

Visualising an abolitionist real utopia: principles, policy and praxis

In his Willem Bonger memorial lecture in 1990 Stanley Cohen laid down the definitive challenge for penal abolitionism. Cohen (1990) argued penal abolitionists must adhere to three potentially contradictory demands: (1) deliver honest, rigorous and relevant intellectual enquiries into key issues and problems confronting the scope and application of modern criminal processes; (2) present feasible, realistic and viable alternatives to existing dehumanising practices that provide immediate and effective aid for individual sufferers; and (3) construct a systematic, coherent and radical normative framework that can provide a road map for progressive social change rooted in the principles of social justice and human rights. For Cohen (1990) penal abolitionists must be prepared to honestly answer the question *what can we do right now* to mitigate the humanitarian crises confronting contemporary penal practices without abandoning the broader obligation to promote radically alternative responses to troublesome human conduct. To appease Cohen's three 'voracious gods', penal abolitionists must combine the ethical imperative to promote immediate help with a political desire for radical transformations of social and penal systems. This necessitates recognition and engagement with the problems and possibilities of our historical moment *alongside* a disruption of the ideological limitations placed upon what is considered appropriate and feasible. In other words Cohen (1990) calls for penal abolitionists to privilege pragmatic interventions that can also incorporate utopian visions of how current punitive realities can be transcended (Carlen & Tchaikovsky, 1996; Coleman et al, 2009).

One possible theoretical route pairing 'realism' and 'utopianism' is to be found in the work of Anthony Giddens (1990, 1994). For Giddens (1994: 250), "possible futures are constantly not just balanced against the present but actively help constitute it" and therefore it is neither necessary nor desirable to draw a sharp line between 'realistic' and 'utopian' potentialities. Building upon both conservative and socialist political philosophies to construct a third way, Giddens (1990: 155) argues 'utopian realism' can provide the platform for the construction of an alternative reality based

upon “institutionally immanent possibilities”. Giddens’ utopian realism has been applied to criminology through the work of Ian Loader (1998) who points to the importance of rigorous scholarship; the privileging of normative theory; and that proposed interventions must have direct and practical intent so as to compete with official discourses on ‘crime’ and punishment.

A utopian realist criminological stance endeavours to connect issues of crime and social regulation with questions of ethics and politics, and enter the public conversation about crime equipped with an articulated, principled and future orientated set of normative values and political objectives (the utopianism). But it also seeks to engage with the *realpolitik* of crime and criminal justice, and formulate (for example, crime reduction) proposals that have some immanent purchase on the world (the realism). (Loader, 1998: 205)

Despite initially appearing useful points of departure to address the concerns posed by Cohen (1990), the approaches of Giddens (1994) and Loader (1998) are fatally compromised through their foundations in conservative political principles eulogising market capitalism, thus blunting much of its radical liberating potential. A much more promising model also aspiring to ground visions and strategies of radical transformation within immanent real world conditions has recently been advocated by Eric Olin Wright (2010). Drawing upon Marxism and Anarchism, Wright (2010) presents a manifesto envisioning what he calls a ‘real utopia’. Embracing the “tension between dreams and practice”, real utopias are pragmatic interventions shaped through the utopian imagination but “grounded in the real potentials of humanity” (Wright, 2010:6). For Wright (2010) a real utopia is a form of emancipatory knowledge that entails the explicit intention of not just understanding individual and social problems, but generating information that can challenge human oppression and transform existing hierarchies of power. Therefore the ‘abolitionist real utopia’ proposed in this chapter shares the concerns of Ian Loader regarding scholarship, ethics and pragmatism, but follows Wright (2010) by situating itself as a form of emancipatory knowledge with the explicit aim of undermining the logics generating social inequalities and the deliberate infliction of pain and suffering.

An abolitionist real utopia has three central components. First, it *diagnoses and critiques the power to punish* in advanced capitalist societies. This entails identifying the hurt, suffering and injuries inherent within, and generated through, criminal processes and critically reflecting upon the legitimacy of the deliberate infliction of pain. Second, it advocates visions of radical alternatives grounded in progressive *normative principles* that build on continuities and engage with the possibilities for action in our historical conjuncture. This ‘abolitionist compass’ helps navigate a path towards pragmatic interventions that enhance existing, or develop feasible, policy relevant alternatives to both capitalism and the punitive rationale. Third, it has a clear strategy of *emancipatory change* to reduce social inequalities and current penal excess. This is to be facilitated through ‘interstitial strategies’ (Wright, 2010) that seek to build new realities *outside of the capitalist state* or to draw upon social movements that may eventually lead to ruptural transformation (Christie, 2004; Sim, 2009; Ruggerio, 2010) alongside promoting progressive reforms that exploit contradictions *within the capitalist state* (Sim et al, 1987; Sim, 2009).

The aim of this chapter is therefore to directly engage with Stanley Cohen’s three competing loyalties from an abolitionist real utopia perspective. My response is structured through a consideration of the abolitionist real utopia contribution to emancipatory knowledge. In the next section I briefly explore ten theses outlining the abolitionist diagnosis and critique of the criminal process. This is followed by a consideration of the normative principles underscoring an abolitionist compass and their illustration through a number of historically immanent policies and practices. I then address the key question ‘*what can we do right now*’ to mitigate the humanitarian penal crises by advocating an ‘attrition model’ (Knopp, 1976) which could reduce prison populations through exploiting gaps, cracks and crevices within existing policy and practice. I conclude with a discussion of the continued importance of grass roots activism in both determining and successfully implementing long term radical alternatives and broader social transformation.

Diagnosis and critique

To meet Stanley Cohen's demands an abolitionist real utopia is required to demonstrate its relevance to contemporary debates and practices by honestly and rigorously enquiring into what is wrong with modern social and penal systems. This *diagnosis and critique* of the power to punish and associated criminal processes, can be briefly sketched through an overview of ten inter-related penal abolitionist theses.

