnel. However, there is no evidence that any of these women have posed a threat to themselves or anyone else, or attempted to escape during labor.

Furthermore, shackling of pregnant women is an example of racial and gender-based discrimination. The U.S. Bureau of Justice Statistics listed the correctional population in the United States in 2009 to be 2,292,133, of which 198,600 (8.7%) were women. With this percentage, it is safe to argue that resource allocation, policies, services, and programs are predominantly based on the needs of male prisoners, and that shackling is aimed at "controlling" the most violent men. Given that the majority of women prisoners are poor, and of those poor women, most are of color, a disproportionate number of pregnant women who are shackled are women of color. Racial and gender-based discrimination violates the right to health and reproductive care affirmed by the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), ratified by the United State, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), not yet ratified. The U.S. government is obligated to respect, protect, and fulfill the rights of all members of society.

Funders can get involved by focusing their efforts on using a human rights framework in criminal justice efforts to abolish shackling. A human rights framework provides a cross-constituency, multi-issue organizing and advocacy

strategy that connects diverse movements. It connects the global to the local and exhibits the relevance of human rights to domestic struggles with tangible wins, such as an improvement of local governmental policies and provisions and the realization of rights at the local level. Most importantly, as human rights funders are aware, the power of grantmaking with a human rights lens lies in the commitment to transform society for the long term. Human rights principles recognize the *whole* person and their strength is in the recognition of indivisibility and inter-dependency of rights. What is essential is not that shackling pregnant women is recognized as a human rights violation alone, but that the prisoner is recognized and accepted as being **fully human**.

The Peace Development Fund tackles this issue by supporting grassroots organizing, legal and policy organizations that advocate for public policy reform and justice and dignity for vulnerable families in the United States. Beyond lawsuits and advocacy with individual governmental agencies and departments, these organizations also lead legislative campaigns to restrict shackling and work to empower formerly and currently incarcerated women to advocate for their human rights.

Resources for funders:

- [The Rebecca Project for Human Rights](#) provides a [basic fact sheet](#), a [state-by-state breakdown](#) of shackling policies, and an in-depth, state-by-state report card and analysis on various issues facing pregnant and parenting women called "[Mothers Behind Bars](#)."
- "[Not a Part of Her Sentence](#)" is an excellent resource on reproductive rights, specifically access to abortion, for incarcerated women (published by the Brooklyn Law School).
- Amnesty International's [fact sheet](#) on the abuse of women in custody.
- [ACLU's analysis](#) on a court ruling by a Federal Appeals Court, condemning the shackling of a pregnant woman in Arkansas.
- A [report](#) from the American Journal of Nursing.
- Visit the website of the [Peace Development Fund](#).
- Office of the United Nations High Commissioner for Human Rights: [Standard Minimum Rules for the Treatment of Prisoners](#)