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THE TENSION BETWEEN ABOLITION AND REFORM

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1. Introduction

There are many ways in which one can fight for social justice or social change. This chapter will interrogate the connections between two main sites in which abolition of oppressive institutions is in effect. One is activism around the abolition of the prison-industrial-complex, and the other is the move to close down institutions for people labeled "mentally retarded" or "mentally ill," known as deinstitutionalization. Within disability and prison activism are many who criticize the nursing homes industry and residential psychiatric hospitals. But not all see a need to abolish or close down these carceral spaces. Some seek to reform these settings or make them less repressive (e.g., with programs for prisoner education or sheltered workshops and day programs for institutionalized disabled people). The prison abolition movement in particular alludes to the abolition of slavery. Some activists and theorists of the prison-industrial-complex see it as a (post)modern form of slavery, especially as it relates to the exploitation and incarceration of poor people of color (Davis, 1998, 2000; Gilmore, 2000; Hames-Garcia, 2004; James, 2005; Sudbury, 2005). Deinstitutionalization activists do not necessarily use the phrase "abolition" in their struggle but often refer to forced psychiatric confinement (Szasz, 1977; 2002). However, their main goal was to close down, or abolish, psychiatric hospitals and institutions for the developmentally disabled.

In contrast to the constant expansion of prisons in the United States, the deinstitutionalization of psychiatric hospitals has been a major policy trend in most states since the 1950s. From the 1970s onward, this has been true in relation to institutions for those defined as "mentally retarded," and later the "developmentally and intellectually disabled." I contend that the deinstitutionalization movements in mental health and developmental disabilities could be construed as historical models to guide us through the transition to decarceration and prison abolition. However, massive closures of large state institutions and hospitals do not necessarily signal freedom for those formerly (and still currently) institutionalized and imprisoned. Therefore, what we need to discuss is the difference, tension, and relation between reform and abolition efforts. Closure in and of itself is part of a larger project of creating a more just society. Prison abolitionists view the prison-industrial-complex as a set of institutional and political relationships that extend well beyond the walls of

the prison proper. So in essence, prison abolition is a broader critique of society (Davis, 2000). The resistance to incarceration in mental institutions and psychiatric hospitals also arose from a broader social critique, that of medicalization and medical authority (Conrad, 2007; Szasz, 1961, 1977; Zola, 1991). Deinstitutionalization was also informed by a new understanding of human value, especially in regards to people with disabilities (Wolfensberger, 1972, 1974). Conceptualizing abolition within these movements is an act of social-political resistance.

Norwegian sociologist Thomas Mathiesen conceptualizes abolition as an alternative in the making: "The alternative lies in the 'unfinished', in the sketch, in what is not yet fully existing" (Mathiesen, 1974, p. 1). The alternative, according to Mathiesen, needs to both contradict and compete with the old system it is trying to change or replace. The opposition though cannot be totally foreign to the present system, otherwise no one will adhere to the message. On the other hand, the alternative cannot be fully formed as the new world in the making is not yet here. This dialectic connects abolition efforts to other activist strategies such as attempts to reform a system on the way to abolition. Even efforts to close down repressive institutions do not always result in the abolition of the system as a whole. Below I explicate the connections between these three related strategies, abolition, reform, and closure.

2. Does Institutional Closure Equate with Abolition?

Closure of repressive institutions, such as mental hospitals and prisons, can be conceptualized as a necessary but not sufficient action on the road to abolition. The most important element in institutional closure is to ensure that people do not end up re-incarcerated in other formats such as group homes or other institutional placements (Blatt et al., 1977). In this sense the effectiveness of deinstitutionalization as a movement is in ensuring community living, with all needed supports, not merely in the closure of the institution, which is only a first step. This ideological stance may create a dilemma. Should proponents of deinstitutionalization wait until there are sufficient community placements before advocating for institutional closure? Or, should they go ahead regardless, on the principle that no one should live in an institution at any time? This is the very dilemma posed by Mathiesen in regards to abolition in general. Taylor (1995/6) suggests that in such cases one should ask which path would lead to the least harm done to the fewest people. Such questioning, he believes, would lead one to realize that institutional living is unjustifiable under any circumstances, even if community settings are imperfect at the present time.

