ANNOTATED LEGAL BIBLIOGRAPHY

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RACE

Alexis Boyd, Comment, *Hair Me Out: Why Discrimination Against Black Hair Is Race Discrimination Under Title VII*, 31 AM. U. J. GENDER, SOC. POL'Y & L. 75 (2023).

Structural racism in America is evident in how employers can legally control the appearance norms of Black people. This raises concerns among Black professionals about being judged for wearing natural hairstyles. This issue has also prompted calls from civil rights activists and scholars for courts to recognize hair discrimination as a form of racial discrimination. Courts should adopt an interpretation of race-based discrimination that is as expansive as that of sex-based discrimination, encompassing mutable and immutable characteristics of race. Precisely, Title VII of the Civil Rights Act of 1964 ought to protect employees from hair discrimination in the workplace, as prejudice against Black hairstyles is effectively discrimination against Black culture and, by extension, Black people. Courts and Congress must broaden their interpretations of Title VII's prohibition against race discrimination to properly honor the spirit of the Civil Rights Act and protect Black workers from discrimination on account of characteristics associated with race, such as hair and hairstyles.

Annotated by: Emily K. Abrams

James M. Binnall, Lauren M. Davis & Anais Lopez, Article, *The First Step Is a Doozy: The Accessibility of Law School Applications for Incarcerated Students*, 28 BERKELEY J. CRIM. L. 83 (2023).

The legal profession has witnessed an increase in formerly incarcerated individuals applying for law school and becoming attorneys. However, the law school application process remains inaccessible for currently incarcerated individuals. The application, administered by the Law School Admissions Council ("LSAC"), is submitted online. Unfortunately, the nearly two million incarcerated Americans lack meaningful access to the internet. The current precedent set by the Supreme Court has limited the First Amendment protections of incarcerated individuals, rendering attempts to make the internet accessible in prisons futile. James Binnall, Lauren Davis, and Anais Lopez surveyed the application process and accessibility of one-hundred-ninety-six American Bar Association accredited law schools regarding the provision and processing of paper applications for currently incarcerated applicants. The survey revealed the following: (1) only eight percent (sixteen schools) agreed to provide and process a paper application; (2) eleven percent (twenty-two schools) stated they would provide but not process a paper application; (3) eighty-one percent (one hundred and fifty-eight schools) either refused to provide and process a paper application or did not respond to multiple requests for assistance.

Annotated by: George Galan

Jennifer Smith, Article, *Colorism: Shades of Freedom: The Legal Implication of Colorism in the United States Justice System*, 32 S. CAL. REV. L. & SOC. JUST. 283 (2023).

Examining the influence of colorism within the United States justice system sheds a light on the distinct challenges encountered by people who experience unequal treatment based on the color of their skin, which can diverge from the experiences of other minority groups. The central thesis posits that increasing diversity within the United States necessitates a parallel acknowledgment and redress of colorism alongside racism, a dynamic inadequately addressed within the legal sphere. Examining historical context assists in uncovering the origins of colorism, highlighting its systematic nature and the challenges it poses within the legal framework. Legal cases under civil rights legislation and the *Baston* challenge, such as *Walker v. Secretary of Treasury* and *People v. Bridgeforth*, are scrutinized through a narrative approach that leverages personal experiences to elucidate the legal implications of colorism. The proposed solution to this involves recognizing colorism as a discrete issue requiring discrete consideration within the legal realm. Conventional legal mechanisms that are effective in combating racism may fall short of comprehensively addressing the intricate nuances of colorism. A paradigm shift is necessary, requiring policymakers, practitioners, and scholars to acknowledge colorism as an independent form of discrimination inextricably connected with white supremacy.

Annotated by: Jenna Rosenstein

GENDER

Rachel DiBenedetto, Article, *To Shatter the Glass Ceiling, Clean the Sticky Floor and Thaw the Frozen Middle: How Discrimination and Bias in the Career Pipeline Perpetuates the Gender Pay Gap*, 29 AM. U. J. GENDER, SOC. POL'Y & L. 151 (2021).

