



## What Older Prisoners Teach Us About Care and Justice in An Aging World

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### Abstract

Over the last two decades, there has been a rapid rise in the proportion of older adults in prisons across the world. While the cause for this trend depends on local demographic, legal and social circumstances, ethnographic attention to this issue remains sparse. This commentary examines the contributions of two recent books on older adults in prisons in order to highlight key questions and findings that might provide a foundation for future research for the anthropology of aging and the life course. Despite focusing on different national contexts, both works reveal the disproportionate harm to older adults as a result of incarceration, as well as the ways individuals cope, even in very restrictive institutional environments. I conclude by stressing the need for more ethnographic attention to the growing overlap between aging and the carceral (in and out of prisons), and the importance of this research for questioning our broader assumptions about aging, care, crime and justice.

*Keywords:* Older Prisoners; Incarceration; Confinement; Justice; Ethnography

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Anthropology & Aging, Vol 43, No 1 (2022), pp. 58-65

ISSN 2374-2267(online) DOI 10.5195/aa.2022.395



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## What Older Prisoners Teach Us About Care and Justice in An Aging World

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In 2020, a US man named James Frazier was 79-years-old and living with dementia, incontinence, and frailty that had advanced to the point where he was unable to walk or do most everyday tasks without an aide. He was also Ohio's oldest death row prisoner. In November 2020, Frazier's lawyers filed legal papers arguing that he was incompetent to be executed (according to state law, prisoners must understand what they are being punished for). The execution, which had been scheduled for October 2021, was deferred to 2022 while the request was being considered. In November 2021, however, Frazier died of COVID-19 at Franklin Medical Center, still in custody, awaiting his execution.

Reading about James Frazier's case, I was struck by what seemed like a tenacious drive not only to incapacitate but to punish. His was not an isolated case. The last quarter of the twentieth century saw not only a rapid proliferation of prisons and an increase in the number of prisoners, but also an intensification of the prison's retributive function, including "zero-tolerance" policies and the increased use of 'control units' (Rhodes 2004). These two trends are connected and deeply worrying, particularly when we see older and disabled people increasingly caught in this carceral crush. When it comes to older prisoners, particularly those who pose little threat due to age-related physical and cognitive frailty and who will not benefit from rehabilitation, such continued punishment would be in breach of human rights principles, if not law (Fellner and Vinck 2012, 88).

Nonetheless, cases of older individuals, like Frazier, becoming frail and dying while in custody are quickly becoming normal rather than exceptional. In 2007, fewer than 6% of those on death row in the US were over the age of 60, but today, they account for more than a quarter (Death Penalty Information Center 2020). This same rapid aging trend is seen in the general US prison population, where a third of prisoners are projected to be over the age of 55 by the year 2030 (a doubling in the span of a decade) (Austin, Irwin and Hardyman 2001), driven by stricter sentencing laws and longer mandatory prison terms (Maschi Viola and Sun 2013, 544). This trend can also be observed elsewhere around the world. Already in the UK, for example, the number of prisoners over 50 tripled between 2006 and 2016, and the prison system became the largest residential care provider for frail and older men (Prisons & Probation Ombudsman 2017). In Belgium, the number of prisoners over 60 doubled between 1997 and 2007 and has continued to rise slowly. In Japan, where crime rates are at their lowest in decades, 22% of all crimes are committed by people over the age of 65 (Yagi 2020), around 15% of whom are living with symptoms of dementia (Ichimiya 2020). Between 1999 and 2019, the number of individuals 65 and older in Japanese prisons tripled, while their proportion of the overall prison population quadrupled (from 3% to 12%). Specialist facilities are being built to accommodate the large numbers of frail, disabled and cognitively impaired prisoners, prompting comparisons to nursing care homes (NHK 2019).