1. *The problem of definition: The concept of 'crime' is an unrealistic social construction that has no fixed meaning or reality.*

'Crime' is a social construct shaped by both temporal and spatial dimensions. Rather than being fixed and constant, the meanings and content of the 'criminal label' change depending upon time and place (Durkheim, 1893). There may well be deplorable and wrongful acts that can be retrospectively identified across temporal and spatial dimensions, but there is no such thing as 'crime' (Christie, 2004). The concept of 'crime' is understood as an umbrella term bringing together a diverse set of behaviours that are united only by the criminal process itself. Fraud, burglary, rape, racist violence, genocide, and environmental pollution have nothing in common and as such there is no essence to 'crime' (Hulsman, 1991). Further, 'crimes' are neither the most individually or socially destructive acts, nor are the most harmful behaviours necessarily defined as 'crime'. Many highly damaging personal hardships do not fall within the definitional rubric of 'crime'. 'Crime', therefore, has *no ontological reality* (Hulsman, 1986). A 'crime' is merely a legalistic construction of the real where meanings attributable to an act are determined by the language, meanings and logic of the criminal law (Christie, 1981).

2. *The problem of measurement: 'Crime' is all-pervading but only a small fraction of criminalisable acts are officially defined as such.*

'Crime' is normal: troublesome acts are ubiquitous in advanced capitalist societies. Problematic situations, antagonism and human conflict are part of everyday life and

will continue to be so whatever the social circumstances (Hulsman, 1986). Human imperfections are inevitable, and even if people conformed closely to esteemed moral principles, there would still continue to be rule infraction of some kind or other (Durkheim, 1893). We should acknowledge the universality of conflict and its implications for understandings of human life. The real amount of problematic behaviour in society is hidden, remaining private knowledge. The public knowledge of 'crime', drawn from official statistics and channelled through the media, can only ever present us with a miniscule account of the actual number of acts that *could* be defined as 'crimes' (Hulsman, 1991). Knowledge predicated exclusively upon official constructions of 'crime' is therefore at best limited and at worst dangerously misleading.

3. *The problem of classification: People labelled criminal are not radically different but reflect social disparities.*

There are no radical differences between those labelled 'criminal' and other humans. All people break the law in some way or other, but only some are subsequently criminalised. Such a distinction is primarily established when similar behaviours are treated differently depending upon the social backgrounds of perpetrators and the ability to create either social or psychic distance (Christie, 1981; Hulsman, 1991). At the heart of the criminal process is the deployment of 'dividing practices' (Foucault, 1977). Through separating the manipulative from the genuine, the deserving from the undeserving, and the 'us' from the 'them', a false dichotomy is established facilitating differential treatment (Cohen, 1985). The application of the criminal label must be understood within the context of who undertook the act; when it was undertaken; where it was undertaken; and how it was interpreted by a given social audience. The criminal label is much more likely to be successfully applied when there is a lack of familiarity or knowledge or where other means of distancing have been established (Christie, 2004).

4. *The problem of culpability: Criminal law classifications privilege pain and blame and its language, meanings and logic should be deconstructed.*

A core function of the criminal law is to apportion individual guilt, culpability and blame (Hulsman, 1991). Complex human interactions, intentions and relationships are simplified through its narrow individualising and pathologising logic. Interpreting meanings and reality through the language of 'crime' not only severs a conflict from its situational context but also reifies problems through the adoption of the rules and professional discourses of the law, limiting potential forms of redress or possible participation for those party to problematic incidents (de Haan, 1990; Swaaningen, 1997). An act which is reconstructed through the *blaming* language of 'crime' inevitably privileges solutions grounded in the deliberate infliction of *pain*, making it more difficult to find non-punitive interventions and increasingly alienating people from their life world (Hulsman, 1986, 1991; de Haan, 1990).

5. *The problem of effectiveness: The deliberate infliction of pain is iatrogenic, undermines human dignity and cannot effectively resolve conflicts.*

The deliberate infliction of pain destroys human well being and undermines social status and relationships. Inflicting pain, hurt and injury in response to troublesome conduct does not inspire prodigious human growth or satisfactorily resolve disputes. Rather it has iatrogenic consequences for individuals and society. On an instrumental level penal institutions in contemporary advanced capitalist societies are almost totally ineffective in terms of addressing law breaking (Mathiesen, 1990; Scott, 2009b). The deliberate infliction of pain only causes further harm rather than dealing appropriately with problems. Punishment is therefore like a toxic waste that damages and dehumanises all who come in contact with it. It must be handled with great care and can at best only be a pyrrhic victory.

6. *The problem of relevancy: The impact of criminal processes in handling problematic conduct is significantly over-estimated.*

Most episodes of human conflict are dealt with privately via informal means in the life world and recourse to the criminal law occurs only in exceptional circumstances (de Haan, 1990). The *norm* is to respond to a problem, at least in the first instance, by drawing upon other available resources for handling conflicts (Christie, 2004). Many

events, such as matrimonial difficulties or problems at work, very rarely involve the criminal law. Most people, most of the time, tap into already existing means of handling conflicts and problems in society that are part of the *life-world*. This disclosure brings into sharp relief the remarkably limited impact of the criminal processes upon most human (mis)conduct. As the criminal law is largely *irrelevant* to the vast amount of troublesome acts this raises profound questions regarding the taken-for-granted assumption that the current form and nature of the criminal process is absolutely necessary in modern societies (Hulsman, 1986). As most criminalisable events are never punished (Cohen, 1991) less use of the criminal law may lead to greater discoveries regarding how people deal with problems and encourage those who need help to seek it.

7. *The problem of political legitimacy: Punishments both reinforce and mystify existing hierarchies of power.*

As much human behaviour can potentially be classified as 'crime', understanding the *power* to define acts as criminal is crucial (Christie, 2004). The application of the criminal label must therefore be understood within its material context, for the criminal law works like a cobweb letting "the big bumble bees break through" whilst catching "only the small insects" (RAP, 1972: 32). The people processed by the criminal law have a disproportionate catalogue of individual difficulties and social disadvantages concerning health, housing, education, and employment (Scott, 2008; Scott & Codd, 2010). Punishments, such as incarceration, can become a symbol of political vigour by removing relatively powerless 'undesirable' individuals from society whilst at the same time performing an ideological function diverting attention away from wider social inequalities and the harms of the powerful (Mathiesen, 1974, 1990; Fitzgerald & Sim, 1982; Sim, 2009).

