Borderline Injustice: Sexual and Reproductive Health, Rights, and Justice at the US-Mexico Border

by
A. Claudia Vergara

supervised by
Dr. Liette Gilbert

A Major Paper submitted to the Faculty of Environmental and Urban Change
in partial fulfillment of the requirements for the degree of Master in Environmental Studies,
York University, Toronto, Ontario, Canada

July 31, 2021

ABSTRACT

The US-Mexico border has been a point of political contention in recent years given the militarization of the border, the building of the border wall, and the structural and physical violence that occurs at these sites of political exclusion. This research explores the integral nexus of citizenship, migration and border theories, human rights, and critical feminist theories in contextualizing the gendered violence and reproductive oppression occurring against migrants at the US-Mexico border and in detention. This research engages with the framework of reproductive justice (the intersection of reproductive rights and social justice) to name the reproductive abuses occurring against migrants in the region, as well as to explore strategies being used to challenge them, including advocacy, collective action, and community organizing. These abuses including United States policies, such as family separation policies, Migrant Protection Protocols (or "remain in Mexico" policy), and the abortion ban for unaccompanied minors are in direct violation of the principles of reproductive justice. This paper also provides an in-depth analysis of the violations of migrants' sexual and reproductive health, rights, and justice while in Homeland Security (US Customs and Border Protection and US Immigration and Customs Enforcement) detention, including the recent (September 2020) allegations of forced sterilizations and other invasive and unnecessary gynecological procedures performed by Dr. Mahendra Amin on migrants without informed consent at the ICE Irwin County Detention Center in Ocilla, Georgia. This research provides a brief review of the histories of population control methods used against 'undesirable' groups in the US, that have included practices such as forced sterilization, and are integral to understanding the current context of these abuses. This research examines how these policies and treatment are in direct opposition to the principles of reproductive justice, and how reproductive justice, i.e., linking human rights-based approaches with grassroots led efforts, can pave the way forward in addressing these violations.

FOREWORD

This research has been undertaken toward the completion of the Masters in Environmental and Urban Change program at York University. I have completed 36 credits of coursework, including independent directed studies and I submit this paper as my Major Research requirement, as per the MES program requirements. The three components outlined in my plan of study are: 1) Displacement and migration, 2) Refugee experiences and migrant rights, and 3) Migrant's access to sexual and reproductive health and rights. I have engaged with these topics throughout the MES program, and have now completed a comprehensive Major Research project in this area of concentration. I have fulfilled the learning objectives as stated in my plan of study to meet the MES program requirements, as well as the requirements for the Graduate Diploma in Refugee and Migration studies with the Centre for Refugee Studies at York University. I have also completed the learning strategies outlined in my plan of study, including ENVS 7899 MES Major Research.

DEDICATION

To the women in my family who have come before me, and especially to my mother, Terrilynne Bannon.

ACKNOWEDGEMENTS

This research has been developed under the guidance of my incredibly helpful and patient supervisor, Dr. Liette Gilbert, with additional guidance from professors such as Dr. Anna Zalik, Dr. Wenona Giles, Dr. Patricia Elaine Perkins, and Dr. Annie Bunting at York University who have helped me develop an in-depth understanding of imperialist intervention and extraction in Latin America, migration, community organizing, and gender studies – and how they intersect. This research has also been informed and inspired by my experience in training as a full spectrum doula with Birthing Advocacy Doula Trainings, as well as my experience working with AMUPAKIN, under the guidance of my mentor, Serafina Grefa. AMUPAKIN is a midwifery clinic run by a collective of Kichwa women who are *parteras* (midwives) and *curanderas* (healers), and is located in the Amazonian Napo region of Ecuador. I am thankful to have been fortunate to learn about the principles of reproductive justice and cultural safety in a practical way in these environments and I look forward to continuing this learning journey. Finally, I would like to thank Terrilynne Bannon for her continued love, support, and patience as both my mother and generous proof-reader throughout the years.

TABLE OF CONTENTS

Page

ABSTRACT……..ii
FOREWORD……...iii
DEDICATION……iv
ACKNOWLEDGEMENTS……...v
TABLE OF CONTENTS……..vi
INTRODUCTION……1
Research Problem……1
Methodology……4
CHALLENGES TO REPRODUCTIVE RIGHTS AND JUSTICE……...6
Citizenship and Human Rights Literature……6
Reproductive Rights……9
Reproductive Justice……..10
REPRODUCTIVE RIGHTS/JUSTICE ABUSES AT THE US-MEXICO BORDER…15
History of Abuses……...15
Sexual and Reproductive Health and Rights Challenges for Migrants……..21
United States/Mexico Border and the Department of Homeland Security (DHS)..23
Migrant Protection Protocols……27
Minor Abortion Ban……...32
Treatment of Pregnant People in DHS Custody……..34
Sterilization in the Carceral System – from Prisons to Migrant Detention..37
ORGANIZING FOR REPRODUCTIVE JUSTICE……49
CONCLUSION…….....62
BIBLIOGRAPHY……...66

INTRODUCTION

How can the framework of reproductive justice be used to name the reproductive rights abuses occurring against migrants at the US-Mexico border, as well as to pave a way forward in addressing these abuses?

Research Problem

The United Nations High Commissioner for Refugees (2020) estimates that at the end of 2019, there were approximately 79.5 million forcibly displaced persons around the world. This figure is emblematic of the overwhelmed global refugee regime that is insufficient in handling this modern and accelerating reality. In a world where access to one's human rights is theoretically based upon citizenship and membership in a sovereign state, many are left without the basic "right to have rights" (Arendt, 1951). To further examine the challenges that migrants face in accessing their rights, it is crucial to consider what kind of rights they are trying to access, and which groups of people may face disproportionate challenges in this process.

With regard to access to healthcare, women[1], and particularly migrant women, face additional barriers in their access to reproductive health rights and services at various stages of movement, including, but not limited to, transient stages of movement, long-term camp settings, migrant detention, and upon resettlement in a host country. Reproductive health is a vital part of healthcare and is essential for a person's complete physical, mental and social well-being (United Nations, 2017). For example, during transient stages of movement, as well as in long-term camp or slum settings, migrants often face additional health and sanitation issues. These conditions can create

[1] Recognizing that not all those who identify as women have female reproductive organs, and that not all those who have female reproductive organs identify as women, in this paper, the terms "women's health", and "women's rights" will be avoided and replaced with more specific terms relating directly to "reproductive health" and "reproductive rights". This paper does not have the scope to engage meaningfully with the experiences of gender queer and/or transgender persons seeking reproductive rights while migrating and does not seek to make original contributions to the literature on queerness and reproduction/reproductive rights. In acknowledgement of the power of language, this differentiation is used in order to situate the argument in a more inclusive representation of reproductive rights.

further challenges for women and gender-diverse people and increase their risk of reproductive tract infections and other reproductive concerns. Reproductive health entails access to a range of services including, but not limited to, family planning and access to safe contraceptive methods, pre-and post-natal care, infertility treatment, prevention of unsafe abortion, as well as the prevention and treatment of reproductive tract infections, sexually transmitted infections and other reproductive health conditions (United Nations, 2017). This research focuses on the experiences of migrants crossing the border from Mexico into the United States, as well as those in US immigration detention, and explores the reproductive health conditions in these settings.

Reproductive health came to the forefront of the global human rights discourse in the mid-1990s at various United Nations conferences. However, the development of a global human rights-based approach to sexual and reproductive health and rights (SRHR), as well as the contributions of the second wave feminist approach to reproductive rights, have lacked meaningful representation or significant redress for many marginalized people who are left out of the system that is supposed to recognize their alleged universal human rights. This research illuminates these gaps through the lens of reproductive justice, a grassroots framework coined by Black feminist scholars and activists in the United States, which expands on conventional human rights-based approaches to reproductive health access to include and centre those in the margins of society, including, people of colour, immigrants and those with precarious citizenship status. Reproductive justice provides a necessary intervention to the conventional human rights-based approaches to sexual and reproductive health and rights that are heavily reliant on legal mechanisms, and that are based on the experiences of white, middle class, straight, able-bodied, cisgender women. This research thus engages with the framework of reproductive justice in order to name the reproductive rights abuses occurring against migrants in the US-Mexico border region, and in detention, as well as to address these abuses through advocacy, collective action, and community organizing.

This research focuses on the egregious human rights abuses against migrants at the US-Mexico border and within the migrant detention system, and uses the three components of reproductive justice (outlined below) as a framework to name these abuses. Following the work of Messing et al. (2020) and Hernández (2019), the examples

investigated throughout this research are in direct violation of the principles of reproductive justice and include United States policies, such as the abortion ban for unaccompanied minors, family separation policies, Migrant Protection Protocols (MPPs or "remain in Mexico policies"), child pharmaceutical, chemical, and sexual abuse, as well as the inhumane treatment of pregnant people, and other people experiencing reproductive violence while in the custody of the US Department of Homeland Security (DHS). My research reviews these examples and expands further to provide an in-depth analysis of violations of migrants' sexual and reproductive health and rights while in Homeland Security (US Customs and Border Protection (CPB) and US Immigration and Customs Enforcement (ICE)) detention. The documented mistreatment of pregnant detainees at various Homeland Security facilities includes excessive force, verbal abuse, shackling (around their ankles and stomachs), medical neglect, unnecessary procedures, and lack of hygiene, clean water and food, which have led to maternal and fetal health complications such as miscarriage and stillbirth (National Women's Law Center, 2017; Hernandez and De los Santos Upton, 2019; Center for Reproductive Rights et al., 2020; Messing et al., 2020). Of current and particular interest to this study are the recent (September 2020) allegations of forced sterilizations and other invasive and unnecessary gynecological procedures performed by Dr. Mahendra Amin on migrants without informed consent at the ICE Irwin County Detention Center in Ocilla, Georgia (Dickerson, 2020; Treisman, 2020). This research provides a brief review of the histories of population control, particularly in the US, that has included practices such as forced sterilizations, that are integral to understanding these current allegations. This research examines how these policies and treatment are in direct opposition to the principles of reproductive justice, and how reproductive justice, i.e., linking human rights-based approaches with grassroots led efforts, can pave the way forward in addressing these violations.

Regarding the reproductive justice movement, Silliman et al. (2016: 8) note that "what little information is provided about women of color tends to center on the abuses they have suffered and represents only a partial history. Most of the reproductive health organizing done by women of color in the United States has been undocumented, unanalyzed, and unacknowledged." Considering this omission, my research highlights

the few authors and activists who have contributed to the growing movement of reproductive justice, and as Silliman et al. (2016: 8) state, those who "have brought to light both the struggles of women of color to resist reproductive oppression and the roles they have played in the fight for reproductive justice." Following the position of Silliman et al. (2016: 8), this research focuses on "what women of color have done for themselves, rather than what has been done to them." This paper therefore examines the abuses occurring against migrants in the border region in order to both bring awareness to these issues, and to better understand the responses to them, highlighting grassroots and civil society led responses. Further, this research aims to explore the grassroots, cross-sectoral, collective action and organizing strategies that are used to fight for reproductive freedom and liberation in the region and abroad. The framework of reproductive justice provides an outlook from which to link theory and practice and highlight this organizing as a way forward.

Methodology

My research is based in existing scholarly literature on citizenship and human rights, reproductive rights (including UN policy highlights), and reproductive justice. This research includes a literature review of scholarly works on these above topics, as well as a review of relevant news media regarding sexual and reproductive health and rights at the US-Mexico border, and a review of reports, notably from the Department of Homeland Security (DHS), and activist organizations. Using keywords such as "reproductive justice", "reproductive health", "reproductive rights", "US-Mexico border", and "ICE detention", my review of scholarly literature, reports and media are based on internet and York Library searches. I chose the US-Mexico border because it has continuously been a site of political contention, as well as a site of structural and physical violence against migrants. I also chose this border because it represents a crossing point, not only for Mexican migrants, but also, for many other migrating people from Central America, who have arguably been displaced, in part, due to decades of destabilizing US imperialist intervention and extractive industry in the region. I am called to undertake this research at this particular juncture because of the unprecedented

complications presented by the Covid-19 pandemic, and the recent transition from the Trump administration to the Biden presidency.

My review of scholarly literature regarding conventional understandings of reproductive rights, and the movement of reproductive justice focuses on work since the 1990s, notably because of the international conferences of Vienna, Cairo, and Beijing that took place in the mid 1990s. My review and focus of the US-Mexico border concentrates on the last 10 years of data and news media of the border, and attempts to include data as recent as possible, in an effort to include the increasingly precarious realities that the Covid-19 pandemic presents for migrants.

Scholarly articles have provided me with the theoretical base from which to ground my research. I rely on the rich literature in migration, citizenship and human rights, and use that to inform my exploration of the literature on reproductive rights. Key authors on the topic of citizenship and rights are T.H. Marshall (1950), Hannah Arendt (1951), Barry Hindess (2000), Ruth Lister (2003), and Bridget Anderson (2014). On the topic of reproductive rights, I look to the authors Rosalind Petchesky (1998, 2008), Alicia Yamin (2015), and Linda Bartlett (2004). And lastly, on the topic of reproductive justice, I largely focus on the work of Loretta Ross (2001, 2017), founder of SisterSong, and contributor to the group that coined this framework. I also look to the more recent works of Luna and Luker (2013), Kimala Price (2010), Messing et al. (2020), and Hernández and De Los Santos Upton (2019) to expand on the framework of reproductive justice.

Additionally, reports from international organizations such as the United Nations High Commissioner for Refugees (UNHCR) and the Pan American Health Organization (PAHO) assist in providing policy context to inform this study of the nexus of migration and human rights. Reports of key governmental agencies, such as the US Department of Homeland Security, as well as governmental responses, including House of Representatives resolution 1153, also provide important policy context within the United States. Reports from key activist organizations such as Project South (2020), Refugee and Immigrant Center for Education and Legal Services (RAICES, 2021), National Women's Law Center (2017; 2021), Center for Reproductive Rights (2020), the American Civil Liberties Union (ACLU, 2020), provide data and evidence concerning

reproductive rights abuses at the US-Mexico border, and provide information regarding grassroots responses to these abuses.

The US-Mexico border has constantly been in the news, given Washington's attempt to build a wall in order to deter 'unauthorized' migrants and asylum seekers. While US-Mexico border crossings were previously primarily single men looking for better economic opportunities, in recent years, women and families seeking safety have now increasingly attempted to reach the United States and demand asylum. Highly contested family separation policies and other human rights concerns, including reproductive abuses, such as the alleged forced sterilizations in ICE detention, have inspired opposition from citizens and decision makers, both domestically in the United States, and abroad. Because of this, the US-Mexico border continues to be a point of contention in domestic and global political arenas. Given the currency and evolving nature of these issues, print news media (notably *The New York Times, The Guardian,* and *Al Jazeera*) is also an important source of data for this research.

CHALLENGES TO REPRODUCTIVE RIGHTS AND JUSTICE

Citizenship and Human Rights Literature

The post-war era saw the formation of the United Nations, and the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, which represented a significant collective acknowledgement from the international community that the upholding of a human rights doctrine is an integral part of peaceful societies. Although this global consensus, that human rights are important, and that they are universal, signified progress in the field, the contemporary framework that followed has proven to be insufficient in its implementation, and in actually achieving universality, particularly for displaced persons. To understand these contemporary notions of human rights, citizenship scholars (Lister, 2013; Hindess, 2000; Munday, 2009; and Chari, 2009) often reference the work of T. H. Marshall (1950) in his post-war conceptualization of citizenship. According to Lister (2013), Marshall's theorization builds on two dominant fields of understanding – the civic republican tradition, which stresses the importance of obligations, or duties, on the part of the citizen, mostly in relation to political participation, and the liberal tradition,

which emphasizes rights that are to be guaranteed to the individual citizen by the state. Lister (2013) quotes Marshall (1950: 28-29) directly, stating that "[c]itizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed." According to this understanding, rights are guaranteed to citizens by their state, and in return, citizens hold obligations to the state which often include civic, political, and economic participation. Hannah Arendt is also often quoted from her 1968 analysis, which defines citizenship as the "right to have rights" (quoted in Shacher, 2014: 114), and much of the scholarship since, has built on this understanding that access to human rights is directly correlated with citizenship, and thus, related to membership in a sovereign state.

Highlighted in this dominant contemporary understanding of citizenship as rights, is that, as Marshall (1950: 28-29) states above, "all who possess the status are equal." Similarly, as stated in many internationally recognized human rights treaties, including Article 7 of the Universal Declaration of Human Rights, the protections of human rights are universal and should apply to all persons without discrimination (United Nations, 1948). This view of apparent universality is, however, problematic in theory, when human rights are tied to conceptions of legal citizenship status, which a growing number of people, including the estimated 79.5 million forcibly displaced persons around the world, do not have (UNHCR, 2020). It is also especially problematic in practice (and particularly for women), even among those who do hold the legal status of citizenship, because people experience their citizenship rights and obligations in a stratified manner, due to their positionality in structural power relations (Anderson, 2014).

The challenge of accessing human rights for those with precarious citizenship status becomes even more challenging for those seeking access to their reproductive rights, which should theoretically be included in this "bundle of rights" that is supposedly guaranteed with citizenship (Hindess, 2000). A challenge is thus presented in the literature regarding the state of reproductive rights for those who fall through the cracks of legal recognition – notably displaced persons, both internally and internationally. The Pan American Health Organization (PAHO) (2016: 1) Resolution on the Health of Migrants also recognizes, that as per the Universal Declaration of Human Rights and

international law, human rights are universal and "the rights and freedoms set forth in the Declaration, including health-related rights, belong to all persons, including migrants, refugees, and other non-nationals". A clear contradiction exists in the global refugee regime, and the field of human rights more broadly, where human rights are continuously recognized as universal in theory but not in practice. It is clear in the literature on sexual and reproductive health and rights that challenges in accessing reproductive rights go far beyond citizenship status as they are also affected by a myriad of other intersecting oppressions, but this theoretical base of citizenship rights must not be forgotten.

