

# Abolitionism and the criminal justice system essay sample

[Law](#), [Criminal Justice](#)



Many individuals believe that the criminal system and its institutions are flawed. These critiques have been brought on by the ineffectiveness of prisons to reform individuals, the ineptness of the system to reduce crime rates, the lack of focus on victims of crimes, as well as the racist, classist and sexist practices existing in these institutions. Therefore, we can ask ourselves if the elimination of the current penal system and the implementation of alternatives would better allow resolve of societal conflict? The following paper will explain why activist and scholars have rejected reliance upon the current penal system and its structures to put forth alternatives that they find will be more successful and less repressive.

The first part of this paper will focus on key arguments that abolitionists have advanced for the abolition of prison. The second part will focus on arguments advanced by abolitionist for total penal and carceral abolitionism. The last part will focus on the strategies and alternatives that abolitionists have mobilized in their pursuit of prison, penal and carceral abolition. The main works used to support these arguments will be of Davis, Mathieson, Beauchesne, Kappeler, Dyches, Guanipa, Elliot, Morris, Montur-Angus and Beck. To begin, activist and scholars have advanced in arguing for the abolition of prisons with three key arguments: First, prisons fail at general prevention of crimes, one of the main objectives the institution has set for itself; Second, this institution has failed at rehabilitating those who have been incarcerated; Third, this institution causes more harm than good with a multitude of collateral consequences. The works of Mathieson, Richie, Clear, Beauchesne and

Kappeler will be used in this section to illustrate the above arguments.

Firstly, general prevention.

The goal of general prevention is to deter others from committing criminal acts by making an example of those who have. Punishment will therefore be used a message from the state to the general population. The state intends to make clear that crime does not pay, that it is immoral and that individuals should get in the habit of avoiding certain acts. (Mathiesen, 2008, p. 65) This message from the state is invoked to the general population through a message carrier: the media. However “ The media chooses and presents crime problems for public consumption. The selection of crime problems is often limited to the most bizarre or gruesome act a journalist or investigator can uncover.” (Kappeler, 2000, p. 5) Because of this, the general population does not receive the state’s message in regards to common crimes such as theft. It is therefore difficult to prevent these crimes in society since the message about their avoidance has not been transmitted to the general population.

An additional issue with general prevention is message complexity lost through media filtration. “ Filtration means that the details of legislation and sentencing practice, the choices between sanctions which are close to each other and which constitute the everyday routine of criminal policy, are systematically if not totally left out.” (Mathiesen, 2008, p. 72) In order to deter individuals from committing crimes, punishment must be expected. The state therefore wants to send the message that if you commit crime “ x” you will receive penalty “ y”. However, most people are unaware of the

sentences that will be received for committing crimes. “ In this regard, research illustrates that the general public tends to underestimate the severity of sanctions generally imposed. This is not surprising given that members of the public are often unaware of the specifics of sentencing policies.” (Wright, 2010, p. 3) The difficult transmission of the state’s message is evident here.

The third problem with deterrence consist of a moral question: “ What is the moral basis for punishing someone, perhaps hard, in order to prevent entirely different people from committing equivalent acts, when those we punish to a large extent are poor and highly stigmatized people in need of assistance rather than punishment?”(Mathiesen, 2008, p. 7) In criminological theories, we saw how police activity is largely geared towards minor visible crimes committed by individuals from the lower stratum of society as oppose to “ white collar crimes” committed by those of higher stratum (Dubé, CRM 3701, 2011). Abolitionists argue that by severely punishing some of the poor in order to deter society from committing crimes; we are only further contributing to the inequalities in today’s society. A second key argument advanced for the abolition of prisons is the failure to rehabilitate with imprisonment.

Rehabilitation is supposed to permit the individual to be restored to a law-abiding citizen, contributing to society. However, abolitionists argue that prisons do not permit this. First, schooling and work within prisons is supposed to allow individuals to become productive citizens in society. However, “ In many prisons, especially the old ones, the work which is

offered is to a large extent meaningless (placing advertisement material in envelopes, folding tobacco packets), or simply non-existent". (Mathiesen, 2008, p. 34). This work experience is therefore without benefit to the prisoner upon his release. In addition, security poses obstacles to schooling programs in prisons. " The transfer of prisoners between prisons can not take place irrespective of the prisoner's school program, the transfer from one cell block to another in the prison may imply that the program is discontinued."(Mathiesen, 2008, p. 36) As a result, rehabilitation through these programs is difficult. Furthermore, abolitionists argue that the prison environment does not favor rehabilitation.