8. *The problem of moral legitimacy: It is impossible to justify deliberate pain infliction so we must always punish with a bad conscience.*

'Pain delivery' contradicts many basic human values, such as love, kindness, and compassion (Christie, 1981, 2004). The deliberate infliction of pain serves no social

purpose, although in response to certain heinous acts punishment may be considered inevitable (Durkheim, 1893; Christie, 2004). Such conclusions, however, should be reached with great unwillingness, regret, sadness and sorrow. Pain delivery can never provide a balance or 'put right' the wrong of a 'crime' perpetrated. Punishment should always be accompanied with a 'bad conscience' (de Haan, 1990). If we cannot defend its moral legitimacy, then it must be relied upon as sparingly as possible, and the many limitations of the punitive rationale constantly re-stated.

9. The problem of penal excess: The criminal process is now out of control.

Politicians drawing upon the language of being tough on 'crime' to clamp down on socially disadvantaged populations who are constructed as 'enemies within' find it in the long term difficult to draw back from the rhetoric of law and order (Sim, 2009; Scott, 2013a). Prison populations and community punishments around the world have reached record highs in recent years and it is clear that now that the 'jack is out of the box' it is extremely difficult to predict or contain its reach. We live in times of penal excess and this may have many negative consequences for the social fabric.

10. Punishment as a social problem: The power to punish and its institutions present a direct danger to civilised societies.

In the long term the colonisation of the life world by the punitive rationale is likely to make society less caring; undermine realistic ways of addressing human conflicts and social problems; de-skill people's ability to handle conflict; weaken social solidarity and social bonds; create more problematic and troublesome incidents; and further perpetuate social inequalities. Indeed, punishment and social inequality seem to be intimately connected (Scott, 2013a). Both profoundly dehumanise. Human relationships are much better when there is greater equality between humans and little or no reliance upon pain infliction. Inevitably punishment is a form of social injury. It is societal self harm.

What is required is a deconstruction of the 'reality' assembled through criminal processes and the adoption of meanings and understandings derived from the situational wisdom of the life-world where the conflict emerged, alongside the promotion of alternative means of conflict handling that recognise dignity, equality and social justice (Christie, 1981; Hulsman, 1986, 1991; Steinert, 1986). It is to such a consideration of real utopia alternatives that the chapter now turns.

Alternatives and the abolitionist compass

Talk of alternatives, radical or otherwise, at the beginning of the twenty-first century has become retarded. At the forefront of contemporary debates are well grounded concerns that the promotion of alternatives can lead to 'net widening', 'harsher punishments' and/or the further 'legitimation' of existing repressive and exploitative practices (Carlen & Tchaikovsky, 1996). Alongside this many existing alternatives, at least to imprisonment, are criticised for being ineffective and failing to engage peoples lived experiences (Cohen, 1985). Yet despite significance limitations total abandonment of emancipatory alternatives is clearly not acceptable (Cohen, 1991). For Cohen (1990) merely critiquing existing penal realities, no matter how penetrating, is never enough. Penal abolitionists must be prepared to directly engage with the problems they diagnose. They must be willing to use their knowledge for *emancipatory purposes* and this necessitates formulating and promoting alternative non-repressive practices. Cohen's (1990) demand for acknowledgement and humanitarian action reflects ethical concerns, but there is also a pragmatic reason to engage: to speak metaphorically, in shark infested waters people are not likely to jump ship no matter how obvious it is that is sinking unless they have something to jump onto. Without rational alternatives unjust penal and social systems will appear permanent and inevitable.

From an abolitionist real utopia perspective alternatives must be historically imminent. The pertinent issue is how penal abolitionists identify alternatives *most likely* to meet Stanley Cohen's insistence upon immediate humanitarian aid, but *least likely* to perpetuate injustice and inequalities or legitimate the existing penal

apparatus of the capitalist state. To achieve this fine balancing act requires alternatives to be firmly grounded in principles - an *abolitionist compass* - that can assist our navigation away from deeply entrenched social inequalities and the problems associated with the criminal process. Six principles underscore the abolitionist compass.

1. *The protection of human dignity and the minimisation of human suffering*

Punishments undermine the sense of self, create harms leading to the ruining the mind, body and spirit and effectively deny claims to a full experience of humanity. The abolitionist compass points towards the opposite – the reduction of stigma, the minimisation of harm and suffering and the protection of *human dignity*. The abolitionist compass is grounded in the normative principle of human rights that precipitates the recognition of a fellow human beings innate dignity and the symbolic and cultural respect of other people's shared humanity. Human rights provide a basis for critiquing *dehumanisation* through valorising basic human characteristics that must be promoted and protected at all costs. The abolitionist compass places ethical boundaries upon certain interventions and helps steer us towards alternatives that reduce unnecessary human pain and suffering.

2. *The emancipatory values of social justice*

Rather than being justified through the deliberate infliction of pain, the directions of the abolitionist compass are magnetised by the normative principle of social justice. An abolitionist real utopia is a form of emancipatory knowledge that challenges inequality, unfairness and injustice. Conflict handling initiatives must always be contextualised within the *political* commitment to a society where people have "equal access to the resources they need in order to live the life they have reason to value" (Callinicos, 2003: 98). The abolitionist compass not only problematises the current application of the criminal label, which overwhelmingly punishes the poor, disadvantaged and vulnerable, but actively promotes interventions which reduce social inequalities and aim to meet human need. Social justice also provides an alternative ethos for interventions grounded in basic humanistic values. The values

of social justice emphasise responses to human conflict that foster trust, security, mutual aid, solidarity, care, compassion, hope, love, social inclusion, a sense of fairness, and recognition of shared humanity (Swaaningen, 1997; Cohen, 2001; Christie, 2004). The abolitionist compass is therefore embedded within political and ethical emancipatory values.

3. The emancipatory logic of the 'competing contradiction'

To avoid 'legitimizing' the penal apparatus of the capitalist state the abolitionist compass points to alternatives that implicitly or explicitly compete with, and contradict, existing policies and practices (Mathiesen, 1974; Callinicos, 2003). Abolitionist real utopia alternatives must be able to 'compete' with neo-liberal capitalism and the criminal process by drawing upon interventions grounded in historically immanent potentialities and simultaneously possessing an emancipatory logic that 'contradicts' current institutions and practices of repression by undermining capitalist and punitive rationales. Following Cohen (1990), the abolitionist compass promotes interventions that can respond immediately to social inequalities and the humanitarian crisis confronting prisons whilst *at the same time* open the way for more radical transformation.