As discussed above, the system in which people access their rights through the sovereign's recognition of citizenship is problematic when considering the position of displaced persons who do not hold the status of citizenship that is recognized by a sovereign state (Salter, 2008 citing Agamben, 1995). Anderson (2014) further problematizes these realizations of human rights beyond the dilemma of the non-citizen to also include the 'failed citizen'. Anderson (2014) explores notions of inclusion and exclusion and introduces the concept of the 'community of value' which is said to be made up of 'good citizens' who are considered to be law-abiding, hard-working and to have 'respectable' families. Anderson (2014) explores how this community of value essentially excludes both the 'failed citizen', often seen as the 'criminal', or 'benefit scrounger', and the foreign 'non-citizen' a.k.a. the 'illegal' immigrant. Anderson (2014) also offers the category of the 'tolerated citizen', who is often recognized as the hardworking immigrant or the deserving claimant tolerated as members of the 'community of value' as long as they continuously prove their claims to 'good' citizenship. These framings are riddled with notions of deservingness and have gendered, racial, class, and ability implications, among others, that are important to interrogate.

Anderson's (2014) discussion of inclusion and exclusion is significant in the argument that the contemporary understanding of human rights, as tied to citizenship, is problematic. These categories that essentially dictate one's deservingness to rights and membership in a community, that are based on one's contributions to the neoliberal nation-state, serve to disprove the functionality of universality in the global human rights doctrine and turn the dominant 'citizenship as rights' understanding on its head. In Anderson's (2014) analysis, it is evident that the lived experiences of citizens are

stratified, even among those who hold the legal status. This stratification further contests and expands the conceptualization of citizenship as a guarantor of one's human rights and illuminates the limitations of accessing one's reproductive rights both within, and outside, of notions of legal citizenship. It becomes clear in the literature that a traditional human rights-based approach that is reliant on legal mechanisms is inaccessible to many -- especially but certainly not only those with precarious citizenship status. The institutions with which we interact to access our rights, and participate in our political communities, are themselves sites of inclusion and exclusion, largely based on power structures that disenfranchise Black, Indigenous, and people of colour, and other marginalized populations.

Reproductive Rights

Modern, conventional understandings of sexual and reproductive health and rights can predominantly be attributed to a series of international conferences in the mid-1990's, including the 1993 Vienna Conference, the United Nations International Conference on Population and Development (ICPD) in Cairo in 1994, and the Fourth World Conference on Women in 1995 in Beijing. During these conferences, there was a shift in the prominent global understanding of reproductive health towards a human rights-based framework (Yamin, 2015). These conferences were instrumental in the shift in global discourse that recognized women's rights as human rights, and therefore reproductive health became understood as an issue of women's human rights rather than merely a healthcare concern. Although this shift seemed to be a progressive step for women's human rights, and although human rights frameworks emphasize the importance of universality, rights do not achieve this universality in practice. This idea that human rights are supposed to be inalienable and universal becomes challenging and insufficient with respect to protecting marginalized individuals and communities "in sites of political exclusion across the globe" (Petchesky, 2008: 5). Furthering this point in regard to displaced people, Petchesky (2008: 7) states "we return full circle to the most vexing contradiction in the states of exception defining refugees, IDPs [internally-displaced people], and the victims of disaster: that international organizations as currently structured lack either the enforcement power or the political will to translate human rights principles for the excluded into lived reality". Conventional human rights-based

approaches to sexual and reproductive health and rights fall short in their realization of universality – notably, for being out of touch and inaccessible to those in the margins of society. The literature on reproductive justice expands on this question of access to reproductive rights and services within existing and intersecting power structures.

Reproductive Justice

The literature on reproductive justice expands understandings of conventional human rights-based approaches to sexual and reproductive health and rights. As is evident in the name, reproductive justice is described as the nexus between reproductive rights and social justice, and effectively advocates for the importance of intersectional, community-based solutions to reproductive oppressions (Ross and Solinger, 2017). The framework of reproductive justice was created in 1994 by a group of twelve Black women in the US who organized themselves informally under the title of Women of African Descent for Reproductive Justice (Ross and Solinger, 2017). This group of scholars and activists, including one of the most prominent and well-known advocates of reproductive justice, Loretta Ross, sought out to develop a framework that also addressed their needs, as marginalized women, regarding sexual and reproductive health and rights, which was a perspective largely absent from the prevalent discourse at the time. This framework was developed at a time when the aforementioned international conferences were taking place, as well as when the popular second wave feminist movement was heavily focused on the needs and demands of white, middle-class, cisgender, heterosexual, able-bodied, citizenship holding women. In terms of sexual and reproductive health and rights, the second wave feminist movement, largely focused on the narrow view of securing the legal right to safe abortion, which proponents of reproductive justice acknowledge is an important issue, but not the *only* issue that requires attention in order to achieve sexual and reproductive health and rights for all. Reproductive justice builds on the work of scholars such as Kimberlé Crenshaw (1989), Angela Davis (1981), and bell hooks (1989), by employing an intersectional feminist approach inspired by critical race theory and Black feminisms, to expand on the prevalent approaches to sexual and reproductive health and rights in order to not only include, but to centre, the voices and needs of those in the margins of society, whose identities and experiences intersect across race, gender, class,

sexuality, ability, and citizenship status. These frameworks are important to a movement that recognizes, as Audre Lorde (1985: 138) states, "there is no such thing as a single-issue struggle because we do not live single-issue lives."

Loretta Ross (2017: 290) defines reproductive justice as being "based on three interconnected sets of human rights: (1) the right to have a child under the conditions of one's choosing; (2) the right not to have a child using birth control, abortion, or abstinence; and (3) the right to parent children in safe and healthy environments free from violence by individuals or the state." Hence, the framework of reproductive justice moves beyond the second wave feminist movement's narrow focus on the right *not* to have a child (the legal right to abortion) to also include the right *to* have a child and the right to parent those children in safe and dignified environments. This expansion, as outlined above by Ross (2017), is particularly important to marginalized communities that require much more than the legal right to abortion in order to have their sexual and reproductive health and rights realized. For example, the right *to* have children addresses the needs of communities such as incarcerated people, people living with disabilities, Black, Indigenous and people of colour, immigrants, and LGBTQIA2S+ people, who have historically had, and continue to have, their reproductive lives controlled and violated by inhumane tactics, such as forced sterilizations or targeted long-acting reversible contraceptives (LARC), as discussed by Roberts (1997). This component also includes discussions regarding assisted reproductive technologies (ART), fostering, adoption, and surrogacy which have particular implications for people who do not fit the stereotypical, neoliberal imaginary of the family, namely LGBTQIA2S+ people, and people living with disabilities (Ross and Solinger, 2017). The third component is also expansive in its potential to reach across sectors and intersecting issues. For example, Ross and Solinger (2017) argue that part of raising children in safe and sustainable environments, free from violence by individuals and the state, includes addressing issues such as immigration, gentrification, housing security, climate change, and carceral violence, among others, which also tend to affect marginalized communities at higher rates. The three components of reproductive justice, therefore, expand beyond the single issue of legal abortion rights, which was a large focus of second wave feminism, to address the sexual and reproductive needs of all women and gender diverse people, not just a privileged few.

Luna and Luker (2013) note that conventional human rights-based approaches and the popular reproductive rights movement are based in the legal tradition, whereas the expanded reproductive justice movement is based in social justice, and emphasizes the impact of intersecting identities (i.e., race, gender, class, sexual orientation, and ability), while highlighting the importance of community-based solutions to these structural oppressions. Additionally, Ross (2017) indicates that the reproductive justice framework was not intended to replace service provision or legal advocacy frameworks but rather was created to enhance these by highlighting and investigating the intersecting forms of oppression that affect the experiences of women of colour regarding reproductive health. Reproductive justice expands beyond a narrow legal focus by linking human rights-based approaches with community led grassroots movements, thus joining theory and praxis. Speaking to this expansion, in the Briggs et al. (2013) panel, Petchesky (2017: 107) states "litigation is only one tool available to movements for social change. It may shift standards in the courts, but it takes a mobilized social movement to change values, images, and power relations". Luna and Luker (2013: 330) add that reproductive justice advocates often eschew engagements with the law "having experienced its limited ability to protect multiple vulnerable groups on a range of issues." Regarding citizenship rights, Luna and Luker (2013: 340) argue that "the term rights suggests placement within a legal system that recognizes a person's claim to protections or guarantees of freedom from certain interference of the state; in practice, however, many women cannot rely on these protections or guarantees." This situation further contests and expands the conceptualization of citizenship as a guarantor of one's human rights and illuminates the limitations of accessing one's reproductive rights both within and outside of notions of citizenship. This reproductive justice literature encourages an expansion beyond the conventional reproductive rights approaches that are reliant on legal mechanisms that tend to be out of touch and inaccessible to many who fall outside of structures that associate access to human rights with citizenship status, especially displaced populations (Petchesky, 2008).

Proponents of reproductive justice move beyond conventional legal human rights-based approaches in order to address the intersecting structural factors of racism, sexism, classism, homophobia, and ableism that prevent human rights from being experienced in

an equal way. Reproductive justice has the potential to fill the gaps of failed universality in conventional legal understandings of human rights, and reproductive rights more specifically by recognizing that, due to structural power relations, not all people can access their alleged universal rights in the same way or to the same degree. By advocating for an intersectional approach to sexual and reproductive health and rights, reproductive justice advocates recognize that, although human rights may be universal in theory, histories of structural and institutionalized violence and exclusion limit the ability for many communities to access these rights, in practice. It becomes clear how this emancipatory framework, with its focus on bottom-up, collective action and community organizing methods, offers an approach to sexual and reproductive health and rights that is more relevant to the lived experiences of the most marginalized and excluded people in our societies, which has not been the case with conventional human rights-based approaches to sexual and reproductive health and rights and the popular second wave feminist movement. Reproductive justice, therefore, has a stronger potential toward achieving sexual and reproductive health and rights for all, in practice, than the heavily legal approaches of the conventional human rights-based doctrine. A critique of failed universality brings the plight of migrant rights to the forefront, because, as displayed above, migrants often receive mere lip service regarding the universality of human rights, while the system in place fails to recognize the specificity of their condition, where they occupy legal grey areas, and are pushed to the margins of legal structures of human rights.

In recognition of the challenging nature of the alleged universality of human rights, Ross and Solinger (2017: 72) note that "while every human being has the same human rights, not everyone is oppressed in the same way, or at the same time, or by the same forces." The current and particular reproductive oppressions that marginalized individuals and communities face cannot be separated from the violent histories of colonialism, slavery, imperialism, and displacement, that have shaped our modern structures and institutions from social welfare, to legal systems, to healthcare. 'Standpoint theory', as discussed by Eslava (2008), and Ross and Solinger (2017), illustrates how the positionality, 'standpoint', or lens, that a person occupies from within unequal power structures, "inform[s] and shape[s] their sense of 'agency', and hence the nature of their interaction with the world" (Eslava, 2019: 2). In this sense, an

individual's positionality, and place within power structures, affects how they are able to exercise their agency in relation to claiming their human rights. The framework of reproductive justice employs an intersectional feminist perspective and encourages the need for a nuanced understanding of histories of violence and subjugation in order to understand and address the current realities of oppression.

To move closer to a vision of true universality, human rights, and further, reproductive rights, must be understood as more than a system of law because according to standpoint theory, the differences in people's positionality illuminate how the law is experienced in different ways by different people and communities. Where the law may advocate for some, it serves to work against others. Lister (2013: 18) poignantly illustrates this by noting the criticisms of some contemporary feminist scholars which "caution against placing too much faith in rights but also counsel against outright rejection, in acknowledgement of the law's force as an agent of emancipation as well as oppression." In order to address the failures of legal universality of the human rights doctrine, it is crucial to recognize the inconsistent nature of relying on flawed legal systems that were built upon structures of racial and other oppressive violence. The framework of reproductive justice expands beyond traditional legal conceptions of human rights-based approaches to sexual and reproductive health and rights, in order to adequately address the needs of marginalized groups that are often missed in these solely legal approaches. The view of human rights held by reproductive justice advocates seems to be in line with Merry et al.'s (2010: 102) suggestion that human rights are "simultaneously a system of law, a set of values, and a vision of good governance." Reproductive justice advocates, such as civil society and community organizers, highlight the *values* of a human rights-based approach to guide their work while remaining critical of the larger field of human rights and particularly the reliance on legal and structural factors that limit their apparent 'universality' in practice. This is illustrated by Ross and Solinger (2017: 127), stating that "the most effective pathways to reproductive autonomy and dignity are community-based organizing, coalitions of social justice organizations, activist alliances across race and class, and other democratic initiatives." Ross and Solinger (2017: 127) add that "[i]n contrast to the belief that courts *create* rights, reproductive justice activists believe that human rights are natural, inherent, and

inalienable because of one's status as a human being." Human rights are thus "first most powerfully expressed as moral commitments, then political structures and opportunities, and then as legal demands on the judicial system" (Ross and Solinger, 2017: 127-8).

REPRODUCTIVE RIGHTS/JUSTICE ABUSES AT THE US-MEXICO BORDER

Histories of abuses

The following section examines the fraught history of reproductive oppressions in the US, and contextualizes these examples using the reproductive justice framework. The persistence of reproductive violence against immigrants, mainly Black and Brown people, at the southern border of the US, cannot be divorced from the long history of reproductive oppression, eugenics, and population control methods used against these communities. The reproductive justice framework emphasizes the importance of acknowledging these histories, and their persistence in the United States, long after the legal abolition of slavery. Reproductive oppression persists as an afterlife of the transatlantic slave trade, in part because it was intrinsically built into legal systems to monetarily benefit the white slave owners and traders, the state, and ultimately to uphold white supremacy. The law has actively disenfranchised marginalized communities in the past through mechanisms of population control. An example provided by Ross and Solinger (2017) is the overturning of the English common law tradition in the Virginia Colony in 1662 that previously granted a child's free or unfree status according to their father. This legal reform moved the deciding factor of a Black child's free or unfree status to match that of their mother – which thus "guaranteed the growth of the unfree population and ensured the longevity of the slavery regime" (Ross and Solinger, 2017: 18). As explained by Ross and Solinger (2017: 18), "the law made the fertility of the enslaved woman into the essential, exploitable, colonial resource." An enslaved woman's reproductive capacity could therefore be exploited by their slave owner and controlled in a way that increased the wealth of the slave owner, and further legally upheld the system of white supremacy.

The afterlives of slavery are seen in the continued reproductive oppression of marginalized people, particularly Black, Indigenous, and other people of colour, in the case of the United States. The maternal mortality rate or pregnancy-related mortality rate in the United States has increased in previous decades along race lines, which is incredibly alarming for a 'developed' nation. For example, the Centers for Disease Control and Prevention's (CDC) (2016) data confirms that between 1987 and 2016, pregnancy-related mortality ratios increased from 7.2 to 16.9 deaths per 100,000 live births. A CDC (2019) study based on United States' national data on pregnancy-related mortality between 2007 and 2016, found that Black and Indigenous women over the age of 30 were 4 to 5 times more likely to die due to pregnancy and birth related causes than their white counterparts. Rosenthal and Lobel (2020) also note that infant mortality rates, due to complications of low birthweight and preterm delivery, are more than twice as high for Black Americans in comparison to white Americans. Rosenthal and Lobel (2020) add that Latinx Americans, particularly Puerto Ricans and Cubans, also experience similar adverse birth outcomes at disproportionate rates. This is due to a myriad of factors, but as discussed by Roberts (1997) and Ross and Solinger (2017), it is largely due to the existence of explicit and implicit racism and bias within the medical system that has roots in colonialism and slavery, and not listening to, or taking seriously, the pain of Black and Indigenous people.

Dorothy Roberts, author of *Killing the Black Body* (1997), discusses the historic roots of these current issues of racial injustice and obstetric violence in the medical system, by explaining the appalling practices of what she refers to as "slave-breeding" and the multiple inhumane and nonconsensual, experimental surgeries done to Black enslaved women without anesthesia by Dr. Marion Sims in the United States in the mid-1800s. These experimental surgeries had much to do with Sims' 'developments' and contributions to the field that had him named the 'father of modern gynecology' (Roberts, 1997). The multiple nonconsensual surgeries endured by enslaved women at the hands of Sims are directly linked to the institutionalized refusal to recognize and humanize the pain of Black people, and especially, Black women. As stated by Silverstein (2013) in Sharpe (2016: 10), "'people assume that, relative to whites, blacks feel less pain because they have faced more hardship'… [b]ecause they are believed to be less sensitive to pain,

black people are forced to endure more pain." As displayed above, the current disparities in Black maternal health are informed by a historic neglect of Black women's reproductive lives. Reproductive justice thus recognizes that even when all people are guaranteed universal human rights, these violent histories inform the way that marginalized individuals and communities are able to interact with the world and claim their rights.

Revisiting the discussion regarding claims to citizenship (rights) and belonging, Anderson (2014) draws attention to the trope of the "benefit scrounger", an example of the 'failed citizen', who is framed as an undeserving poor person, and is often accused of burdening the state's welfare system. Likewise, Ross and Solinger (2017) make note of similar sentiments attached to 'legitimate' or 'worthy' motherhood, explaining how poor mothers face public resentment and are constantly policed, and deemed undeserving of public provisions. These notions of deservingness are predicated on the needs of the state and the economy, not on the well-being of people. Ross and Solinger (2017) provide the example of the "welfare queen" trope perpetuated by politicians like Ronald Reagan and media outlets that represented single mothers of colour as being not only dependent on public assistance but also as 'scammers' of the welfare system. Rosenthal and Lobel (2020: 370) also note that both Black and Latina women are often stereotyped as being "promiscuous, sexually available, and young, single mothers". These stereotypes served to justify public resentment against mothers of colour and encouraged coercive population control methods targeted at these communities in order to not create further burdens on the welfare system and the seemingly virtuous taxpayer.

Ross and Solinger (2017: 96) note how the slave trade in the United States "regulated which babies had market value and which ones had value as white citizens," and argue that it continues to have implications on the reproductive lives of Black women. Ross and Solinger (2017) also discuss coercive sterilization programs that have been targeted to communities based on race, class, ability, and sexuality, particularly in the 1970s and 1980s. Contrastingly, they note that, at the same time, white women were often met with resistance when requesting to undergo tubal ligation surgery. Ross and Solinger (2017: 51) note how "presumably, doctors believed the babies these women produced represented superior value to American society." Ross and Solinger (2017)

therefore call attention to these reproductive and population control methods as mechanisms for the state to essentially decide who is of value to the state and market, and thus, who is deserving of citizenship and the rights that are meant to accompany it.

