

**Our paper incorporates a DEI framework by focusing on discriminatory practices conducted by the United States of America on marginalized migrant female populations. We highlight the human rights violations targeting migrant women's reproductive functions while bringing an intersectional approach to analyzing this issue.**

**Robbing Reproductive Autonomy: the United States' Discriminatory Use of Forced  
Contraceptive Measures on Migrant Women**

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In September 2020, United States Immigration and Customs Enforcement (ICE) was accused by a whistle-blower of performing forced sterilization procedures on immigrant women. Reminiscent of a long history of forced sterilizations in the United States, the whistle-blower had described multiple forms of medical abuse including forced hysterectomies on Spanish-speaking immigrant women at the Irwin County Detention Centre in Georgia. She explained that the detained women did not understand the reasons for the surgery, nor the consequences that would occur from undergoing this procedure.<sup>1</sup>

Forced sterilization occurs when the consent was invalid due to lack of proper information, obtained under duress, or when consent was not obtained at all.<sup>2</sup> In the situation of migrant women in a detention facility, the whistle-blower claimed that not only was there lack of informed consent, thus rendering it invalid, but by virtue of the sterilization procedure occurring in a detention center, there is an implied level of duress where consent cannot be obtained. According to the American College of Obstetricians and Gynaecologists' Committee on Ethics, "the coercive nature of the prison environment undermines a person's ability to give meaningful consent to the irreversible destruction of fertility".<sup>3</sup>

Involuntary sterilization procedures are generally a manifestation of intersectional discrimination experienced by society's most marginalized people based on race, class, disability and/or nationality.<sup>4</sup> As a patriarchal practice seeking to govern women's bodies, involuntary sterilization has been legitimized by eugenics discourse aiming to control 'unhealthy' birth rates of vulnerable populations of women. Women who are deemed 'undesirable' or 'unworthy' of reproducing have been controlled through forced sterilization. Forced sterilization organizes individuals into hierarchies of who is 'allowed' and desired to reproduce, with the fertility of white, mentally-healthy women encouraged and the reproduction of women of color, indigenous women and poor women controlled through coercive measures. Historically, it has not only been extremely racialized where women of color were targeted, but forced sterilizations have occurred as a patriarchal control of female bodies to reflect the needs of the labor market.<sup>5</sup> This is further reflected in population control policies that come from the United States as recommendations to post-colonial States such as South Africa or Peru, where "'Third World' women's reproductive capacities are manipulated in response to market forces or the need or lack of need for labour".<sup>6</sup> The historical context inevitably leads one to question the precise reasons for forced sterilization in the United States, and more particularly why it is still happening to migrant women in modern-

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<sup>1</sup> Amiri, Brigitte, (2020), "Reproductive Abuse is Rampant in the Immigration Detention System," *American Civil Liberties Union*

<sup>2</sup> American College of Obstetricians and Gynaecologists' Committee on Ethics, (2017), "Sterilization of Women: Ethical Issues and Considerations."

<sup>3</sup> Ibid.

<sup>4</sup> Sifris, Ronli, (2016), "The involuntary sterilisation of marginalised women: power, discrimination, and intersectionality," *Griffith Law Review* 25: 1-26.

<sup>5</sup> Kuumba, Monica Bahati, (1993), "Perpetuating Neo-Colonialism through Population Control: South Africa and the United States," *Africa Today Health Issues in Africa* (3rd Qtr., 1993) 40.3.

<sup>6</sup> Ibid 1.

day America. Our research question is *what are the underlying reasons for the United States to conduct forced contraceptive measures against migrant women?* With this research question, we have also taken the opportunity to explore the intersectional implications of these abusive measures on migrant women. From the literature and our interpretation of U.S. immigration practices, we have determined that there are two distinct categories of reasoning for the United States' use of forced contraceptive measures: economic and social, where capitalist, racist, and sexist sentiments have legitimized current policies. To answer our research question, we use a qualitative, theoretical analysis to understand the reasons why the United States would conduct forced sterilizations on migrant women. Thus, we employ two relevant theories: Michel Foucault's theory of biopower and its intersection with Marxist feminist theory.

First, our paper will outline what forced sterilization is and the occurrences of this practice throughout the world. We then shift our focus to the United States' historical usage of forced sterilization measures. After describing the historical background of these measures, we will explain the United States' discriminatory behavior through the lens of Michel Foucault's theory of biopower and Marxist-Feminist theory. Through the deployment of these theories, we found the most evidence for economic motivations and social prejudices legitimizing the practice of forced contraceptive measures in the United States.