4. Is a genuine alternative to the criminal process

To avoid net widening, alternatives must actually *replace* a punitive sentence of the criminal courts (Cohen, 1980). Interventions should not be considered 'add ons' or initiated alongside existing penal practices. The abolitionist compass therefore guides us towards the promotion of *genuine alternatives*. For example, an 'alternative to prison' must be a direct replacement for a prison sentence. That is, it is *in place of* a prison sentence that would otherwise have been imposed against a given individual (Ibid). The intervention is a *real* 'alternative' as it systematically removes people from the clutches of the criminal law.

5. Incorporates legal safeguards and mechanisms of accountability

To avoid an unintentional or hidden escalation of pain, real abolitionist real utopia alternatives must have sufficient transparency, procedural safeguards and rooted in the principles of fairness, transparency, equality and legal accountability. Care should be taken therefore to ensure that any proposed alternative intervention for handling conflicts does *not* become a form of 'punishment in disguise' or a 'prison without walls' (Cohen, 1980).

6. *An intervention is meaningful, relevant and allows constructive participation in the norm creating process*

To engage with people's lived experiences and have a real chance of addressing problematic behaviours, conflicts should be addressed within the existing situational context unless the perpetrator presents a serious danger to others or consensually agrees to move to an alternative environment. This implies adherence to democratic values and principles which requires unhindered participation, processes of shared decision making, and validity for the voices to all concerned in the creation of social norms. All the evidence seems to indicate that the more punitive the measures taken, the poorer the results obtained (Christie, 2004). Punishment may be completely inappropriate as a response to an unwelcome act (Hulsman, 1991). It may simply be that there needs to be no more than a symbolic recognition that something has been done (Mathiesen, 1990). People seem to change not when we hurt them but when we provide positive support and encouragement and invest in them as fellow humans.

There is also significant difference between helping someone and supervising or monitoring them (Dronfield, 1980). Interventions based on personality and friendship rather than professionalism can often be the most fruitful, alongside those which allow genuine participation in conflict handling and where people are given opportunities to learn from each other (Ibid). Further, the people responsible for handling or mediating conflicts should have only limited powers - dispute handlers with unassailable authority may utilise hierarchies to distance themselves from those

party to the conflict and consequently find it easier to impose interventions shaped by pain delivery (Christie, 1981).

We can use an abolitionist compass to visualise real utopia interventions looking to challenge social inequalities and promote radical alternatives to the criminal process. It should be made it clear at this point that it is not my intention to explore each possible alternative in depth or outline all of their strengths and weakness. Rather my hope is that through highlighting a number of feasible, realisable and immanent interventions I illustrate *existing potentialities for progressive radical change* and demonstrate that with sufficient political will social inequalities and the current recourse to punishment can be dramatically reduced. In other words, my purpose is not to be comprehensive but to simply show that *immediate change is possible*.

The abolitionist compass utilises the sociological imagination to locate individual difficulties and biographical realities within wider social, economic, political and historical contexts (Mills, 1959). Whilst arguments connecting ‘crime’ and inequalities largely fail to recognise the universality of problematic conduct and focus upon ‘street crimes’ and / or are often grounded in individual and social pathologies, interconnections between inequalities and state punishments are very clear (Scott, 2013a). Inequalities create hierarchies; produce negative constructions of ‘difference’; establish both physical and psychic distance; reduce empathy for the suffering of others deemed lesser beings; undermine social solidarity and breed fear, envy and suspicion. Inequalities provide fertile ground for responses to individual and social problems grounded in pain and blame (Christie, 2000). To reduce the harms of social inequalities effective responses to individual troubles must consequently be accompanied by egalitarian social transformation (Wright, 2010).

The interventions proposed below draw upon Eric Olin Wright’s (2010) real utopia project and the anti-capitalist manifesto devised by Alex Callinicos (2003: 132-139) to present a package of historically immanent welfare orientated policies that can meet the humanitarian demand to immediately address suffering whilst at the same time

potentially facilitate ruptural transformations of capitalist economies. By creating more social equality and thus promoting greater human psychic proximity 'abolitionist real utopia' interventions would intend to make recourse to punishment appear much less palatable.

There are a number of historically immanent policies, practices and designs that could challenge poverty and social disadvantage. I consider three below, all focussing upon addressing material inequalities only.

(1) Redistribution - The robin hood model

A number of possible interventions can follow the 'robin hood model' – that is, they take from the rich and give to the poor. A very small percentage of the 56 million people who live in England and Wales (and indeed most countries in the World) own the vast majority of material wealth. Challenging the legitimacy of such wealth inequalities through progressive taxation would entail significant increases in the tax rate for the richest 100,000 people in the UK but would dramatically reduce inequalities and provide funding for essential public services. Another straightforward historically immanent 'robin hood' policy that could greatly diminish wealth disparities would be to introduce higher inheritance taxes, or, more radically, follow the suggestion of Emile Durkheim and abolish inheritance altogether.

(2) Alternative income rules and models

If the above challenges to wealth were seen as too politically controversial other alternatives transforming current forms of income generation could be promoted. There could be the introduction of a maximum wage to ensure that the accumulation of wealth in future generations is more tightly restrained and creating clear boundaries between the top and bottom of the pay structure (Callinicos, 2003). Alongside this, financial security for all could be secured through the introduction of a universal basic income (UBI) for every citizen. The UBI would radically alter existing relationships in the capitalist market place as individuals would have an

alternative to the 'wage slavery' of current labour-capital relations (Wright, 2010). People could choose to work, or not, and whilst the balance of power would still favour the capitalist, labourers would have considerably more choice than at present.

The UBI would inevitably be strongly resisted by the capitalist class and its agents but possible political compromise agendas could entail the introduction of government assisted wages so that people who currently find it hard to keep down a job, for example through illness, absenteeism, consequences of drug taking and so on and so forth, could remain in employment and thus more likely sustain their lives. Instead of losing their jobs, people with chaotic lifestyles would have their wages supplemented by the government for the times they were not in the work place. To remove any critiques based on less eligibility such an intervention could be accompanied with a commitment to reduce the working week and a commitment to create more meaningful and fulfilling employment for all.