Winters and McLaughlin (2020) note that the eugenics movement in the US during the latter half of the 1800s saw the support of a variety of people who made claims that undesirable or 'unfit' people's reproduction should be controlled, most often via sterilization, in order to prevent the birth of undesirable children and to preserve a race of 'fit' people (i.e., white, neurotypical, middle class, etc.). The eugenics movement enabled over fifty years of legalized involuntary sterilization programs targeted at marginalized populations in the US, and contributed to the lasting attempts to control and subjugate entire communities through the control of reproduction (Winters and McLaughlin, 2020). Novak and Lira (2018) note that in the US, there were approximately 60,000 people sterilized in the first half of the 20th century under eugenics programs. The reproductive control methods discussed throughout this paper contribute to a larger story, in which Indigenous people's reproduction was, and continues to be controlled, in order to strengthen the settler colonial project. Also, because the fertility of Black women no longer represents economic benefit for white slave owners and the state as it did during chattel slavery, the methods that were once in place to control and increase the rate of their reproduction have changed to instead suppress it (Winters and McLaughlin, 2020). Similarly, migrants continue to have their reproductive lives controlled in order to deter migration, and other marginalized groups such as incarcerated people, LGBTQIA2S+, and people living with disabilities are targeted by reproductive control methods in order to maintain and uphold hegemonic norms of the capitalist, white supremacist, cis-heteropatriarchal state.

Angela Davis (1981) discusses how in the US, Native American, Chicana, Puerto Rican, and Black women have been sterilized at disproportionate rates, including through federally subsidized sterilization programs, aimed at controlling the population of these, often poor, and 'undesirable' groups. Hartmann (1995: 255) notes that the director of obstetrics and gynecology at a New York municipal hospital actually reported that "[i]n most major teaching hospitals in New York City, it is the unwritten policy to do elective hysterectomies on poor black and Puerto Rican women, with minimal indications, to train

residents". Roberts (1997) also shares a tactic used by doctors who approached birthing people while they were in labour and coerced them into receiving tubal ligation surgery. In many cases, doctors would threaten to withhold pain medication during labour unless the patients signed consent forms indicating their 'agreement' to undergo sterilization via tubal ligation afterward (Silliman et al., 2016). Silliman et al. (2016) note that even when patients did not sign consent forms, doctors would often perform the procedures without telling the patients. Silliman et al. (2016) also explain that doctors would also lie and tell their patients that they would be at risk of death if they didn't undergo sterilization.

Davis (1981: 219) also discusses a government policy, under President Roosevelt in 1939, that resulted in an "astonishing number" of Puerto Rican women sterilized. In 1939, the Interdepartmental Committee on Puerto Rico under President Roosevelt, issued a statement that attributed the economic troubles of the island to problems of 'overpopulation' (Davis, 1981). An experimental sterilization campaign followed, and "by the 1970s over 35 percent of all Puerto Rican women of childbearing age had been surgically sterilized", which was the highest rate in the world at that time (Davis, 1981: 219); Roberts, 1997). As is stated by Loretta Ross in Ross and Solinger (2017:159), "the reproductive regulation, oppression, and exploitation of 'women, girls, and individuals, through their bodies, sexuality, labour, and reproduction [is a] powerful strategic pathway to controlling entire communities'".

Another example of the targeted sterilizations of Latinx people in the US is the disproportionate rates of sterilization of Latina and Chicana women in California in the early-mid 1990s. California was a leader in the US in 'social engineering' and eugenics in the early 1900s, and between the 1920s and the 1950s, approximately 20,000 people were sterilized in California in state institutions for the 'mentally ill and disabled' (Novak and Lira, 2018; Flemming and Lebrón, 2020; Ghandakly and Fabi, 2021). Novak and Lira (2018) conducted research to explore the role of race in sterilization in California among those 20,000 people, by comparing cases of sterilization between Latinx and non-Latinx patients in these facilities, adjusting for age. Novak and Lira (2018) found that the state of California's sterilization programs disproportionately impacted Latinx, and particularly Mexican origin people, and that Latino men were 23% more likely to be sterilized than their non-Latino counterparts, and that Latina women were 59% more

likely to be sterilized than non-Latinas. Novak and Lira (2018) explain that 'eugenics thinking' shaped negative stereotypes of Latinx, and specifically Mexican-origin people, that were widely held and disseminated by politicians and state officials at the time, including claims that they were immoral, less intelligent, criminally inclined, and 'hyperfertile'. Novak and Lira (2018) note that these stereotypes have even appeared in official reports by state authorities, with one example describing people of Mexican origin as 'undesirable' immigrants. In the medical records reviewed by Novak and Lira (2018), doctors often described Latino men as "biologically prone to crime", and Latina women as "sex delinquents". In these records, Novak and Lira (2018) report that these sterilization procedures were described as necessary to protect the state from increased crime, poverty and racial degeneracy. Similar harmful stereotypes continue to be weaponized against immigrant communities in order to deter their migration into the US. Novak and Lira (2018) also notably link this history of population control with modern cases of coerced sterilization of people in the criminal justice system in the US. Novak and Lira (2018) note how "Latina women's reproduction is repeatedly portrayed as a threat to the nation", in part because of stereotypes that paint them as 'hyperfertile' and their children as 'anchor babies' who burden the nation and its taxpayers. The rhetoric that dehumanizes and marks Latinx immigrants as undesirable encourages a lack of empathy towards them and in turn enables laws and policies to be passed that are meant to control and govern their behaviour (Flemming and Lebrón, 2020). For these reasons among others, as Ross and Solinger (2017: 144) state "[p]olicy makers and others heavily mark the reproductive lives of immigrants for management." Reproductive justice advocates recognize that these histories of targeted population control have lasting impacts and require responses that are informed by the lived experiences of those who are experiencing these oppressions.

A recent manifestation of these violent histories that serve to dictate which lives are valuable and deserving of rights, and which are not, are the allegations of forced sterilizations and other invasive and unnecessary gynecological procedures performed on migrants, without informed consent, by Dr. Mahendra Amin, at the Immigration and Customs Enforcement (ICE) Irwin County Detention Center in Ocilla, Georgia (Dickerson, 2020; Treisman, 2020). It can be speculated that these nonconsensual

procedures represent yet another example of the reproductive control of marginalized populations that are imposed in order to not 'burden' the state and taxpayer. Ross and Solinger (2017) reference the trope of "anchor babies" which refers to children born to undocumented Mexican and Central American migrants on US soil, with the apparent intention of facilitating their own citizenship process through their child's birthright citizenship status. This trope furthers resentment toward immigrant populations who are often seen by citizens as being in competition for jobs and state resources, as well as encumbering social services. This resentment serves to justify measures like forced sterilizations that suppress and control both the migration and reproductive lives of migrants. Using the framework of reproductive justice, it could be suggested that these allegations of non-consensual, unnecessary gynecological procedures, including alleged forced hysterectomies done to mostly Black and Brown migrant women are intrinsically linked to these histories of reproductive abuses and population control methods targeted at 'undesirable' individuals and populations.

A reproductive justice perspective recognizes that understanding the impacts of these histories of abuse and targeted population control methods is integral to addressing the persisting reproductive oppressions of marginalized people. The cases of coercive population control methods and reproductive oppression discussed above provide important context and history of these practices that have been deeply and insidiously ingrained into systems of healthcare, law and beyond. The aforementioned histories of reproductive violence and the continued institutionalized oppression of marginalized groups demonstrates the failure of universality of human rights and the need for the intervention of a framework like reproductive justice. In social systems that have been shaped by unequal power relations, the existence of mere legal rights, without proper recognition of these histories and how they continue to affect one's ability to access these rights, will only allow these inequalities to persist.

Sexual and Reproductive Health and Rights Challenges for Migrants

This section engages with critical feminist literature on the topic of displacement, and reviews reproductive challenges experienced by migrants more generally, before focusing in on the case of the US-Mexico border. Scholars such as Cohn (2013), Petchesky (2008)

and Sánchez and Enríquez (2004) discuss the gendered nature of conflict, disaster, and displacement, and name factors that are specific to the experiences of women, which may exacerbate the effects of conflict, including social reproductive responsibilities and gender-based violence. Part of this literature focuses on the challenges that women face in accessing reproductive rights and services during conflict, and throughout various stages of displacement and migration, including transient stages of movement, long-term camp settings, and upon resettlement. These challenges include, but are not limited to, lack of safe maternal health services, sexual violence, lack of sanitation access which can often lead to reproductive and urinary tract infections (Petchesky, 2008), and involuntary participation in the sex trade (Bartlett, 2004). Petchesky (2008: 5) notes that these problems are deeper than the obvious large gaps in services and that they necessitate a need for a more nuanced "analysis and understanding of the ways in which sexuality and sexual violence, pregnancy, childbirth, HIV and AIDS, and racialized and gendered power relations take on whole new meanings – and help give meaning to – situations of armed conflict and disaster" – arguably, an example of the reproductive justice perspective.

A literature review by Hacker et al. (2005) finds that undocumented immigrants around the world face barriers in accessing sexual and reproductive health in the policy arena due to lack of insurance and documentation, in health systems due to bureaucratic obstacles, limited and overwhelmed alternative care options and safety nets, and widespread discrimination within these systems, and on individual levels because of fear of deportation, language barriers, stigma, and a lack of financial and social capital that are integral to navigating care systems. Similarly, Allotey et al.'s (2004) study with a group of migrant women in Victoria, Australia, finds that respondents report a difficulty in accessing reproductive and family planning services, and that, of the obstetric services and routine practices that they are able to access, many are not culturally appropriate, that providers lack language and cultural interpreters, and that there is widespread racism within the health systems. Hole et al. (2015: 1663) discuss the concept of 'cultural safety' developed by Maori nurse Irihapeti Ramsden in Aotearoa, New Zealand, which "goes beyond related concepts of cultural sensitivity, cultural competence, and cultural awareness to include an analysis of power imbalances, institutional discrimination,

colonization, and colonial relationships as they apply to healthcare", which is a concept that is clearly lacking in these examples of healthcare provision for (im)migrants. Further, Hole et al. (2015: 1662) note how accessing healthcare services for marginalized people, often reflects "structural violence that reproduces experiences of institutional trauma", which is undoubtedly the case for many people experiencing displacement and/or resettlement. Concepts and theories, like cultural safety and reproductive justice, provide a necessary intervention to systems that have foundations in the marginalization of oppressed peoples, and that continue to ignore the specific experiences of marginalized groups. These theories, developed by Black and Indigenous people, highlight the intersecting oppressions that affect people's access to, and experiences of, systems like healthcare.

United States/Mexico Border and the Department of Homeland Security (DHS)

Various media outlets, politicians, and government policies have contributed to anti-immigrant sentiments among the US public, by employing fear-mongering tactics, such as Trump's remarks about 'drug dealers, criminals and rapists' swarming the southern border (BBC, 2016), and discourses that infer a competition for resources, like the 'anchor baby' trope discussed above. This racist and irresponsible framing is intended to foster resentment toward immigrants and to deter migration of allegedly 'undesirable' people into the US. This rhetoric, along with the hyper-securitization of borders, and inhumane policies, work in tandem to deter and punish forced migration, that the US bears much culpability for. As is powerfully stated by Hernández (2019: 132), "The U.S. government under the Trump administration is enacting legal policies to sanction family separation and maternal/child abuse while simultaneously evading acknowledgment of its hand in spearheading wars throughout Latin America that necessitated the need for asylum seeking in the first place." Also in line with Hernández's (2019) argument, these policies make it evident that the reproductive capacities, and the freedom of movement and migration of people of colour, pose a threat to the white supremacist order that the state was built on.

Although it was more blatantly obvious than ever under the Trump administration, anti-immigrant sentiment and harsh migration policies, were not unique to his

presidency. In fact, although President Joe Biden and Vice President Kamala Harris campaigned on a platform of undoing the wrongs of the previous administration, they have arguably continued an anti-immigration agenda forward into the current administration. This is evident in Vice President Harris' speech during her first diplomatic trip, visiting both Guatemala and Mexico in June 2021, where after meeting with Guatemalan President Alejandro Giammattei, she warned people in the region not to attempt to seek asylum in the US, by stating "I want to be clear to folks in this region who are thinking about making that dangerous trek to the United States-Mexico border: Do not come. Do not come" (cited in Naylor and Keith, 2021). Harris followed by stating that "the United States will continue to enforce our laws and secure our border" (cited in Naylor and Keith, 2021). The administration notes that this warning is based on a response that is focused on addressing the 'root causes' of migration such as lack of economic opportunities and corruption – and involves various humanitarian and financial aid packages as well as incentives and agreements with countries like Mexico to limit the number of people who reach the border of the US (BBC, 2021). Although it may be too soon to make definitive statements about whether President Biden will undue the wrongs of the Trump administration, particularly in regard to immigration, Walia (2021: 21) reminds us that:

> While Trump's overtly malicious and cumulative policies of separating families, caging children, banning Muslims, building the border wall, and overturning minimal protections for refugees and undocumented migrants has garnered international condemnation, US immigration enforcement has been a routine and bipartisan practice for over two centuries. Liberal lawmakers and their supporters may critique the overt, racist treatment of migrants under Trump's reign, but they too naturalize the border's existence and uphold the state's right to exclude migrants through border rule.

This research is being undertaken during the transition of leadership in the US. Most policies discussed below occurred during the Trump administration, and in some cases, and at this time, continue on into the Biden presidency. A CBP (2021) report

outlining "Southwest Land Border Encounters" data from US Border Patrol (USBP) and Office of Field Operations (OFO), notes that there were 178,622 migrants apprehended (arrested or detained) at the US-Mexico border in March 2021. This figure includes accompanied minors, family unit apprehensions, single adults, and unaccompanied children. This statistic represents a stark increase in border apprehensions and is the largest monthly figure of the last twenty years, since 2001. The demographic of migrants crossing the US-Mexico border has also changed in recent years to include more women, children and families. Sullivan (2021) notes that with the reversal of some of the harsh Trump era borders restrictions, tens of thousands of unaccompanied migrant minors have been crossing the southern border of the US. These facts demonstrate the challenges faced by the Biden administration to address the so-called 'border problem' on the southern border that is currently compounded by Covid-19 sanitary measures of confinement and border closure.

Messing et al. (2020: 339) review various policies introduced or exacerbated by the Trump administration, which they argue have "systematized the mistreatment of children and pregnant immigrants" in the US. In their five-page document, Messing et al. (2020) briefly review specific policies such as the abortion ban on unaccompanied migrant minors in DHS detention, family separation policies, and the treatment of pregnant migrants in detention, and display how they are in direct violation of the core principles of reproductive justice – the right to have children, the right to not have children, and the right to parent the children you have in safe and sustainable communities. Messing et al. (2020: 339) purport that "these policies can be seen as manifestations of a single targeted strategy to control the reproductive autonomy of migrants as a tool of immigration enforcement." Hernández (2019) also interrogates various reproductive injustices at the US-Mexico border, including reported child pharmaceutical and chemical abuse and sexual abuse, the mistreatment of pregnant migrants in detention, as well as family separation via "zero tolerance" policies and the deportation or detention of parents while their children are placed in the custody of the US foster care system.

Messing et al. (2020), as well as Hernández (2019), discuss how Trump era family separation policies have been in direct violation of the core principles of reproductive

justice. In 2018, Attorney General Jeff Sessions and ICE Director Thomas Homan announced a policy that followed the Trump administration's harsh and cruel response to immigration – the "zero tolerance" policy, where all undocumented immigrants apprehended inside the borders of the US were to be detained and prosecuted (Messing et al., 2020; Hernández, 2019). Previously, pregnant people and families were mostly protected from detention but this changed in line with the administrations 'tough on immigration' approach. After the implementation of the "zero-tolerance" policy, when adults with children were detained, their children were taken away from them and reclassified as "unaccompanied" minors, who then became the responsibility of the Office of Refugee Resettlement (ORR), the government agency that oversees unaccompanied children. These cruel family separation practices of the administration triggered widespread discontent and public outcry.

Harsha Walia (2021) notes how the Trump administration weaponized the Covid-19 pandemic in order to further the administration's anti-immigration agenda. In March 2020, then-President Trump issued an executive order stemming from a CDC order that invoked sweeping powers in order to restrict the entrance of certain migrants across the borders of the US, particularly asylum seekers (Montoya-Galvez, 2020). Walia (2021) notes that more than ten thousand migrants and refugees were expelled from the US border within the first eighteen days of the implementation of this order. Walia (2021: 20) displays the impact of this unprecedented policy by sharing that shockingly, between the months of March 2020 and May 2020, "only two people were able to exercise their right to seek asylum at the US-Mexico border". It is clear that former President Trump exploited the Covid-19 pandemic in order to halt the migration of people he and his administration saw as undesirable. This executive order fits with the Trump administration's track record of harsh immigration policies, such as the zero-tolerance policy, the Muslim ban, the executive order aimed at increasing detention capacity and expedite deportations, as well as the strengthening of local immigration enforcement powers, and increased funding for the expansion of the border wall (Walia, 2021).

Migrant Protection Protocols

Another Trump era policy that served to curb migration across the US-Mexico border during the Covid-19 pandemic is the Migrant Protection Protocols (MPPs). In January 2019, the DHS introduced the MPPs, known as the "remain in Mexico policy", which ordered migrants seeking asylum at the US-Mexico border to await their hearings along the Northern Mexican border, in cities and towns like Ciudad Júarez and Tijuana. The northwestern region of Mexico saw the highest rates of Covid-19 exposure in Mexico, at 40.7% in the border region between Baja California and Chihuahua (The Associated Press, 2021). Forcibly returning people who are already in precarious positions to this region puts them in immediate danger due to the heightened risks of contracting the virus, as well as the other threats that this region presents. Context of the border region in Mexico includes gendered violence, displayed by the high rate of femicides in cities like Ciudad Júarez, Chihuahua. Wright (2011) notes how in 1993, a group of feminist organizers brought attention to the murder of dozens of women that past year in Ciudad Júarez, and the subsequent impunity and lack of political will to hold perpetrators accountable. Wright (2011: 707) notes how the bodies of these women were dumped around the city "like garbage". This group of organizers called this phenomenon of murders "femicide", noting the particular gendered implications of these attacks. Wright (1999; 2011: 708), and Walia (2021) discuss how the political and economic factors of the region contribute to this violence, particularly the targeting of the working-class poor, and more specifically, the women working in the maquiladora industry, "whose productive labor established Ciudad Júarez's reputation as a profitable hub of global industrialization in the era of the North American Free Trade Agreement (NAFTA)". Walia (2021) also notes that in 2000, 90% of the maquiladoras were US-owned. This calls attention to the role of the US in the destabilization of the region and subsequent gender-based violence, in the pursuit of low-cost manufacturing. The gendered violence in Ciudad Júarez that is rooted in its rapidly industrialized political economy, as well as the history of drug trafficking in region, continues today. To further illustrate the particular gendered implications of the violence in the region, Ross and Solinger (2017) note that many women who are fleeing their home countries and crossing the US-Mexico border often experience sexual assault on their journey. Ross and Solinger (2017) cite

research by Staudt et al. (2009) that suggests that many women who make the journey to the US begin taking contraceptives beforehand because sexual violence and assault is so common in the region, with up to 80% of women being raped while in transit.