While women have made strides in shattering the glass ceiling, they still face numerous challenges in achieving equal opportunities in the workforce. Women face barriers that confine them to entry-level and lower-paid positions. Such barriers result from institutional discrimination, gender biases reflected in television, media, and academia, and gendered social constructs. Although Congress has enacted legislation prohibiting workplace discrimination and providing employees with the right to sue for gender-based wage inequities, disparities persist. Internal employment practices reinforce doubts about women in leadership positions. Moreover, pervasive gender biases and stereotypes in society, perpetuated by the media, leave lasting impressions on children, influencing them to pursue career paths constrained by gender norms. Rachel DiBenedetto proposes short-term solutions, such as: (1) Congress adopting new legislation; (2) uniformly interpreting existing legislation; (3) providing guidelines for performance evaluations; and (4) implementing bias training programs to foster equal representation. The author further suggests solutions to reshape perceptions of gender discrimination, such as promoting gender-neutral products and investing in initiatives that empower girls.

Annotated by: Katherine Alonzo

Caroline L. Davidson, Article, *Femicide as Gender Persecution*, 46 HARV. J.L. & GENDER 325 (2023).

Femicide, commonly defined as killing a woman simply because she is a woman, represents a severe violation of human rights that can rise to the level of an international criminal offense. Caroline L. Davidson argues that the most effective legal route for addressing femicide lies in international criminal law ("ICL"), specifically within the International Criminal Court ("ICC"). To criminalize femicide more definitively within ICL, existing offenses within ICL should include the crime against humanity of gender persecution. Approaching femicide through the lens of gender persecution could give the ICC the ability to establish a clearer definition of the crime, acknowledging femicide's inherently gendered nature without adhering to the gender binary. Criminalizing femicide within ICL would serve to highlight the gravity of the offense to the international community, shedding light on its effects and urging states to address it domestically. Femicide warrants significant attention from the ICC, specifically through the lens of the crime of gender persecution.

Annotated by: Kathleen Leuty

EMPLOYMENT DISCRIMINATION

Tammy Katsabian, Article, *The Telework Virus: How Covid-19 Has Affected Telework and Exposed Its Implications for Privacy*, 44 BERKELEY J. EMP. & LAB. L. 141 (2023).

The home office exemplifies privacy issues in the ever-evolving digital workplace and requires reconsideration and modification to address employee privacy concerns. Telework emerged in the 1970s with the advancements of information communication technology and has been growing ever since. With COVID-19, industries saw significant leaps into a hybrid home-telework office. This hybrid scheme blurs the line of acceptable surveillance. Privacy is the desire to control one's information and its dissemination; however, in the digital workplace context, that privacy receives minimal protection. Employers surveil employees. Companies require cameras in workspaces and demand consent for data usage, whether in private areas such as bedrooms or spaces where children are present. Theorists assert that technology severely limits traditional employee privacy rights. While employers' ability to surveil has increased, the laws are static and do not address contemporary concerns. Tammy Katsabian suggests that, besides developing privacy policies, there are two approaches—the proportionality approach and the privacy by design approach—which advocate for a more equitable cost-benefit analysis and greater prophylactic measures.

Annotated by: Gerald Dryden

Matthew B. Seipel, Article, *The Strong Do as They Can: How Employment Group-Action Waivers Alienate Employees*, 7 LAB. & EMP. L. F. 1 (2017).

Employers use group-action waivers to bar employees from joining class actions under Rule 23 of the Federal Rules of Civil Procedure, Fair Labor Standards Act actions, and California Private Attorney General Act actions. This bar minimizes litigation costs and prevents employees from aggregating small individual claims into significant cases, thereby impeding workers from recovering for violations of their rights. While courts have various grounds upon which they can scrutinize the legality of these waivers, the alienation these waivers foster among workers is concerning. Alienation in the employment context manifests in a feeling of powerlessness, insignificance, isolation, or self-estrangement for the worker. Group-action waivers exacerbate employee alienation in various ways: they strip away power from workers, hinder workers from understanding issues faced by their colleagues in the workplace, and convey to workers that they are primarily seen as liabilities to their employer. Courts ought to consider the alienating effect of group-action waivers for several reasons: (1) mitigating worker alienation is consistent with the purpose of national labor policy articulated in the National Labor Relations Act; (2) acknowledging this aspect persuades judges who are concerned with the practical policy implications of their decisions; and (3) factoring in alienation will aid courts toward the most sympathetic interpretation of the law.