The mere closure of prisons and large state psychiatric institutions does not necessarily entail a radical change in policy, attitudes, or the lived experiences of those incarcerated. Penal abolitionist Ruth Morris reflects on her experiences within the prison abolition movement in Canada and the United States:

> My objection to prisons is to something much more oppressive than closed buildings, or even locks and keys. It's important to think this out, because otherwise we delude ourselves about building alternatives when actually we are creating their very spirit in the community, destroying people just as effectively as any building with locks can possibly do. (1989, p. 141)

In this light, closure in itself is still embedded within the same circuits of power that created such institutions, unless there is an epistemic shift in the way community, punishment, dis/ability and segregation are conceptualized. Therefore, closure of prisons and institutions is only one step on the way to achieve a shift in perspective. Closure of large institutions has not led to freedom for all disabled people, nor has it resulted in the radical acceptance of the fact of difference amongst us.

Institutional life, whether in a prison, hospital, mental institution, nursing home, group home, or segregated "school," has been the norm, not the exception, for disabled people throughout North American history. Harriet McBryde Johnson ("The Disability Gulag," *New York Times,* 23 November 2003) describes her experiences and fear of the "disability gulag"—the warehouse for disabled people that is often called "the institution." As she describes in her narrative, many people with significant disabilities fear that one day they will be sent there and lose their independence, if they are already institutionalized. Prison abolitionists also emphasize that activism entails much more then closing prisons. It is about creating a society free of systems of inequity that produce hatred, violence, desperation and suffering. In such a society the idea of caging people for wrong doings will be seen as absurd (Lee, 2008).

When a system is abolished there is a danger that other systems with the same goals would arise to fill the void left by the abolished system. Famed sociologist W.E.B. Du Bois, in his book *Black Reconstruction* (1999 [1935]), discusses abolition not as a mere negative process, one of tearing down. It is ultimately about creating new institutions. Du Bois was very insistent that in order to abolish slavery in modern times, new democratic institutions have to be established and maintained. Because that did not occur, slavery found a new home in Jim Crow, convict lease systems, second class education and mass incarceration. Thus, the abolition of slavery was only successful on the negative aspect, but no new institutions were created to successfully incorporate black people into the existing social order. Prisons today have thrived precisely because of the lack of such resources that Du Bois was arguing for. Prisons today can't be abolished until such equality-ensuring mechanisms are in place (Davis, 2005). Being free of chains is only the beginning.

Dismantling the walls of the prison, therefore, is not a goal that will eliminate the use of coercion and punishment as mechanism of state control, according to some abolitionists (Davis, 2000; Sudbury, 2004). Hence we notice a shift of many prison abolitionist activists and writers, beginning in the

1990s, from promoting prison abolition to conceptualizing *penal* abolition more broadly (Morris, 1995).

Penal abolition is viewed as a more comprehensive practice and discourse than that of *prison* abolition, attempting to revolutionize the way we perceive crime and punishment (Magnani and Wray, 2006). Penal abolitionism, according to critical criminologist Willem De Haan (1990), provides a radical critique of the criminal (in)justice system, while providing other ways, either concrete or envisioned, of dealing with crime and harm. Penal abolitionists believe that social life should not be regulated by penal law, and that other ways of dealing with problematic behaviors and situations should be practiced. However, when discussing penal abolition, some activists maintain that there could be instances where confinement should be used for a select number of cases, at least as a short-term strategy (Sauve, 1988). For the purposes of this chapter then, I mostly refer to the term prison abolition (and not penal abolition) as my focus here is on strategies that envision a world without carceral spaces and institutional mindsets, whether they are affiliated with the larger framework of penal abolition or not. This tension between abolition, closure and reform is discussed further below.