## *Background*

Forced and coerced contraceptive measures are those which are conducted on one's body "without full, free and informed consent".<sup>7</sup> Such undesired "interventions where the intention is to limit fertility – for example tubal ligation and vasectomy – but also...situations where loss of fertility is a secondary outcome," have been described as "involuntary, coercive and/or forced practice" sterilizations and contraceptive measures by human rights organizations.<sup>8</sup> Forced sterilization is hardly a new phenomenon. It "occurs when people are sterilized without their knowledge or in the absence of their informed consent".<sup>9</sup> Women who are deemed "undesirable" or "unworthy" of reproducing have often been othered and controlled through forced sterilization.

Forced sterilization can occur under three conditions. First, it can happen when a woman is pressured into the procedure under a stressful situation. This is the type of coerced consent that can happen in American prison systems, where women inmates may be given little power to choose whether they want the procedure, as occurred in California state prisons. The second situation where forced sterilization occurs is when a woman is coerced to sign a consent form without being given all of the information about the procedure. In this scenario, her consent would be considered invalid.<sup>10</sup> The final situation where forced sterilization can occur is when the woman is not asked

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<sup>7</sup> World Health Organization, (2014) "Eliminating forced, coercive and otherwise involuntary sterilization: An interagency statement," *OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO*: 1.

<sup>8</sup> *Ibid.*

<sup>9</sup> Soohoo, Cynthia and Diaz-Tello, Farah, (2018), *Torture and Ill-Treatment: Forced Sterilization and Criminalization of Self-Induced Abortion, Gender Perspectives on Torture: Law and Practice (Center for Human Rights and Humanitarian Law Anti-Torture Initiative 2018)*: 282

<sup>10</sup> Patel, Priti, (2017), "Forced sterilization of women as discrimination," *Public Health Reviews* 38, no. 15

about whether she wants the sterilization procedure. Instead, her ability to choose is taken away from her because the medical professionals complete the procedure without her consent. This usually occurs while a woman receives a cesarean section or shortly thereafter. In this scenario, the woman is sometimes informed of the procedure or she discovers what has been done to her years later. The latter two scenarios can easily occur with immigrant women who are not provided with full information on the procedure in their native language or who aren't even presented with options.

While sterilization is used by both men and women alike as a voluntary form of contraception, forced sterilization is particularly alarming as it violates numerous fundamental human rights, from the rights to health and to found a family, to the right to privacy.<sup>11</sup> To demonstrate the extent of this phenomenon, "From the 1930s through the 1980s, Japan, Canada, Sweden, Australia, Norway, Finland, Estonia, Slovakia, Switzerland, and Iceland all enacted laws providing for the coerced or forced sterilization of mentally disabled persons, racial minorities, alcoholics, and people with specific illnesses."<sup>12</sup> More recently, there have been cases documented worldwide, from the US and Chile to South Africa and Hungary.<sup>13</sup>

Since the early 20th century, the phenomenon of forced sterilizations in the United States has been ongoing and widespread. According to the American College of Obstetricians and Gynecologists' Committee on Ethics, between 1909 and 1979, American doctors conducted over 60,000 forced sterilizations, which were a part of a larger government program.<sup>14</sup> This program was connected to the legacy of eugenics in the United States whereby marginalized populations, such as low-income women of color, were often targeted when American doctors conducted forced sterilizations. American policy in the 20th century inhibited low-income women from becoming well-informed about their contraceptive options, thus leading to forced sterilizations.<sup>15</sup> The practice of forced sterilizations has continued into the 21st century, particularly in American prisons. Between 2006 and 2010, more than 140 incarcerated women in California underwent coerced or forced sterilizations.<sup>16</sup> Even though these women signed consent forms, many women later stated that the sterilization procedure was undesired and that there was significant pressure by both the doctors and the prison administration to have this procedure done. The situation faced by these incarcerated women is not unlike what has recently occurred in immigrant detention centers in the United States.

In the context of migration, forced sterilizations have been performed on immigrant women in the United States, with a lack of informed consent arising from language and cultural barriers, or even outright coercion. The recent revelations of forced sterilizations in ICE detention centers

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<sup>11</sup> World Health Organization, "Eliminating forced, coercive and otherwise involuntary sterilization."

<sup>12</sup> Patel, Priti, (2017), "Forced sterilization of women as discrimination," *Public Health Reviews* 38, no. 15.

<sup>13</sup> Ibid.

<sup>14</sup> American College of Obstetricians and Gynaecologists' Committee on Ethics, "Sterilization of Women: Ethical Issues and Considerations."

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

in the US are part of a broader phenomenon of manipulating, othering, and abusing migrant women in many countries.