Mathiesen explains that " prisons are often overcrowded, run-down, and more or less dangerous places to those who inhabit them. [...] This is the everyday life of the prison – very far from any ' treatment situation'".

(Mathiesen, 2008, p. 47) In contrast, the Rat Park study conducted at Simon Fraser University in 1994 showed the importance of environment in rehabilitation. In this study, two groups of rats addicted to morphine were placed in separate cages. One group was placed in individual cages with a water dispenser and access to a morphine solution. The other group was placed in the rat park cage, filled with other rats (both sexes), structures, toys, etc. and equal access to the morphine solution. It was stated that the rats in the individual cages consumed 16 times more morphine than the ones in Rat Park. Therefore, ameliorating the rat's environment helped them lose their dependence. (Beauchesne, 2004, p. 122) By the same token, alternative environment to prison would allow better rehabilitation, as

isolation and lack of recreational activities tend to augment individual's vulnerability. Lastly, abolitionists argue that the pains of imprisonment make rehabilitation difficult.

" The basic deprivation of liberty itself, the deprivation of goods and services, the deprivation of heterosexual relations, the deprivation of autonomy, and the deprivation of security in relation to other inmates, are so painful that they create a need for defense." (Mathiesen, 2008, p. 49)

Because of this, inmates will tend to distrust therapist, treatment staff and psychologist in prison. The fact that they feel rejected by society creates hostility towards the prison system and its agents. The " us" versus " them" dynamic created between inmates and prison staff will therefore make any treatment or rehabilitation efforts difficult. (Pascal, CRM 3715, 2012)

The third key argument utilized by abolitionist is that of collateral consequences. Collateral consequences consist of the impacts of imprisonment on family, communities, etc. One of the main collateral consequences caused by imprisonment is the impact on children.

Incarceration of a parent can lead to the stigmatization of their child, to them being put in foster care, to a diminished bond between the child and their parent and to a lower quality of life. They also will become victimized and if placed in a foster home, the foster parents will have little motivation to maintain the child's relationship with their incarcerated parent. (Richie, 2002, p. 142) Thus, the incarceration of the parent is harmful for the child's development. " Frequent changes in life circumstances essentially deny children the necessary stability, security and support to develop stable

relationships, self-esteem, personal autonomy and resilience.” (Robertson, 2012, p. 41)

Another collateral consequence is the impact of incarceration on women as caregivers. “ The already overburdened role of caretaker in low-income families is further complicated by the constant threat women face of possible arrest and detention of a family member, chaotic trials, long prison sentences, the expensive visits and phone calls [...]”. (Richie, 2002, p. 146) Incarceration makes it difficult for women to provide a stable and healthy environment for their children. “ Families that lack adult male role members are known, on average, to face economic stresses and provide reduced levels of child supervision.” (Clear, 2002, p. 188)

Lastly, the distrust of abolitionist states the impact on social control as another collateral consequence. The negative relation one might have with the prison system can lead to negative views of social control agents. “ When they see their ex-convict family members caught up in a cycle that keeps them jobless, drug dependant, and at the edge of recidivism, they blame the system for making things worse” (Clear, 2002: p. 192).

Consequently, these populations will be less likely to seek aid from social-control should they ever be victimized. “ An experience such as this can then lead to possible antipathy towards other figures of authority such as teachers and prison officers.” (Dyches, 2009, p. 73) This first section of this paper has focused on how imprisonment is not an efficient way of responding to the transgression of societal norms. The ineffectiveness of relaying the state’s message to the population has caused deterrence to be an unmet goal of the

system. Furthermore, prisons have failed to rehabilitate individuals due to their unconstructive environment. Lastly, prisons seem to cause more negative consequences than good, making it a questionable institution.

The next section will focus on how abolitionists have now gone beyond prison abolition to also consider penal and carceral abolitionism as these systems are thought to be sexist, classist, and racist, further entrenching societal injustices. The following three arguments will demonstrate this stance: Firstly, the penal system reproduces and reinforces patriarchal domination; secondly, economic interests gear the penal system instead of those of rehabilitation and reform; and thirdly, the penal system is an extension of colonialism and slavery. The works of Davis, Guanipa, Horii, and Beauchesne will be drawn upon during this section.