(3) Enhancement of, and equal access to, public service provision.

There could also be a concerted attempt to challenge inequalities in public services. This would include the further enhancement of existing public services and commitments to provide free transport, healthcare, and education. More could also be done to improve housing and accommodation, including the introduction of rent guarantees. These utopian interventions could in effect collectively abolish poverty and dramatically reduce the harm, suffering and dehumanisation associated with wealth and income disparities whilst at the same time contradict to the logic of capitalist accumulation. Such emancipatory policies would protect human dignity, reflect the principles and values of social justice and open the way for progressive forms of conflict handling rooted in transparency, accountability and democratic participation. Such utopian alternatives, if they could mobilise political will, would also be realistic in our historical conjuncture (Callinicos, 2003; Wright, 2010).

Alongside addressing social inequalities *radical alternatives* can also be advocated that handle problematic conduct in an effective and less harm-creating manner than present (RAP, 1971, 1972). I use the word 'alternative' cautiously here to mean practices which are not derived from criminal processes, but with recognition that in everyday life people use many strategies to handle conflicts. People generally try to deal with problems as pragmatically and effectively as possible, and only on relatively rare occasions do they turn to the police and the criminal process (Hulsman, 1986). I think we can learn from this vast array of practices in the life world, and also the point that conflicts are best dealt with in their situational context and where human relationships are characterised by closeness (proximity) rather than distance.

Following Cohen (1990) we must remain politically committed but intellectually sceptical about 'alternatives' to the criminal process. As has been well documented in the past 'alternatives' may not be so humane, cheap, or effective in reducing recidivism as is claimed by their advocates and may in the long run lead to pathologising of new groups and individuals within the net of the criminal process (Cohen, 1985). Abolitionists must also ensure legal guarantees are in place to protect participants and can be invoked when 'things go wrong' (Hudson, 1998). Further, to avoid 'alternative punishments', interventions must be rooted in the abolition of punishment rather than just being alternatives to imprisonment or other penal institutions (Cohen, 1980, 1991; Scott, 2009b). Given the diversity of conduct that we call 'crime' we must also recognise, as Radical Alternatives to Prison [RAP] (1971:14) put it: "there can be no blanket alternative to prison; only a series of different schemes for all the different offenders". In recent times penal abolitionists have not been confronted so much with questions regarding the effectiveness or limitations of possible alternatives, but *whether there exists practical and immediate alternatives at all*. The most pressing concern I think then is the *actual visualisation* of abolitionist real utopia pragmatic interventions in the first instance. Such alternatives here are organised around five main themes.

(1) Turning the system on its head.

The current focus is upon punishing the offender whereas the victim is largely ignored. One radical alternative would be to turn the system on its head (Mathiesen & Hjemdal, 2011). Rather than inflict pain and suffering the aim is to provide help and support; rather than focus on dealing with the perpetrator, focus instead is on the person who has been harmed (Mathiesen, 1991). Safety, support and help is prioritised to people who are 'victims' of 'crime', whether that be in public places like the street or workplace or in the home, as for example in instances of domestic violence and sexual abuse. This ultimately means providing massive investment in support for victims and redirecting criminal justice system budgets to public social services to help rebuild lives for all. Such 'justice reinvestment' could be used to support women's refuges; shelters (for homeless people, drug takers and other troubled people); or drying out centres. There could be universal state insurance against property crime and policing could be completely reformulated – officers could be trained to be a helpful and skilled person who can intervene in a situation that is getting too difficult for conflict participants to handle by themselves – whilst focus could be on the development of an anonymous goods return schemes where the police station becomes akin to a lost property office (Mathiesen & Hjemdal, 2011). Where there is no 'individual victim' reparations could be provided collectively.

(2) Handling and participating in conflicts without the criminal law.

Initiatives have often focussed on the civil law and the concept of tort where compensation rather than penalty is the objective. They have also highlighted key aspects of the civil law, such as the Dutch concept of Dading where the victim and offender agree on a negotiated settlement by both parties (Slump & Emmen, 1993). Abolitionists have also looked to expand the civil law to replace the criminal law, such as suggesting the a return to the Roman Law concept of a Praetor, which is a person who is an enabler and observer of legal action and through renaming 'victims as plaintiffs' (Bianchi, 1991). Alternative means of handling of conflicts have also been suggested that engage more constructively with the community (Christie,

2004). Based on principles of restitution, reparation, reconciliation and mediation there have been calls for the development of informal adjudicatory bodies and community courts; sentencing circles; Neighbourhood centres and Community Boards. Participation in handling conflicts is clearly important for norm clarification within a given society but there must not be a naive adoption of 'community alternatives' or 'informal justice'. All of the above community interventions have to be understood within their wider socio-economic context and also require clear legal safeguards (Swaaningen, 1997).

(3) Prevention rather than cure: providing help and support rather than punishment.

The shift away from punishment can be augmented by a drive towards help and support for all people in society. As mentioned earlier, it is crucially important that people have financial security, decent jobs, a good place to live, effective schooling and comprehensive healthcare. In addition, for children and young adults, the main people processed by the criminal law, greater leisure facilities could be made available. This could include youth clubs; playgroups, nursery schools and adventure playgrounds; active leisure pursuits such as pony trekking, hill walking, sailing; educational programmes in music and art. Children in trouble could be given more intensive educational support; mentoring programmes or by giving young law breakers responsibility in a non-punitive way to create some kind of [limited] attachments and rewarding relationships (Scott & Codd, 2010). For adults there could be non-residential training and educational programmes; free courses at neighbourhood colleges to learn new skills and develop interests and hobbies; life skills support such as jobs interview skills, budget management and healthy cooking and so on and so forth. This could all be enhanced by free and high quality public transport and local infrastructure.

(4) Voluntary and residential treatments.