To understand why the United States would undergo such measures, it is important to know the underlying theories that explain discriminatory behavior that would cause migrant women to be targeted for forced contraceptive measures. Michel Foucault's theory on biopower and Marxist-feminist literature provide explanations for such discriminatory behavior by the United States. Michel Foucault's theory of biopower helps explain states' discriminatory behavior vis à vis forced and coerced contraceptives. According to Foucault, biopower is defined as "the political control over life and living beings".<sup>17</sup> Biopower involves the management of populations, which are "a large multiplicity without assignable limits".<sup>18</sup> This management has resulted in states undergoing statistical analysis of human populations including births, deaths, and marriages so that the state can influence the rise and fall of populations existing in its territory.<sup>19</sup> Foucault's theory stated that European states have utilized invasive population control policies to target the human body in order to control and cultivate reproduction<sup>20</sup>. Through biopower, the state approaches populations as a collective, biological body where it exerts control over which populations will be useful, thus also controlling various populations' reproduction.<sup>21</sup> This is where racism arises because state doctrine can grow to separate the biologically "degenerate" groups in order to eliminate or curtail the size of these populations. The state will also then determine which population needs to be protected, prompting the protection of the "desirable" population's health.<sup>22</sup> The state has power over the populations contained in its territory because, according to Foucault, the sovereign power has "the right to decide life and death".<sup>23</sup> The power of the right to decide life and death was not given to the sovereign by the people, but the sovereign assigned such power of managing life to itself.<sup>24</sup> This assigned power renders the state able to control immigrant bodies in whatever manner it sees fit. The state will try to shelter its desired population from "undesirable" immigrant populations by prioritizing policies that separate the two populations and that minimize the incorporation of the undesired immigrant population. Therefore, the state will also pursue efforts to govern this population's reproduction by utilizing forced or coerced contraceptive measures. As a result, the body of a migrant woman becomes "an object of ongoing surveillance and management."<sup>25</sup> In the state's efforts to curtail the size of the undesired population, the migrant

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<sup>17</sup> Foucault, Michel, (1978-79), *The Birth of Biopolitics: Lectures at the College de France*, trans. Michel Senellart, Basingstoke: Palgrave Macmillian, 259-60.

<sup>18</sup> Deleuze, (1986), *Lectures de Cours sur Michel Foucault*

<sup>19</sup> Nail, T. (2016). Biopower and control. *Between Deleuze and Foucault*, 247-263.

<sup>20</sup> Albert, Gwendolyn, and Marek Szilvasi, (2017), "Intersectional discrimination of Romani women forcibly sterilized in the former Czechoslovakia and Czech Republic." *Health and human rights* 19, no. 2 : 23.

<sup>21</sup> Inda, Jonathan Xavier, (2002) "Biopower, reproduction, and the migrant woman's body," *Decolonial Voices: Chicana and Chicano cultural studies in the 21st century*: 98-112.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

woman will not have complete control over her capacity to reproduce. Her decreased control may result in forced contraceptive measures being conducted.

Silvia Federici, a Marxist-Feminist academic, builds upon Foucault's theory of biopower, arguing that forced sterilization is not only an extension of the control of the State, but rather of the patriarchal capitalist system. Forced sterilization has been used against women who did not obey the patriarchal order to punish them and make other women comply, which in turn was created to strengthen the capitalist economy. Federici explored the ways in which sexually promiscuous women, a threat to the patriarchal order, were forced into mental asylums and portrayed as 'feble-minded' where they were then subjected to forced sterilisation procedures.<sup>26</sup> A case that exemplifies this is *Buck v. Bell* (1927), where the US Supreme Court upheld eugenics laws, with the former justice Oliver Wendell Holmes stating that 'Three generations of imbeciles are enough'.<sup>27</sup> Federici further argues that women are used as vassals by capitalism in order to reproduce new generations of workers.<sup>28</sup> In essence, within a Marxist-Feminist framework, forced sterilization is a method of patriarchal control of women's sexual activities in order to ensure their compliance to not only reproduce the next generation of laborers, but to stay at home and undertake unpaid domestic labour duties and raise new, productive members of society.<sup>29</sup> By controlling women's sexual promiscuity, declaring those that did not obey mentally unfit, and legalizing the forced sterilization of these 'wayward' women, the total patriarchal and capitalist control was complete.

Within the theoretical framework of Marxism-Feminism, we can deduce that the institution of capitalism relies on the exploitation of women of color, whether that be through slavery or modern-day exploitation of female migrant workers in order to contribute to the labor market as well as reproduce the commodity of labor through childbearing.

Economic inequities may help us better understand why states use forced and coerced contraceptive measures against migrant women. The phenomenon of rapid global demographic growth since the end of World War II due to the combination of longer life expectancies and increased birth rates, especially in developing countries, has created a global demographic growth rate of 1.1% per year, as opposed to 0.5% per year before World War II.<sup>30</sup> This demographic growth, combined with unmatching resource availability, has generated significant challenges in terms of wealth and resource distribution. Family planning programs stem from a neo-Malthusian vision of demographic growth being a hindrance to socio-economic development.<sup>31</sup>

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<sup>26</sup> Federici, Silvia, (2018), "Witches, Witch-hunting and Women," *New Frame*.