Many women and gender diverse migrants and asylum seekers are survivors of abuse and are seeking protection in the US. To send migrants back to Mexico to await their hearings puts them in direct danger, and violates principle of *non-refoulement* – a core principle outlined in the United Nations 1951 Convention and its 1967 Protocol Relating to the Status of Refugees that prohibits states from returning refugees to countries where they face serious threats to their life or freedom. This principle is accepted as a rule of customary international law. Human Rights First (2021, para 3-4) has compiled a report as of February 19, 2021 that documents 1,544 publicly reported cases of murder, rape, torture, kidnapping and other violent assaults against asylum seekers and migrants who have been forced to return to Mexico under the Migrant Protection Protocols, which they note is "likely only the tip of the iceberg" of the over 68,000 migrants and asylum seekers that have been forced to return, who haven't shared their stories with reporters, human rights researchers, attorneys, or other personnel. An issue brief by the Center for Reproductive Rights and other allied organizations (2020) cites the ACLU of Texas' work which has reported numerous cases of pregnant people, including those experiencing high-risk pregnancies, being forced to return to Mexico under the Migrant Protection Protocols, where they lacked adequate shelter and the medical care necessary to safely see their pregnancies to term. The brief also cites a report by Human Rights First, which documents cases of violence against pregnant migrants who were returned under the Migrant Protection Protocols, some of which resulted in miscarriages.

The US Immigration Policy Center published a report by Wong and Ceceña (2019) on their findings from interviews with 607 asylum seekers who were returned to Mexico under the Migrant Protection Protocols to await their hearings in migrant shelters along the border in Tijuana and Mexicali. In the interviews, Wong and Ceceña (2019) found that 89.5% of respondents who were asked by US immigration officials about fear of being returned to Mexico expressed fear. Out of the respondents who expressed fear, only 40.4% of cases were investigated further, with 59.6% of respondents being placed

into the Migrant Protection Protocols program with no further examination of their fear to return. Of the respondents who expressed fear to US immigration officials, 63.9% reported that their prosecutor(s) would be able to find them and access them in Mexico, but they were returned anyway. This situation raises significant concerns regarding the principle of *non-refoulement*, because these people who came to the US to seek asylum from persecution are being returned to a country where they may face serious threats to their life and/or freedom. Wong and Ceceña (2019) also report that only 17.1% of respondents were given any information from US immigration officials about how to access legal services, and only 19.7% report being told about how to access social services in Mexico such as food or housing. This demonstrates a clear gap in services provided by the DHS and US immigration officials, and further, a gross negligence and lack of will. Wong and Ceceña (2019) also note that many of the respondents reported threats of violence, and the occurrence of actual physical violence while waiting in Mexico. The respondents in Wong and Ceceña's (2019) study also report homelessness and lack of access to employment as concerns while waiting in Mexico. Wong and Ceceña (2019) also share that before being sent to Mexico, while being detained under DHS custody, these respondents reported significant issues with access to adequate food, water, sleep, medical care and sanitation, as well as verbal and physical abuse. Particularly concerning during the Covid-19 pandemic, 89.5% of respondents also described the facilities as overcrowded (Wong and Ceceña, 2019).

The northern border towns of Mexico are recognized as highly contentious and dangerous, arguably in part, due to the geopolitical factors that the nation state border presents. Human Rights First (2021) notes that paradoxically, the DHS is sending migrants back to regions that the US State Department recognizes are dangerous through travel advisories to its own citizens, and through the designation of these areas as level 4 threats – the same designation assigned to Afghanistan, Iraq, and Syria. Human Rights First (2021) explains that the Trump administration has claimed that the Migrant Protection Protocols are an alternative to family separation or detention, but this is clearly insincere and yet another attempt to frighten and deter migrants from seeking asylum in the US.

Jones (2016) presents various case studies that demonstrate the securitization and militarization of various border sites, including the US-Mexico border (and border lines between Palestinian and Israeli territories) and the acts of physical violence that occur in these spaces, as well as the greater phenomenon of structural violence that borders present. Similarly, Khosravi (2019: 413) discusses borders as a site of violence and pays particular attention to the phenomenon of "wall fetishism" to describe the obsession of highly visible, fear-triggering, physical barriers that have become part of the borders of states like the US, Israel, and Saudi Arabia. Khosravi (2019) describes how borders, separating nation-states, also often serve to function as borders between classes, and that the world's bloodiest borders tend to be those between rich and poor countries. Relating to border walls, Khosravi (2019: 409) links the "installation of border walls (here) and the unsettling of communities (there)." To expose the violence that borders represent, Khosravi (2019: 413) states "through exposing the transgressors to death, borders are turned into the infrastructure of racism, that is, 'the state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death' (Gilmore 2007: 28)."

In this discussion of border violence, Khosravi (2019) explores the temporalities of borders through the concept of racial time, wherein, he suggests, tools of waiting, delaying, and circulating are utilized as 'time-stealing' mechanisms against migrants from the global South. Khosravi (2019: 417) notes that these techniques are used as methods of domination and exclusion, and that keeping migrants waiting and in continuous situations of delay (in terms of weeks and even years), "is a way of experiencing the effect of power." Particularly in relation to circulating, Khosravi (2019: 418) insists "a common experience of the condition of undocumentedness, of asylum process, of multiple displacements and replacements, or experience of detention and deportation is a sense of being sent back in time" where one does not get the chance to "establish eligibility for political and social participation." Khosravi (2019: 418) continues explaining control methods of borders by explaining that "alongside techniques of bordering that operate through immobilising and confinement, keeping people continuously on the move is also a mechanism of control society." An issue brief by the Center for Reproductive Rights, American Friends Service Committee, Human Rights

First, and Women's Refugee Commission (2020) outlines various Trump era policies and procedural blocks, including the Migrant Protection Protocols, that obstruct migrants claims to asylum, in part, by forcing migrants into long periods of waiting, often outside of the borders of the US. The processes of waiting, delaying, and circulating outlined by Khosravi (2019) are ever-present in the examples listed in this issue brief, including metering, i.e., the artificial capping of asylum claims at US points of entry by the CBP forcing people to wait in Mexico, the Migrant Protection Protocols also forcing people to return to Mexico, asylum cooperative agreements made between the US and countries like Guatemala that essentially block asylum claims and send asylum seekers to potentially unsafe third countries, and third country transit bar – similar to the previous agreements, and fast-track deportation programs. The Migrant Protection Protocols, and other methods of waiting, delaying, and circulating employed by the US government against migrants violate the principles of reproductive justice because they expose migrants, particularly, women and gender-diverse people to gendered violence, femicide, sexual violence, exploitation, and a lack of hygiene and safe reproductive health services. These examples can be directly related to the third component of reproductive justice - the right to raise children in safe and sustainable communities free from violence from individuals or the state, as well as the first two components, which outline access to services that support the right to have, or to not have children. The structural, physical and emotional violence of borders creates particular challenges and dangers for women and families and is in direct contrast with the tenets of reproductive justice.

The issue brief by the Center for Reproductive Rights et al. (2020: 1) outlines consistent trends of "cruel, inhuman, and degrading treatment" of pregnant immigrants and asylum seekers at the US-Mexico border during the Covid-19 pandemic. The brief argues that "the U.S. government has exploited the COVID-19 pandemic to further eviscerate humanitarian and human rights protections for immigrants and people seeking asylum along the U.S.-Mexico border." This brief discusses a CDC order, implemented in March 2020, supposedly intended to protect public health in the midst of the pandemic, that was used by the DHS to justify the blocking and expulsion of over 109,000 migrants (current as of September 2020). Similar to the Migrant Protection Protocols, the expulsions under the CDC order have forced asylum seekers to return to Mexican border

towns to live in "makeshift camps and crowded shelters" for months, "where they lack access to basic hygiene and quality health care and face increased risk of sexual violence, kidnapping, and assault" (Center for Reproductive Rights et al., 2020: 2). In addition, the issue brief notes that these makeshift encampments and shelters lack sufficient access to basic human needs, such as "potable water, nutritious food, sanitation, and prenatal or obstetric care, and [that they] face exposure to extreme weather conditions" (Center for Reproductive Rights et al., 2020: 6). These expulsions have gendered implications and are particularly a cause for concern regarding reproductive rights and justice. The brief relays complaints made to the Office of Inspector General and news outlets, and includes the story of a Guatemalan asylum seeker who was forced to give birth at a border patrol station, with unmet requests for medical attention, as well as the experience of a Honduran asylum seeker who was pregnant and expelled to Mexico with her two daughters while having contractions and denied requests for medical attention (Center for Reproductive Rights et al., 2020). These examples demonstrate how the Covid-19 pandemic has further exacerbated the precarious position of pregnant migrants crossing borders and in detention settings.

Minor Abortion Ban

Messing et al. (2020: 341) explain that in 2017, the Office of Refugee Resettlement (ORR) introduced an "across-the-board ban" on access to abortion services for all minors in its custody. This ban was to be applied in all cases, even when the procedures otherwise met state requirements and when minors secured their own transportation and funding for the procedures -- obstacles that can often limit one's access to abortion, even with the upholding of legal abortion under *Roe v Wade*. Messing et al. (2020: 314) note that the US government has defended this abortion ban by arguing that it deters "abortion tourism" and that minors could avoid this ban by "voluntarily departing" the US to return to their home countries. In the cases where minors wish to terminate unwanted pregnancies while in ORR custody, Messing et al. (2020: 341) note that they are met with staff who are trained to offer "only pregnancy services and life-affirming options counselling", which can be understood as coercive, religiously-affiliated, anti-abortion counseling at crisis pregnancy centres. Messing et al. (2020) make note of various

publicly reported cases of migrant minors, identified as Jane Doe, Jane Poe, Jane Roe, and Jane Moe, who were finally able to access abortion care, only after securing court orders through emergency litigation – an option not widely available to people in these precarious positions. Not only is the refusal of safe abortion access an intrusive, and inhumane attack on an already marginalized group, it is a violation of a constitutionally protected right. It is also further nuanced in its racial, class, and anti-immigrant connotations, and is in direct violation of the fundamental values of reproductive justice, particularly the right to *not* have a child. Notably, in these particular cases that received widespread coverage, legal mechanisms were useful in helping these minors access their rights. Although legal mechanisms may often effectively serve as reactive redress to reproductive rights abuses for some people, reproductive justice organizing and advocacy goes further to address these problems at their root, in order to work towards a more holistic experience of reproductive liberation. Although reproductive justice advocates wouldn't condemn the use of legal mechanisms, and would find them helpful in many situations, they advocate for solutions that are not limited to the constraints of concepts like legal precedent – recognizing that the law, and agents of the law have discriminately criminalized and targeted already marginalized communities. Reproductive justice, as a framework, looks toward strategies of community organizing, advocacy, collective action, and care work, to achieve a more affirming, sustainable, and meaningful version of reproductive autonomy and justice for people on the margins.

The methods used to control, subjugate and regulate the bodies, reproduction and movement of migrants at the US-Mexico border and in detention vary in their nature. For example, while minors in detention who wish to terminate their pregnancies struggle to access abortion, many pregnant people in DHS custody experience dangerous and inhuman conditions and treatment that put them and their intentions to carry their pregnancies to term, at risk (Messing et al., 2020). Although different in their nature and outcomes, these examples are emblematic of attempts to control the reproductive lives of marginalized people and violate the core values of reproductive justice that strive for reproductive autonomy and freedom for all people.

Treatment of Pregnant People in DHS Custody

Ross and Solinger (2017: 105) posit that "[t]he use of prisons as warehouses for persons defined as disposable and valueless (the implicit, economistic, neoliberal subtext) is reflected in the quality of the healthcare, including reproductive health care, provided to incarcerated women." This is demonstrated in the neglect and abusive treatment that pregnant people face in DHS custody in the US. The mistreatment of pregnant people in the carceral system, and particularly in DHS custody, is a clear violation of the fundamental tenet of reproductive justice that upholds the right *to* have children, in the dignified manner of one's own choosing. Messing et al. (2020) list the occurrence of stillbirths, miscarriages, and serious maternal health complications as examples of the results of the poor conditions and treatment pregnant people in detention face. Messing et al. (2020) suggest that these policies work in tandem to both punish migrants and to deter further migration. These cruel attempts to deter the migration of certain groups, and their reproduction are reminiscent of the 'anchor baby' trope that deems certain groups as undesirable or as lacking value to the state. The cruel and inhumane treatment that pregnant people face while in ICE custody has shown to often directly affect the outcomes of their pregnancies, and therefore violates their right *to* have children under the reproductive justice framework.

The issue of detaining pregnant people in DHS facilities has been a point of contention in the political arena in the US for several years. Messing et al. (2020) note that prior to 2017, pregnant people were protected from being detained by the DHS. In 2016, the Obama administration authorized an ICE (2016) directive which offered some protections for pregnant persons in ICE custody including appropriate care, identification, and monitoring, as well as limited detention. This directive was not codified into law and was later overturned by the next administration. In December 2017, ICE, under the Trump administration, enacted a policy, similar to the "zero-tolerance" policy discussed above, wherein all "removable aliens" were to be detained, and their release was only to be determined on a "case-by-case" basis (Messing et al. 2020: 341), based on their risk of flight, criminal records, known medical conditions, or risks to public safety (O'Connor and Prakash, 2018). This effectively removed the previous protections for pregnant people and saw over 2,701 pregnant people detained by ICE between December 2017 and

March 2019, as outlined by Messing et al. (2020). Sullivan (2021) also presents the figure that pregnant migrants were detained over 4,000 times since 2016.

In July 2021, the Biden administration put forth an ICE directive that restores and expands the protections that were introduced by the previous 2016 directive under the Obama administration (while Joe Biden was Vice President). This ICE (2021: 1) Directive 11032.4: Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals, states the aim "to ensure individuals known to be pregnant, postpartum, or nursing in U.S. Immigration and Customs Enforcement (ICE) custody are effectively identified, monitored, tracked, and housed in an appropriate facility to manage their care." Sullivan (2021) cautions that, like other immigration related policies that the Biden administration has put forth through other directives and executive orders, this directive is not codified in law, and therefore may be changed by a future administration, similar to the Obama administration's directive.

Within DHS custody, Messing et al. (2020) report that at least 28 people detained by ICE experienced miscarriages from 2017 to 2018, and that statistics from CBP are unavailable. Another figure from the issue brief by the Center for Reproductive Rights et al. (2020) finds that between January 2015 and July 2019, there were reports of 58 pregnant people in ICE custody who miscarried. This is speculated to be a result of the various mistreatments and inhuman conditions faced by pregnant people in custody, including a deprivation of appropriate and timely medical attention, even when pregnant detainees were experiencing severe bleeding and other health emergencies (Center for Reproductive Rights et al., 2020). Whether in encampment settings or in detention, pregnant migrants and asylum seekers have reported lack of access to clean water, nutritious food, and prenatal healthcare. The same issue brief (2020: 6) notes that a "lack of access to prenatal care and adequate nutrition increases the risk of pregnancy complications, preterm birth, low-birth-weight infants, and stillbirths." The conditions that pregnant people are exposed to in DHS custody or while waiting and circulating around the border region exacerbate the stressful conditions that people fleeing violence and persecution are already in. The issue brief notes that sustained stress and trauma is especially dangerous for pregnant people because it can increase a pregnant person's risk of infection or illness during pregnancy or miscarriages, as well as postpartum depression

and even maternal mortality in extreme cases of stress and trauma (Center for Reproductive Rights et al., 2020). The 2020 issue brief also notes that these conditions are harmful for the fetus as they can disrupt fetal development and development even after the child is born, as well as fetal defects. The issue brief also notes that the continued shackling of pregnant people in DHS custody, including while they are in labour, "can increase the risk of falls and venous thrombosis, delay diagnosis of pregnancy complications, and obstruct medical care before and during labor" (Center for Reproductive Rights et al., 2020: 6).

The issue brief by the Center for Reproductive Rights et al. (2020: 4) references research by the ACLU which found that pregnant people in DHS custody "report experiencing excessive force, verbal abuse from Border Patrol agents, forced separation from their partner or newborn, medical neglect, and deplorable conditions." The brief also outlines that pregnant people are routinely held in CBP facilities (intended for short-term custody that does not exceed 12 hours) for prolonged periods of time that exceed beyond 72 hours, where they are also subject to abusive treatment at the hands of CBP agents. The issue brief further notes research done by Human Rights Watch that explains the conditions of the CBP facilities as uncomfortably cold, lacking sleeping mats or bedding, showers and other hygiene necessities, as well as a lack of nutritious food and drinking water – all, particularly challenging for pregnant individuals. The issue brief also reports a 52% increase in the detention of pregnant people in ICE custody from 2016 to 2018 during the Trump administration. The issue brief notes that the length of detention of pregnant people also increased in 2018 by 13%, and that those in ICE custody were often previously held in border patrols' custody – providing more context for the length and conditions that often caused harm to pregnant migrants in custody. The issue brief also references a complaint filed by allied immigrant rights organizations that highlights the concerning treatment of pregnant people in DHS custody. The complaint referenced in the brief raises the issue of pregnant migrants being unnecessarily transferred between ICE facilities, causing harm to their health. The same Center for Reproductive Rights et al. (2020) brief specifically notes a case wherein a person who was 12 weeks pregnant was transferred between ICE detention facilities six times, one of

these transfers lasting 23 hours, which caused them to be hospitalized for exhaustion and dehydration.

