

## Chapter 29

# Towards an Abolitionist Drug Policy Reform

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The most immediate question today is how to prevent the further expansion of prison populations and how to bring as many imprisoned [people] as possible back into what prisoners call the free world. *How can we move to decriminalise drug use and the trade in sexual services? How can we take seriously strategies of restorative rather than exclusively punitive justice?* Effective alternatives involve both transformation of the techniques for addressing ‘crime’ and of the social and economic conditions that track so many children from poor communities, and especially communities of color, into the juvenile system and then on to prison. *The most difficult and urgent challenge today is that of creatively exploring new terrains of justice, where the prison no longer serves as our major anchor.* (Davis, 2003, pp. 20–21; *emphasis added*)

### Introduction

In 2003, at the beginning of a new millennium, Angela Davis asked the question: are prisons obsolete? Her assertion of preventing the further expansion of prison populations and integrating people in prison back into the so-called free world is followed immediately by two organising principles: decriminalise drug use and decriminalise sex work. Nearly 20 years later and at the dawn of a new decade, Davis’ politics are still as urgent as ever. In many ways, we are still so far away from a world without prisons, a world without the war on drugs, a world where sex workers are respected and valued for their labours of care, that it can feel close to impossible to actually envision what a world without punishment could look and feel like.

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**The Impact of Global Drug Policy on Women: Shifting the Needle, 259–269**

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It is with courage that those who imagine their freedom are able to do so. It is courageous to take the possibility of a world without punishment seriously; to work towards the unknown with rigour and discipline, to feel into the pleasure of the possible. It takes a deep courage and commitment to creatively explore new terrains of transformative rather than exclusively punitive justice.

If I look at the landscape of sex worker and drug user activism today, I see communities whose survival depends on such courage. We are communities who say yes to ourselves and who say no to our oppressors. We are communities who are building worlds in little crevices, crafted to the fullness of our desire, willing us to live and to thrive in our living.

And yet, I want more for us. I want our courage to deepen. I want us to reach beyond our silos, together, to expand the horizons of our freedom. I want us to get better at learning from each other, to get clearer in our demands for radical, transformative change in our own lifetimes and to sow the seeds for changes to come. Our courage can take us further.

I come to drug policy reform as a black, queer, neurodivergent, drug-using, gender non-conforming abolitionist. I want to imagine a drug policy that can hold all of those complexities – that does not require an abandonment or shrinking of these experiences – and then to work towards a world that celebrates them. I have so much to learn and experience, and also, much to teach, share and contribute.

This chapter paints a picture of the war on drugs, and the structures of prohibition and punishment that drive it, as extensions of broader systems of state and interpersonal violence. I discuss the carceral geographies of the current drug policy reform landscape and the (sometimes unintended) violent consequences of what abolitionist scholar Ruth Wilson Gilmore refers to as carceral or police humanitarianism, that which seeks to ‘identify and attend to the (relatively) innocent victims of too much policing and prison’ (Gilmore, 2017, p. 235), rather than advocating for a more radical rejection of carcerality and punishment itself. I outline the dangers of reform without abolition as our collective goal, and provide examples of some abolitionist steps to advocate for instead.

In the face of multiple, overlapping oppressions, our courage must enable us to be in strategic and compassionate solidarity with all those who struggle for a freer, more just, more liberated world. Survival requires that we continue to hold back the most overt excesses of the state by any means necessary. But freedom is the courage, the audacity, the pain, the pleasure and the healing; freedom is found in the collective and ongoing creation of a new world. Perhaps another word for freedom is abolition.

## The War on Drugs

The war on drugs is a global commitment made by states, institutions, civil society and individuals to eradicate the production, supply and use of controlled substances. The prohibition of drugs is presented as a justified means of protecting people from the *evils* of drugs themselves, and of the people, families, communities and societies that consume them. Interestingly, or rather, abysmally, the convention on narcotic drugs is the only convention within international law that contains the

word 'evil'. It does not appear in the Slavery Convention (1926), the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the Treaty on the Non-Proliferation of Nuclear Weapons (1970), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973), nor the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). In this way, the war on drugs is presented as a moral obligation by governments and the people that run them to enforce a drug-free society. This is a problem for several reasons, most notably because within the framework of the war on drugs, there is no moral obligation towards the people who use drugs or who are involved in any kind of drug-related activities – so the moral obligation is highly conditional. It is also a problem because the definition of a drug is a relatively new construction and so is at the whim of changing legislation, varying depending on the policy and sociocultural context. There is actually no such thing as a *drug* per say. There are just substances we are allowed to consume and substances that are controlled.

The war on drugs has consistently failed at its own stated goal of eradicating drug use globally. The 2019 UNODC World Drug Report states that 'in 2017 an estimated 271 million people, or 5.5 percent of the global population aged 15-64 had used drugs in the previous year' and that this number is now '30 percent higher than it was in 2009, when 210 million had used drugs in the previous year' (UNODC, 2019, p. 7). Prohibition has had little to no sustained impact on rates of drug use, nor on supply. In a review of its own 2010 drugs strategy, the UK Home Office described the illicit drugs market as 'resilient' (UK Home Office, 2017, p. 10).

