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‘It’s a long road to wisdom, but it is a short one to being ignored’¹: moving forward towards abolition

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You see, if I look at my own experience ... because I live for more or less a century. I am 84 now... when you have such a large space to see all the things... all the things you have seen change... When you look in such a sort of way on it then... you know that things can change very fast... I am firmly convinced that nobody knows about the future... We should certainly not think that criminal justice could not be abolished.²

The papers brought together in this collection were all presented to *European Group for the Study of Deviance and Social Control* annual conferences between 1981 and 1988. Despite the quarter of a century since they were first published being characterised by a period of penal expansion it is important that we, like Louk Hulsman in the quote above, retain a belief in the possibility of penal abolition. Indeed this expansion in the sheer number of people incarcerated (or otherwise supervised by criminal justice agencies) and the growing punitive ideology underpinning many other aspects of social policy, makes abolitionist ideas even more essential in the struggle for social justice. In this conclusion we explore how the contributions included in this collection demonstrate the continuing importance of abolitionist thought in understanding and responding to the contemporary punitive state.

The importance of abolitionist theory

Abolitionism represents a concerted assault upon the logic of the penal rationale and its current deployment in the institutions of the criminal law. It

¹ The title is from the lyrics of ‘Flowers in your Hair’ by *The Lumineers*

² Cited in Roberts, R. (2007) ‘What happened to abolitionism? An investigation of a paradigm and a social movement’, Unpublished MA Thesis London School of Economics p.36

is therefore essential, as Willem de Haan pointed out in chapter four, for abolitionist analysis to be thoroughly grounded in social theory and moral and political philosophy. Punishment may well have no moral defence, but abolitionism must have one in order to survive and grow in contemporary societies. By engaging with contemporary social theory abolitionism is not only given a new conceptual language and continued relevance in times of rapidly changing social (and penal) circumstances, but it also helps develop a new rationale and philosophical justification for abolitionism itself. Willem de Haan makes a convincing argument that abolitionists must demonstrate not only that punishment is morally flawed but also that it is *possible* to imagine a world without prisons. Drawing the abolitionist's attention to the value of philosophy, he calls for normative and 'utopian' thinking to show that punishment is not inevitable. Like a number of other abolitionists, perhaps most notably Barbara Hudson,³ he makes connections between abolitionism and contemporary theories of justice. Both Barbara Hudson and Willem de Haan conclude that punishment is incompatible with justice – in other words justice cannot be created or restored through the criminal law. That we must strive for justice without punishment is an important argument for abolitionists to make.

Central to abolitionist theory is a rejection of taken for granted assumptions about the meaning and nature of 'crime'. Abolitionists recognise that 'crime' is socially constructed and, in the words of Louk Hulsman, has no 'ontological reality' – it has no essence or essential characteristics.⁴ As Sebastian Scheerer argues in chapter five the formation, deployment and hegemony of the language of 'crime', 'criminals', 'offenders' and so on, has proved to be historically significant in terms of the justifications and expansion of the penal apparatus of the state. Whilst it is therefore important to reject such language abolitionists neither reject 'reality' nor are they 'utopian' and 'idealistic' as some critics claim. These 'left realist' critiques are effectively responded to by Heinz Steinert in chapter three. Indeed, as many of the chapters in this book clearly demonstrate, detailed accounts of the actual reality of the criminal process provide powerful empirical evidence to support arguments in favour of abolition.

Within abolitionist theory the penal apparatus of the state is firmly located within its socio-economic, historical and political contexts. As Joe Sim highlights in chapter eight, prisons are 'warehouses for the poor' and thus to remain both theoretically and politically potent abolitionism must continue to engage with contemporary writings on the political economy of punishment

and related disciplines. It also remains a truism that the increasing authoritarianism in penal regimes and policing practices can only be understood when located within the wider drift towards a more authoritarian 'law and order society'. Raffaele Calderone and Piere Valeriani similarly argue in chapter seven that prisons are 'theatres of class conflict' and therefore it is important, if anti-prison activists are to be successful, that they make connections with left wing political organisations and other social movements promoting freedom, social justice and recognition of common humanity. In chapter three Heinz Steinert calls for abolition to be understood as part of a wider political struggle against repression, domination and inhumanity. In this sense abolitionism is a broad based liberation movement aiming to emancipate the powerless and dehumanised. As a number of chapters have highlighted, abolitionists search for non-authoritarian ways in which the consequences of 'crime' and troublesome conduct can be minimised.