3. The Relation Between Abolition and Reform

In *Instead of Prisons* (1976), an early published attempt to conceptualize prison abolition in the United States, Fay Honey Knopp posed the connection between abolition and reform. Some of the questions this classic primer tries to answer are whether it is possible to work for prison reform without being co-opted, and whether working toward abolition means that prisoners will be left in intolerable conditions in the meantime. This tension is a key characteristic of the penal/prison abolitionist stance and there is no agreement as to how to resolve it. The movement is diverse and ranges from calls for focusing on the present circumstances of prisoners and advocating for gradual decarceration (as described by the attrition model below), to those who contend that any type of reform would lead to the growth of the prison-industrial-complex and should be avoided by activists.

This seeming chasm between pragmatism and vision for the future of a non-carceral society are not necessarily binary opposites. Fay Honey Knopp suggests conceptualizing the long-term goal of prison abolition as a chain for shorter campaigns around specific issues—like jail diversion, restitution programs, or the move of those released to community placements (1976). Such strategic use of abolition and reform can also be applied to the context of abolishing psychiatric confinement and forced medical treatments, as suggested by anti-psychiatry activist Bonnie Burstow in her keynote speech in the 2009 PsychOut conference. She contends that the short term goals of anti-psychiatry activists, such as reform efforts, should be kept as such, as concrete and direct partial abolitions (or reforms) on the road to long term change.

This conceptualization of placing reform and abolition on a continuum can also be traced to the pioneering work *Politics of Abolition*, in which Mathiesen (1974) follows Andre Gorz's distinction between reformist and "non-reformist" reforms. Reformist reforms are situated in the discursive formation of the system as is, so that any changes are made within or against this existing framework. Non-reformist reforms imagine a different horizon that should be realizable for the improvement of humanity, and are not limited by a discussion of what is possible at present. Mathiesen expands this notion to state that non-reformist reforms that are effective need to be of the abolishing kind. He also creates a typology that distinguishes between positive and negative reforms. Positive reforms are changes that improve the system so it will act more effectively, so that the system gains strength and abolition becomes more difficult. Examples of positive reforms in the current penal system include probation and technological monitoring systems (such as ankle bracelets) which, although ensure that those convicted could live outside of the prisons, further the reach of the penal regime to populations and actions that it had not dealt with before. On the other hand, negative reforms are changes that abolish or remove parts of the system on which it is dependent (Mathiesen, 1974). An example of negative reforms could be to demand better health care for prisoners in current prisons and jails, to a point where the prison system will not be able to afford these conditions and will have to start decarcerating inmates who require medical attention. This strategy was also used in deinstitutionalization lawsuits to decarcerate inmates from institutions for the developmentally disabled in the 1970s. Even if it makes the system look more responsive, from a public relations standpoint, such reforms do not contribute to the growth of the system as a whole.

This relationship between abolition and reform is not only a scholarly debate, but also one with pragmatic implications. For instance, Angela Y. Davis (2002), a committed abolitionist, does not believe there is a strict line between reform and abolition. The question is what kinds of reforms are sought, and whether they will strengthen the system in the long run. For instance, fighting for health care for prisoners is something activists should support, as integral to abolitionist and decarcerating strategies. However, some health care initiatives are opposed by abolitionists such as attempts to open new prison hospitals or separate clinical wards, as these would only expand the scope of incarceration in the long run. Many prison abolition and anti-psychiatry activists are insistent that the trend to develop mental health services within the prison only serves to criminalize (mostly) women with psychiatric and cognitive disabilities. Quality health services of this nature are sparse outside the walls of the prison. Why should funds go to operate these services within an already oppressive system?