How did this happen? When prisons emerged across Europe in the eighteenth and nineteenth centuries, they were imagined as humane and rehabilitative institutions that would replace the use of harsh corporal punishment and execution (Fassin 2017, 15). As we know from Foucault's (1977) extensive

genealogy of state sanctioned punishment, however, prisons, and the administrative infrastructure of criminal justice that developed with them, resulted in a more diffuse, “muted, less visible form of violence” (Fassin 2017, 16). But although prisons have always facilitated the modern transformation of violence and state power more broadly, the more recent expansion of the prison’s size and scope as a place of punishment remains remarkable. Public support for ‘tough on crime’ or ‘law and order’ policy approaches remains popular in most countries, while the rehabilitative function of prison has steadily eroded over the last half-century. This trend mirrors the advancement of neoliberal welfare retrenchment outside prisons, and the worsening of conditions inside prisons, from overcrowding and violence to the catastrophe of the COVID-19 pandemic. Conditions in prison are so poor that prison health researchers have long considered incarcerated people to reach ‘old age’ (in biophysical and emotional terms), at around, on average, ten years earlier than non-incarcerated people (Aday 2003). Because of this accelerated aging, ‘time served’ is much longer than the length of sentence would seem to indicate.

This increase in the number of older prisoners around the world is not merely a reflection of aging populations, nor is it likely that the current generation of older people are somehow more prone to criminal behavior than they were in the past. Yet, if we look for answers to the puzzle of the global increase of older people in prison on an institutional level, it becomes difficult to draw strong conclusions. Cross-national comparisons are complicated by differences in laws, police enforcement, sentencing, parole and other elements that make up the criminal justice system. Cultural models of aging and access to social welfare support also vary widely across national contexts. While the reasons for the increase in older prisoners vary considerably across societies, prisoners’ experiences of growing older, being abused or neglected, and finding ways to care or be cared for in prison, seem to resonate across cultural contexts. Two recent books on the subject of older prisoners make significant contributions towards closing the gap in our understanding of older adults and prison life, and while each one represents the culmination of extensive research and exhaustive review of prison studies, each pursues the topic in its own way.

Diete Humblet’s (2021) *The Older Prisoner* is based on fieldwork she conducted in two prisons in Belgium, one where the older prisoners are integrated with the general prison population and another where they were separated in a specialist wing. Although not an anthropologist by training—her degrees are in law, criminology, and gerontology—Humblet’s research follows a conventional ethnographic approach of long-term observation, interviews, shadowing and conversing with various actors during the flow of their daily routines. Tina Maschi and Keith Morgen’s (2021) *Aging Behind Prison Walls*, by contrast, combines findings from over a decade of qualitative and mixed methods studies conducted in the northeast US. Again, neither author is an anthropologist: Maschi’s disciplinary background is in social work, while Morgen’s is in psychology. What holds their book together is its provocative “call to action” to bring about what the authors describe as a “new age of caring justice” based on “mercy, compassion, unconditional love, transparency (truth), and accountability” (3). While Humblet’s writing belies a sensitive approach that produces a rich and full picture of each person’s humanity, it retains a more conventional academic distance when it comes to addressing ways to take action based on the research. Both approaches, I believe, deserve our consideration, since on the one hand, it might be better to stay neutral and allow the reader to come to their own conclusions, and on the other hand, one might argue that subjects like power and carcerality demand new, bolder forms of writing that engage with both the possibilities and limits of normativity.

Despite their differences, however, I found it striking that both of these books were structured along a very similar narrative arc: beginning with an emphasis on the diversity of older incarcerated individuals and the need for their voices to be heard; then moving on to the stress and difficulties endured by older

adults (both before and during incarceration); and finally, reflecting on the ways older incarcerated individuals are able to develop and achieve some measure of a 'good life' in prison. Across this arc, both books advance the compelling argument that the treatment of older adults in prison is predicated on broader social beliefs about not only criminality and justice but also age. There is a persistent tension, for example between assumptions about age-related vulnerability and the image of the dangerous criminal, or between the recognition of differences in care needs of frail older people and the routines and uniformity of prison institutions. By highlighting these intersections and contradictions, the authors of these books challenge the solidity of the prison walls, showing us how ageism on the inside is continuous with institutional and structural ageism on the outside. While it has been recognized for decades that inequalities based on race, class, and citizenship are reflected in and perpetuated by criminal justice and penal systems (Alexander 2010; Wacquant 2009), these books are two of the most significant works to extend the argument to age and disability.

In *Aging Behind Prison Walls*, Tina Maschi and Keith Morgen (2021) argue that older prisoners' lives are marked by cumulative disadvantages and a lifetime of traumatic experiences. Despite the demographic heterogeneity of older adults sampled for their research, nearly three-quarters of those surveyed had three or more incidences of trauma, such as abuse or assault, in their life histories. In order to illustrate the particular contexts and effects of these incidences over the life course, the authors use detailed personal narratives, some extending several pages, either written by incarcerated individuals or collected through interviews. Several of these portraits of individuals are rich and evocative, and first-person format creates the sense that the individuals are speaking directly to the reader rather than to a researcher. In most cases, the authors leave these narratives to speak for themselves, without extensive interpretation or commentary apart from a few topic headings. Together with the black and white photographs of older incarcerated men and women taken by Ron Levine appearing throughout the book, the aim of connecting and humanizing research subjects is palpable.