The consistent failure of criminal justice

Abolitionists recognise that the criminal law cannot provide safety and protection and we cannot achieve liberation and emancipation through punitive means. Criminal processes always fail as they are about domination and as such are incapable of successfully responding to the terrible events and losses that human beings sometimes have to face. The criminal law is clouded in a great deception – that it exists to serve the people – but people are always subservient to the needs of the penal system, which itself serves its masters and the higher interests of the state. As Rene van Swaeningen argues in chapter ten, we should be very wary of those who place the institutions of criminal law on a pedestal and as Jolandeuit Beijerse and Rene Kool argue in chapter twelve, be very sceptical of the apparent seductions of the criminal law

So what then does the criminal process actually achieve? It is particularly good at damaging human beings and then 'othering' them so that they become social outcasts. It creates false hierarchies, delivers pain and morally degrades the poor and powerless. Significantly, the criminal process is also a means of using people to demonstrating power – *state power*. It has also, as Sebastian Scheerer highlights in chapter five, proved to be very successful in the colonisation of the life world. The penal system, consumed by a 'pathological over-criminalisation', has led to not only the rapid expansion of state bureaucracies and placed new populations of petty offenders under penal control but also has significantly increased the repressive capabilities of state power.⁵

³ Hudson, B.A. (2003) *Justice in the Risk Society* London: Sage

⁴ Hulsman, L. (1986) 'Critical Criminology and the concept of Crime' in *Contemporary Crises* Volume 10, pp 63-80

In their opposition to violence abolitionists are particular concerned about the violence of state. For Jacqueline Bernat de Celis prisons are places of brutality, harm and death whilst Joe Sim argues that prison regimes are predicated on violence, drawing specific attention to the institutionalisation of hegemonic masculinity and male violence. He also evidences here extreme male violence perpetrated by prison officers. A number of the chapters explored issues around prison staff and highlight how prison officers naturalise the brutality of the prison environment. Under such conditions there appears to be a change in the moral threshold of prison officers. Where a palpable hostility exists between prisoners and prison officers – which Phil Scraton and Kathryn Chadwick in chapter nine argued is generated by the hierarchical nature of prison officer authority – other pains generated by the daily practices of repressive penal regimes are exacerbated even further.⁶

By recognising that prisons are difficult places for people to survive in Scraton and Chadwick challenged the individual pathology underscoring official discourses of why people take their own lives in custody. Self-inflicted deaths in prison are not the result of the failings of ‘high risk inadequate’ but of the inherent harms of imprisonment. Ida Koch in chapter six also explored these harms detailing the awful long term damage that the mental isolation of solitary confinement inflicted on detainees, destroying previous attachments and making future mutuality virtually impossible. For Raffaele Calderone and Piere Valeriani prisons increase the propensity for dangerousness rather than reduce it. The greater the penal repression, the more austere the penal regime, the more intense the disciplinary techniques deployed, the more likely prisoner resistance, disturbance and outbreaks of physical violence.

Radical alternatives beyond criminal justice

As Joe Sim, in chapter eight, points out any solution to the penal crises must start by closing prisons and other penal institutions and not building new ones. To achieve this requires the creation of alliances with progressive social movements and especially with the people directly impacted by the excesses of the criminal law such as prisoners’ families and ex-prisoners. As the chapters by Willemien de Jongste and Marijke Meima make clear, abolitionists must also construct a progressive alliance with feminist, victim and other pro-justice groups based on shared concerns about the harm

perpetrated against vulnerable groups. Central to building this coalition is the positive agenda of abolitionism. As Angela Davis has recently argued:

abolition involves much more than the abolition of prisons. It also involves the creation of new institutions that will effectively speak to the social problems that lead people to prison. ... (It requires the) shifting of priorities from the prison-industrial complex to education, housing, (and) health care.⁷

Social inequalities and social injustice are the most significant problems we face. Even when looking at inter-personal and relational conflicts abolitionism points to the need to consider broader structural and political contexts. It is clear that we require solutions based upon equality, equity and social justice rather than penal repression. Abolitionism therefore combines the advocacy of change in the penal system with a demand for radical change at a societal level.