Annotated by: Charles Bachmann

Tanisha Mink Aggarwal, Note, *Prison Labor and the Fair Labor Standards Act: Resolving the Circuit Split on Whether Incarcerated Workers are Entitled to the Federal Minimum Wage*, 13 COLUM. J. RACE & L. 893 (2023).

State and federal facilities exploit incarcerated individuals by requiring cheap or unpaid labor in non-industry and industry jobs. These significantly low wages for prison laborers would contravene the Fair Labor Standard Act's ("FLSA") minimum wage mandate. However, only employees under the FLSA are afforded such protections. Absent guidance from the Supreme Court and Congress on whether prisoner laborers are employees, circuit courts were left to create their own standards and definitions. In 1983, the Ninth Circuit formulated an economic reality test to determine whether an incarcerated laborer is protected under the FLSA. Following this decision, circuit courts have disagreed on whether, how, and when to apply this test. First, the Supreme Court should interpret the congressional intent of the FLSA in favor of extending coverage to incarcerated laborers. Next, the Court must abandon the bright-line rules created by lower courts. Finally, the Supreme Court must create a but-for test, stipulating that but-for their inmate status, an individual would be an employee under the FLSA.

Annotated by: Emily Glazier

ENVIRONMENTAL LAW

Jasleen Shokar, Article, *A New Hope, with a New NEPA: How Existing Environmental Impact Statements Fail to Protect People of Color at the Federal Level*, 13 ARIZ. J. ENV'T L. & POL'Y 261 (2023).

The Environmental Impact Statement ("EIS"), a provision within the National Environmental Policy Act ("NEPA"), requires companies undertaking federal projects to evaluate the impacts on the environment. However, EIS has historically failed to protect communities of color, evidenced by communities of color being disproportionately exposed to hazardous waste and pollution. EIS falls short in addressing community concerns. Jasleen Shokar highlights the role of the Council on Environmental Quality ("CEQ"), tasked with overseeing environmental issues, in determining the efficiency of EIS. However, members of the CEQ align with the views of the President of the United States, suggesting that environmental inequalities may persist despite the work of the CEQ. To address these concerns, the author proposes that Congress introduce amendments to NEPA that would compel EIS to assess the health and socioeconomic impacts of federal projects on marginalized populations. Further, Congress should give the judiciary a more prominent role in determining the fairness of NEPA provisions to enable oversight of agency actions. Finally, Congress should eliminate the CEQ to prevent the President from altering policies without congressional permission.

Annotated by: Olivia Cohen

Rosa Celorio, Article, *The Kaleidoscope of Climate Change and Human Rights: The Promise of International Litigation for Women, Indigenous Peoples, and Children*, 13 ARIZ. J. ENV'T L. & POL'Y 155 (2023).

Women, Indigenous peoples, and children are among the groups most impacted by the catastrophic effects of the global climate change crisis. Rosa Celorio suggests employing international case litigation as both a strategy to set legal standards for addressing human rights violations related to climate change and as a tool to give autonomy to these disenfranchised groups. Cases currently before the Inter-American Commission on Human Rights, the United Nations Human Rights Committee, and other international tribunals illustrate how such litigation can ensure climate justice. These cases function as a mechanism to secure climate justice by developing legal concepts and standards and providing guidance to states on how to mitigate the effects of climate change, adapt to the shifting climate, and provide access to climate justice for their populations. International case litigation can be beneficial in addressing various aspects, including due diligence, extraterritoriality, gender and intersectional discrimination, free, prior and informed consultation and consent, and access to information and human rights defenses. The intersection between international law, human rights law, climate justice, and the rights of women, Indigenous peoples, and children in case litigation can significantly advance justice in these areas.

