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2022

### Introduction to Julie Bilotta's Story

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## Introduction to Julie Bilotta's Story

*Sheila Wildeman*

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Julie Bilotta's contribution to this special volume is a straightforward denunciation of prison-based inhumanity and institutionalized misogyny. I write to show solidarity with her and to alert the reader to some of the ways her story exposes intersectional injustice while enlivening feminist-abolitionist prison resistance. I write, too, to challenge my own and others' thinking about whether or how law (litigation, law reform) might contribute to that resistance.

In her essay, Julie offers an intimate glimpse of prisons as sites of reproductive injustice. As this special volume attests, incarceration in Canada and elsewhere produces systematic gendered harms, including lack of access to contraception, abortion and other reproductive health care; coerced sterilization; infant apprehension; and repeated and sustained rupturing of family relationships (Paynter et al., 2022; Evans, 2021). While there is a dearth of disaggregated data, the demographics of incarceration and patterns of securitization within prisons suggest that in Canada these harms fall disproportionately on Indigenous and Black women (Wortley, 2021). Julie describes actions and inaction of jail staff in response to her experience of labour and childbirth that illustrate just how radically the paramilitary ethos of prisons and jails alienates those in authority from their humanity and substitutes punishing logics of risk and securitization. In Julie's case this produced world-destroying pain, grief, and rage. It also opened new possibilities for feminist solidarity and advocacy.

I first met Julie in 2015, in K'jipuktuk / Halifax. Martha Paynter had invited her to speak at the Persons Day Breakfast hosted by the Halifax Branch of the Women's Legal Education and Action Fund and two other events. At one of these, Emma Halpern (Executive Director of Elizabeth Fry Society of Mainland Nova Scotia) and I introduced Julie. We took the opportunity to comment on conditions in local prisons and jails, including recent placements of pregnant women in solitary confinement, contrary to international standards (UN, 2011). We linked the institutional cruelty Julie had experienced to wider forces of colonialist, racist, ableist and heteropatriarchal oppression, seeking to bring home the point that the ill-treatment she had experienced was not an exception but rather a clarifying

expression of a carceral norm – the prisoner’s body and in particular her reproductive capacities used as a vehicle for demonstrating dominance.

Not long after Julie came forward, other women, including Bianca Mercer of Halifax, shared similar experiences (Foote, 2017; Rahr, 2017; Wakefield, 2018). Their stories help surface an insidious logic of Canada’s criminal justice and correctional systems whereby women’s reproductive and parenting capabilities are harnessed and redeployed in furtherance of punishment and the deepening of social inequality (Paynter et al., 2022; Carter Ramirez et al., 2020). As Angela Davis describes, this is the central function of prisons: reproducing dominance while invisibilizing (through an individualizing, moralizing ethic) the mechanisms of that reproduction (Davis, 2003).

Julie is a special person – passionate, unique. Yet aspects of her life are common among criminalized and imprisoned women. This is true, for instance, of her struggles with substance use (Hotton Mahony et al., 2017). That she was pregnant while in jail also reflects demographic trends (Kouyoumdjian et al., 2016; Liauw et al., 2016). The strict pre-trial release conditions precipitating her incarceration in the final stages of her pregnancy, conditions that made her a prisoner in others’ homes while introducing new frictions into her relationships, are also common to women under court control and surveillance. We know very well that these conditions set people up to fail, and disproportionately burden the marginalized, including Black and Indigenous women (Wortley, 2021; Canadian Civil Liberties and Education Trust, 2014).

Julie’s relationship with Gionni’s Mohawk father Dakota Garlow brought her experience of jailhouse pregnancy and childbirth directly into contact with Canada’s colonialist legacies. Subsequent actions of child protection authorities further entrenched those legacies. As Julie describes, child protection authorities took Gionni from her while she was living at the Elizabeth Fry house in Ottawa – an apprehension for which she suggests no clear reasons were given. She adds that authorities failed to meet their obligation to prioritize placement with family and/or in the appropriate Indigenous community (Ontario, 1990). All this tracks the dislocation and cultural destruction long marking child welfare involvement in the lives of marginalized families and in particular the lives of Indigenous children (Kozlowski et al., 2012).

Also important to the work of connecting Julie’s singular experience to patterns of intersectional injustice is the fact that her story of coming

into conflict with the law begins on the territory of the Kanyen'kehà:ka/Mohawk people, known as Akwesasne. This contested space extending along the Canada-US border includes territory leased by the Mohawks to the Crown for use by Loyalist and European settlers and never returned. While a 2018 settlement appeared to resolve the matter of compensation, this has been contested by community members who regard the referendum-based settlement endorsement as unfair (Deer, 2019). Akwesasne has also long been marked by intensive surveillance in light of settler laws both incentivizing and criminalizing cross-border smuggling of tobacco, drugs, and weapons (Blackwell, 2010). Julie's getting in on the quest for fast money said to flow freely along the border is one piece of a bigger puzzle in which colonialism, along with lack of investment in non-criminalized traditional and other local economies, plays a central part. The resulting prominence of the illicit economy makes vulnerable residents, both Indigenous and non-Indigenous, susceptible to recruitment as expendable candidates for drug transport (Lawrence and Williams, 2006; Russell and Miller, 2017).