To begin, gendering punishment. Many scholars and prisoners have advanced that prison practices and punishment in regards to women are intensely gendered in their character, further reinforcing patriarchal domination. (Davis, 2003, p. 61) Although this differential treatment based on sex would otherwise be considered unacceptable, it is tolerated towards incarcerated women. The way the penal system views incarcerated women demonstrates these gendered practices. These women are seen as abnormal and failing to assume their gender role. In consequence, their rehabilitation will largely focus on teaching proper female manners and will consist of “assimilating correct womanly behaviors—that is, by becoming experts in domesticity—especially cooking, cleaning, and sewing” (Davis, 2003, p. 64). Thus, penal practices reinforce gender expectations of women. For



example, Gayle Horii recounts how during her incarceration, women, in contrast to men did not have access to hot water at first. The logic was that women would still clean themselves with freezing cold water regardless. (Horii, 1994, p. 16)

Another way the penal system enforces the patriarchal domination is by routinizing sexual abuse with daily prison practices. The state condones sexual violence against women by incorporating it in practices such as the cavity and strip search. (Davis, 2003, p. 81) This abuse victimizes women and further entrenches patriarchal domination by rendering them helpless to male prison staff: “ The prison environment that this abuse occurs in is one where the woman is completely powerless. There is no real accountability in prisons. It is a closed hypermale military environment demanding a slavish submission to hierarchy and authority.” (George, p. 4)

An additional way which the penal system reinforces patriarchal dominance is through the acceptance of violence against women by failing to recognize that the pains of incarceration frequently lead to self-harm. The number of women suicides in prison compared to those in society is drastically higher. The suicide rate from 1988-1991 for incarcerated women was of 869 to 2609 for 100 000 women in contrast 3-8 women in Canadian society. (Horii, 1994, p. 12) Furthermore, the penal system relinquishing responsibility for carceral conditions leading to suicide shows its tolerance for violence against women. Horii explains how during an inquiry into a fellow inmates suicide, the coroner said that the prison was not at fault in her death and was to be

highly praised, even though the conditions largely played a role in her taking her life. (Horii, 1994, p. 11)

The Ashley Smith case is an example of the pains of imprisonment leading to suicide. This case was briefly discussed with guest lecturer Meghan Daniel, a lawyer in civil litigation involved with the case. She explained how the family was pursuing the state in regards to this case as miss treatment from prison staff led and played into to Ashley Smith's suicide. A second argument advanced by abolitionist for penal system abolition is that of the prison industrial complex. The idea is that the penal system is not focusing on rehabilitation and curbing crime, but rather it is focusing on economic and capitalist interest.

Abolitionists argue that through the prison industrial complex, prisoners have been turned into commodities. Guanipa, a past inmate, explains how prison labor is said to be aiding convicts in rehabilitation and reform by providing valid experience for the work force. However, the work completed in prison provides no marketable skills to inmates. Instead this form of employment allows companies to employ an individual for multiple years without typical cost associated to employees (benefit pay, social insurance, minimum wage, etc). (Guanipa, 2011, p. ) Thus, the growth of prison populations have become sought by industries in order to permit their long term growth with this form of free labor. (Davis, 2003, p. 94)

Furthermore, abolitionists argue that penal expansion and policy are driven by capitalist interest. They explain how with prison privatization “ federal,

state, and county governments pay private companies a fee for each inmate, which means that private companies have a stake in retaining prisoners as long as possible, and in keeping their facilities filled” (Davis, 2003, p. 95). Corporations, such as CCA (Correctional Corporation of America), will therefore develop strategies to keep inmates locked up longer. For example, in these prisons, “ inmates may get their sentences reduced for “ good behavior,” but for any infraction, they get 30 days added [...]

According to a study of New Mexico prisons, it was found that CCA inmates lost “ good behavior time” at a rate eight times higher than those in state prisons”. (Pelaez, 2008) This privatization model has expanded from the United States into other countries, becoming their primary way of managing punishment. (Davis, 2003, p. 97) Another way economical interests are demonstrated in incarceration is with the increase of corporations selling their goods to prisons. “ Among many businesses that advertise in the yellow pages on the corrections. com web site are Archer Daniel Midlands, Nestle Food Service, Ace Hardware, Polaroid, Hewlet- Packard, Rj Reynolds[etc] (Davis, 2003, p. 99) As a consequence, even non privatized prisons have large corporations investing in them.