<sup>27</sup> Paul, Julius, (1965), "'... Three Generations of Imbeciles are Enough...': State Eugenic Sterilization in American Thought and Practice," *Buck v Bell Documents*, Paper 95.

<sup>28</sup> Federici, Silvia, (2018), "Witches, Witch-hunting and Women," *New Frame*.

<sup>29</sup> *Ibid*.

<sup>30</sup> The World Bank (2021), "Population Growth (annual %)"

<sup>31</sup> Komu, E., (2015) "Family planning and population control in developing countries: Ethical and sociocultural dilemmas," *Online Journal of Health Ethics*.

## *Case Study: United States*

The United States has largely contributed to the mostly foreign-funded family planning programs in developing countries. US involvement in population control programs overseas was revealed in the Kissinger Report of 1974 on the “Implications of Worldwide Population Growth For U.S. Security and Overseas Interests”, a document declassified by the White House in 1989.<sup>32</sup> The Kissinger report highlights the risk of serious famines across the poorest regions in the world and the negative impact of population growth on quality of life, long-term food production capacity, and the environment. Population growth is also considered by the report as an obstacle to economic development. The Kissinger report considered global population growth to be an issue and recommended action towards the reduction of fertility rates, even setting a goal for the reduction of the global demographic growth rate by half through “greatly intensified” population control programs implemented by the US Agency for International Development (USAID), the World Population Plan of Action and United Nations agencies including the UN Population Fund, which received significant American funding. These recommended population control programs, concentrated in the fastest-growing developing countries, encompass direct assistance for family planning services, information, and technology, as well as the integration of population factors and programs into countries’ development planning. The Kissinger report also recommended the creation of conditions favorable to the reduction of fertility rates, such as reducing infant mortality, increasing female education and workforce participation, and educating new generations “on the desirability of smaller families”.<sup>33</sup>

The recommendations of the Kissinger report have been largely implemented, notably through the USAID family planning and reproductive health program, which constitutes “the world’s largest bilateral donor of family planning assistance”.<sup>34</sup> The program encompasses 31 developing countries mainly located in sub-Saharan Africa and Southern Asia, where the use of contraceptives, based on “voluntarism and informed choice”, has increased to reach 32 percent in beneficiary countries. Several scandals have nonetheless enveloped the USAID family planning and reproductive health program, including accusations of supporting the forced sterilization of women in several countries. In 2000, evidence was found that the Peruvian government used 10 million dollars of funding provided by USAID within the framework of the family planning and reproductive health program for the forced sterilization and coerced abortion of 300,000 indigenous and poor women in the country.<sup>35</sup> Indigenous Peruvian women are still in the midst of

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<sup>32</sup> US National Security Council, (1974), “Implications of Worldwide Population Growth For U.S. Security and Overseas Interests (The Kissinger Report).”

<sup>33</sup> Ibid.

<sup>34</sup> USAID, (2020), “Family Planning and Reproductive Health Program Overview,” *United States Agency for International Development*.

<sup>35</sup> Mosher S. W., (2019), “How Peru forced poor women to get sterilized — and robbed one mother of her life”, *New York Post*

a 25-year long legal battle against the Peruvian government for the massive sterilization campaign targeting them in the 1990s.<sup>36</sup>

Moreover, the United States has actively supported the creation and launch of UN agencies implementing family planning programs, such as the UN Population Fund in 1969, to which the United States was the fourth largest donor in 2015.<sup>37</sup> US funding to the UNFPA was discontinued by the Trump Administration in 2017, in a letter by the State Department accusing UNFPA of supporting and participating “in the management of, a program of coercive abortion or involuntary sterilization” in China, which the UNFPA contested.<sup>38</sup>

In addition to the American government, American NGOs and foundations such as IntraHealth International<sup>39</sup> and the Bill & Melinda Gates Foundation<sup>40</sup> are involved in the implementation of family planning policies in sub-Saharan African and South Asian countries through policy enhancement, advocacy, the investment in new contraceptive methods, research, the promotion of accountability and the monitoring of performance.

The acceptance and implementation of family planning policies are sometimes driven by a realization of the necessity of population control for development purposes, but it can also be motivated by foreign pressure. Numerous developing countries are dependent on international financial institutions such as the World Bank and the International Monetary Fund, and the implementation of family planning policies is sometimes considered as a method to improve their credit rating.<sup>41</sup> The family planning policies conducted by the United States in developing countries align with current American immigration practices aiming to reduce “undesirable” immigrant populations through forced and coerced contraceptive measures.