Feminist-abolitionist analysis requires us to attend to these complexities in Julie's story: the many determinants and expressions of reproductive injustice. It requires us to connect the dots between colonialism, criminalization, incarceration, and deprivation of the minimal supports required to sustain individuals, families, and communities. It calls on differently positioned social justice advocates to come together (as when Martha invited Julie to visit Nova Scotia) to imagine and enact alternatives to incarceration while resisting new forms of carceral control. Above all, if we want to stop the gendered and sexed cruelty Julie describes, we must be led by those like her who have survived that cruelty and by the memory of those who have not – like Gianni Lee Garlow, born into prison a social justice warrior. By building solidarity around these experiences and linking them to population-wide patterns of doing and suffering, dominance, and subordination, we might finally begin to wean society off prisons with their toxic foundations in fear, blame, and perpetuation of undeserved privilege and start following through on our responsibilities to support each other's flourishing.

What if any role does law (litigation, law reform) have in this? These reflections on Julie's experience signal how deeply law is implicated in the intersectional injustices dealt out to her and others, with the prison serving as law's most obvious mechanism of colonialist, racist, ableist

and heteropatriarchal domination. Yet Julie's story also raises the question of whether or how law might respond – not simply by singling out individual staff for misconduct-related proceedings, but by establishing broader institutional and state responsibilities to redress the institutional and social-structural determinants of systemic and endemic, misogynistic violence. While individual civil actions brought by prisoners against prison authorities have not had a strong record of success (Iftene et al., 2014), Julie brought a lawsuit against Ontario which settled. This is one possible route to incentivizing system reform. Still, despite vague stirrings at the level of policy on meeting community standards of reproductive health care, there has been little to no concrete change. A 2017 independent review of Ontario corrections concluded: “In most institutions there are few if any targeted services and programs for pregnant women or those who have recently given birth”. In 2018, before it was ousted by Doug Ford's Progressive Conservatives, Ontario's Liberal government passed a correctional reform bill which would have banned solitary confinement of pregnant people; however, that law has not been brought into force.

The question is whether or how legal advocacy can support feminist-abolitionist resistance and avoid redirecting it into system-legitimizing channels. There is a danger – and given the more-of-the-same aftermath of Canada's solitary confinement litigation, one may speculate it is a likelihood – that even radical-seeming litigation may end up promoting system-legitimation and carceral expansion. However, as Debra Parkes suggests, we can start down the path of feminist-abolitionist legal strategies by naming the wrongs we wish to challenge as forms of intersectional injustice. For instance, we may use Canada's *Charter*-based equality right to frame reproductive injustice in prisons as state action and inaction infringing prisoners' reproductive security and autonomy and thereby perpetuating systemic oppression on multiple intersecting grounds. In Julie's case, the discriminatory denial of pain medication and other reproductive health interventions that she experienced may also be characterized as torture or cruel and unusual treatment. Further, given the Mohawk heritage of Gionni's father, the institutional violence Julie describes may be specifically denounced as participating in the ongoing carceral genocide perpetrated by Canada against Indigenous peoples.

The first step is to listen to the voices of experience, Julie's and others. Then it is down to each of us to think hard about what it means to enact,

in our own lives and spheres of influence, a commitment to reproductive justice and the imperative of “never again”.