Annotated by: Tess Bedingfield

Lindsay M. Farbent, Article, *Addressing the Disproportionate Adverse Health Effects Among BIPOC Communities as a Result of Environmental Racism*, 12 BARRY U. ENV'T & EARTH L.J. 100 (2022).

Environmental racism has significantly contributed to disproportionate adverse health effects among Black people, Indigenous people, and people of color ("BIPOC"). This is evident in well-documented instances of respiratory illness stemming from residential redlining, the failure of environmental regulations in protecting BIPOC communities, and structural racism embedded in the healthcare system. Research indicates that Black Americans, along with other minority and low-income communities, live in areas with disproportionately high levels of air pollution and environmental hazards. Individuals living in these areas experience higher rates of illness compared to those in less-polluted environments. The existing state and federal environmental regulatory schemes are failing to sufficiently combat the effects of pollution on BIPOC communities. The failure to mitigate environmental factors, combined with the historical lack of access to healthcare among BIPOC communities, has created a compounded effect that perpetuates the consequences of environmental racism. Lindsay Farbent proposes tackling environmental racism through initiatives such as universal basic income and inclusive public health programs. Large-scale efforts by legislators, politicians, and environmentalists are essential to promoting meaningful, positive change in BIPOC communities.

Annotated by: Matt Donelian

Elizabeth Troutman, Article, *Forever Chemicals Are Infiltrating America, and the Nation Is Letting Impoverished and Marginalized Communities Take the Brunt of the Contamination*, 22 SEATTLE J. SOC. JUST. 47 (2023).

As the federal government has insufficiently responded to the prevalence, pervasiveness, toxicity, and discriminatory impact of Polyfluoroalkyl Substances ("PFAS"), states and injured parties must take political and legal action to hold chemical manufacturers accountable for the harm they create and perpetuate. Despite the Environmental Protection Agency's ("EPA") recognition that PFAS can cause serious adverse health effects, the EPA has made minimal efforts to curb the production and pollution of the vast majority of PFAS produced in the United States. This lack of regulation disproportionally affects marginalized communities, including low-income individuals, people of color, and Indigenous communities, who are more likely to be exposed to PFAS. Sweeping federal regulation, state legislative action, and impact litigation could effectively address the threats posed by PFAS pollution. As opposed to banning only two of 12,000 PFAS under the Superfund, the EPA could impose a blanket ban on all types of PFAS and require mandatory cleaning from polluters. Alternatively, state regulation of PFAS and legislation promoting suits against manufacturers may, in turn, affect manufacturer behavior in other states. Further, impact litigation by state attorneys general and private firms can force manufacturers to reduce PFAS pollution.

Annotated by: Hope Peraria

INDIGENOUS RIGHTS

Mel Neal, Note, *Between a Rock and a Hard Place: The Current Situation of the #LandBack Movement and Indigenous-Imagined Futures*, 13 ARIZ. J. ENV'T L. & POL'Y 47 (2022).

Indigenous communities in the United States have been grappling with discrimination and ownership disputes concerning their ancestral land since the arrival of the settler colonizers in the 1600s. In recent years, there has been a proliferation of Indigenous activism with the emergence of the #LandBack Movement. This movement advocates for the return of stolen and dispossessed land to the hands of Indigenous people, alongside general efforts to decolonize education and environmental practices. Mel Neal explores the history of Indigenous resistance movements, such as #LandBack, and analyzes how these efforts are now refocusing on property and federal Indian law. The author examines the different routes Indigenous communities have employed to resist the forceful taking of their land, as well as the complexities of the current legal system, which forces Tribes to fit that resistance into the very organization that stripped them of their rights. Further, the author explains how this tug-of-war has increased the difficulty of achieving success within the #LandBack movement and enumerates avenues that Indigenous people in the United States have taken to align their fight for justice with contemporary federal Indian and property laws.