In terms of migration to the United States, the American government has tried to control the reproduction of migrant women coming into the United States. Migrant workers are encouraged to come to the United States as they are fundamental contributors to the American economy. In 2018, migrant workers made up 20% of low-wage workers in the United States despite making up a total of 14% of all workers.<sup>42</sup> Migrant women in particular earn substantially lower wages than either migrant men or American-born women.<sup>43</sup>

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<sup>36</sup> Moloney A., Thomas Reuters Foundation (2021) “Haunted by forced sterilizations, Peruvian women pin hopes on court hearing”, *Reuters*.

<sup>37</sup> UNFPA (accessed 01/29/ 2021) “The United States of America. Donor contributions.”, *United Nations Population Fund*.

<sup>38</sup> Solomon F. (2017) “U.S. Ends Funding for U.N. Reproductive-Health Agency, Claiming Links to Abortion”, *Time Magazine*.

<sup>39</sup> IntraHealth International (accessed 01/22/2021) “Family Planning and Reproductive Health”, *IntraHealth International*.

<sup>40</sup> Bill & Melinda Gates Foundation (accessed 01/21/2021) “Family Planning”, *Bill & Melinda Gates Foundation*.

<sup>41</sup> Komu E. A., Ethelberg Salome N. N., “Family planning and population control in developing countries.”, *Online Journal of Health Ethics* 11, no.1.

<sup>42</sup> Capps, Randy, et al., (2003) “A Profile of the Low-Wage Immigrant Workforce: Brief No. 4,” *Immigrant Families and Workers: Facts and Perspectives*.

<sup>43</sup> *Ibid*.



**TABLE 2. Wage Levels and Income of Workers, by Nativity and Sex, 2002**

Wage Level	Foreign-Born Workers		Native Workers	
	Female	Male	Female	Male
Less than minimum	13%	9%	9%	6%
100–200% of minimum	40	36	31	20
>200% of minimum	47	55	61	75
<b>Mean Annual Earnings</b>	<b>\$26,700</b>	<b>\$38,400</b>	<b>\$29,700</b>	<b>\$47,500</b>

Source: Urban Institute tabulations from modified March 2002 Current Population Survey.

Using a Marxist framework, one can understand this phenomenon as an exploitative one, where there is a margin of extra profits through hiring migrant workers. These profits include no costs for education, and reduced costs for pension and social security of migrants due to their limited access to social services, reflecting a longer history of the exploitation of (formerly) colonized peoples.

The question we must ask ourselves then is what is the incentive in a capitalist economy to forcibly sterilize migrant women in the United States in 2020? In short, pregnant women are of less economic value than non-pregnant women. Often viewed as a ‘liability’ and burden on the employer, pregnant women are not considered to be ‘productive members of society’. Pregnancy discrimination, although illegal in the United States, still manifests where disclosure of the status of pregnancy can lead to dismissal from jobs, particularly for women of color. A common form of discrimination that persists is that women in low-wage jobs, in which a greater proportion of working migrant women are employed compared to working native-born women, often have strenuous duties, and employers refuse to make accommodations. Migrant women are forcibly sterilized to boost their economic value and productivity as their role within the economy is one that is hyper-exploited.

#### *Racialised Perception of Low Economic Value of Migrant Children*

It is not desirable, through a capitalist lens, to allow migrant women to reproduce, as the children of immigrant women are perceived as economically invaluable and unproductive on account of racialized understandings. The Trump regime’s anti-immigrant rhetoric, particularly directed against Latin American countries, has impacted the perception of migrants in the United States. They have been referred to as ‘rapists’, ‘thieves’, and ‘lazy’, which in turn has led to an exacerbated racialized understanding of migrant workers and their children. In light of the forced separation of migrant families in recent years in the United States, migrant women who give birth in detention centers will ‘force’ the State to provide for the children. This is considered to place additional ‘burdens’ on the State to ensure minimum protections of migrant children born in detention centers. There is no certainty of the future prospects of the children of migrant women,

and due to systemic racism and inequalities, they will face many more obstacles to success. In short, the risk of potential negative returns on this labor commodity is simply too high for the state.

### *Applying Foucault to the phenomenon of forced sterilizations in the United States*

The socio-racial reasoning for such abusive policies lies in Foucault's theory of biopower and disciplinary power, as previously discussed. Foucault directly linked liberal and neo-liberal governments to the increased usage of biopower.<sup>44</sup> The United States fits into Foucault's existing model. Based on Foucault's theory of biopower, to preserve the desired population and secure their continuance, the undesired population must be exposed to death or at least have their risk of death increased.<sup>45</sup> In the United States, this occurs with undocumented immigrants where strict immigration policies have focused on controlling immigrant bodies rather than prioritizing their individual wellbeing. Private companies, such as the Corrections Corporation of America (CCA) and the GEO Group, Inc., profit off of the consistent migratory flow between the United States and Mexico, thus detaining and deporting illegal immigrants is in their best interest.<sup>46</sup>