Nina Rabin (2009) examines and criticizes the conditions and treatment of migrants in DHS detention centres across the US. This study reports delays as the most common complaint among all interviewed detainees regarding their medical care and services. The report details that many detainees reported that even after significant delays, the attention they did receive was "inadequate to the point of being humiliating and/or dangerous" (Rabin, 2009: 18). In the study, detainees also noted language translation to be a concern, where no formal translation assistance was offered from medical providers. Detainees reported that only few medical personnel could communicate in languages other than English and that they were often expected to have another detainee translate for them. Regarding women's distinctive health concerns, Rabin (2009) outlines the experiences of detainees who reported being shackled while pregnant and other abusive or neglectful treatment while pregnant, including being separated from their chestfeeding infants and being forced to expel their milk supply manually, without access to a pump. The report also outlines specific cases of miscarriages, lack of prenatal care, as well as a lack of treatment for cancer, ovarian cysts and other serious medical conditions (Rabin, 2009). Although Rabin's study took place in 2007-2008, conditions across detention centres in the US have arguably gotten worse during the Trump administration, and especially during the Covid-19 pandemic.

Sterilization in the Carceral System – from Prisons to Migrant Detention

Winters and McLaughlin (2020) utilize the framework of reproductive justice to interrogate what they call "soft sterilization" i.e., the targeting of long-acting reversible contraceptives to marginalized people, and specifically incarcerated people, as a form of reproductive control. Winters and McLaughlin (2020: 218) go further to state that, "reproductive autonomy is not possible without the destruction of the carceral state." Winters and McLaughlin (2020) discuss the reproductive control tactics that have been used against marginalized people in the carceral system, for example, people have often been offered arrangements where they would receive a lesser sentence if they agree to vasectomies, sterilization or long-acting reversible contraceptives. Winters and

McLaughlin (2020) note that in a specific case, in May 2017, a Tennessee judge issued an official order to reduce sentences in exchange for these reproductive control methods, noting that it was in order to "break a vicious cycle of repeat drug offenders with children" (Hawkins, 2017 quoted in Winters and McLaughlin, 2020: 218). This order was later rescinded after national controversy and response. Another better-known example of these coercive reproductive control methods is exemplified by Project Prevention, previously known and recognized as Children Requiring A Caring Kommunity, or CRACK, wherein people who previously used substances could receive $300 USD if they underwent a vasectomy, tubal ligation, or agreed to receive long-acting reversible contraceptives (Winters and McLaughlin, 2020). Winters and McLaughlin (2020), Ross and Solinger (2017), and Roberts (1997) all note how state welfare agencies have sought to control and restrict reproduction by implementing welfare family caps, and offering incentive programs wherein people, particularly single mothers of colour, could acquire child care, housing, and social assistance in exchange for agreeing to undergo sterilization or receive long-acting reversible contraceptives. In these examples, the terms "agreeing to" or "arrangements" seem to infer the existence of 'choice' but they do not tell a complete truth. These examples are clearly coercive when the choices offered, i.e., money for low income persons, or freedom for incarcerated people, are arguably not a choice at all but rather necessary for survival.

Coerced or forced sterilization via tubal ligation and hysterectomies, and "soft sterilization" (Winters and McLaughlin, 2020) via the targeted distribution of long-acting reversible contraceptives, represent extreme examples of reproductive control that have been aimed at marginalized communities. These dark histories, yet current realities, of reproductive control and forced sterilizations in the US were in the minds of many when Dawn Wooten, a nurse at the Irwin County Detention Center, blew the whistle by reporting allegations of forced sterilizations and other unnecessary gynecological procedures performed on migrants by Dr. Mahendra Amin at Irwin County Detention Center without informed consent. A reproductive justice perspective would insist on recognizing these abuses as part of the grand narrative of reproductive control and violence in the US. The widespread controversy and global response that followed these

accounts is largely motivated by the histories of reproductive control in the US through colonization, slavery, and the continued subjugation of marginalized people.

On September 14, 2020, four organizations including Project South, Georgia Detention Watch, Georgia Latino Alliance for Human Rights, and South Georgia Immigrant Support Network filed a whistleblower complaint addressed directly to head officials at DHS, ICE, and Irwin County Detention Center. In December 2020, following the whistleblower complaint, fourteen women who were detained at Irwin County Detention Center and had received medical care from Dr. Amin, filed a class action lawsuit against Dr. Amin, the facility, ICE, and other complicit actors. These women, the Petitioners in the lawsuit, were mostly from countries in Central and South America, as well as two women from African countries, and one from Russia. In this lawsuit, the women report to have each been "subjected to, or ordered to be subjected to, non-consensual, medically unindicated, and/or invasive gynecological procedures by Mahendra Amin, with the knowledge or participation of other Respondents. In many instances, the medically unindicated gynecological procedures Respondent Amin performed on Petitioners amounted to sexual assault" (United States District Court, 2020: 7). In addition to the fourteen women who filed the lawsuit, more than forty additional people gave sworn testimony to the claims outlined in the lawsuit.

The Petitioners in the lawsuit also outline retaliatory actions taken against them by Respondents after speaking out, or attempting to speak out, about the abuse they had experienced. These allegations of retaliatory behavior include placement, or threats of placement, into medical units and solitary confinement, cell restrictions, or unit transfers in order to separate protestors and organizers in an attempt to silence them. The Petitioners also claimed that Respondents delayed the delivery of necessary prescription medication, and physically assaulted some of the women who spoke out, including while they were in handcuffs. Petitioners also claimed that when protesting and organizing within the prison, by means such as hunger strikes, Respondents retaliated by rationing their water access, removing funds from their commissary accounts and cutting their access to phone and other communications. It is noted in the lawsuit that protests and hunger strikes were often in response to the facility's handling of the Covid-19 pandemic. The lawsuit further outlines that the Irwin County Detention Center failed to

inform detainees about the pandemic, or to provide personal protective equipment such as masks, cleaning products, and other items that were necessary to limit the spread of Covid-19 within the facility. Petitioners also claim that respondents "denied them access to the law library and to their own medical records", and surveilled and cut off outside phone calls when Petitioners were speaking with reporters about hunger strikes or medical treatment (United States District Court, 2020: 1). The lawsuit also outlines the destruction of important documents, obstruction of congressional committees' information requests, refusals to produce individuals at hearings, or coordinate with consular officials, as well as false claims made to congressional investigators, on the part of the Respondents. Particularly troubling are the accounts outlined by Petitioners of deportation, and attempted deportation of those who spoke out in an effort to silence them.

Al Jazeera's (2021) Fault Lines program conducted an investigative journalism documentary project entitled "No Consent: Did a doctor abuse immigrant women?" to uncover the truths of these allegations at the Irwin County Detention Center. Irwin County Detention Center is owned by LaSalle Corrections, a private contractor that runs for-profit prisons throughout the southern US. This documentary features interviews from three survivors of the alleged abuse by Dr. Amin, as well as interviews with Dawn Wooten, the nurse who blew the whistle on the abuse, Azadeh Shahshahani, the attorney for the whistleblower complaint, and Dr. Sara Imershein of the American College of Obstetricians and Gynecologists, who reviewed and provided critique of Dr. Amin's behavior and treatment. During the interview with whistleblower Dawn Wooten, Wooten reports having witnessed medical abuse and negligence at the hands of Dr. Amin and other staff and officials at Irwin. Wooten notes that she was initially concerned with how the facility was handling the Covid-19 pandemic, specifically the lack of access to proper personal protective equipment, sanitation and resources to limit the spread of the virus. Wooten's objections to the facility's handling of the pandemic caused her to be demoted months before she made the whistleblower complaint public. Wooten reports that multiple women who were incarcerated at Irwin had asked her to check their medical records for them, and that when she did, the detained women were often shocked and surprised with the procedures that were done, including tubal ligations and dilation and curettages, noting that they had not known the details of the procedures, nor did they

consent to them, which was incredibly alarming to Wooten. Monica Villamizar, the reporter in the Al Jazeera documentary, notes that Wooten's initial complaint reported high rates of hysterectomies performed by Dr. Amin, but that according to the hospital at Irwin County Detention Center, Dr. Amin had only performed two hysterectomies since 2017. Villamizar notes that "the allegations now center on whether the gynecological procedures were necessary, and if the women consented to them" (Al Jazeera Fault Lines, 2021). It is also important to note that prior to this case Dr. Amin had previous documented complaints of medical misconduct and fraudulent billing against him (Al Jazeera Fault Lines, 2021; National Women's Law Center et al., 2021).

Al Jazeera reporter Villamizar also interviewed Maribel Castaneda, Jaromy Jazmín Floriano Navarro and Keynin Jackelin Reyes Ramirez, who were all previously detained at Irwin and were patients of Dr. Amin. Floriano Navarro and Reyes Ramirez are listed as Petitioners in the lawsuit. Castaneda spoke of her experience of initially going to see Dr. Amin because of an umbilical hernia. During this visit, her concerns about her hernia were avoided and instead, Dr. Amin diagnosed her with a cyst that apparently needed to be removed. Castaneda notes that typically in cases of abnormal cysts, "normal doctors" will wait a period of six months while prescribing hormones to break down the cyst (which is later verified by Dr. Imershein in the documentary), but that Dr. Amin performed surgery on her within one month. Reporter Villamizar notes that a group of doctors who reviewed Castaneda's records reported "multiple invasive procedures on her" and that one doctor claimed the surgery was "unnecessary and carried significant risk". Castaneda told Villamizar that she and other survivors are still waiting for answers that they will likely never get regarding the kinds of procedures they had and the reasons why, even after learning that she had received an invasive and medically unnecessary dilation and curettage procedure from Dr. Amin, which was never fully explained to her.

In the lawsuit, Petitioners reported a pattern of invasive procedures done by Dr. Amin, including transvaginal and intravaginal ultrasounds, and other exams with various instruments as well as his hands (United States District Court, 2020). The Petitioners report that these procedures were often not explained to them, and they had not given informed consent. The lawsuit outlines an independent medical report carried out that examined the practices at the facility. The lawsuit indicates that in October 2020, a group

of independent medical practitioners reviewed over 3,200 pages of medical records from 19 of the detainees at Irwin (United States District Court, 2020). The lawsuit notes that the report created by the medical team indicated an "'alarming pattern' of medical abuse" and described widespread inhumane practices that verified the Petitioners' accounts of being exposed to multiple unnecessary gynecological procedures and surgeries by Dr. Amin without informed consent (United States District Court, 2020: 20).

In the Al Jazeera documentary, reporter Villamizar also spoke to Dr. Sara Imershein, who reviewed the medical records of 5 of the detainees who were patients of Dr. Amin. After reviewing the records, Dr. Imershein reported patterns of "inappropriate evaluation", "inappropriate recommendations" and "repetitive claims" for each patient, stating that this is obviously troublesome, because the patients would have needed different, individualized care (Al Jazeera Fault Lines, 2021). Dr. Imershein notes that in all of the records that were reviewed, Dr. Amin reported pelvic pain and abnormal bleeding as patient symptoms, as well as the presence of ovarian cysts and large fibroids. Upon review, Dr. Imershein indicated that no cysts reported by Dr. Amin should have been cause for concern according to their size and description, and that they were instead quite normal in that demographic of patients (age, sex, etc.). Dr. Imershein also notes that the pain that was experienced by patients after procedures like pelvic ultrasounds was out of the ordinary and could indicate rough treatment. Dr. Imershein expressed concern for the "extreme care" that Dr. Amin routinely recommended, particularly when surgery was recommended immediately, as well as other unnecessary and invasive procedures and tests. The Al Jazeera documentary then speculates that Dr. Amin may have been recommending multiple unnecessary procedures for his own financial benefit. Villamizar notes that ICE has not released records regarding the amount of payment Dr. Amin received for such procedures.

Keynin Jackelin Reyes Ramirez is another Petitioner in the lawsuit who was interviewed by Villamizar. Reyes Ramirez is originally from Honduras, where she fled with her three children nearly seven years ago, because of an abusive ex-partner. According to her testimony in the lawsuit, during Reyes Ramirez's time detained at Irwin, she had requested to see a doctor in March 2020 regarding contraceptives to regulate her menstrual cycle (United States District Court, 2020). According to the

lawsuit, Reyes Ramirez did not receive care when she had initially requested it. Three months later, in June 2020, Reyes Ramirez requested medical attention two more times due to abnormal pH balance and vaginal pain and was finally referred to Dr. Amin in July 2020. According to the lawsuit, Reyes Ramirez was handcuffed and taken to see Dr. Amin on July 9, 2020, but wasn't told where she was going. In the lawsuit, Reyes Ramirez reports that during the visit, neither Dr. Amin, nor the interpreter present, had explained to her what was happening, or obtained informed consent, before carrying out invasive exams (United States District Court, 2020). Similar to many of the other women in the lawsuit, Dr. Amin had diagnosed Reyes Ramirez with several cysts and gave her an injection, without obtaining informed consent and without explaining what the injection was – only that it would remove the cysts. The lawsuit explains that the injection was in fact a Depo Provera shot, a contraceptive injection, which was not clear to her. The lawsuit explains that this was particularly confusing to Reyes Ramirez because she had requested contraceptives four months earlier, and Dr. Amin had never confirmed that the injection was in fact a contraceptive, and if it was, whether she would require a follow-up visit. The lawsuit notes that Reyes Ramirez reported pain and cramping after the invasive exams at the visit with Dr. Amin that was "similar to childbirth" (United States District Court, 2020: 74). Expressing concern for other women that may have had similar experiences with Dr. Amin at Irwin, in the Al Jazeera documentary, Keynin states (translated from Spanish) "I always think, what happened to those women? Where could they be? If they can have babies, or if they realize they have all their parts?" This is illustrative of the language barriers and "accounts of miscommunications" at Irwin that, as stated by Ghandakly and Fabi (2021: 832), "left patients unable to bear children because of hysterectomies they may not have needed".

The lawsuit notes that in September 2020, shortly after the whistleblower complaint went public, Reyes Ramirez attempted to access her medical records but was only provided an incomplete copy and told by staff that she would be unable to access the full records without a lawyer (United States District Court, 2020). The Al Jazeera documentary also notes that, upon review of Reyes Ramirez's records, they found an incomplete consent form that was missing the patient's name, and that it was entirely in English, even though Reyes Ramirez is not fluent in English. In September 2020, Reyes

Ramirez also spoke with congressional representatives who visited Irwin after the complaint and subsequent outcry. Two months later, Reyes Ramirez was identified as a potential witness in the investigation of the allegations against Dr. Amin, and within the next two weeks, the Respondents had attempted to deport Reyes Ramirez to Honduras twice, both times unsuccessfully. During this period, Reyes Ramirez's access to her commissary account and phone had been intermittently cut off as well. These actions are speculated to have been direct retaliatory measures for speaking up against the treatment that Reyes Ramirez underwent at the hands of Dr. Amin.

During the interview in the Al Jazeera documentary, attorney Azadeh Shahshahani notes that ICE worked swiftly and deported six of the women who came forward before lawyers and members of congress intervened and stopped the deportations. The lawsuit also explains that "Federal investigators were unable to interview "at least eight women who were deported after receiving questionable medical diagnoses and treatment at Irwin"" (United States District Court, 2020: 21). Additionally, Ghandakly and Fabi (2021: 833) report that at least seven other detainees who spoke out had the holds on their deportation orders lifted, "making their deportation imminent". In the Al Jazeera Fault Lines (2021) documentary interview, Shahshahani expresses concern that "instead of aiding in the investigation, ICE actually was trying to cover its own track[s] by deporting witnesses and survivors to medical abuse". In a separate interview with TIME reporter Jasmine Aguilera (2020), Shahshahani expresses that as a part of the lawsuit, Petitioners and legal counsel will prove that ICE had knowledge of the medical abuse occurring at Irwin as far back as 2018. The lawsuit therefore outlines how ICE has been complicit in the abuse at Irwin, as well as how ICE has been actively involved in attempts to silence survivors via deportation. One of the women who was deported by ICE is Jaromy Floriano Navarro. According to the lawsuit, Petitioner Floriano Navarro was subjected to "non-consensual, invasive gynecological procedures" and repeatedly pressured by Dr. Amin to undergo a hysterectomy (United States District Court, 2020: 21). The lawsuit outlines that Floriano Navarro had actually only avoided the surgery because, on the day of the scheduled surgery, she had tested positive for Covid-19. Floriano Navarro ultimately did not proceed with the surgery that was recommended by Amin, and had spoken to an attorney about this interaction afterward. In the lawsuit, Floriano Navarro

reports that after the whistleblower complaint went public, she was approached by a guard who asked if she had spoken with a lawyer, and she replied that she had. On the following day, Floriano Navarro was deported back to Mexico, a country she left when she was seven years old and had become unfamiliar with. These retaliatory actions are incredibly concerning and have interfered with many of the survivor's ability to contribute meaningfully in the investigation, tell their stories, and get answers, justice, and accountability for these abuses.

The National Detention Standards are a set of standards originally created in 2000 by the US Department of Justice and Immigration and Naturalization Services, the predecessor agency to US Immigration and Customs Enforcement (2019). The National Detention Standards, which have been updated since their original inception in 2000, are intended to establish "consistent conditions of confinement, program operations, and management expectations within the agency's detention system" (US Immigration and Customs Enforcement 2019: i). The National Detention Standards include a subsection entitled "Informed Consent". In this section, the document notes that healthcare providers in detention facilities must obtain "specific signed and dated consent forms from all detainees before any medical examination or treatment, except in emergency circumstances" (US Immigration and Customs Enforcement, 2019: 119). Further, the document outlines that "as a rule, medical treatment shall not be administered against the detainee's will … unless the situation is an emergency", and that "forced treatment is prohibited unless there is a valid court order authorizing involuntary medical treatment" (US Immigration and Customs Enforcement 2019: 119). The 2019 National Detention Standards also state that facilities must provide appropriate language interpretation services for limited English proficiency detainees when accessing medical and mental health care. The document outlines that when appropriate staff interpretation is not available, the facilities must instead use professional interpretation services. Further, the document explicitly states that "[d]etainees shall not be used for interpretation services during any medical or mental health service. Interpretation and translation services by other detainees shall only be used in an emergency situation" (US Immigration and Customs Enforcement, 2019: 115). In contrast to the National Detention Standards, in multiple cases outlined in the lawsuit, language was often a barrier that made obtaining

informed consent impossible. For example, Ghandakly and Fabi (2021: 832) report that medical providers at Irwin would often explain treatments and procedures by "googling Spanish" or by having other detainees translate, even when there were interpretation services available over the phone. Even in cases where there were interpreters present, like the case of Reyes Ramirez discussed above, both Dr. Amin and the interpreters failed to communicate what tests, procedures, diagnoses, and treatment plans were recommended and being done to the patient. Without this communication, Dr. Amin did not obtain informed consent and violated the rights and dignity of many patients at Irwin, as is seen in their testimonies.