Some factors leading to the growth of the prison industry were the direct result of attempts to reform the system. Public awareness and advocacy efforts to change the conditions inherent in prisons (overcrowding, need to build specific enclosures for specific populations) had eventually led to prison expansion,

according to Rick Sauve (1988), who is a prisoner himself. Senger (1988), a fellow prisoner, also critiques prison activists who, although good-intentioned, had brought on reforms that ultimately reinforced the prison and its power. By insisting on reforms in the prison, these activists reinforce the system as a whole, so that positive change in the daily lives of prisoners actually perpetuates the power structure that keeps prisons as a viable solution to criminality.

As a prime example, Marie Gottschalk (2006) demonstrates how various seemingly progressive social movements in the penal arena inadvertently brought forth changes that concluded in more draconian punishments and increased incarceration. For example, opposition to the death penalty brought forth life sentences without parole, and helped strengthen the deterrence argument in crime control discourse. Similarly, LGBT activists fighting against homophobic and transphobic violence helped in creating hate crime legislation that incarcerated people for longer timeframes; and Moms against Gun Violence ushered in gun control measures that also increased the net effect of the penal system, including surveillance measures on communities of color, who sought the legislation originally. An implied facet of Gottschalk's examples is that being too radical and specialized in demands leads to erasure or cooptation of such arguments by the state, leading to punitiveness. An alternative explanation does not lie in blaming the activists for the unintentional consequence of mass incarceration but in the ideology and overarching goals of public policy. If reform efforts led to the mass expansion of punitive measures, then perhaps the problem is not one of "being too radical" or overarching, but of not reaching far enough, not engaging enough in coalitional and revolutionary politics that will address the root causes of harm. Reformist politics are the main strategy used by the left and liberal politics and are in the greatest risk of being co-opted by the state and its apparatuses (Appel, 2002). Furthermore, in many cases the state's mechanisms are not even necessary because activists embody the state in their actions and interactions. According to some liberal discourses that call for social change, change entails incorporating excluded groups into current structures—the government, corporations and politics. These calls are also prevalent amongst disability activists who advocate for more hiring of people with disabilities in all sectors of the market economy, and activists calling for the election of a black or a woman president. But these calls only change the hierarchy of the structures in which marginalized populations are placed and not the structures themselves.

4. Decarceration, Closure, and Abolition by Attrition

Steven J. Taylor (1995/6), reflecting on the process of deinstitutionalization in the field of developmental disabilities in the 1970s onward, suggests a few successful strategies used in closing institutions in the past and present. The first is to announce the closure far in advance while making sure the move has support from the local community and professionals (this strategy was used in Vermont for example, which closed all of its institutions for those with labels

of intellectual/developmental disabilities). A riskier strategy, but one with many benefits, is a swift and massive system change from within. Jerry Miller, director of the Department of Youth Services in Massachusetts in the early 1970s, emptied all but one juvenile detention facility in the state in three years. Miller's method was to create swift changes, so as to not give time to professionals and those in positions of power to revolt against his closure efforts. Miller (1991) stresses that a lengthy phase-down only invited opposition, not only from the staff and parents but also from judges who would send more adolescents into the juvenile facilities about to close, in order to prevent it from happening.

Another successful strategy that was used for deinstitutionalization is more implicit and required the gradual depopulation of an institution to the point where it was no longer cost effective to keep it open (Taylor, 1995/6). This strategy could be characterized as "abolition by attrition," as described by Knopp et al. (1976) in regards to prisons. One component of abolition by attrition is to decarcerate (i.e., release from current carceral spaces and mechanisms) as many prisoners as possible by such strategies as abolishing parole; releasing prisoners perceived as requiring supervision into community peer groups; substituting prison time with restitution to victims; pushing for release of prisoners convicted for victimless crimes.

The second component is to excarcerate (i.e. avoid incarceration to begin with) and examine all alternatives to incarceration by such steps as abolishing jail for those who cannot make bail and preventive detention, creating community conflict resolution centers, establishing community probation programs, and decriminalizing whole categories such as prostitution, sex related crimes, marijuana, public intoxication and other crimes without victims (Knopp et al., 1976).