By looking at the United States' immigration detention system through Foucault's theories of biopower and disciplinary power, detention is used to mold the undesired population, such as undocumented immigrants, into commodities "docile and capable... of having their bodily movements directed".<sup>47</sup> Furthermore, the United States' policy can be seen as making immigrant bodies mobile, thus rendering their placement in the United States temporary. Having a long-term placement for immigrant bodies does not fit into the narrative of protecting the desired population. Thus, ensuring immigrant women are not fit to reproduce is in the best interest of the United States because having a child in the US renders that child a U.S. citizen due to the 14th Amendment's naturalization clause and *United States v. Wong Kim Ark*<sup>48</sup>. Detention policies have consequently resulted in immigrant women having their reproductive functions controlled by American border officials.

Forced or coerced contraceptive measures have been continually used as a mechanism of control. In the United States, there is a significant history of sterilizing immigrant women, where from the 1920s to 1960s, thousands of Mexican-American women in California underwent forced sterilizations under the guise of state-mandated eugenics policies.<sup>49</sup> This continued into the 1970s, when the USC Medical Center and Los Angeles County were systematically conducting postpartum forced sterilizations on immigrant women.<sup>50</sup> A recent prominent example of the forced sterilization of immigrant women arose in the ICE detention facility in Irwin, Georgia<sup>51</sup>.

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<sup>44</sup> Kristensen, Kasper, (2013), "Michel Foucault on Biopower and Biopolitics." *Helsingfors universitet*.

<sup>45</sup> Inda, Jonathan Xavier, (2002) "Biopower, reproduction, and the migrant woman's body," *Decolonial voices: Chicana and Chicano cultural studies in the 21st century*: 98-112.

<sup>46</sup> Nail, T., (2016), Biopower and control, *Between Deleuze and Foucault*, 247-263.

<sup>47</sup> Foucault, (1993), *Surveiller et punir: naissance de la prison*, 301/294.

<sup>48</sup> *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

<sup>49</sup> Lira, Natalie, and Alexandra Minna Stern, (2014), "Mexican Americans and eugenic sterilization: resisting reproductive injustice in California, 1920–1950," *Aztlán: A Journal of Chicano Studies* 39, no. 2: 9-34.

<sup>50</sup> "*Madrigal v. Quilligan*," 639 F.2d 789, 1981.

<sup>51</sup> Amiri, "Reproductive Abuse Is Rampant in the Immigration Detention System."

Two underlying components of American society further the usage of such forced contraceptive measures: racism and sexism. According to Kristensen, these elements both serve as allowing “the establishment of the biological norm that serves as the ground for interventive procedures and also justifies them”.<sup>52</sup>

### *Racism - Technique of Biopower*

The goal of racism is to fragment and exclude certain groups from the rest of society based on biological features or characteristics.<sup>53</sup> Ultimately, one of the primary functions of racism is social purification which targets and segregates the groups incompatible to the dominant social norms within a state.<sup>54</sup> Racism and biopower are intimately linked because racism is one of the techniques used to implement biopower, according to Foucault and Kirsten.<sup>55</sup> Racism is fueled by societal fear, which “creates boundaries between ‘what I am’ and ‘that which I am not,’” causing the creation of *The Other*.<sup>56</sup> The result of this fear is the creation of racial boundaries with the restriction of the movement of *The Other*, the group that is meant to be separated from the rest of society.<sup>57</sup> Therefore, this idea of racism legitimized eugenics programs in the United States throughout the twenty-first century. To ensure the “lesser races” would not continue to proliferate, states throughout the US instituted eugenics programs to sterilize women of color, particularly immigrant women. A prominent example that was brought to light is the case of *Madrigal vs. Quilligan* (1978), in which a group of Mexican-American women brought a class action lawsuit for being involuntarily sterilized at the University of Southern California--Los Angeles County General hospital moments after giving birth by cesarean section.<sup>58</sup> Although the judge in the case decided in favor of the county medical center, which was affirmed by the Ninth Circuit Court of Appeals (639 F.2d 789), the case prompted California to issue new, stricter guidelines on sterilization procedures and to abolish its state sterilization law that had allowed over twenty thousand unauthorized sterilizations since 1909.<sup>59</sup> The case also brought to light the extent to which Black and Brown women were being controlled and sterilized by the state due to their perceived “overpopulation.”

### *Sexuality - Technique of Biopower*

Along with racism, sexism is one of the critical components legitimating the usage of biopower in the United States’ immigration policy. Sexism is directly linked to racism as well

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<sup>52</sup> Kristensen, "Michel Foucault on Biopower and Biopolitics."

<sup>53</sup> Foucault, Michel, (1978-79), *The Birth of Biopolitics: Lectures at the College de France*, , trans. Michel Senellart, Basingstoke: Palgrave Macmillian, 259-60.