New ways of resolving conflicts, troubles and difficulties are needed not only for those problematic behaviours currently processed by the criminal law but which also address the harms of power and interpersonal abuses – such as sexual violence, corporate harms, environmental destruction and state sanctioned killings – problems and conflicts which are largely neglected by the criminal law and penal system. As a number of the previous chapters have noted abolition means adopting a different way of looking at the world – a different way of thinking. Central to this, as Louk Hulsman⁸ has highlighted, is the need to learn not to think about ‘crime and punishment’ – we need to decolonise ourselves of the language of penal repression, domination and authoritarianism. We must learn to take troubles, conflicts and individual and social problems seriously without falling into a punitive trap – to abolish repressive state apparatus and replace them with assistance for conflict resolution and other ‘radical alternatives’ that in the *real* world actually help people.

A number of key principles underscore these radical alternatives. Abolitionists acknowledge that most problematic and troublesome behaviours are dealt with outside the criminal process – interventions by the penal law are exceptions rather than the norm.⁹ Abolitionists also recognise human diversity whilst at the same time that ‘offenders’ are not exceptional and cannot be othered as ‘them’. By recognising the nuances and diversity of

⁷ Davis, A.Y. (2012) *The Meaning of Freedom*. San Francisco: City Lights Books pp. 52, 113

⁸ Hulsman, L. (1986) ‘Critical Criminology and the concept of Crime’ in *Contemporary Crises* Volume 10, pp 63-80

⁹ *Ibid*

⁵ See Cohen, S. (1985) *Visions of Social Control* Cambridge: Polity Press

⁶ See Scott, D. (2014) *The Caretakers of Punishment* London: Palgrave

struggles for justice abolitionists recognise that there can be no one 'blanket alternative'. Abolitionist alternatives are based on a realistic assessment of what is possible, they engage with people's lived experiences and offer realistic ways in which human conflicts and problematic conducts can be managed. In chapter fourteen Marti Gronfors provided a case study of one possible alternative – mediation. He highlights the crucial distinction between resolving conflicts and solving problems – mediation can deal with communication between the parties to a conflict, but problems require more specialist interventions. An abolitionist vision of a future society would see the oppressive and authoritarian penal apparatus – based around repressive policing and pain inflicting prisons – replaced perhaps by a new 'Reconciliation and Conflict Resolution Service' and expert 'Problem Solving Services'. Compensation, support and redress for the person harmed could be the core functions of such services. Drawing of Willem de Haan's arguments in chapter four we would see the use of 'sanctions' rather than punishments.¹⁰

Finally, there is the problem of ensuring that abolitionist wisdom informs policy and practice in societies which deploy repressive and authoritarian means in response to 'criminality'. Abolitionists must walk a tightrope between being co-opted by state agencies and being defined out of the dialogue all together. In a crucial contribution to the debate, Thomas Mathiesen talked about the 'competing contradiction' – an argument that could compete with dominant ideologies and discourses on 'crime' and punishment but which at the same time undermined and contradicted their central logic.¹¹ This idea is essential for abolitionist interventions in the present. As Joe Sim has argued, we must look to 'exploit contradictions' in the existing system whilst engaging in counter-hegemonic struggles and forms of contestation that allow current 'common sense' on 'crime' to be turned into 'good sense'.¹² To achieve this abolitionism needs therefore to take three key steps:

1. *Ensure theoretical and political coherence* by developing an understandable counter-hegemonic set of principles that can challenge common sense and authoritarian ideologies.
2. *Build a social movement* by making alliances and constructing an alternative power base that could have political influence.

¹⁰ For discussion here see Boonin, D. (2008) *The Problem of Punishment* Cambridge: Cambridge University Press

¹¹ Mathiesen, T. (1974) *The Politics of Abolition* Oxford: Martin Robertson

¹² Sim, J. (2009) *Punishment and Prisons* London: Sage

3. *Participate in struggles* whilst recognising that effective resistance must come from below and be determined by the people directly involved.

The goal should be to avoid being co-opted but follow the 'hard road' to greater understanding and wisdom without being 'defined out' and thus ignored. This challenge, expressed in the papers delivered at the *European Group* conferences in the 1980s, continues to be central to debates in abolitionism today.

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