In contrast, the life-history of 56-year-old 'Pedro' appears not as a first-person narrative, but as a table running over two full pages (Maschi and Morgen 2021, 68-69). Glancing at the table, the reader can quickly scan across the neat, evenly arranged columns, like a doctor reading a patient's chart, noting everything from malnutrition in childhood, to prostitution and addiction in his teens, to cancer in his fifties. Pedro's life, or at least the traumatic aspects of it, lie spread out, exposed and dissected over the table. The authors present Pedro's case in this way in order to illustrate the "Life Sources Systems Power Analysis," a tool for assessing and planning intervention strategies in complex cases (68). Perhaps, for those trained in social work, Pedro's chart would be an example of an effective tool for developing individually tailored care, but for anthropologists, the shift in approach from first-person narratives to clinical analysis can be jarring. If we were we able to read Pedro's words or hear his voice, how might he have described his life journey, and what was important to him? How might his case shed light on immigration, inequality and criminalization in ways that spill over the borders of the table? For Maschi and Morgen, this rather stereotypical analysis of Pedro and others like him had a particular aim: it helped them translate complex individual cases into the authors' universal twenty-five-point plan of action that they argue will "dismantle the oppression experienced by older people in US prisons and aging people in prisons across the world" (71). Although only one of these points (the development of geriatric services) is specific to older adults, all of them have potential for improving the lives of older adults both inside prison and in the community, including developing better policies, community services and greater public awareness.

These are bold proposals, but perhaps the boldest claim of *Aging Behind Prison Walls* is that "it is the aging prisoner who has awakened the general public to the possibility of a form of justice that cares" (Maschi and Morgen 2021, 5). "Caring justice" (120) is a response to the neglect of aging prisoners and

arises on an institutional and collective level as the result of individual betterment: if I care, my community will care, and justice institutions will care. In other words, by gaining a “new place of awareness and inner knowing” (120) regarding both the traumas and the resilience of aging prisoners, society will no longer be able to stand aside and will be compelled to act. Resilience, or “adaptive coping,” (109) is an ability to bounce back from negative experiences, and in some cases, to find opportunities for “biopsychosocial spiritual” (115) development. Examples of resilience create hope for change, allowing the reader to see older prisoners as more than just passive victims of oppression, incapable of ever having healthy relationships or controlling their actions and emotions. The fact that some individuals do develop resilience, however, should not be mistaken for evidence that prisons are fulfilling their responsibility to rehabilitate. In one example of “coping resilience” one incarcerated individual wrote, “Prison is tough, prison is bad, prison is everything you’ve heard and more, but it’s nothing to [sic] the reality of the pain I carry for my careless actions” (117). In another case, an individual wrote, “If all this get tough on crime worked, your prison system would not be exploding. Are we the evilest society on this third rock from the sun, or are our criminal justice policies just out of control and oppressive?” (102). The frustration of being caught up in a world that is “exploding” is a vivid reminder that even while individuals must find ways to survive and adapt to life in prison, this does not legitimate the institution’s authority and use of power. Building on these examples of resilience, Maschi and Morgen go on to provide additional recommendations for change, including ways to build a more supportive community and to address the specific needs of older LGBTQ+ individuals in prison and older prisoners living with addiction or mental illness.

Prison abolitionists such as Angela Y. Davis (2003), Savannah Shange (2019), and Ruth Harrison Gilmore (2022), who draw heavily on anti-racist and feminist theory, might argue that as long as prisons continue to occupy the same space in society, and criminalized communities continue to be reproduced by structural modes of oppression and violence (that include prisons), then there is still a long way to go before anything like “caring justice” can be achieved. While Maschi and Morgen do not use the term “abolition,” they are often strongly critical of the status quo, which renders it a little surprising that they haven’t engaged with the critical abolitionist literature further. Similarly, their model of “caring justice” is not based in the extensive body of literature on the ethics of care (see Tronto 2020; Held 2006 and many others), nor is it grounded directly in their own data. Part II of the book, which is dedicated to elaborating the notion of caring justice, is a dizzying blend of Jungian archetypes, quantum physics, and “Eastern philosophy,” exemplified by “energy centers and levels of consciousness” (194-209). The overall effect of this part was a slightly uneasy sense of disconnection between the life stories of the incarcerated older people in the initial chapters and the array of consciousness enhancing ideas laid out in lengthy lists, diagrams, and tables in this second part that, for me, never quite came together into a coherent model of practice.