<sup>54</sup> Kristensen, "Michel Foucault on Biopower and Biopolitics."

<sup>55</sup> Ibid.

<sup>56</sup> Zembylas, Michalinos, "Agamben's theory of biopower and immigrants/refugees/asylum seekers: Discourses of citizenship and the implications for curriculum theorizing," *Journal of Curriculum Theorizing* 26, no. 2 (2010).

<sup>57</sup> Ibid.

<sup>58</sup> Stern, Alexandra Minna, “Sterilized in the name of public health: race, immigration, and reproductive control in modern California,” *American Journal of Public Health* 95, no. 7 (2005): 1128-38, doi:10.2105/AJPH.2004.041608.

<sup>59</sup> Ibid.

because one's sexuality can control the bloodline within a state. By controlling sexuality, the state can discontinue the life of a group of people if they threaten the status quo.<sup>60</sup> This is what has been done with the United States, where the state has used sexism as one of the integral parts of its immigration detention policies. Using forced contraceptive measures allows for the United States to have power over life and the continuance of migrant populations in America. These measures also are a critical submission tool so that these communities conform to the United States' goals of maintaining current power differentials.<sup>61</sup>

The patriarchal idea that women are too irresponsible to control their own reproduction helps further justify the manipulation of immigrant women's bodies.<sup>62</sup> This idea legitimizes taking agency away from immigrant women over their reproductive rights and instead enhances the stereotype that immigrant women are "public charges".<sup>63</sup> *The U.S. Office of Refugee Resettlement* notoriously has exemplified this stereotype: under Scott Lloyd's leadership in 2017 and 2018, the agency tracked detained immigrant teens' menstrual cycles to determine whether they were pregnant or not.<sup>64</sup> By engaging in such matters, this agency took a sexist approach because their actions show that they did not trust immigrant women to control their own reproduction.

Furthermore, what also bolsters the United States' forced contraceptive measures is the continuing strength of the overpopulation argument as well as the supposed cost burdens of birthing a child on American soil.<sup>65</sup> The overpopulation argument contends that there are too many immigrants, particularly of Latinx origin, which raises fears of disrupting the current power distribution. Immigrant populations with high birth rates are also viewed as welfare-dependent and drains on American resources.<sup>66</sup> This type of thinking also carries over to the medical profession. According to the American College of Obstetricians and Gynecologists' (ACOG) Committee on Ethics, "Among women with identical medical histories, patient race or ethnicity and socioeconomic status were found to influence recommendations for use of intrauterine contraception in ways that may reflect racial and social class stereotypes".<sup>67</sup> Thus, it can be reasoned that doctors are influenced by whether their patient is a recent immigrant to the United States and if such a patient is Latinx. In this study, it was also found that physicians were more likely to conduct a sterilization if the woman was from a marginalized community.<sup>68</sup> ACOG found that "women of color are more likely than white women to report that a sterilization procedure

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<sup>60</sup> Kristensen.

<sup>61</sup> Gutiérrez, Elena R., and Liza Fuentes, (2009). "Population control by sterilization: the cases of Puerto Rican and Mexican-Origin women in the United States," *Latino (a) Research Review* 7, no. 3: 85-100.

<sup>62</sup> Gomez, Madeline M., (2015), "Intersections at the border: immigration enforcement, reproductive oppression, and the policing of Latina bodies in the Rio Grande Valley," *Colum. J. Gender & L.* 30: 84.

<sup>63</sup> 66 Stat. 163; United States Statutes at Large, Volume 66, 82nd Congress, 2nd Session; An Act to revise the laws relating to immigration, naturalization, and nationality; and for other purposes; Public Law 82-414

<sup>64</sup> Anwar, Mehak, (2019), "Here's What To Know About How Trump's Former ORR Director Reportedly Prevented Refugee Abortions," *Elite Daily*, March 17, 2019.

<sup>65</sup> Gutiérrez and Fuentes.

<sup>66</sup> *Ibid* 92.

<sup>67</sup> American College of Obstetricians and Gynaecologists' Committee on Ethics, (2017), "Sterilization of Women: Ethical Issues and Considerations."

<sup>68</sup> *Ibid*.

prevented them from having desired children,” further supporting the idea that immigrant women have less say over their reproductive lives.<sup>69</sup> The findings of this study yet again prove that the patriarchal and racist notion that immigrant women are incapable of handling their own reproductive decisions is ever present in the American medical field.