The attrition model of decarceration has its critics too. Morris (1995) criticizes the attrition model saying that it is indeed an aggressive reform effort, but a reform nonetheless. The point is to decarcerate prison populations one by one—first the young, then the mentally ill and so on. The problem of chipping at the margins of the system is that the center remains intact. Decarceration and excarceration led to deepening a retributive system in programs now billed as alternatives to incarceration, such as boot camps and parole sanctions. This process can also be observed in the co-optation of restorative justice frameworks, which traditionally refer to the process of righting wrongs or healing wounds caused by harm (Leung, 1999). The "justice" system uses the language of healing and restorative justice but without implementing the necessary changes that will alter the system from within. The only change is in the rhetoric used, not in changing the value base of the programs and the system as a whole. For example, restitution and probation are now added on to long sentences, not as real alternatives to incarceration.

In addition, the restorative framework is mainly advocated by white middle class activists, although its roots are mainly within indigenous communities worldwide. As a result, many poor communities and communities of

color see this framework as a form of colonialism, as these activists go to in-digenous communities and harvest their knowledge to bring it back to their communities. As activists suggest, in order for restorative justice to be mean-ingful, it should come out of the communities it is trying to restore (Ibid.). In addition, restoring does not deal with the structural inequalities that lead to injustice. It does not question the basic assumptions of the system, such as who gets to be defined as "criminal" (Saleh-Hanna, 2000), and what gets de-fined as "the community" (Ben-Moshe, 2011a). Due to these problems, Mor-ris (1995) suggested we need to move to thinking of transformative justice more broadly. A deeper stance of prison abolition therefore entails a multi-plicity of approaches starting with demilitarization of schools, physical and mental health care for all, a justice system based on reconciliation, not venge-ance, decriminalization of drug and sex work, and the defense of immigrant rights (Davis, 2003; Morris, 1995; Saleh-Hanna, 2000).

5. The Most Severe Cases and the "Dangerous Few"

A question raised often in the context of abolition of prisons and institutions is what to do with those deemed as having the most challenging behaviors. In the prison abolition circuits this discussion is known as "what to do with the dangerous few," and in the developmental and psychiatric disabilities realm it is the question of "what to do with the most significantly/profoundly disa-bled." In both cases the general assumption is that these are the populations that will not be able to "make it on the outside" and therefore will always re-quire some sort of segregation and restraint. There is significant debate though, in both arenas, as to whether this is indeed the case.

Disability and queer studies theorist Robert McRuer suggests that Crip theory, which combines the two, will "draw attention to critically queer, se-verely disabled possibilities in order to bring to the fore the crip actors who… will exacerbate in more productive ways, the crisis of authority that currently besets heterosexual/ able-bodied norms" (2006, p. 31). By "severely disabled" McRuer is not merely referring to the level of impairment a person is pre-sumed to have, but as a queer position. By reclaiming severe as "fierce" or defiant, McRuer reverses able bodied standards which view severe disabilities as those who will never be integrated (the adage of "everyone should be in-cluded, except for…."). From their marginal state, "severe disabilities" and queer subjects are positioned to reenter the margins and point to the inadequa-cies of straight and nondisabled assumptions. Translated to praxis, some pris-on abolitionists and activists in the fields of developmental disabilities and anti-psychiatry begin their critique and suggestions for alternative social ar-rangements from the positionality of "severe" cases.

In this regard, the developmental and psychiatric disabilities fields may appear as more progressive and radical than the prison abolition sector. In *Instead of Prisons*, Fay Honey Knopp writes:

> There is little disagreement that for those very few people who exhibit
> continual violent and aggressive behavior in society, temporary restraint
> is not only indicated but demanded. Review and monitoring procedures
> can be designed with adequate due process safeguards. (1976, p. 135)

Penal abolitionists seem split on this question; some advocate for trans-
formative justice and healing practices in which no one will be restrained or
segregated, while others believe that there will always be a small percentage
of those whose behavior is so unacceptable or harmful that they will need to
be exiled or restrained, when done humanely and not in a prison-like setting.