The final chapter of *Aging Behind Prison Walls*, “Realizing a Caring Justice World,” briefly profiles third-sector organizations in the US, UK, and elsewhere, that assist older adults in prison and after, as models of the caring justice paradigm. These include prison hospice, outpatient services and non-profit or charity organizations, which together represent a vast amount of experience and insight about older people’s interactions with the criminal justice system. The directory does not include case studies of individuals who were helped by these groups, nor does it explain how these groups address broader questions of race and inequality that have been at the forefront of prison abolition and transformative justice activism in the US. Given the recent revival of these issues in the wake of the #BlackLivesMatter movement, their omission in a book about imagining caring justice in the US is conspicuous. While the work of consciousness-raising is crucial, readers may be skeptical of the notion that deeply entrenched power structures and institutions will “die a good death” (Maschi and Morgen 2021, 3) if more people worked on balancing archetypal energies. In the midst of the COVID-19 crisis, when the virus was

spreading like wildfire through the US prison system, killing dozens of older prisoners in the first few months, Maschi and Morgen write in their Afterword, “The power inside each of us can influence us all. The older adults in prison taught us much. Let’s let their love for us go viral. By releasing ourselves, we will release them” (234). While these pithy statements, at first, struck me as out of tune with the reports of neglect coming from prisoners at the time, I also appreciate the value of leaving the book on a hopeful note. Although there is no lack of research demonstrating the negative effects of incarceration on older adults, Maschi and Morgen have dared to go beyond conventional academic and disciplinary boundaries to build their own aspirational vision for liberation.

Despite differences in approach and geopolitical area, Diète Humblet would likely agree with most of the general observations in *Aging Behind Prison Walls*, from the importance of the life-course approach to the human costs of confinement, to the recognition of adaptive coping that provides prisoners some means for achieving feelings of purpose and comfort. Humblet’s *The Older Prisoner* is not shy about the often-disturbing details of harsh treatment or neglect in Belgian prisons, but while Maschi and Morgen frame these experiences in terms of general psychological notions of trauma, Humblet’s approach is to ask how the prison, as a material, social, and cultural environment constructs ‘old age.’ In this sense, Humblet’s work resonates with ethnographic studies of nursing homes or communities of older people where rituals and activities can work to both integrate and ‘other’ the older person (e.g., Myerhoff 1976).

*The Older Prisoner* begins by unpacking the many ways we reckon age (chronological, biological, functional, social, psychological) before taking a critical look at notions of “prison harm” and “accelerated aging” (Humblet 2021, 25) as a result of the prison environment. This review is meticulous, picking apart the assumptions about the ‘older prisoner’ as a subject in ways that expose their special treatment or marginalization to be rooted in ageist assumptions.

Prisons, much more so than other places in society, demand order and conformity, severely restricting prisoners’ capacities to have their individual needs recognized, let alone to create a space for personal expression and meaning. This is a technology of control necessary for a small number of staff to keep order in the prison environment, but for frail and disabled older prisoners, this ‘management’ easily crosses a threshold into punishment. Through frank conversations with prisoners and staff, Humblet reveals a predominant ethos of what British Criminologist Elaine Crawley (2005) calls “institutional thoughtlessness,” that is “rooted and sustained by the *prison praxis*” (Humblet 2021, 137). Institutional thoughtlessness is more than the just the neglect of prisoners’ age-related needs. Humblet argues that it also places older prisoners in a kind of double bind. On the one hand, integration of older and younger prisoners often led to additional physical and psychological burden for the older prisoners. On the other hand, when separated in a specialist geriatric ward, ageist assumptions about older prisoners as incapable, senile, or dying led to similar exclusions and discrimination. Either prisons try to uphold the value of equity and just retribution by ignoring age-related needs, or they restrict older people from opportunities to work, exercise, or having intergenerational relationships based mainly on ageist and essentializing categories of frail old age. Both cases inflict violence through repeated misrecognition that instills and reproduces a response of passivity and compliance with authority.