A great many people involved in problematic situations cannot be considered to be 'ill'. A number of people entrapped within the criminal process, however, may have health problems. These range from mental health problems to substance usage

(Scott & Codd, 2010). Therapy and treatment for some lawbreakers, such as those engaging with problematic substances would undoubtedly be helpful and affordable and specialised clinics could be provided as a voluntary treatment program within a residential setting. 'Treatment' would also be beneficial for people who sexually offend. A substantial number of studies indicate that people who sexually offend can be helped and a strong case can be made for more community-based treatment programmes (Ibid). Much evidence indicates such treatment programmes are as just as effective (Hanson et al, 2002:1048) if not or more effective than those based in institutional settings (Barker & Morgan, 1993; Brown, 2005; Scott & Codd, 2010). Although now closed, effective voluntary non-custodial treatments were found in the UK at the Gracewell Institute established by Ray Wyre (which operated between 1988-1994) and the Lucy Faithful Foundation Clinic in Epsom, Surrey (which operated between 1995 -2002).

(5) *Sanctuary and intentional communities.*

The vast majority of people who break the criminal law are not dangerous and should not be considered as such. There are some people who may, however, benefit from a change of context and environment. One radical suggestion for dealing with such people is the development of intentional communities. One classic example is the 'Gruvberge Village Experiment' in Sweden in the 1970s.

The Swedish authorities purchased a former forestry company village consisting of several houses. The environment was similar to pioneer villages in America's early Western movement. The timber area provided ample possibilities for developing job-skill training programs. The houses provided the experiment with typical home settings. Some participants were allowed to move their families into the houses with them. Job and work-skill training was emphasised, while the semi-free environment and special training programs provided the teaching arena for civil rights and responsibility training, family problem solving, and the development of more constructive personal relationships. (Dodge, 1979: 208)

Whilst any such 'village' today would require sophisticated employment opportunities and leisure facilities the idea of relocating serious offenders in new communities remains possible. Such an intentional community for law breakers could also become a form of 'sanctuary' where serious offenders can be placed in quarantine to allow for time to cool off, the establishment of negations and movement towards what might be considered as acceptable solutions (Bianchi, 1994). Undoubtedly in some extreme cases of violence placement in a 'Gruvberge Village' would not be considered to have sufficient security or symbolical potency to be politically acceptable. Yet the *idea* of such intentional communities for serious offenders *in place of prison* can help highlight that confinement is *not inevitable* or the only option even in highly contentious cases. This may open a space for a more rationale debate on the most appropriate response to such problematic acts. Additionally the idea of developing an 'intentional' or new community could also be available for less serious harms. As a place where people live and share problems together, it could become an option for people with family difficulties. Residential family projects, where each family has a 'family worker' could follow a similar model.

Abolitionist praxis

The final part of this chapter explores possible strategies for the transformation of existing penal realities through 'abolitionist praxis' (Mathiesen, 1974; Sim, 2009; Ruggerio, 2010). Abolitionist praxis has taken a number of forms, ranging from lobbying by penal pressure groups to community based schemes to calls for greater legal rights in prisoners (Dronfield, 1980; Stanley & Baginsky, 1984; Cohen, 1985; Scott, 2009a). A number of abolitionists have advocated what Wright (2010) describes as 'interstitial strategies', which aim to transform existing penal realities through the formation or enhancement of reforms emerging through small openings, gaps or cracks in the system. In other words such strategies operate on the 'niches and margins' of society and are "consciously constructed forms of social organisation that differ from the dominant structures of power an inequality" (Wright, 2010: 324). Interstitial strategies primarily aim to open up new spaces that

can articulate and promote radical alternatives to existing ideologies of punitiveness and institutions of state control. This 'bottom up' approach, closely associated with Anarchism, plants 'seeds within the snow' and aims to make utopias real by bringing them to life in the here and now (Wright, 2010).

A good number of initiatives forming outside the 'dominant structures of power' were highlighted in the previous section on alternatives, but one further example is the abolitionist desire to decolonise the life world of the punitive rational through the creation of a new language for conceptualising individual and social problems (de Haan, 1990). In rejecting the label of 'crime' penal abolitionists have called for the promotion of cultural tolerance of diverse lifestyles, behaviours and attitudes and greater emphasis on cherished human values, such as compassion, care, love and forgiveness (Hulsman, 1986; de Haan, 1990; Christie, 2004). To be sure, if we wish to successfully challenge the problems associated with current penal excess we must deconstruct existing 'common sense' understandings of 'crime' and punishment and develop a new 'good sense' rooted within the principles of dignity and social justice (Swaaningen, 1997; Scott, 2008; Sim, 2009; Scott & Codd, 2010). Such interventions can become an indispensable part of a cultural battle 'from without' aiming to visualise and instil non-punitive values that can complement other visions of non-repressive social controls (Dodge, 1979; Swaaningen, 1986; Vass, 1990).

Yet the strategy of operating in isolation from existing institutions of capitalist societies is not enough. Abolitionist praxis must engage not only 'from outside' the system but also 'from within'. For Cohen (1990, 1991) abolitionism must have both a sophisticated understanding of the limitations of reform and community alternatives yet *continue to work with the capitalist state* to encourage immediate humanitarian interventions. To meet this conflicting demand Sim et al (1987: 49) argue that penal abolitionism should promote interventions that exploit the contradictory nature of both the law and the capitalist state and aim to bring about reforms that can have positive impacts on the everyday existence of marginalized and excluded groups.

Here it is recognised that the capitalist state not only oppresses but can also provide protection (Sim et al, 1987; Cohen, 1994).

The key question that confronts abolitionists is '*what can we do right now*' to mitigate the humanitarian penal crises? In times of record breaking populations perhaps the most obvious institution requiring radical transformation is the prison (Sim, 2009; Scott & Codd, 2010). One feasible strategy of transformation 'from within' that challenges penal excess and meets humanitarian demands is the 'attrition model' (Knopp, 1976). The attrition model utilises existing policies and practices to bring about a profound reduction in prison populations. Directed at the mechanics of the criminal process it has four main aspects.

1. *Excarceration*

Three broad strategies that can be adopted under this heading: *decriminalisation*, *diversion*, and *minimal legal intervention*. (1) Decriminalisation means that restrictions can be placed on existing laws prohibiting of certain *acts*, for example drug taking, prostitution, or 'crimes of migration'. (2) Certain *people*, because of who they are, can be diverted away from custody on the grounds of responsibility or vulnerability. This entails the selective abolition of perpetrators based on their social backgrounds, such as, for example, drug users, women, children, and people with mental health problems (Scott & Codd, 2010). (3) Minimising legal intervention means not using the criminal law or restricting intervention to the legal process itself. Examples include police warnings; discontinuance of proceedings; the virtual abolition of remand sentences; absolute and conditional discharge; suspending prosecution (e.g. on condition person signs up for a rehabilitation programme); finding of guilt but no sentence imposed; suspended sentences; or negotiated financial settlements where the convicted person is able to buy off a prison sentence (Bondeson, 1994).