The stories outlined in the class action lawsuit demonstrate that ICE has failed to uphold their own agency standards according to the National Detention Standards. Further, a reproductive justice perspective would likely consider these minimum standards of detention to be far from a holistic vision of justice. Reproductive justice advocates, recognizing the intersecting forms of oppression, and the collective, cross-sectoral efforts that must be made to confront these oppressions, are incredibly concerned with the existence of migrant detention, and the criminal justice and carceral system at large. The framework of reproductive justice would therefore encourage a deeper consideration beyond the conditions and treatment in detention, and actually problematize the existence of detention at all. This is not to say that we should not interrogate the conditions of detention, but instead, suggests that it is important to highlight the potential of the reproductive justice framework to envision systems that are built on an ethic of care rather than control and punishment. This returns us to the statement above by Winters and McLaughlin (2020: 218), that "reproductive autonomy is not possible without the destruction of the carceral state".

The absence of informed consent and coercion in the cases discussed above is alarming and contradictory to a vision of justice that values human dignity, self-determination, and autonomy. The three pillars of reproductive justice – the right to have children, the right to not have children, and the right to parent the children you have in safe and sustainable communities free from violence from individuals and the state – are all violated in the cases of abuse and negligence discussed above. The criminalization of migration is a reproductive issue. By incarcerating people who have crossed the border,

and separating them from their families, particularly mothers, or pregnant people, agencies like the DHS, violate these core principles. By detaining parents, either at borders upon crossing, or through ICE raids and immigration policing, migrant detention policies separate and destroy families. The mistreatment of pregnant people in DHS custody, as well as the various reproductive abuses that detained migrants face also raises concerns particularly due to their precarious status. The intersecting forms of oppression that the people detained in DHS facilities face, for their immigration status, gender, race, and class, among others, strains their ability to exercise their agency as free and sovereign beings. The un-free status of being detained silences already marginalized people. As displayed above, many of the women who were abused at Irwin County Detention Center were already in precarious positions, often having fled gender-based violence in their home countries. Discussing the reproductive abuses that many incarcerated women and gender diverse people face, including shackling while pregnant and during childbirth, the denial of contraceptives and abortion services, visitation abuses and food scarcity, Ross and Solinger (2017: 225) note that these injustices "constitute gender-based violence, or birth abuse, particularly because they are enacted upon on women without public voices, women who are seen as state property, or noncitizens lacking human rights".

This section has outlined a pattern of reproductive abuse at the US-Mexico border that is informed by histories of abuse, violence, and reproductive oppression faced by people of colour, undocumented immigrants, and other marginalized groups in the US. Discussing the continued practices of coerced and targeted population control methods, Ross and Solinger (2017: 89) posit that often, "reproductive oppression constitutes genocide because it can be characterized as [from the United Nations Convention on the Prevention and Punishment of the Crime of Genocide] 'imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group'". The cases of abuse, negligence, and violence at the US-Mexico border discussed above, whether taking place at the structural policy level, or the direct physical level, are alarming to anyone who values human rights, and dignity for all people. As displayed above, the US government, regardless of administration, has arguably imposed "measures intended to prevent births within the group" of migrants by separating families, not providing adequate reproductive care for migrants, and

mistreating pregnant people in their custody (United Nations Convention on the Prevention and Punishment of the Crime of Genocide, 1951: 1). The US government, largely through the arm of the DHS, is also culpable for "forcibly transferring children of the group to another" by separating families through detaining or deporting parents away from their children (United Nations Convention on the Prevention and Punishment of the Crime of Genocide, 1951: 1). Referring to the abuse allegations at Irwin, Ghandakly and Fabi (2021: 833) state:

> The Trump administration's repeated overt messaging that migrants are not welcome brings the picture into alarming focus. Put bluntly, these new allegations echo a revival of the same xenophobic desire to decrease the population of undocumented immigrants and their children living in the United States, resulting in tolerance for, or even promotion of, practices that result in the sterilization of migrants.

Reproductive justice advocates recognize that histories of eugenics and white supremacy shape modern institutions that must be challenged in a way that is informed by the lived experiences of the most marginalized people in our societies. Further, Ghandakly and Fabi (2021: 832) caution that these abuses at Irwin County Detention Center contribute to a "chilling effect" that prevents marginalized communities from seeking medical care because of long-standing implicit and explicit racial bias within the medical system, and a distrust of that system by many marginalized communities. Ghandakly and Fabi (2021) therefore note that these abuses have not only had profound impacts on survivors, but on entire communities of marginalized Black and Brown people across the US who have historically been subject to experimentation and medical mistreatment which has led to higher rates of distrust of the medical system and medical professionals among these communities. Ghandakly and Fabi (2021) add that this chilling effect impacts care-seeking behaviours among marginalized communities, as well as the quality of care they receive and the overall health of these groups. Addressing the social determinants of health, Ross and Solinger (2017: 173) cite Dr. Camara Jones who explains that the contexts of health are "shaped by historical injustices and by

contemporary structural factors that perpetuate the historical injustices". This paper has thus far discussed these historical injustices and how they impact the modern context, particularly at the US-Mexico border. The next step of this research is to explore how these abuses are being addressed and challenged, and by which actors.

ORGANIZING FOR REPRODUCTIVE JUSTICE

This section explores what is currently being done to address the reproductive abuses at the US-Mexico border, with a focus on the impact of grassroots organizing, informed by the reproductive justice framework. Reproductive justice organizing strategies can be applied in order to make a human rights-based approach more relevant, accessible, and in favour of migrants seeking to access and affirm their sexual and reproductive health and rights at the US-Mexico border, and in detention. As displayed in the literature on citizenship and human rights, reproductive justice and its focus on the *values* of human rights can provide a way forward for addressing the precarious positions of displaced people for whom legal mechanisms are often inaccessible. As the global refugee regime is overwhelmed and insufficient in rising to the challenges that modern geopolitical realities pose, reproductive justice may assist in providing a nuanced approach to the realization of reproductive autonomy for displaced people who occupy these precarious positions. The absence of citizenship, in a system where citizenship entails a relationship of obligations and rights guarantees with a single state, can be utilized as an excuse for individual states to deny their human rights obligations to displaced persons who do not hold their citizenship. Where international law obligations seem to fall short, the values of human rights as applied in the reproductive justice framework can add strength and nuance for communities on the margins. To consider the term reproductive justice simply is to recognize the presence of 'justice' as more than rights.

Reproductive justice offers an agent-centered approach to achieving justice mainly through advocacy, collective action, and community organizing from within the affected communities. Scholars and activists like Angela Davis (1981), Ross and Solinger (2017), and Silliman et al. (2016) note that people of colour, and specifically women and gender-diverse people of colour, have been at the forefront of reproductive

justice work in their communities in order to address the experiences and needs that are specific to their communities, and that are often overlooked by mainstream feminist and reproductive rights movements. For example, Davis (1981) notes that during the 1970's, Puerto Rican, Black, Chicana, and Native American women were at the front of the struggle against sterilization abuse. Davis (1981) explains that at this time, this cause was not embraced by mainstream feminist organizations because they were focused on their own interests as largely middle-class white women. Davis (1981: 221) states "[w]hile women of color are urged, at every turn, to become permanently infertile, white women enjoying prosperous economic conditions are urged, by the same forces, to reproduce themselves". The experiences and needs of marginalized women and gender diverse people did not fit into the objectives that mainstream feminist organizations were seeking for themselves, and so it has been crucial for women of colour to lead their struggles toward reproductive justice. Instead of viewing these distinct reproductive struggles as competing interests, reproductive justice provides a nuanced framework for all to claim their sexual and reproductive health and rights.

Another example of reproductive justice 'on the ground' is the movement of birth work, particularly in marginalized communities. In 2016, Alana Apfel published a collection of essays and interviews with activist birth workers, mainly doulas, midwives, and herbalists. Silvia Federici wrote the introduction in Apfel's (2016: xxi-xxii) book and describes birth work as "more than advocacy work, needed to shield expectant mothers from a medical system steeped in misogyny and racism" and that it is "above all a transformative, autonomy-building activity" which enables women to "take charge of their reproductive journey" and "turn the movement in which they are most vulnerable into one in which they can be strongest and, thereby, begin a process of self-valorization". In Apfel (2016: xviii), Victoria Law quotes an interview with doula Jodi Koumouitzes-Douvia, who discusses the roles of birth workers in challenging the structural oppressions that are felt both in and outside of hospital settings. Victoria Law cites another doula, Sophia Perez (also in Apfel, 2016: xviii-xix), who shares her experiences of witnessing systemic and institutional oppressions within the healthcare system by stating:

> You see the ways in which black birthing people are assumed to be high-risk and have certain illnesses, which may or may not be the case. People who do not speak "good" English are yelled at. Loud women are told to "keep it down." Alternative family configurations are not often considered, let alone respected. Transgender birthing people are treated in a way that diminishes dignity and respect. There are assumptions about black fatherhood and motherhood. There is also blaming for one's health. Patients covered by Medicaid are spoken to repeatedly about contraception, because they are perceived to be a burden. Unsolicited advice and assumptions about people's levels of knowledge are heavily informed by classism. People who are pushed into the margins, due to racial/economic/disability-based oppression are likely to be the same people whom most often have their needs and humanity overlooked.

A full spectrum doula is someone who provides evidence-based knowledge and support to someone else during their reproductive experience, including during pregnancy, adoption, birth, abortion, miscarriage and loss, and/or during the postpartum period. The most recognized of these roles is that of the birth doula. One of the many roles of a birth doula is to provide this knowledge and support to their client toward the end of pregnancy and during the birth of a child. A birth doula can help facilitate space in the birth room, as well as help empower the birthing person to be prepared to make informed choices, and give informed consent, without coercion, regarding any procedures involved with the birth. Doulas who inform their practice with a reproductive justice approach help facilitate the three tenets of the framework. For example, by providing evidence-based information, support and advocacy to a birthing person, a doula can assist in the fulfilment of the right *to* have children in the dignified manner of one's choosing, free from unwanted or unnecessary interventions. Birth can be potentially traumatizing for many people, especially historically marginalized populations, and doulas seek to minimize this risk as much as possible by ensuring that the birthing person is informed and supported in the decisions they make regarding their body and birth experience. The support of birth workers is integral to approaches of reproductive care that are affirming and trauma-informed, particularly for people from communities who are marginalized, hyper-surveilled and over-criminalized.

Apfel (2016: 36) interviews doula and activist Laili Falatoonzadeh who is a member of the Birth Justice Project: a collective of doulas that provide a range of reproductive supports, including prenatal and birthing support, to incarcerated people in San Francisco area prisons. Apfel (2016) notes that the Birth Justice Project was made up of mainly white doulas, and so, in an effort to provide more affirming care to incarcerated people and people of colour, the organization recognized the importance of having care providers with lived experiences of racial oppression and/or incarceration to support clients. The organization thus changed to form the East Bay Community Support Birth Project with Black Women Birthing Justice in order to create a program that provided training to people of colour and formerly incarcerated people to become doulas. In this way, this organization was creating community supported systems, in order to build resources and support from within their *own* communities (Apfel, 2016). These kinds of programs recognize that there often is not sufficient representation among healthcare practitioners and birth workers who have lived experiences of racism, queer and transphobia, or living with disabilities, for example. Many marginalized people who may be receiving this care are thus unable to see themselves represented in their care providers and birth workers, and the explicit and implicit racism and bias that exists within the medical system, are also likely to be perpetuated in birth work as well. Based on the principles of reproductive justice and cultural safety, the active acknowledgement of, and emphasis on, the voices of those with lived experiences of these systemic oppressions works toward a care model that is both trauma-informed and more equitable. These kinds of community-based programs are also helpful because hiring doulas and other reproductive support workers is typically not covered under health insurance plans, and is therefore not an option for many people due to economic barriers. This creates a disparity in the demographic of people that are able to access this care, and makes it so that the people who are arguably in greater need of this support, due to institutionalized oppression within the medical system, are unable to access it. The presence of community-based birth work is therefore incredibly valuable for the realization of sexual and reproductive health and rights for all people.

Organizations like the Birth Justice Project, East Bay Community Support Birth Project, and Black Women Birthing Justice provide an encouraging approach to

reproductive justice organizing. Reproductive justice advocates recognize that it is crucial to address and challenge the poor reproductive care and mistreatment of pregnant people in jails, and immigrant detention centres alike. But as interviewee "D", an activist birth worker, notes in Apfel (2016: 18), "[m]y aim has never been to simply improve the relative comfort of women within jails (though this is vitally important) but rather to fundamentally transform – perhaps even abolish – the system of prisons entirely". Reproductive justice, in its recognition that justice is intersectional and cross-sectoral, would suggest that the reproductive justice movement is intrinsically tied to "movements working for racial, economic, reproductive, gender, and food justice, as well as anti-violence, anti-imperialist, and queer liberation" (Gumbs et al., 2016: synopsis). Reproductive justice can be compared to Tramel's (2018) analysis, which advocates for convergence as a political strategy. Tramel's (2018) strategy proposes that transnational social justice movements should intertwine at local, national, and regional levels, to build alliances and share frameworks and resources, in order to combat their related challenges, and work toward the advancing of social justice on a global scale. The reproductive justice framework holds great potential in the way that it aims to work across intersecting issues. For example, as is mentioned above, movements concerning prison abolition are intricately intertwined with movements for reproductive justice. On their website, SisterSong, a reproductive justice organization founded by Loretta Ross, states that part of their role in the movement is to get the concept of reproductive justice recognized in mainstream discourse. Part of this role, is to work in reciprocity across intersecting social movements, in such a way that other movements involve reproductive justice in their work, and vice versa. In this way, diverse groups can work in solidarity toward common goals, and against common grievances, which contributes to the sustainability of this movement.

Silliman et al. (2016) discuss the histories of resistance and organizing for reproductive justice by women of colour in the US. Silliman et al. (2016) provide historical context and explore how women of colour continue to lead the struggle toward their own reproductive liberation and autonomy. They present a series of case studies of various local, state, and national organizations around the US that work within the framework of reproductive justice. Within these organizations, the sentiment remains

strong that organizing, and advocating for justice must come from within communities. In relation to this study, Silliman et al. (2016) recognize that reproductive justice struggles for Black and Latinx people in the US are part of broader social, economic, and political liberation struggles within these communities. Silliman et al. (2016) review various organizing efforts by Latinas in the US since the 1960s and their particular struggles within the greater context of Latinx organizing. For example, Silliman et al. (2016: 232) note how the Latinx, and more specifically the Chicanx, "Nationalist" or revolutionary movement, had a strong pronatalist prerogative that was not in line with reproductive freedom. Chicana women were faced with a particular cultural context of machismo within the progressive movement, because the mainstream narratives in their communities considered women's place in the revolution to be birthing and raising many children as well as other domestic duties which led to differing stances on issues like access to contraception and abortion (Silliman et al., 2016). For this and other historical and cultural reasons, a reproductive justice perspective, which values people's own lived experiences, is effective in shaping an organizing framework that is relevant to their needs.

In the 1970s, during the widespread sterilization abuse of Latinas and other people of colour in the US, the Committee to End Sterilization Abuse (CESA) was formed by a multiethnic coalition of individuals and groups, including socialist, Marxist, and various independence and decolonial groups. Silliman et al. (2016) note that CESA was founded and largely run by Latinas and that Latinas in the coalition were particularly crucial in their efforts to challenge sterilization abuse in the US. CESA conducted research and documented information about abuse and educated the general public using the statistics and datasets that they created (Silliman et al., 2016). Silliman et al. (2016) report that sterilization guidelines were adopted in the state of New York largely due to CESA's mobilization and the subsequent public outcry. Silliman et al. (2016) also point out that Chicana grassroots organizations paved the way for legal efforts against sterilization abuse in Los Angeles. Silliman et al. (2016) also discuss the foundational work of organizations like the National Latina Institute for Reproductive Health, the National Latina Health Organization, and its off-shoot, the Colorado Organization for Latina Opportunity and Reproductive Rights in building a grassroots movement driven by the

experiences and needs of Latinas, rather than top-down approaches. Since the 1990s, these organizations have contributed to a national movement toward reproductive justice for Latinas through bilingual education, organizing, youth programming, focus groups, research, outreach, direct service, health advocacy, and public policy. Many Latinx communities also prioritize *parteras* (midwives), *curanderas* (healers), and *hierberas* (herbalists) in their reproductive healthcare, which has required resistance and collective efforts of care among communities, particularly in a society that is increasingly dependent on Western medicine (Silliman, 2016; Apfel, 2016). By ensuring access to culturally affirming care such as this, these communities are upholding the principle of reproductive justice that supports the right to have children in the manner of one's choosing. The history of Latinas representing themselves in their own organizing towards reproductive justice is essential in understanding how they continue to challenge reproductive abuses in a modern context.

Focusing specifically on the reproductive abuses at the US-Mexico border and how these have been, and are being, addressed, this section considers the cases of grassroots organizing and the role of public health in challenging reproductive injustice, as well as specific organizing against the detention of pregnant people in DHS custody, and the actions that have led to the recent shutting down of the Irwin County Detention Center after the allegations of abuse by Dr. Amin were publicized. Reproductive justice provides a framework to not only name these abuses, but also to address them in meaningful ways centered in self-determination.