Annotated by: Skylar Corby

Angela Louise R. Tiangco, Note, *Selling Aloha: The Fight for Legal Protections Over Native Hawaiian Culture*, 29 WM. & MARY J. RACE, GENDER & SOC. JUST. 489 (2023).

A lack of federal recognition granted to Native Hawaiians has resulted in the absence of protection for their cultural heritage, especially intangible cultural heritage. Federal recognition designates a government-to-government relationship between the federal government and American Indian Tribes. While many federal statutes include Native Hawaiians along with American Indians, Native Hawaiians, unlike Native Americans, lack federal recognition. This deprives Native Hawaiians of options for preserving their cultural property. Cultural property not only includes physical items, but also the essential knowledge necessary to sustain spiritual and community practices, which is vital to Indigenous groups. Protecting community cultural property within the framework of individualistic Western property law has proven particularly challenging. Angela Louise R. Tiangco cites to Brazil's Artistic Heritage Institute and New Zealand's Toi Iho Program as model global frameworks for protecting intangible cultural heritage, and advocates for establishing a registry of cultural knowledge, practices, and expressions run by Native Hawaiians. For this registry to succeed, the federal government must first recognize Native Hawaiians.

Annotated by: Laura Tierney

CRIMINAL LAW

Rachel Kunjummen Paulose, Article, *Black Jurors Matter: Why the Law Must Protect Minorities' Right to Judge*, 27 BERKELEY J. CRIM. L. 133 (2022).

While there is a congressional prohibition against explicit racial discrimination in jury selection, implicit bias in the process continues to occur, shaping legal outcomes. This situation persists partly because when a peremptory challenge is used to strike a juror, the challenging party is not required to justify their challenge. Rachel Kunjummen Paulose outlines the evolution of jury-related jurisprudence in the Supreme Court, arguing that, through this jurisprudence, the Court has established a right to serve on a jury. A line of cases, beginning with *Batson v. Kentucky*, established that peremptory challenges are *not* a constitutional right and can be challenged for bias, and that the right to a jury trial extends to the parties and the people. Today, a *Batson* challenge refers to any challenge to a peremptory strike based on certain biases. The author suggests five potential solutions to the issues raised: (1) attorneys should preserve trial objections and propose jury instructions on implicit bias; (2) courts should conduct comprehensive *Batson* processes; (3) legislative bodies should enact laws prohibiting striking impartial minorities who have experienced discrimination; (4) state bars should require implicit bias training; and (5) the Supreme Court should eliminate the peremptory challenge.

Annotated by: Hani Fish-Bieler

Ethan Singer, Note, *When Police Mess Up: The Lack of a Defense to Inadequate Police Investigations*, 54 COLUM. HUM. RTS. L. REV. 1168 (2023).

Inadequate police investigations are a leading cause of wrongful convictions. To combat the harmful results of inadequate police investigations and the exclusion of crucial evidence, courts should allow defendants to invoke an inadequate-investigation defense. According to Ethan Singer, streamlining the application and admissibility of the inadequate-investigation defense can minimize the risk of wrongful convictions and provide more clarity to defendants and juries. The author's analysis focuses on the inadequate-investigation defense in the context of the Federal Rules of Evidence's concept of relevance and the disagreement amongst federal circuit courts. Inconsistencies around the country and the resulting lack of clarity, particularly in the policies of the First, Second, Sixth, Tenth, and Eleventh Circuits, illustrate the differences in the applicability of the inadequate-investigation defense both across and between circuits. To address the unclear framework for the defense resulting from these jurisdictional differences, the Massachusetts Bowden Defense is presented as an illustrative example of adopting a framework to clarify to the federal court's admission of the defense and to safeguard innocent defendants against wrongful convictions.

Annotated by: Jacklyn Hadzicki

Kiricka Yarbough Smith & Maura Reinbrecht, Article, *How Anti-Sex Trafficking Efforts Should Align with Criminal Justice Reform*, 38 BERKELEY J. GENDER, L. & JUST. 158 (2023).