Having laid out this argument as a foundation, Humblet (2021) takes us to the “lived space” (101) of the two prison settings where she conducted research, detailing not only the physical conditions but the ways they are felt and experienced by older incarcerated individuals and prison officers. Here, the heterogeneity of the older subjects is clearly demonstrated, as both the integrated and segregated settings produce their own set of limitations and affordances. The various boundaries and openings in different spatial settings is not surprisingly also reflected in the social relationships of prisoners. Humblet (2021) separates relationships into “vertical” (inmate-staff) and “horizontal” (fellow inmates).

A key figure moving between the vertical and horizontal relationships is the “Fatik,” “prison-porter” or “prison-servant” (162), who provides various forms of care for prisoners but who is not part of a formal framework. While this sometimes puts prisoners in an uncomfortable position, it is also an opportunity for developing a positive sense of meaning and value, and many older prisoners take on this role.

The last two chapters in *The Older Prisoner* discuss the ways older incarcerated individuals “survive” (Humblet 2021, 189) “cope” (212) and even “thrive” (229) while in custody. Like Maschi and Morgen, Humblet has found that in many cases, older incarcerated individuals develop the capacity to write their own narratives and assign their own meanings and values to their experiences. Interestingly, Humblet adopts developmental psychologist Erik Erikson’s concept of “generativity” to characterize the ways incarcerated individuals seek not only to control or avoid bad feelings but also to invest in “forms of life and work that outlive the self” (229), including participation in Humblet’s ethnographic research. In the highly restrictive environment of prison, generativity must be broadly construed, often taking the form of subtle acts of resistance. In one case, Humblet describes the case of a prisoner who would tear up underwear that had been already worn out so that it wouldn’t be passed on to other prisoners. This behavior might appear at first to be merely destructive, but for this individual, removing the old underwear from circulation was a meaningful form of care for other prisoners, who would have to be given new underwear instead. *The Older Prisoner* is replete with memorable anecdotes like the underwear cutter, who represents both the limits and possibilities for practicing care and generativity in prison.

Humblet’s careful analysis is supported by a breathtaking range of scholarship in sociology, criminology, and age studies (in several languages). Given the relative dearth of research on older incarcerated individuals in continental Europe, Humblet draws mainly on research conducted in US and UK prisons, but throughout the book she is also careful to note where her data confirms or contrasts with findings from elsewhere. Humblet’s writing is committed to the ethnographic data such that there is hardly a page in the main body of the book that does not contain a moment captured concisely in a scrap of field notes or an excerpt from a conversation. This close attentiveness to the words and worlds of older prisoners captured in the moment of the ethnographic encounter has not only yielded outstanding research but it also conveys a powerful sense of Humblet’s own care and humility, which anyone who has worked with socially marginalized older adults will deeply respect. While the book does not engage directly with anthropological theory, it is an exemplary piece of fieldwork-based ethnographic research that would fit easily into any anthropology course related to aging.

In both *The Older Prisoner* and *Aging Behind Prison Walls*, we stay, for the most part, within the confines of the prison institution. A full analysis of the conditions that increasingly criminalize older people, or that prevent them from fully reintegrating after release, remain beyond the scope of these studies. Questions remain about policies and practices meant to address the aging prison population issue, such as compassionate release for terminally ill older people and how these are being discussed at local, state, or national levels. Despite the extensive access all of these researchers had, their findings, like the subjects of their books, remain confined, but the implications do reach far beyond the prison walls and will be of interest to anyone interested in questions of aging, intersectionality, marginalization, confinement, and justice. Future research will no doubt broaden the frame even further, linking the prison system to other concerns for today’s aging world, such as changes in the family, social isolation, and precarity in social care. As the voices of historically criminalized groups calling for prison abolition, transformative justice and community revitalization grow louder, research on aging must also move beyond the concerns of the mainstream, to critically engage with abolition from an anti-ageist perspective. The vulnerability and neglect that was revealed so tragically in the early days of the

COVID-19 pandemic ought to make us question whether conditions of “institutional thoughtlessness” are also at work in nursing homes and other institutional settings used to securely confine and surveil older people (Badone 2021). In this way, these books will be formative for the body of work on aging, care, and carcerality that is sure to grow rapidly in coming years.

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