Speaking directly about the abuses occurring at the US-Mexico border through a lens of reproductive justice, Flemming and Lebrón (2020) express the importance of recognizing the intertwined nature of public health and immigration – that immigration is a public health issue and vice versa. Flemming and Lebrón (2020: 274) also offer recommendations to public health professionals that explicitly follow the framework of reproductive justice, including a call for public health practitioners to engage in "reflexive praxis" in the interest of equity-centric social change by means of collective dialogue, reflection and action within the field. Flemming and Lebrón (2020: 274) hope that this reflexive praxis will lead public health professionals to "elect politicians and pass legislation that support reproductive justice". Further, Messing et al. (2020) call for a

similar praxis in the field of public health. Messing et al. (2020: 343) specifically state that "[t]he specialized knowledge and skills of the public health community makes it a natural ally for the realization of reproductive justice at the border through praxis". Moreover, Messing et al. (2020: 343) provide the example of the American Public Health Association putting forth a policy in 2015 that called "the advancing of reproductive justice an important public health strategy". Hernández and De Los Santos Upton (2019) also call for stronger collaborations between health communications scholars and practitioners, Latinx communication studies scholars, and border scholars. Hernández and De Los Santos Upton (2019) suggest that collaboration of this kind may be helpful in creating interventions such as health communications campaigns aimed at improving health outcomes for migrants at the US-Mexico border by introducing community/cultural liaisons and multilingual personnel to act as advocates for migrants experiencing health issues including the range of reproductive injustices discussed throughout this paper.

Hernández and De Los Santos Upton (2019) discuss the work of the grassroots group Angry *Tias* and *Abuelas* of the Rio Grande Valley. This is a group of women who provide support to migrants seeking asylum at the US-Mexico border in South Texas in the form of food and water, and essential items like menstrual products and diapers (Hernández and De Los Santos Upton, 2019). The group's website also notes that they work with incarcerated migrants in the region. The organization has also set up free *tiendas* (stores) in the Matamoros migrant camp on the Mexican side of the border to help ensure access to essential items. Angry *Tias* and *Abuelas* of the Rio Grande Valley also provides support to migrants by helping them navigate bus routes and public spaces, as well as with crucial information such as navigating border patrol checkpoints (Hernández and De Los Santos Upton, 2019). The group's website also notes that they collaborate across sectors with NGOs, media, and legal professionals, to help migrants access legal counsel, to raise awareness and to affect policy change regarding immigration in the US. Hernández and De Los Santos Upton (2019) point out that these actions by Angry *Tias* and *Abuelas* of the Rio Grande Valley are integral to the framework of reproductive justice most obviously by providing essential reproductive health supplies, and also by

assisting migrants in accessing resources, advocating for, and creating lives for themselves and their families.

The issue brief by the Center for Reproductive Rights et al. (2020) provides a series of recommendations aimed at protecting pregnant migrants and asylum seekers in precarious situations at the US-Mexico border during the Covid-19 pandemic. These strategies inform the development of policy, service provision, and community response to the situation at the border, as well as to the pandemic for those who are most marginalized. The Center for Reproductive Rights et al. (2020) recommended that the Covid-19-related CDC order, which expelled tens of thousands of migrants and asylum seekers, be overturned. The issue brief calls specifically for an end to the expulsion of pregnant migrants, whether under the CDC order or the Migrant Protection Protocols. Wong and Ceceña (2019) also report that 92.3% of the respondents in their study under the Migrant Protection Protocols were seeking asylum with family in the US. The issue brief suggests that because many migrants under the Migrant Protection Protocols program are seeking asylum with family and other support networks in the US, they should be permitted to either await their hearings with those networks or in designated shelters, instead of in precarious settings in Mexico. The issue brief emphasizes this recommendation in the case of pregnant asylum seekers in order to reduce the risk of health harms that the Migrant Protection Protocols present, and in order to better ensure access to essential services like medical care.

The issue brief by the Center for Reproductive Rights et al. (2020) also stresses the importance of safe and timely processing of asylum seekers and their families at points of entry in order to significantly minimize the amount of time that asylum seekers, especially those who are pregnant, spend in CBP detention while their information is processed. Further, the issue brief calls on ICE to end the detention of all asylum seekers during the Covid-19 pandemic and to indefinitely prohibit the detention of pregnant and postpartum migrants. Instead, the issue brief suggests an expansion of parole and other community-based programs as alternatives to detention in order to limit the spread of Covid-19 in overcrowded facilities, as well as to ensure safer outcomes for pregnant migrants. Finally, the issue brief recommends that the DHS (ICE and CBP) allow third party access, monitoring, and investigations into their facilities in order to address the

poor conditions and lack of accountability for the rampant human rights violations, including the mistreatment of pregnant people.

President Biden's executive order (ICE Directive 11032.4) discussed earlier that claims to generally end the detention of pregnant, postpartum and nursing migrants, is a significant feat in the fight for reproductive justice. Sullivan (2021) discusses the organizing efforts that preceded this action by the Biden administration including advocacy from grassroots organizations around the country. RAICES (2021), with the partnership of UndocuBlack Network, Cameroon American Council, and Haitian Bridge Alliance, filed a complaint to the DHS Office of Civil Rights and Civil Liberties and Officer of Inspector General demanding an investigation into the lack of adequate medical care for pregnant people, particularly Black pregnant people, in Karnes County Family Residential Center, an ICE facility built to detain migrant families in South Texas. This complaint calls attention to the racial bias discrimination that Black women and their children face in the medical system in the US, that is exacerbated in detention settings. The complaint outlines various cases where ICE failed to provide the legally required medical care to Black pregnant people and their families. Sullivan (2021) reports that various advocacy groups, such as Haitian Bridge Alliance, *Al Otro Lado*, and National Immigration Litigation Alliance sued CBP on claims of the mistreatment of pregnant people in their custody. The complaint also claims that the Trump administration had deported migrant women and newborns who had been born on US soil just days before, without a birth certificate documenting their babies' US citizenship (Sullivan, 2021). A concerted effort by detained migrants, legal professionals, activist groups, and media outlets helped maintain pressure on the Biden government in order to pass the executive order protecting pregnant, postpartum and nursing migrants from detention.

Reproductive abuses in the migrant detention system are an extension of the reproductive abuses and neglect that marginalized people face within the medical system more broadly. Due to the compounded structural violence of the immigration system and the prison industrial complex in the US, along with systems of racism, misogyny, ableism, homophobia, and transphobia, the reproductive abuses in detention centres require intersectional efforts in order to combat them. While working within the structures of

detention, a reproductive justice response to abuses can be informed by the previous discussion of cultural safety and birth work within the prison system. Similar to the concept of cultural safety discussed earlier – that "include[s] an analysis of power imbalances, institutional discrimination, colonization, and colonial relationships as they apply to healthcare" (Hole et al., 2015: 1663), Ghandakly and Fabi (2021: 833) posit that medical practitioners that work within the detention system must not only ensure that the care they administer is executed properly, but that "communication and shared decision-making are prioritized to mitigate the perception of deceit and abuse by the medical profession". Tangibly, this may take the form of implicit bias trainings or trainings involving cultural safety and anti-oppression within the medical field. Incorporating strategies like those of the organizations outlined above that provide birth and reproductive support services to incarcerated people, could also potentially improve the reproductive lives of migrants in the detention system. As is also outlined above, a reproductive justice perspective pushes the effort further toward creating futures without detention. Immigration advocates continue to push for the end of immigrant detention and the abolition of ICE. For example, even with the ending of the contract with Irwin, activists continue to advocate for the release of all detainees rather than transferring them to other facilities. The elimination of migrant detention continues to be a struggle for activists across sectors, with calls to 'free them all' from prison abolitionists and reproductive justice advocates alike.

Cross-sectoral collaboration has been a core feature of the organizing for reproductive justice at the US-Mexico border. For example, the ACLU has assisted in acquiring essential evidence in the investigations of allegations against Dr. Amin, Irwin County Detention Center, and ICE. On September 18, 2020, shortly after the allegations of abuse at Irwin became public, the ACLU (2020: 1-2) filed a Freedom of Information Act (FOIA) request seeking "any and all records… prepared, received, transmitted, collected and/or maintained" by ICE "that describe, refer or relate to policies, guidelines, protocols, or procedures regarding procedures that can result in sterilization or diminished fertility, and informed consent and translation for medical care". Similarly, in April 2021, the National Women's Law Center, the National Asian Pacific American Women's Forum, the National Latina Institute for Reproductive Justice, and SisterLove Inc. created

a legal brief in the case of *Oldaker v. Giles*, in support of the survivors of the reproductive abuse at Irwin. In the brief, National Women's Law Center et al. (2021: ix) explicitly call attention to the framework of reproductive justice and explain "how the sexual violence committed by Respondents at the Irwin County Detention Center fits into the broader legacy of sexual violence committed by the government against women, and in particular women of color and immigrant women". The National Women's Law Center et al. (2021) also express that it is crucial, and in the public interest, and the integrity of the legal system, to protect the truth-speakers from retaliatory actions by Respondents, such as deportation. In their concluding statement, the National Women's Law Center et al. (2021: 15) state clearly that "[b]y stopping the government from abusing and retaliating against the women in this case, this Court can begin the process of delivering reproductive justice and send a message to undocumented and detained women here and around the country that they will not be subjected to such treatment". The prominence of the reproductive justice framework in this legal preceding is encouraging, as the recognition and use of this framework in the legal field is an important step to having it recognized in mainstream discourse. The allegations have also prompted response from the United States Congress. On September 25, 2020, Representative Pramila Jayapal, and others led 172 Congress members in introducing a House Resolution "[c]ondemning unwanted, unnecessary medical procedures on individuals without their full, informed consent", and urging a full investigation into these allegations. Members of the House Judiciary Committee and Congressional Hispanic Caucus also led a Congressional Delegation to the Irwin County Detention Center where they heard first-hand accounts of these abuses. Approximately one week after the visit, House Resolution 1153 was passed and co-sponsored by 225 members of Congress on October 2, 2020. As is displayed in these examples, organizing for reproductive justice at the border has been a collaborative effort from diverse individuals and groups from across sectors, and with differing organizational structures, which has contributed to the strengthening of the movement toward a vision of reproductive autonomy for all.

Terminating the contract with the Irwin County Detention Center represents another step toward reproductive justice in the borderlands. Project South, one of the organizations who filed the whistleblower complaint against Irwin County Detention

Center, has been collecting data about Irwin through interviews for many years, and in 2017, Ghandakly and Fabi (2021) note that Project South reported several human rights violations including unsanitary conditions for detainees, as well as a lack of medical and mental health care, and due process. Through their grassroots work and legal advocacy, Project South, Georgia Detention Watch and other allied organizations have contributed to the termination of ICE's contract with Irwin. It is important to note that the resistance that made this possible began from within the prison by the women who were speaking out about the abuses they were experiencing, as well as whistleblower Dawn Wooten. On May 13, 2021, 29 individuals who were formerly detained by ICE sent a letter to President Biden (Sánchez et al., 2021). Over 100 local, regional and national organizations, and over 60 individuals, including Representative Park Cannon of Georgia, signed this letter in solidarity. The 'directly impacted community members' who sent this letter call for the immediate closure of all ICE detention centres and private prisons, explicitly stating their concerns with the abuse at Irwin County Detention Center. The group also demands the end of all ICE contracts with for-profit detention companies, and an end to ICE's collaboration with local law enforcement agencies that surveil and criminalize undocumented immigrants. The group also calls for the administration to pay detainees and those formerly detained for the labour performed while in DHS custody, raising concerns regarding forced labour. Lastly, the group calls for an end to the funding of border militarization and policing programs across the US, Mexico, and Central America that are meant to deter migration. This letter is a powerful example of survivors leading the movement in advocating for justice in the US immigration detention system and beyond.

Largely due to the efforts outlined above, beginning with the courage of the survivors to speak out, on May 20, 2021, DHS secretary Alejandro Mayorkas under the Biden administration ordered ICE to immediately sever its contract with the Irwin County Detention Center. Sacchetti (2021) explains that this decision stems from a lack of operational necessity, as well as the ongoing investigations into the sexual and reproductive abuses of migrants at the facility. Sacchetti (2021) cites Mayorkas and other DHS officials, by explaining this move as "an important first step" in the Biden administration's "broader plan to overhaul the nation's network of more than 200 county

jails and detention centers", including a pledge to end for-profit immigration detention. Olivares and Washington (2021) cite Azadeh Shahshahani of Project South, who filed the whistleblower complaint, who states "[t]he victory, brought about through years of organizing and exposing the abuses, is momentous".

As displayed in this section, efforts toward sexual and reproductive health and rights at the US-Mexico border have taken place across sectors and by individuals and groups with varying organizational structures. Across the cases listed above, a clear collaboration is present between sectors and levels of organizing that illustrates, for example, that even when legal mechanisms were useful and necessary, grassroots organizing also played an integral role. Organizations like RAICES and Project South have been particularly helpful in the grassroots and legal advocacy fields by helping migrants in precarious situations navigate the legal system and by offering free legal services to detained migrants and asylum seekers. A reproductive justice framework maintains an agent-centered approach and recognizes the importance of the brave survivors who have spoken up about abuses in detention facilities, and within the US immigration system more generally.

CONCLUSION

In this research, I recognize the integral nexus of citizenship, migration and border theories, human rights, and critical feminist theories in contextualizing the gendered violence and reproductive oppression occurring in the borderlands. In an effort to create a nuanced and holistic research project, I engage meaningfully with this rich literature and apply it to on the ground case studies. I have applied the framework of reproductive justice to name this reproductive violence in the region, as well as to explore strategies to challenge it. In this research, I have maintained a commitment to not only exploring the reproductive violence and traumas affecting migrants at the US-Mexico border, but also to contributing to a dialogue that aims to create more just and equitable futures in the field of sexual and reproductive health and rights. This research acknowledges that, as stated by Loretta Ross in Apfel (2016: xiv), "[r]eproductive justice helps people process the trauma, disrespect, and abuse they experience, but it also helps them envision an

alternative, speculative future in which our reproductive decisions are socially and economically supported and enabled". There is an expansive and multi-scalar community of people who are responsible for contributing to reproductive justice organizing, as well as those who are affected by it on local, national, and global levels. The care chain in reproductive justice therefore involves children, parent(s), family and chosen family, friends, care providers (doctors, midwives, OBGYNs, birth workers, doulas, lactation consultants), governments (policies ensuring access to, and funding for, equitable health care), and local, regional, and global community organizations.

Price (2010) notes that reproductive justice is a grassroots framework that has global inspiration stemming from the series of international conferences mentioned above that took place in the mid-1990s and were instrumental in recognizing women's rights as human rights. Although proponents of reproductive justice were motivated by the values of this emergent human rights framework, they remained critical of its significance on-the-ground. As explored in the paper, the development of the reproductive justice framework took place in the US and has largely been shaped by the histories and lived realities of marginalized people in the US, but it is intended to be used as a universal framework toward achieving sexual and reproductive health and rights for all. For example, Ross and Solinger (2017) note the recognition by the South African minister for social development Bathabile Dlamini, in September 2014, that reproductive justice has potential to be utilized as a global framework that best addresses the lived realities of marginalized women around the world.

To relate this research to a Canadian context, as a second-generation immigrant settler, I live on the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples, and recognize the importance of Canada's refugee regime to my own family's history of fleeing imperialist violence in Latin America. I recognize that borders, as colonial constructs are sites of structural, and physical violence. As I have explored in this research, the struggle against violent borders is intrinsically linked to the movement of reproductive justice. In Ross and Solinger (2017: 255), Krysta Williams and Erin Konsmo of the Native Youth Sexual Health Network state:

> It makes sense for us to organize beyond and around the U.S.-Canada imperial border because so many of our communities are transected by this border and face violence at the hands of both countries. Also *the existence of this border is a reproductive justice issue* [emphasis added]. Border imperialism perpetuates and upholds violence against Indigenous bodies by the historical and present-day violence reinforcement of the doctrine of discovery and assertion of colonial ownership of Indigenous lands and territories.

Dauvergne (2008: 121) notes how settler states (i.e., Canada, the US, Australia and New Zealand) have "built part of their national mythology around being 'nations of immigration.'" Canada has long held the reputation, as other settler states do, as a country with progressive immigration policies, but this must be challenged. Canada is not immune to xenophobia, resentment, and securitizing narratives regarding migrants. What many people fail to interrogate when accepting this pro-immigration reputation is that Canada has many strategies and policies in place to discourage migration - notably the third safe country agreement with the US, that essentially holds that if a migrant reaches Canada through the US, they legally must return to the US to go through the asylum process there as it is considered the first 'safe' country that they arrived in. This policy has been under much scrutiny, especially during the Trump administration, as it became obvious to many supporters of migrant's rights that the US was in fact, not a safe country for many of them, because of the many dangers discussed throughout this paper, among others. The deliberate reliance on the narrative of Canada as being pro-immigration seems to me, a poor attempt to legitimatize the state's continued colonization of Indigenous lands.

It can be challenging to discuss racial justice in reproductive care in a Canadian context because of a lack of race-based data in Canada. There are examples of qualitative and narrative-based studies available in Canada, by organizations such as the Obstetric Justice Project (2019), "a patient advocacy initiative working to expose mistreatment and abuse in reproductive healthcare across Canada". The Obstetric Justice Project runs an online community forum that provides a platform for people to share their stories of abuse within the medical system, as well as to access supports, but there is still a lack of

sufficient quantitative data in this area. Although Canada and the United States have particular histories and social, economic, and political modern contexts, they share similar identities and histories as settler colonial states. Both countries violently colonized Indigenous populations that inhabited these lands before European settlement, and both countries participated in the transatlantic slave trade, although to varying degrees (Maynard, 2017). The United States and Canada both have the violence of white supremacy built into their vital institutions, from the carceral system to health care. For example, in Canada, the history of residential schools that were intended to "kill the Indian in the child", the forced sterilization of Indigenous women, and the continued resource extraction and violent imposition of pipelines on Indigenous lands are but some of the reproductive injustices currently being addressed by activists in Canada (Maynard, 2017: 24). The reproductive justice framework is necessary not only in the United States, but also in Canada, and across the globe as a leading framework from which the most marginalized in our societies can achieve reproductive liberation and autonomy.