Current mechanisms of law enforcement for addressing sex trafficking disproportionally affect people of color. One way to address this issue is by aligning anti-sex trafficking efforts with criminal justice reform. Kiricka Yarbough Smith and Maura Reinbrecht outline three main ways that current law enforcement tactics have disparate effects on Black individuals and offer recommendations for remediation. First, Black individuals are at greater risk of being criminalized for poverty, consequently increasing susceptibility to sex trafficking. To address this concern, local and state governments should invest in providing housing assistance, particularly to Black and LGBTQ+ people, thereby reducing profiling, harassment, and criminalization. Second, Black girls face a heightened likelihood of criminalization during anti-sex trafficking efforts. Law enforcement should be supplemented by community public safety programs and, where not feasible, reduce the over-arresting of young people. Third, addressing police sexual misconduct against Black people being trafficked, notably through undercover officers posing as buyers, is a prevalent issue. To ensure accountability, law enforcement departments should adopt uniform prohibitions against sexual contact while on duty and during anti-sex trafficking operations.

Annotated by: Jack Gatcliffe

Luma Khabbaz, Article, *No Turning Back: A Progressive Application of Stand Your Ground Laws to Remove the Duty to Retreat for Women Who Kill Abusers Out of Self-Defense*, 37 WIS. J.L. GENDER & SOC. 215 (2022).

There is a pervasive issue of women being killed at the hands of their abusers. While some women kill their abusers in self-defense, many are unsuccessful in their self-defense claims at trial, even in Stand Your Ground states. In Stand Your Ground states, people who feel threatened do not have a duty to retreat to protect themselves or family members, whether at home or in public spaces. Survivors deserve to avail themselves of self-defense laws when defending themselves from severe injury or death. Legal frameworks that have a duty to retreat and necessitate a showing of contemporaneous imminent danger are not compatible with the experiences of domestic violence victims. First, the reasonable person standard has inherent gender bias, impacting women's ability to prove self-defense. Second, current legal definitions of domestic violence may not accurately represent the experiences of survivors, as they often fail to consider the nuanced and continuous nature of abuse. Third, the disparities in the application of self-defense laws further obstruct victims of domestic violence. Stand Your Ground laws should be applied as a defense for victims of domestic violence who kill their abusers.

Annotated by: Andrea Shahrabani

Aliza Hochman Bloom, Article, *Objective Enough: Race is Relevant to the Reasonable Person in Criminal Procedure*, 19 STAN. J. C.R. & C.L. 1 (2023).

The reasonable person standard is foundational to the criminal procedure doctrines of consent to search, seizure, and *Miranda* custody. While each doctrine is distinct, all three task reviewing courts with analyzing whether police conduct was coercive by asking what a reasonable person and reasonable officer would have thought and done in the place of the parties. Despite robust empirical data showing racial disparities in the frequency of police-citizen encounters and police use of force during such encounters, especially for Black men, the doctrines do not all treat race as relevant. While the consent to search analysis may factor in race, jurisdictions differ on whether race should be considered in determining what a reasonable person would have felt and done in the civilian's place during seizure and *Miranda* custody analyses. Aliza Hochman Bloom argues that race must be considered in all three analyses considering disproportionate and widely publicized violence by police against Black Americans, in addition to empirical evidence of racial bias in law enforcement. When courts exclude race from the reasonable person analysis, the doctrines become unmoored from the objectivity and common understanding on which they are based, and minorities, especially Black Americans, suffer from diminished constitutional protections.

Annotated by: Ezra Z. Littlewood

EDUCATION

Deja Graham, Article, *The Forgotten: NYC and School Segregation*, 29 BUFF. HUM. RTS. L. REV. 147 (2023).

New York City's public schools are de facto segregated by race, significantly limiting the educational opportunities and prospects for success of minority children in higher education and professional pursuits. While the landmark case of *Brown v. Board of Education* prohibited de jure segregation, de facto segregation persists due to a combination of factors such as Title IV of the Civil Rights Act of 1964, the ruling in *Milliken v. Bradley*, and local school policies, including neighborhood demographics, specialized school applications, charter schools, and anti-busing laws. Deja Graham argues that ending de facto segregation is achievable through congressional action enacting legislation that would implement guidelines and objectives for integrating schools. Cities would be required to meet these legislative goals to qualify for federal funding, necessitating integration plans to encompass neighboring school districts.