### *Discussion*

The central research problem we analyzed in this study is the reasoning, both historical and modern, for the United States’ usage of forced contraceptive measures on migrant women. From the existing literature and news coverage on these measures, we deduced that economic and social reasons have legitimized this continuing inhumane practice. In terms of economic reasons, we have utilized a Marxist-Feminist framework whereby migrant women are used for the economic gains they can provide for the American economy, namely a disposable, low-wage working population. In terms of social-racial reasons, the United States has used racism and sexism to legitimize their current and previous contraceptive practices. Looking through a racial lens, we found in the literature that immigrant women are depicted as *the Other*--a public charge to be kept out of the mix of American society. From a patriarchal perspective, forced contraceptive measures are used to control migrant women's bodies due to the belief that they are incapable of controlling their own reproductive capacities. In our findings, we found using a Marxist-Feminist lens and Michel Foucault’s theory of biopower most applicable to understanding the reasons why the United States would implement forced and coerced contraceptive measures. The US government’s current view of migrants is based on whether such migrants could be labor commodities, which aligns with existing Marxist-Feminist thought. Migrants are valued more for the cheap labor and skills they can provide rather than their value as humans. Since pregnant women are more costly for the U.S. government, it is reasonable, in the government’s eyes, to prioritize minimizing the likelihood of migrant women’s pregnancies. Using Foucault’s theory of biopower, cultural and social reasons arise for why the United States would implement forced contraceptive measures. Racism and sexism have been powerful tools used to legitimize the U.S. government’s actions. The forms of these two tools have been both subtle and overt, and fear has been a significant factor in shaping both the government’s and the public’s views of migrant women and their children. Fear has been used to craft racist profiles of migrants as individuals who are vastly different from the public, thus minimizing their acceptance by the general public. Fear has also been used to legitimize sexist approaches to controlling migrant women. The fear of migrant women being incapable of controlling their own reproductive processes has justified the proliferation of patriarchal policies. Ultimately, this has perpetuated outdated, patriarchal ideas surrounding reproduction in both government and the American medical field. The usage of fear in racist and sexist frames aligns with Foucault’s theory of biopower because fear is used to mold migrant populations into docile, temporary bodies, thus decreasing their potential power.

A potential limitation in our study is the lack of insight into the minds of the U.S. officials that implemented these policies. To the best of our ability, we gathered literature and empirical

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<sup>69</sup> Ibid.

evidence to support our claims. However, we did not consult with U.S. officials regarding their perspectives on this issue. Another limitation lies in the nature of the use of forced contraceptive measures. Since these incidents are poorly documented, it is difficult to ascertain the scale of these measures and the number of victims. Thus, our study lacked a quantitative approach to the issue of forced and coerced contraceptive measures due to a lack of concrete data. More rigorous studies in the future would likely involve fieldwork and interviews to collect data and remove some of the ambiguity from this study. Our work could also benefit from further examples of how forced and coerced contraceptive measures are used against migrant women in other contexts outside of the United States, since this current work has been American-centric in its analysis.

### *Conclusion*

Migrant women are highly vulnerable to forced and coerced sterilization measures, which can be separated into three categories in the “typical” migration timeline. First, a woman may choose to migrate due to a perceived or real risk of facing forced sterilization in her home country, as has been the case with many women who fled China during the time of the one-child policy. She may also face forced or coerced sterilization in her home country due to the proliferation of population control policies, in many instances funded by Western countries like the United States, development agencies like USAID, and foundations. In the third category, a woman may then seek refuge in a safe third country, such as the United States, but due to her “undesirability,” both racially and economically, to the host country, she may yet again face the risk of forced or coerced sterilization on the same soil that promises safe haven to those facing persecution or cruel and unusual treatment. The cyclical involvement of a country like the US is apparent in each of these circumstances, revealing the bitter irony of a country that purports to support freedom and free choice while also being the breeding grounds of neo-Malthusian philosophy and eugenics.

The multi-faceted approach taken in this paper demonstrates how Foucauldian theories of biopower, as well as Marxian theories of capitalism can help explain how the state tries to mitigate the risk of racially and economically “inferior” women by taking away their reproductive capacities. This safeguards the “nation” from the potential offspring of these women, which would be a further economic burden on the state. While the fertility and motherhood of white women is upheld and encouraged, the reproduction of indigenous women, migrant women of color, and women with disabilities is actively discouraged by the state.

Through our analysis of the United States’ approach to forced and coerced contraceptive measures, from its support of population control measures abroad to its use of forced sterilization against women in ICE detention centers, we applied the relevant theories to a real-world case study. Brief comparisons between the United States and that of other countries where forced and coerced contraceptive measures have been carried out, like Slovakia, Israel, Peru, and Bolivia, provide some context for the most recent Irwin County ICE detention cases while illustrating the unfortunate extent of coerced reproductive control worldwide, despite the prohibition of such practices by national, regional and international human rights law and dispositions.

Our study could garner attention towards U.S. current and past measures involving the control over migrant women's reproductive processes. Hopefully, our analysis will motivate those involved in developing these policies to reconsider their current practices and thus include migrant women's perspectives and experiences within their policy prescriptions.

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