2. *Negative reform*

Negative reforms utilise the emancipatory logic of the 'competing contradiction' (Mathiesen, 1974). The logic of human rights is one way in which negative reforms

can be pursued as human rights language can both expand the legal rights of offenders and work on a philosophical and political level through the recognition of shared humanity of those confined (Scott, 2012, 2013b). Human rights offer concrete, easily understandable and practical advantages on an every-day and immediate level, whilst they are contradictions in that they also provide an alternative philosophy. As punishment and imprisonment are conceived through the loss of rights, specifically as the suspension of liberty and other citizenship rights, then an uncompromising advocacy of prisoner inalienable human rights to citizenship, despite the limitations of legal discourses, provides an important and direct challenge to the logic of punishment itself. Unlike the liberal humanitarian approach which allow for certain rights to be legitimately removed, an abolitionist logic questions whether the suspensions of liberty can ever be deemed legitimate, providing a contradiction to the very idea of imprisonment.

In the UK in the 1970s and 1980s abolitionists engaged with prisoner rights through radical pressure groups, such as *Radical Alternatives to Prison* [RAP], *INQUEST* and *Women In Prison* and through active participation in prisoner social movements that organised mass collectivised peaceful protests. Indeed, in the UK and many places elsewhere prisoner collective resistance have largely been struggles for better conditions and procedural rights (Fitzgerald, 1977; Ryan, 2003). Alongside calls for humane living standards and procedural safeguards, interventions challenging oppressive occupational cultures of prison staff and the large scale application of programmes for preparing prisoners for their return to society could also possibly be designed to meet the criteria of negative reforms (Sim, 2009).

3. Decarceration

This strategy of transformation entails reducing the scope of the criminal law and devising pragmatic ways of getting those currently incarcerated out of prison as quickly as possible. A number of existing policies and practices could be enhanced and expanded to meet the goal of decarceration, including: reduction of long-term prison sentences; early release schemes; periodic detention and part time

incarceration; halfway homes; the introduction of waiting lists; amnesties and pardons for offenders; and for those in need of treatment release for alternative voluntary therapy, which could include schemes that provide partial detention or are community based. These diverse strategies all indicate that if there was political will, radical reductions could happen immediately. Inspiration for decarceration can be drawn from Finland where it reduced its prison population from 187 per 100,000 in 1950 to 55 per 100,000 in 2000 despite rising recorded 'crime' rates through such policies (Lappi-Seppala, 2012).

4. Moratorium on prison building

This policy formulation assumes that the best way to curtail penal expansionism in the long term is to prevent growth of the physical plant of the penal estate. This can involve calls for both a national moratorium on prison building and also calls for a permanent international ban on prison building (Mathiesen, 1990; Sim, 2009).

Conclusion

To meet the conflicting loyalties articulated by Stanley Cohen (1990) abolitionism must be an emancipatory form of knowledge with a 'utopian' aspect allowing attention and moral judgement to be shifted beyond the criminal process to wider social problems (de Haan, 1990). An abolitionist real utopia can help foster hope and inspiration for radical transformation of existing power relations and educate our desires through *illustrations of what is possible*. This minimalistic vision of the utopian alternative is firmly rooted in practical concerns, though this does not mean that penal abolitionists should automatically rule out more ambitious and radical forms of utopian thinking. Indeed there is a much greater potential for the exploration of the desire for a world without prisons and the fulfilment of social justice when it is not tied to some form of realism, whether that be a real utopia or otherwise, though any development of a more expansive utopianism needs to be very carefully considered and its significant drawbacks taken into account (de Haan, 1990).

Importantly, this chapter has discussed possible options rather than pre-determined solutions that abolitionists must adhere to. There should not be a 'blueprint' for change but rather *explorations of potentialities that sensitise the imagination* to what is possible. There is not one, but a continuum of alternatives to punishment. Indeed "the finished alternative is finished in the double sense of the word" (Mathiesen, 1974: 13). Penal abolitionism is a permanent process. Yet whilst penal abolitionism must be reflexive and be able to adapt to changing circumstances, it must also be closely tied to ideas and interventions proposed by the *agents of change* if it really is to fulfil its potential as emancipatory knowledge. The question remaining unanswered is how effectively can penal abolitionism foster the required political will to realise immanent emancipatory alternatives? The power to punish can only be successfully challenged through an *equally powerful call for alternatives*. The agents of change - *grass roots activists, radical reformers and abolitionist social movements* - are absolutely essential for radical social and penal transformations. Sometimes it is tempting to retreat to ideas of 'utopia', whether realistic or otherwise, when ties are weak with agents of change. In addition, working within the capitalist state and advocating legal reforms can appear much more attractive when alternative power bases are hard to find. Despite the current frailty of many abolitionist social movements, such as those in the United Kingdom, penal abolitionists must not abandon their focus on activism, either individual or collective action, but look to combine grass roots networks with other interstitial strategies and policy orientated interventions. For "only in the struggle and the transformation will future forms [of conflict handling] become evident" (de Haan, 1990: 131).