Annotated by: Emily Hall

IMMIGRATION

Anastasia Bradatan, Note, *A Hungry Child Should Know No Politics: How the U.S. Material Support Statute Has Excessively Criminalized Humanitarian Relief and Has Unintentionally Barred Innocent Asylum-Seekers from the United States*, 37 GEO. IMMIGR. L.J. 473 (2023).

The material support statute, codified in 18 U.S.C. § 2339(a)—which bars individuals who have aided terrorist organizations knowingly or unknowingly from humanitarian and immigration relief—inadvertently punishes the innocent global populations most in need of aid. By evaluating the case studies of Sri Lanka, the Gaza Strip, and Somalia, Anastasia Bradatan illustrates the grave consequences of the material support statute. The statute discourages humanitarian relief by instilling a fear of criminal liability, thereby restricting resources, and worsening the respective humanitarian crises. Additionally, many courts have denied asylum to individuals in the United States with a history of supporting terrorist organizations, regardless of whether they had acted out of duress. However, the recent introduction of material support exceptions for Afghan nationals represents a departure from prior bright-line prohibitions. The author argues for expanding exceptions to other nationals, which would apply both a totality of the circumstances test and an intentionality analysis to determine eligibility. This approach would result in a more just system of immigration and humanitarian relief.

Annotated by: Olivia Handelman

Megan Monteleone, Note, *State-Sanctioned Abuses at the U.S.-Mexico Border Using the Inter-American Commission on Human Rights to Hold the United States to Account*, 37 GEO. IMMIGR. L.J. 113 (2022).

The U.S. Border Patrol is plagued by widespread incidents of abuse with a lack of accountability amongst its agents. Megan Monteleone delves into the egregious human rights violations occurring at the U.S.-Mexico border, focusing on the Inter-American Commission on Human Rights' ("IACHR") role in addressing and potentially preventing these issues. These issues are exemplified through the case of Anastasio Hernández Rojas, which highlights the systemic nature of the problem. The analysis criticizes the inefficiency of American legal channels in dealing with such abuses, and points toward the IACHR as one of the most viable platforms for holding the U.S. accountable for law enforcement violence at the U.S.-Mexico border. Decisive action by the IACHR against the U.S. could ultimately lead to significant domestic policy reforms. These reforms could be pushed forward through a shift in the narrative to frame these border enforcement issues within a human rights context. While the IACHR's decisions are not legally binding, they carry substantial weight in influencing policy reform. The decisions could offer a pathway for victims seeking justice and accountability, thereby contributing to a change in the approach to human rights at the border.

Annotated by: Mitchell Kevett

Asees Bhasin, Article, *Love in the Time of ICE: How Parents Without Papers are Stripped of the Right to Raise Their Children in a Safe and Healthy Environment*, 36 GEO. IMMIGR. L.J. 875 (2022).

One of the foundational principles of the Reproductive Justice framework is the right to parent children with dignity in a safe and healthy environment. This basic right necessitates government action to guarantee families access to unity, adequate housing, food, transportation, and healthcare. Officials have denied these essential rights to undocumented immigrants due to xenophobia and a devaluation of immigrant reproduction. Dehumanizing narratives enable those in power to justify denying undocumented immigrants the right to raise their families safely. Cruel immigration policies, such as detention and deportation, threaten to separate immigrant families, leading to fear and anxiety among their children. The government has passed laws preventing immigrants from accessing vital healthcare by making them ineligible for Medicaid and Medicare. Furthermore, Congress has outlawed the employment of undocumented immigrants, negatively impacting their ability to work in safe environments and provide for their families. Lawmakers must repeal laws that separate families, prevent immigrants from accessing safe jobs, and exclude them from procuring healthcare. Activists and scholars advocate for the dissolution of Immigration and Customs Enforcement and the restructuring of Border Patrol into a humanitarian force that rescues migrants.