Reproductive justice holds potential for transformative change that goes beyond a case by case basis because of the framework's emphasis on centering the lived experiences of the most marginalized in the movement. Gobby and Ivey (2020) present a theory for large-scale systems change that includes the amplifying of the voices of those who are the most impacted. In their work, Gobby and Ivey (2020) advocate for the amplification of Indigenous voices in the climate change and environmental justice movement, as they are some of the most impacted, and most marginalized, in the systems of domination that are responsible for the perpetuation of climate change and environmental racism. Reproductive justice provides a framework that echoes Gobby and Ivey (2020), and advocates for the centering of the lived experiences of people of colour, undocumented migrants, and other marginalized groups who are most affected by systemic injustices, in order to work toward transformative systems change. By focusing on bottom-up organizing strategies, this framework offers an approach to sexual and reproductive health and rights that is relevant to the needs of the most marginalized and excluded people in our societies and thus must be emphasized as a way forward toward more just and equitable futures.

BIBLIOGRAPHY

Aguilera, Jasmine. (2020, December 22). More Than 40 Women File Class Action Lawsuit Alleging Medical Misconduct by ICE Doctor at Georgia Detention Center. TIME. Retrieved February 3, 2021. https://time.com/5924021/women-lawsuit-irwin-detention-ice/

Al Jazeera Fault Lines. 2021. *No Consent: Did a doctor abuse immigrant women?* May 26. Retrieved from https://www.aljazeera.com/program/fault-lines/2021/5/26/no-consent-did-a-doctor-abuse-immigrant-women

Allotey, Pascale, et al. (2004). Reproductive Health for Resettling Refuge and Migrant Women? *Health Issues, 1*(78), 12-17.

Anderson, Bridget. (2014). Exclusion, Failure, and the Politics of Citizenship (RCIS Working Paper No. 2014/1). Ryerson Centre for Immigration and Settlement. Toronto, ON.

American Civil Liberties Union (ACLU). (2020, September 18). FOIA Request Related to ICE's Provision of Sterilization Procedures, and Translation Services and Informed Consent for Medical Care. Retrieved from https://www.aclu.org/legal-document/foia-related-medical-abuses-ice

Angry *Tias* and *Abuelas* of the Rio Grande Valley. (n.d.) *What We Do*. Retrieved April 19, 2021, from https://www.angrytiasandabuelas.com/

Apfel, Alana. (2016). *Birth Work as Care Work: Stories from Activist Birth Communities.* Oakland: PM Press.

Arendt, Hannah. (1951). *The Origins of Totalitarianism*. New York: Harcourt Brace Jovanovich.

Bartlett, Linda, et al. (2004). Forced Migrants – turning rights into reproductive health. *Reproductive Health and Rights, 1*(363), 76-77.

BBC. (2016, August 31). 'Drug dealers, criminal, rapists': What Trump thinks of Mexicans. Retrieved May 3, 2021. https://www.bbc.com/news/av/world-us-canada-37230916

BBC. (2021, June 8). Kamala Harris tells Guatemalan migrants: 'Do not come to the US'. Retrieved June 9, 2021. https://www.bbc.com/news/world-us-canada-57387350

Briggs, Laura, et al. (2013). Roundtable: Reproductive Technologies and Reproductive Justice. *Frontiers, 34*(3), 102-125.

Centers for Disease Control and Prevention (CDC). (2019). Racial and Ethnic Disparities Continue in Pregnancy-Related Deaths: Black, American Indian/ Alaska Native women most affected. [Press release]. September 5. Retrieved from https://www.cdc.gov/media/releases/2019/p0905-racial-ethnic-disparities-pregnancy-deaths.html

Centers for Disease Control and Prevention (CDC). (2016). *Trends in pregnancy-related mortality in the United States: 1987-2016.* [Data set]. CDC. Retrieved

from *https://www.cdc.gov/reproductivehealth/maternal-mortality/pregnancy-mortality-surveillance-system.htm#trends*

Center for Reproductive Rights, et al. (2020). *Pregnant Immigrants and Asylum Seekers During Covid-19 – US Government Abuses at the Border and Beyond* [Issue brief]. Retrieved from https://reproductiverights.org/wp-content/uploads/2020/05/Pregnant-Immigrants-and-Asylum-Seekers-During-COVID-19.pdf

Chari, Anurekha. 2009. Gendered Citizenship and Women's Movement. *Economic and Political Weekly, 44*(17), 47-57.

Cohn, Carol. (2013). *Women and Wars: Contested Histories, Uncertain Futures*. Cambridge: Polity Press.

Crenshaw, Kimberlé. (1989). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics. *University of Chicago Legal Forum, 1989*(1), 139-167.

Dauvergne, Catherine. (2008). *Making People Illegal: What Globalization Means for Migration and Law*. Cambridge: Cambridge University Press.

Davis, Angela. (1981). *Women, Race and Class*. New York: Random House.

Dickerson, Caitlin. (2020). ICE Detainees in Georgia Say They Had Unneeded Surgeries. *New York Times*. September 29. Retrieved from https://www.nytimes.com/2020/09/29/us/ice-hysterectomies-surgeries-georgia.html?smid=em-share

Eslava, Luis. (2019). The Teaching of (Another) International Law: Critical Realism and the Question of Agency and Structure. *The Law Teacher, 54*(3), 368-384.

Flemming, Paul J., and Alana W. W. LeBrón. Historical and Contemporary Reproductive Injustices at the Border and Beyond. *American Journal of Public Health*, *110*(3), 273-274

Ghandakly, Elizabeth C., and Rachel Fabi. (2021). Sterilization in US Immigration and Customs Enforcement's (ICE's) Detention: Ethical Failures and Systemic Injustice. *Opinions, Ideas, & Practice, 111*(5), 832-834.

Gobby, Jen, and Rachel Ivey. (2020). More Powerful Together: Movement Reflections on Decarbonizing and Decolonizing So-Called Canada. *Summary Report for Activists and Land Defenders,* cov1-74.

Gumbs, Alexis Pauline, et al. (2016). *Revolutionary Mothering: Love on the Frontlines.* Between the Lines.

Hacker, Karen, et al. (2005). Barriers to health care for undocumented immigrants: a literature review. *Risk Management and Healthcare Policy, 8*(1), 175-183.

Hartmann, Betsy. (1995). *Reproductive Rights and Wrongs: The Global Politics of Population Control.* Boston: South End Press.

Hernández, Leandra H. (2019). Feminist Approaches to Border Studies and Gender Violence: Family Separation as Reproductive Injustice. *Women's Studies in Communication, 42*(2), 130-134.

Hernández, Leandra H., and Sarah De Los Santos Upton. (2019). Critical Health Communication Methods at the US-Mexico Border: Violence Against Migrant Women and the Role of Health Activism. *Frontiers in Communication, 4*(34), 1-12.

Hindess, Barry. (2000). Citizenship in the International Management of Populations. *American Behavioral Scientist, 43*(9), 1486-1497.

Hole, Rachelle, et al. (2015) Visibility and Voice: Aboriginal People Experience Culturally Safe and Unsafe Health Care. *Qualitative Health Research, 25*(12), 1662-1674.

hooks, bell. (1989). *Talking Back, Thinking Feminist, Thinking Black*. Boston: South End Press.

Human Rights First (2021). Delivered to Danger: Trump Administration sending asylum seekers and migrants to danger. Retrieved from https://www.humanrightsfirst.org/campaign/remain-mexico

Human Rights First. (2021). Publicly reported cases of violent attacks on individuals returned to Mexico under the "Migrant Protection Protocols", as compiled by Human Rights First.

Jones, Reece. (2016) *Violent Borders: Refugees and the Right to Move.* New York: Verso.

Khosravi, Shahram. (2019). What do we see if we look at the border from the other side? *Social Anthropology/Anthropologie Sociale, 27*(3), 409-424.

Lister, Ruth. (2003). *Citizenship: Feminist Perspectives*. New York: New York University Press.

Lorde, Audre. (1985). *Sister Outsider: Essays and Speeche*s. New York: Crossing Press.

Luna, Zakiya, and Kristin Luker. (2013). Reproductive Justice. *Annual Review of Law and Social Science, 9*, 327-352.

Marshall, Thomas. H., and T Bottomore. (1950). Citizenship and Social Class. Pluto Press.

Maynard, Robyn. (2017). *Policing Black Lives: State Violence in Canada from Slavery to the Present*. Nova Scotia: Fernwood Publishing.

Merry, Sally E., et al. (2010). Law From Below: Women's Human Rights and Social Movements in New York City. *Law & Society Review, 44*(1), 101-128.

Messing, Ariella J., et al. (2020). Reproductive Injustice at the US Border. *Public Health Ethics, 110*(3), 339-344.

Montoya-Galvez, Camilo. (2020, March 21). U.S.to rapidly turn away migrants, including those seeking asylum, over coronavirus. CBS News. Retrieved May 20,

2021. https://www.cbsnews.com/news/us-to-turn-way-migrants-including-those-seeking-asylum-without-delay-over-coronavirus/

Munday, Jennie. (2009). Gendered Citizenship. *Sociology Compass,* 3(2), 249-266.

National Women's Law Center (NWLC). (2017). Immigrant Rights and Reproductive Justice: How Harsh Immigration Policies Harm Immigrant Health. *Reproductive Rights*, 1-3.

National Women's Law Center, et al. (2021, March 4). Odaker v. Giles Brief of Amici Curiae. Retrieved from https://nwlc.org/wp-content/uploads/2021/03/116-1_Brief94.pdf

Naylor, Brian, and Tamara Keith. (2021, June 7). Kamala Harris Tells Guatemalans Not To Migrate To The United States. National Public Radio. Retrieved June 7, 2021. https://www.npr.org/2021/06/07/1004074139/harris-tells-guatemalans-not-to-migrate-to-the-united-states

Novak, Nicole, L., and Natalie Lira. (2018, March 22). California Once Targeted Latinas for Forced Sterilization. Smithsonian Magazine. Retrieved on July 7, 2021. https://www.smithsonianmag.com/history/california-targeted-latinas-forced-sterilization-180968567/

O'Connor, Emma, and Nidhi Prakash. (2018, July 9). Pregnant Women Say They Miscarried In Immigration Detention And Didn't Get The Care They Needed. Buzzfeed. Retrieved April 14, 2021. https://www.buzzfeednews.com/article/emaoconnor/pregnant-migrant-women-miscarriage-cpb-ice-detention-trump

Olivares, José, and John Washington. (2021, May 20). ICE Detention Center Shuttered Following Repeated Allegations of Medical Misconduct. The Intercept. Retrieved on May 20, 2021. https://theintercept.com/2021/05/20/ice-irwin-hysterectomies-medical/

Pan American Health Organization. (2016). Resolution CD55.R13 – *Health of Migrants* (Document CD55/11)

Petchesky, Rosalind P. (1998). Negotiating reproductive rights: women's perspective across countries and culture. *Reproductive Health Matters, 6*(11), 186-189.

Petchesky, Rosalind P. (2008). Conflict and Crisis Settings: Promoting Sexual and Reproductive Rights. *Reproductive Health Matters, 16*(31), 4-9.

Price, Kimala. (2010). What is Reproductive Justice? How Women of Color Activists Are Redefining the Pro-Choice Paradigm. *Meridians: feminism, race, transnationalism, 10*(2), 42-65.

Project South, et al. (2020, September 14). Whistleblower Complaint "Re: Lack of Medical Care, Unsafe Work Practices, and Absence of Adequate Protection Against COVID-19 for Detained Immigrants and Employees Alike at the Irwin County Detention Center".

Rabin, Nina. (2009). Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona. *Georgetown Immigration Law Review*, *23*, 695.

RAICES, et al. (2021, March 3). Discriminatory Practices and Deliberate Indifference Related to the Prenatal, Maternal, Gynecological, and Pediatric Medical Needs of Detained Black Women and Young Children at the Karnes County Family Residential Center. Retrieved May 12, 2021. https://www.raicestexas.org/wp-content/uploads/2021/03/Redacted-Complaint-regarding-Inadequate-Medical-Care-of-Black-Pregnant-Women-and-Infants-at-Karnes.pdf?ms=em20210120_email_senators&emci=dc333cfa-385b-eb11-a607-00155d43c992&emdi=0c9ef8b7-405b-eb11-a607-00155d43c992

Roberts, Dorothy. (1997). *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty.* New York: Vintage Books, Penguin Random House LLC.

Rosenthal, Lisa, and Marci Lobel. (2020). Gendered racism and the sexual and reproductive health of Black and Latina Women. *Ethnicity and Health, 25*(3), 367-392.

Ross, Loretta J. (2017). Reproductive Justice as Intersectional Feminist Activism. *Souls: A Critical Journal of Black Politics, Culture, and Society, 19*(3), 286-314.

Ross, Loretta J. et al. (2001). 'The 'SisterSong Collective': Women of Color, Reproductive Health and Human Rights. *American Journal of Health Studies, 17*(2), 79-88.

Ross, Loretta J., and Rickie Solinger. (2017). *Reproductive Justice, An Introduction*. Berkeley: University of California Press

Sacchetti, Maria. (2021, May 20). ICE to stop detaining immigrants at two county jails under federal investigation. The Washington Post. Retrieved May 20, 2021. https://www.washingtonpost.com/immigration/ice-detentions-county-jails-halted/2021/05/20/9c0bdd1e-b8de-11eb-a6b1-81296da0339b_story.html

Salter, Mark B. (2008). When the Exception Becomes the Rule: Borders, Sovereignty and Citizenship. *Citizenship Studies, 12*(4), 365-380.

Sánchez, Carlos I. P. and Carolina Enríquez. (2004). Sexual and reproductive health rights of Colombian IDPs. *Forced Migration Review, 19*, 31-32.

Sánchez, Li Anne "Estrella", et al. (2021, May 13). A Message from Individuals Formerly in the Custody of ICE, with Solidarity from a Coalition of Georgia Migrant Justice Organizers and Various Georgia and National Groups. Retrieved from https://drive.google.com/file/d/1bvCSGBcJyZyoy2oZKui_c2DH3e8J3qLw/view

Shacher, Ayelet. (2014). Citizenship and the 'Right to Have Rights'. *Citizenship Studies, 18*(2), 114-124.

Sharpe, Christina. (2016). *In the Wake: On Blackness and Being*. Durham, NC: Duke University Press.

Silliman, Jael, et al. (2016). *Undivided Rights – Women of Color Organize for Reproductive Justice 2nd Edition*. Chicago: Haymarket Books.

SisterSong. (n.d.). *Reproductive Justice*. Retrieved March 3, 2020, from https://www.sistersong.net/reproductive-justice

Sullivan, Eileen. (2021, July 9). Biden Will End Detention for Most Pregnant and Postpartum Undocumented Immigrants. The New York Times. Retrieved July 12, 2021. https://www.nytimes.com/2021/07/09/us/politics/pregnant-postpartum-immigration-biden.html

Tramel, Salena. (2018). Convergence as political strategy: social justice movements, natural resources and climate change. *Third World Quarterly, 39*(7), 1290-1307.

Treisman, Rachel. (2020, September 16). Whistleblower Alleges 'Medical Neglect,' Questionable Hysterectomies of ICE Detainees. National Public Radio. Retrieved October 10, 2020. https://www.npr.org/2020/09/16/913398383/whistleblower-alleges-medical-neglect-questionable-hysterectomies-of-ice-detaine

The Associated Press. (2021, April 29). About a third of Mexicans show exposure to coronavirus. CTV News. Retrieved July 2, 2021. https://www.ctvnews.ca/world/about-a-third-of-mexicans-show-exposure-to-coronavirus-1.5406876

The Obstetric Justice Project. (2019, May 17). Submission for UN Special Rapporteur on Violence Against Women. Retrieved from https://www.ohchr.org/Documents/Issues/Women/SR/ReproductiveHealthCare/The_Obstetric_Justice_Project_Canada.pdf

The United Nations. (1948). Universal Declaration of Human Rights. Retrieved from https://www.un.org/en/universal-declaration-human-rights/

The United Nations. (1951). Convention on the Prevention and Punishment of the Crime of Genocide. January 12, 1951. Retrieved from https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf

The United Nations. (2017). Reproductive Health Policies Data Booklet 2017. *Economic and Social Affairs*.

United Nations High Commissioner for Refugees. (1951). Convention and Protocol Relating to the Status of Refugees. Retrieved from https://www.unhcr.org/protection/basic/3b66c2aa10/convention-protocol-relating-status-refugees.html

United Nations High Commissioner for Refugees. (2020, June 18). Figures at a Glance. Retrieved from https://www.unhcr.org/figures-at-a-glance.html

United Nations High Commissioner for Refugees. (2015). Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico. Retrieved from https://www.unhcr.org/5630f24c6.html

United States, Congress, House, Judiciary – Energy and Commerce. *Condemning unwanted, unnecessary medical procedures on individuals without their full, informed consent.*07, Oct. 2020, https://www.congress.gov/bill/116th-congress/house-resolution/1153/titles. 116th Congress, 2nd Session, House Resolution 1153. Retrieved May 2, 2021.

United States District Court for the Middle District of Georgia. 2020. *Oldaker et al v. Giles et al.* Consolidated Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Declaratory and Injunctive Relief and for Damages. Case No.: 7:20-cv-00224-WLS-MSH Document 54, Filed 12/21/20. 1-160.

US Customs and Border Protection. (2021). Southwest Land Border Encounters. Retrieved from https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters

US Immigration and Customs Enforcement (ICE). (2016). Identification and Monitoring of Pregnant Detainees.

US Immigration and Customs Enforcement (ICE). (2019). National Detention Standards For Non-Dedicated Facilities

US Immigration and Customs Enforcement (ICE). (2021). ICE Directive 11032.4: Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals.

Walia, Harsha. (2021). *Border & Rule: Global Migration, Capitalism, and the Rise of Racist Nationalism.* Chicago: Haymarket Books.

Winters, Della J., and Adria R. McLaughlin (2020). Soft Sterilization: Long-Acting Reversible Contraceptives in the Carceral State. *Journal of Women and Social Work, 35*(2), 218-230.

Wong, Tom, and Vanessa Ceceña. (2019). Seeking Asylum: Part 2. US Immigration Policy Center. Retrieved from https://usipc.ucsd.edu/publications/usipc-seeking-asylum-part-2-final.pdf

Wright, Melissa. (1999). The Dialects of Still Life: Murder, Women, and Maquiladoras. *Public Culture, 11*(3), 453-474.

Wright, Melissa. (2011). Necropolitics, Narcopolitics, and Femicide: Gendered Violence on the Mexico-U.S. Border. *Signs, 36*(3), 707-731.

Yamin, Alicia E. (2015). Human-rights-based approaches to health in Latin America. *The Lancet, 385,* e26-e29.