References

- Barker, M. & Morgan, R. (1993) *Sex Offenders* London: Home Office
- Bondeson, U.V. (1994) *Alternatives to Imprisonment* Oxford: Westview Press
- Briggs, D. (1975) *In Place of Prison* London: Maurice Temple Smith
- Brown, S. (2005) *Treating Sex Offenders* Cullompton: Willan

- Callinicos, A. (2003) *The Anti-Capitalist Manifesto* Cambridge: Polity Press
- Carlen P. & Tchaikovsky C. 1996 'Women's imprisonment in England at the end of the twentieth century: legitimacy, realities and utopias' pp201-218_in Mathews R. & Francis P. (eds) *Prisons 2000* London: Macmillan Press.
- Christie, N. (1981) *Limits to pain* Oxford: Martin Robertson
- Christie, N. (2000) *Crime Control As Industry* London: Routledge
- Christie, N. (2004) *A suitable amount of crime* London: Routledge
- Cohen, S. (1980) "Preface" pp 2-6 in Dronfield, L. (1980) *Outside Chance* London: Radical Alternatives To Prison
- Cohen, S. (1985) *Visions of Social Control* Cambridge: Polity Press
- Cohen, S. (1990) "Intellectual scepticism and political commitment: the case of radical criminology" pp 98-129 in Walton, P. & Young, J. (eds) (1998) *The New Criminology Revisited* London: Macmillan Press
- Cohen, S. (1991) "Alternatives to punishment – the abolitionist case" in *Israel Law Review*, Volume 25, Nos. 3-4 pp 729-739
- Cohen, S. (1994) "Social control and the politics of reconstruction" pp 63-88 in Nelken, D. (ed) (1994) *The Futures of Criminology* London: Sage
- Cohen, S. (2001) *States of Denial* Cambridge: Polity Press
- Coleman, R., Sim, J., Tombs, S. & Whyte, D. (2009) "Introduction" in Coleman, R., Sim, J., Tombs, S. & Whyte, D. (eds) (2009) *State, power, crime* London: Sage
- de Haan, W. (1990) *The politics of redress* London: Unwin Hyman
- Dodge, C.R. (1979) *A World Without Prisons* Toronto: Lexington Books
- Dronfield, L. (1980) *Outside Chance* London: Radical Alternatives To Prison
- Durkheim, E. (1893) *The Division of Labour* London: Macmillan
- Fitzgerald, M. (1977) *Prisoners In Revolt* Harmondsworth: Penguin
- Fitzgerald, M. & Sim, J. (1982) *British Prisons* Oxford: Blackwell
- Foucault, M. (1977) *Discipline and Punish* Harmondsworth: Penguin

- Giddens, A. (1990) *The Consequences of Modernity* Cambridge: Polity Press
- Giddens, A. (1994) *Beyond Left and Right* Cambridge: Polity Press
- Hanson, R.K., Gordon, A., Harris, A., Marques, J.K., Murphy, W. & Quinsey, V. (2002) "First report of the collaborative outcome data project on the effectiveness of psychological treatment for sex offenders" in *Sexual Abuse* Volume 14, Number 2 pp 169-94
- Hudson, B.A. (1998) "restorative justice" in Johnson, J. (ed) (2003) *Restorative Justice* Cullompton: Willan
- Hulsman, L. (1986) "Critical criminology and the concept of crime" pp 25-41 in Bianchi, H. & Swaaningen, R. van (eds) (1986) *Abolitionism* Amsterdam: Free University Press
- Hulsman, L. (1991) "The abolitionist case: alternative crime policies" in *Israel Law Review*, Volume 25, Nos. 3-4 pp 681-709
- Knopp, F.H. (1976) *Instead of Prison* California: Critical Resistance
- Lappi-Seppala, T. (2012) "Explaining national differences in the use of imprisonment!" pp 35-72 in Snacken, S. & Dumortier, E. (2012) *Resisting punitiveness in Europe?* London: Routledge
- Loader, I. (1998) "Criminology and the Public Sphere: Arguments for Utopian Realism" pp 190-212 in Walton, P. & Young, P. (eds) *The New Criminology Revisited* London: Macmillan Press
- Mathiesen, T. (1974) *The Politics of Abolition* London: Martin Robertson
- Mathiesen, T. (1990) *Prison on Trial* London: Sage
- Mathiesen, T. and Hjemdal, O.K. (2011) "A new look at victim and offender – an abolitionist approach" pp 223-234 in Bosworth, M. & Hoyle, C. (eds) (2011) *What is Criminology?* Oxford: Oxford University Press
- Mills, C.W. (1959) *The Sociological Imagination* Oxford: OUP
- Radical Alternatives to Prison [RAP] (1971) *The Case for Radical Alternative to Prison* London: RAP
- Radical Alternatives to Prison [RAP] (1972) *Alternatives to Holloway* London: RAP
- Ruggiero, V. (2010) *Penal Abolitionism* Oxford: Oxford University Press

- Ryan, M. (2003) *Penal Policy and Political Culture in England and Wales* Winchester: Waterside Press
- Scheerer, S. (1986) "Towards abolitionism" in *Contemporary Crises* Volume 10, pp 5-20
- Scott, D. (2008) *Penology* London: Sage
- Scott, D. (2009a) "Resistance as reform: direct action through prisoner movements, legal activism and the radical penal lobby" in *Criminal Justice Matters*, September 2009
- Scott, D. (2009b) "Punishment" in Hucklesby, A. & Wahidin, A. (eds) (2009) *Criminal Justice* Oxford: Oxford University Press
- Scott, D. (2012) "Sympathy for the devil" in *Criminal Justice Matters*, June 2012
- Scott, D. (2013a) "Unequalled in pain" in Scott, D. (ed) *Why Prison?* Cambridge: Cambridge University Press
- Scott, D. (2013b) "The politics of prisoner legal rights" in *Howard Journal of Criminal Justice* (paper accepted for publication)
- Sim, J. (2009) *Punishment and Prisons* London: Sage
- Sim, J., Scraton, P. & Gordon, P. (1987) "Introduction" in Scraton, P. (ed) *Law, Order and the Authoritarian State* Milton Keynes: Open University Press
- Slump, G.J. & Emmen, M. "Dading: a civil law alternative" pp 62-68 in MacLean, B.D. & Pepinsky, H.E. (eds) (1993) *We Who Would Take No Prisoners* Vancouver: Collective Press
- Stanley, S. & Baginsky, M. (1984) *Alternatives to Prison* London: Peter Owen
- Steinert, H. (1991) "'Is there justice? No - just us!' 'Justice' as an attempt to control domination and the problem of state organised pain infliction." in *Israel Law Review*, Volume 25, Nos. 3-4 pp 710-728
- Swaaningen, R. van (1986) "What is abolitionism?" pp 9-21 in Bianchi, H. & Swaaningen, R. van (eds) (1986) *Abolitionism* Amsterdam: Free University Press
- Swaaningen, R. van (1997) *Critical Criminology* London: Sage
- Vass, A.A. (1990) *Alternatives to Prison* London: Sage
- Wright, E.O. (2010) *Envisioning Real Utopias* London: Verso

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