Annotated by: Avi Kiel

VOTING RIGHTS

Radarius Morrow, Article, *From Prison to Polls: America's Disenfranchisement of the Black Vote Through Juvenile Incarceration*, 7 HOW. HUM. & C.R. L. REV. 93 (2023).

The disenfranchisement of felons, rooted in post-Civil War efforts to suppress Black voting rights, persists despite the Twenty-Sixth Amendment's grant of voting rights to those over eighteen years old. The juvenile justice system, intended to rehabilitate, fails to address juveniles' understandings of societal rules, and shifts towards punitive measures. This violates the Fourteenth Amendment, as Black juveniles are disproportionately affected by the juvenile justice system. Disenfranchising formerly incarcerated juveniles raises constitutional concerns, such as the Eighth Amendment's ban on excessive punishment and the Twenty-Fourth Amendment's prohibition of poll taxes. The Supreme Court has advocated for juvenile differentiation in the justice system, considering its negative impact on employment and financial stability. Remedies include: (1) emulating Maine and Vermont's approach, where juvenile offenders retain their voting rights even while incarcerated; (2) ensuring voting rights for juveniles convicted as adults before turning eighteen; (3) introducing provisions in the juvenile transfer system to safeguard juveniles' voting protections; and (4) advocating for judicial review under strict scrutiny to evaluate the constitutionality of restrictions on juvenile voting rights, which could rectify historical injustices against Black communities and uphold democratic principles.

Annotated by: Joon Young Lim

HEALTHCARE

Alichia McIntosh, Note, *Healthcare Inequities in the United States and Beyond are Taking Black Women's Lives*, 18 NW. J.L. & SOC. POL'Y 102 (2023).

Black women have been dying at devastating rates due to health complications at the hands of the U.S. healthcare system. These disparities are rooted in the legacy of slavery, and the legalization and enforcement of racial segregation during the Jim Crow era. Today, racial bias persists within the U.S. medical system, as evidenced by research indicating that half of medical trainees in the United States harbor beliefs such as: (1) Black people having thicker skin than white people; (2) Black people's blood coagulating more quickly than that of white people; and (3) Black people possessing less sensitive nerve endings than white people. Black women face issues with healthcare professionals, as well as significant problems with accessing healthcare services in the first place. This is exacerbated by factors such as living in areas of concentrated poverty and being exposed to stressors that negatively affect their health. The following serve as solutions to combat these inequities: implementing and ratifying United Nations treaties recognizing healthcare as a human right, conducting thorough examination of the historical mistreatment of Black Americans by the medical profession, allocating resources to low-income communities, and encouraging medical professionals to acknowledge biases.

Annotated by: Katie Negroni

HOUSING

Carl Wu, Article, *Out of Sight, Out of Mind: Removing Unhoused People by Proxy of Mental Illness*, 26 U. PA. J.L. & SOC. CHANGE 333 (2023).

Under the Eighth Amendment's prohibition of cruel and unusual punishment, the Ninth Circuit struck down legislation that criminalized homelessness. However, New York and California, the two states with the highest unhoused populations, have implemented laws that circumvent this prohibition by using mental health to remove unhoused people from public spaces. For instance, California implemented the CARE Act, establishing courts that handle petitions for treating mentally ill people whose condition impairs their decision-making. New York's Involuntary Removal Policy removes people with mental illnesses from the streets and subways. Carl Wu argues that both of these laws criminalize homelessness by placing the focus on addressing mental illness. Specifically, the author identifies several issues with these policies, such as the reliance on vague terms that could lead to arbitrary enforcement. Both policies subject unhoused people to involuntary treatment and detention, and further perpetuate stereotypes rooted in stigma surrounding health issues and homelessness. Despite the negative aspects, the small benefit to these laws is that they require city agencies to collaborate, addressing the issue of dispersed resources and uncoordinated efforts. California and New York should move towards voluntary services, eliminate police as the initial point of interaction, and prioritize support services that address the various causes of homelessness.

Annotated by: Yeniliz Peguero