Pamela O’Connell, explained how for the consumer electronic companies, prison population presented a lucrative and interesting market, as goods for prisoners with additional security features are sought after by the penal system, as prisoners often turns these goods into weapons. (O’Connell, 2001, p. 1) A third key argument advanced by abolitionist for penal system abolition is that the penal system and its apparatuses continue the

domination and slavery practices towards certain targeted groups, done in the past with colonialism and slavery. Abolitionists argue that those of color are more likely to be targeted and criminalized by the penal system. “ Police departments in major urban areas have admitted the existence of formal procedures designed to maximize the numbers of African-Americans and Latinos arrested- even in the absence of probable cause.” (Davis, 2003, p. 31) Prison populations demonstrate how racism is entrenched in this institution, where dominated groups are more likely to end up. For example, as seen in CRM 3701, Native Americans consist of 3% of Canadian population, yet 25% of Canadian carceral population. (Dubé, CRM 3701, 2012)

Abolitionists also explain that people of color are more likely to be sentenced longer. Guest speaker Vicky Chartrand explained “ Aboriginal people are subjected to sanctions at the deeper end of the criminal justice” (Chartrand, 2012). Many advance that harsher sentences are often attributed to acts more likely to be committed by these targeted individuals. For example, harsher drug laws for crack (commonly consumed by lower class black men) in contrast to those for cocaine (commonly consumed by high class white men) in the states clearly target poor black men in order to keep them imprisoned longer. (Beauchesne, 2003, p. 144)

Lastly, abolitionists argue that the penal system permits an extension of slavery. After slavery was abolished, the penal system began to integrate slavery practices in carceral punishment. For example whipping, chain gangs, hard labor, etc. for black inmates. This was a new way to control

black labor (Davis, 2003, p. 31). Nowadays, prison labor is the new form of slavery: “ We no longer import slaves from Africa [...] Now we hand down long sentences to visible minority communities made up predominantly of Blacks and Hispanics, and place them inside federal prisons to work like slaves.” (Guanipa, 2011, p. 28-29) The work completed by prisoners is not meant to be beneficial to their rehabilitation, it is there to profit corporation and permit slavery. We have now seen why abolitionists seek the total abolition of the penal system.

We explored how the penal system reproduced and enforced gender inequalities that would otherwise be considered unacceptable in society. In turn, we saw how economic interest gear punishment and the expansions of the carceral system and finished with how the penal system allowed an extension of colonialism and slavery by other means.

We will now explore the strategies and alternatives to the penal system mobilized by abolitionist as well as their pitfalls. We will begin by seeing the Restorative Justice approach which focuses on victim needs. We will then see the Transformative Justice approach, which will take in account more than just the event of wrong doing and will finish with Social Justice and Abolition Democracy. Finally, we will explore abolition democracy, which preaches societal transformation and a multitude of alternatives. Works such as Davis, Elliot, Sudbury, Morris, Montur-Angus and Piché & Strimelle will be drawn on in order to illustrate the above arguments.

Let us begin with Restorative Justice. The Law Commission of Canada describes Restorative Justice as “ a process for resolving crime and conflicts that focuses on redressing the harm to the victims, on holding offenders accountable for their actions and on engaging the community in a conflict resolution process.” (As cited by Elliot, 2011, p. 67) Thus, in contrast to our current punitive system, Restorative Justice gears its focus towards addressing the needs of victims rather than the offense and its punishment. This approach allows victims to heal and transform by introducing new questions after a “ crime” is committed such as: “ How can healing occur for victims and offenders? How might the community take a more active role in addressing the issues of its members? How can communities heal from crime?” (Beck, 2010, p. 81)

Different applications of Restorative Justice have been utilized such as Victim-Offender Dialogues, Family Group Conferences, Circles, and Truth Commissions, not only after a crime is committed, but also in other settings to assist peacemakers, social workers and human services providers in resolving wrongdoing. (Beck, 2010, p. 82) An example of Victim-Offender dialogue would be the story of Elizabeth, a victim of an armed robbery who, following the event had bladder control issues, stress, anxiety, insomnia and a multitude of other psychological, social and physiological consequences. Even after her offender was convicted, she did not find relief from her traumatic experience. Elizabeth participated in a Victim-Offender dialogue, which allowed her to find peace with what happened. She was finally able to feel that her experience was over and the nightmares and anxiety

dissipated. (Elliot, 2011, p. 64) Although the restorative approach has afforded many victims peace of mind, it is not without obstacles.

The Restorative Justice project is one that is funded and put in place by our current penal system. This has caused the Restorative Justice approach to alter its objectives and language to match that of the criminal justice system. A retributive lens has therefore been adopted, causing the Restorative Justice program to put less focus on victims and their needs, instead, adopting a punitive stance. (Piché & Strimelle, 2007, p. 40) Thus the program is not evaluated on whether it meets the needs of victims and has become another form of punishment.