## REFERENCES

- Blackwell, Tom (2010) “Contraband capital; The Akwesasne Mohawk reserve is a smuggling conduit, police say”, *National Post* – September 22. Retrieved from <https://nationalpost.com/health/contraband-capital-the-akwesasne-mohawk-reserve-is-a-smuggling-conduit-police-say>
- Canadian Civil Liberties and Education Trust (2014) *Set Up to Fail: Bail and the Revolving Door of Pre-trial Detention* – July. Retrieved from <https://ccla.org/wp-content/uploads/2021/07/Set-up-to-fail-FINAL.pdf>
- Carter Ramirez, Alison, Jessica Liauw, Alice Cavanagh, Dustin Costescu, Laura Holder, Hong Lu and Fiona Kouyoumdjian (2020) “Quality of Antenatal Care for Women Who Experience Imprisonment in Ontario, Canada”, *JAMA network open*, 3(8): e2012576. Retrieved from <https://doi.org/10.1001/jamanetworkopen.2020.12576>
- Davis, Angela (2003) *Are Prisons Obsolete?*, New York: Seven Stories.
- Deer, Ka’nehsí:io (2019) “Appeals hope to highlight opposition to Dundee settlement agreement in Akwesasne”, *CBC News* – January 3. Retrieved from <https://www.cbc.ca/news/indigenous/dundee-claim-settlement-akwesasne-vote-appeal-1.4997206>
- Evans, Brenna (2021) “The long scalpel of the law: How United States prisons continue to practice eugenics through forced sterilization”, *Minnesota Journal of Law & Inequality* – June 7. Retrieved from <https://lawandinequality.org/2021/06/07/the-long-scalpel-of-the-law-how-united-states-prisons-continue-to-practice-eugenics-through-forced-sterilization/>
- Foote, Andrew (2017) “Woman suffers miscarriage in jail cell, her lawyer says”, *CBC News* – February 3. Retrieved from <https://www.cbc.ca/news/canada/ottawa/ottawa-jail-inmate-miscarriage-ocdc-1.3965277>
- Hotton Mahony, Tina, Joanna Jacob and Heather Hobson (2017) *Women in Canada: A Gender-based Statistical Report: Women and the Criminal Justice System* – June, Ottawa: Statistics Canada. Retrieved from <https://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/14785-eng.htm>
- Iftene, Adelina, Lynne Hanson and Allan Manson (2014) “Tort Claims and Canadian Prisoners”, *Queen’s Law Journal*, 39(2): 655. Retrieved from [https://www.academia.edu/43594582/Tort\\_Claims\\_and\\_Canadian\\_Prisoners](https://www.academia.edu/43594582/Tort_Claims_and_Canadian_Prisoners)
- Kouyoumdjian, Fiona, Andrée Schuler, Flora Matheson and Stephen Hwang (2016). “Health Status of Prisoners in Canada: Narrative Review”, *Canadian Family Physician*, 62(3): 215-222.
- Kozłowski, Anna, Vandna Sinha and Kenn Richard (2012) “First Nations Child Welfare in Ontario (2011)”, *Canadian Child Welfare Research Portal*. Retrieved from <https://cwrp.ca/information-sheet/first-nations-child-welfare-ontario-2011>
- Lawrence, Sonia and Toni Williams (2006) “Swallowed Up: Drug Couriers at the Borders of Canadian Sentencing”, *University of Toronto Law Journal*, 56(4): 285-332.
- Liauw, Jessica, Jessica Foran, Brigid Dineley, Dustin Costescu and Fiona Kouyoumdjian (2016) “The Unmet Contraceptive Need of Incarcerated Women in Ontario”, *Journal of obstetrics and gynaecology Canada*, 38(9): 820-826.

- Ontario Child and Family Services Act, RSO 1990, c C-11, s 57.4.*
- Paynter, Martha, Clare Heggie, Lauren Matheson, Claire Rillie, Dominica Beals, and Mirinda Bray (2022) “Maternal Incarceration in a Provincial Prison in Canada: A Qualitative Study”, *Journal of Advanced Nursing*, 78(7): 2123-2138.
- Paynter, Martha, Clare Heggie, Shelley McKibbin, Ruth Martin-Misener, Adelina Iftene and Gail Murphy (2021) “Sexual and Reproductive Health Outcomes Among Incarcerated Women in Canada: A Scoping Review”, *The Canadian Journal of Nursing Research*, 54(1): 72-86.
- Rahr, Maggie (2017) “A prison pregnancy”, *The Deep Magazine*. Retrieved from <https://thedeepmag.ca/aprisonpregnancy/>
- Russell, Andrew and Adam Miller (2017) “Women surpass men as largest smugglers of cocaine at Canada’s airports: CBSA”, *Global News* – July 24. Retrieved from <https://globalnews.ca/news/3619458/women-surpass-men-as-largest-smugglers-of-cocaine-at-canadas-airports-cbsa/>
- United Nations (2011) *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders*, – March 16. Retrieved from [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)
- Wakefield, Jonny (2018) “Alberta inmate carried stillborn baby for weeks after seeking help from staff”, *Edmonton Journal* – March 26. Retrieved from <https://edmontonjournal.com/news/local-news/former-alberta-inmate-carried-stillborn-baby-for-weeks-after-seeking-help-from-staff>
- Wortley, Scot (2021) *Racial Disparities in British Columbia Police Statistics: A Preliminary Examination of a Complex Issue* – September, Vancouver: Office of BC Human Rights Commission. Retrieved from [https://bchumanrights.ca/wp-content/uploads/Wortley\\_Sep2021\\_Racial-disparities-police-statistics.pdf](https://bchumanrights.ca/wp-content/uploads/Wortley_Sep2021_Racial-disparities-police-statistics.pdf)

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