In the field of developmental disabilities and anti-psychiatry there is also
a similar debate, with its origins in the debate surrounding deinstitutionaliza-
tion (discussed further in Ben-Moshe, 2011b). Those who are deemed as "rad-
ical inclusionists" believe that everyone deserves to belong, to be educated
with their peers, and to live in the community. For proponents of this attitude
segregation is never a viable response, even for those whose behaviors are
challenging and are seen as disturbing to others. The goal is to educate the
person to not violate any major social norms but simultaneously challenge
social views and attitudes that construct normalcy in particular ways. It also
entails changing public policy, the education system as a whole as well as
housing infrastructure to make them accessible and inclusive to all. In the
field of anti-psychiatry such attitudes would involve opposition to psychiatric
hospitalization, even of those labeled as "psychotic," and instead advocate for
treatment or support in the community, with one's peers, and without coer-
cion.

It is partially this reason that prompted those advocating for community
inclusion to begin with the most severe cases when calling for and implement-
ing the move out of institutions. A lesson learned from successful institution
closures was that people who are labeled as those with the most significant
needs should move to community placements early on in the process of clo-
sure and throughout the process. If left to the end, such people would most
likely be placed in segregated settings, because of lack of skills, experience,
ability or desire to support them in the community (Taylor, 1995/6). For ex-
ample, those deemed as the most violent and dangerous youth became Mil-
ler's symbol as he decarcerated juvenile facilities in Massachusetts, which
were the first to be decarcerated.

In regards to prison abolition, Knopp's work is especially telling. After
working to draft the abolitionist manual *Instead of Prisons*, she sought to
work with the "toughest" cases and has devoted her life to working with sex
offenders and sexual abusers. The thought behind this commitment was that if
she can demonstrate the ineffectiveness of prisons for this segment of the im-
prisoned population, there will be no doubt that prisons should not be a re-
sponse for lesser criminalizable acts such as theft or drug related offenses.
She believed prisons took responsibility away from sex offenders by remov-
ing them from society and shutting them away without treatment, and when

released without treatment, they would offend again. Therefore, the organization that wrote the original prison abolition manual eventually became The Safer Society Program, which deals with the education and treatment of sex offenders to this day.

6. Conclusion

Abolition can be conceptualized as a strategy beyond mere resistance. It not only acknowledges the structure as is, but envisions and creates and new worldview in which oppressive structures do not exist. It goes beyond protesting against the current circumstances to envisioning a more just and equitable world. Abolition can take the form of tearing down the walls of the prison, psychiatric hospital and institution. It is also about building alternatives to incarceration: supporting community living for all, developing affordable and accessible housing, and countering capitalism, ableism, racism, transphobia, and ageism in order to achieve a world in which carceral spaces are meaningless and unnecessary. Abolition enables us to engage in politics of the future—of what could be, of what was dreamed up by deinstitutionalization and anti-psychiatry activists in the past and what is imagined by prison abolitionists at present. It is not just the conceptualization but also the active pursuit of a non-carceral future.

7. Note on Terminology

Throughout the paper I refer to people with psychiatric and intellectual/developmental disabilities and people with labels of mental retardation and mental illness. I use terminology derived either from the people first movement (as in "people with developmental disabilities") and mad pride movement (as in "people who are psychiatrized"). Or, I use more historically accurate terminology that reflects the way to which people were referred in public policy and discourse until a few years ago (for example, the categories of "mental retardation" and "mental illness"). I also utilize the terms "disabled people" in a broad sense to indicate that people are disabled not only by impairments but by social barriers (Ben-Moshe 2005). I refer to "people labeled as developmentally disabled," to indicate that I perceive these categorizations as situational and varied over time, culture, and power dynamics as to who gets to define and who gets to be defined under these categories.