A second alternative approach is that of Transformative Justice. Like Restorative Justice, it puts a focus on restoring the harm caused to a victim while including the offender, the victim's family and the community in the conflict resolution. However, this approach will go further than Restorative Justice by considering the broader picture. One event cannot define the harm done. A look into past events, social causes, as well as social injustices is necessary in order to examine the wrong done properly. The focus is therefore not just put on victims and their needs, but why harm has been committed. (Morris, 2000, p. 4-5) " Transformative Justice requires metamorphosis at all levels of society. Victims become survivors; perpetrators become good neighbors; powerful people learn to wield their authority responsibly or become less powerful. Part of the process of transformation, therefore, entails inculcating new values in the society." (Daly, 2000, p. 83)

An example of a Transformative Justice approach is Native American peacemaking. This approach consists of a spiritual process allowing individuals to restore harmony to the community. " Peacemaking focuses on the maintenance of relationships. If people treat each other with respect and people accept their responsibility, things move toward a feeling of harmony, and justice has really been done." (As cited by Medelowitz, 2008, p. 1) In this process, a large circle of individuals in the community and those involved in the conflict, will seek to restore the pains and harm caused on the victim, all without villainizing the " wrong doer". This process will " bring peace through good feelings, not through fear. Peacemaking involves deep listening, not defending, arguing, forcing" (Montur-Angus, 1995, p. 256)

A pitfall that this application of Transformative Justice faces is that of our current criminal system. This dominant system rejects aboriginal approaches to conflict resolution by not allowing aboriginal communities the proper resources or control to assert their own " criminal" matters. Therefore, the idea that there may be more than one way to address societal wrongs than the one preached by the dominant system is rejected. (Montur-Angus, 1995, p. 251) Briefly, it is clear that the current criminal justice system is an obstacle to Transformative Justice. Lastly, Social Justice and Abolition Democracy as an alternative approach.

Davis explains that if the penal system were to be abolished, a substitute would not lie in a single alternative or prison like alternative, but a multitude of alternatives to imprisonment that would address greater issues of racism, sexism, classism, etc. in society. These alternatives would include "



demilitarization of schools, revitalization of education at all levels, a health system that provides free physical and mental care to all, and a justice system based on reparation and reconciliation rather than retribution and vengeance.” (Davis, 2003, p 107) Therefore, in order to allow abolition, criminology must be dedicated to the abolition of inequalities of wealth and power, life chances or it will fall back into correctionalism. (Taylor, Walton and Young, 1973, p. 289) An example of an application of this abolitionist approach would be the campaign to decriminalize drug use. This campaign has led to many countries, such as the Netherlands legalizing certain drugs like marijuana.

Davis explains that this process of decriminalizing drug use allows addressing issues of racial overrepresentation the penal system all while achieving the goal of decarceration as a large number of people of color who are incarcerated because of the drug laws are decriminalized with this process. (Davis, 2003, p. 109) Beauchesne explains how the Dutch Drug policy approach was accompanied with the objective and goal of aiding those who have problematic uses of drugs by permitting access to treatment programs. (Beauchesne, 2006, p. 117) Rehab programs are currently costly and unavailable to poor individuals. Accordingly, making them free of charge addresses issues of classism. However, this abolitionist approach is not without any pitfalls. An important pitfall is that of “preaching to the choir”.

Julia Sudbury explains that abolitionist will often discuss abolition and it's approaches to other “like minded” people. However, in order for approaches such as Social Justice and Abolition Democracy to be possible, abolitionist

need to reach beyond their comfort zones and speak to those who might not necessarily oppose prisons. (Sudbury, 2009, p. 180) By discussing with them, a mass movement can be created that will allow to dismantle the current penal system by shifting popular opinion of abolition. To conclude, this paper has demonstrated why activist and scholars have rejected reliance upon the current penal system and its structures to put forth alternatives that they find will be more successful and less repressive.

We have seen how abolitionist have sought for prison abolition because of the lack of success for them to meet their own goals, we have looked over total penal abolition and how it is preached due to the societal injustices that the penal system reinforces, such as sexism, classism and slavery. And to finish, we have seen an overview of three alternatives: Restorative Justice, Transformative Justice and Social Justice and Abolition Democracy. We have explored different ways that these alternatives are applied in society and the pitfalls that they present. As a result, it is clear that we still have a long way to go for abolition of the penal system and its structures as many obstacles stand in the way of this vision being possible. It has been made clear that in implementation of alternatives in the current penal system does not work, as their values, language and goals are different.

Abolitionist research should find a way of implementing alternatives and dismantling the current penal system, without them both intertwining as this causes alternatives to regress to retributive practices. An alteration of general perceptions of crime would also be needed in order for abolition to be fathomable.

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