In practice, the war on drugs (re)produces its own set of harms through various forms of criminalisation, stigma and discrimination; drug policy is used as a key mechanism for racial and social control within society, causing immeasurable, widespread harm in a myriad of ways. Much less to do with controlled substances themselves, drug policy is animated by moralistic politics, stigma, discrimination and state violence.

Thirty-three countries still retain the death penalty for drugs offences. Globally, one in five people in prison are incarcerated for drug offences, the overwhelming majority of which are for possession for personal use. The sentencing practices for drug offences are also wildly disproportionate compared to other offences, often harsher than the sentences for sexual or other physical assaults, robbery or interpersonal theft. Drug-related offences are internationally constructed as 'serious crimes' that justify serious responses. The global financial cost of enforcing the war on drugs through criminalisation is estimated at \$100 billion annually (see Global Commission on Drug Policy (GCDP), 2016; International Drug Policy Consortium (IDPC), 2018; Transform Drug Policy Foundation, 2019).

People of all genders experience the violence and harassment of law enforcement in relation to drug use in their everyday lives. Conversely, people with marginalised gender identities experience specific forms of gendered harm whether or not we use drugs or are directly impacted by drug laws. In effect, women and gender non-conforming (GNC+) people are at risk of gendered violence whether or not we use drugs, while the stigma and discrimination levelled at people who use

drugs means that we are often turned away from or further harmed in supposed ‘places of safety’ when we do use drugs. The intersection between gender and drug prohibition brings specific, overlapping forms of harm that require specific and intersectional responses (WHRIN, 2019).

In the UK, preliminary findings from The Lammy Review noted that for every 100 white women handed custodial sentences at Crown Courts for drug offences, 227 black women were sentenced to custody (Uhrig, 2016, p. 19). This disparity was greater for black women than for black men, who were about 2.3 times more likely to receive a custodial sentence than white women. Comparatively, black men were about 1.4 times more likely than their white counterparts to receive a custodial sentence (Uhrig, 2016, p. 22). Despite making up just 14 per cent of the UK population, non-white people make-up 25 per cent of adult prisoners, while over 40 per cent of young people in custody are from Black, Asian, and minority ethnic backgrounds. Understood in another way, if our prison population reflected the racial make-up of UK and Wales, we would have upwards of 9,000 fewer people in prison – the equivalent of 12 average-sized prisons (Bowcott & Dodd, 2017).

### **What if the War on Drugs isn’t Failing at All?**

This is a framework for understanding oppression that I lean in to: what if instead of understanding our violent, discriminatory system as broken, we begin to understand it as a well-functioning whole? If we look at how the system is built, how all the machinery works together and what that system is built to produce, the war on drugs seems an all but entirely victorious commitment to maintaining state power, capitalist accumulation and social inequity. If the system itself is a well-oiled machine that consistently (re)produces harm, regardless of who is working it, we can see quite rationally that it doesn’t make sense to keep using the same system if our goal is to reduce harm, or rather, to stop (re) producing it. This kind of perspective helps us move beyond individual blame, to develop more nuance in our critique and take into account as broad a context as possible.

Statements like *institutionally racist*, for example, suggest that no matter how many individual Black police officers are on our streets, the police force will continue to produce the same racist outcomes; the system will always work as it is built to, no matter who is leading it. In order to create sustainable change, we have to radically transform the system itself, rather than simply changing the group of people leading it or rewriting the instruction manual. Put in another way, it is policing itself that is violently racist, rather than just individual actors within the institution of policing. Efforts to reform policing without abolition as our collective goal have led to the expansion and strengthening of a system that is inherently violent by design, rather than the intended diminishing of racist outcomes. Thus, reforming policing will always only reproduce and/or displace the same violent outcomes. This is the premise upon which defunding the police becomes an abolitionist step we should all be advocating for. Defunding the police, or the reallocation of funds away from policing and into communities and alternatives

to punitive justice as a catch-all solution for social problems, is an example of what Mariame Kaba (Kaba & Duda, 2017) and others have referred to as non-reformist reforms, or transitional steps that bring us closer to abolition instead of making it more difficult to get there.

Much energy has been focussed on liberal solutions that seek to rename, repaint or clean up the very same system we say we are opposed to. Tireless activists in the drug policy reform movement have spent years or whole lifetimes working to remove harmful policies or lobby for progressive new laws. Sometimes we really do feel like we're winning, like our work is contributing to significant change. But the foundations remain. Even where progressive policy changes have been successfully implemented (with regards to stop and search, disproportionality has been used within advocacy and campaigning as one of the main arguments for the reform of the power since its inception) and even when reforms do actually make an impact in practice, systemic racism within law enforcement (a root cause of disproportionality) has maintained. Between 2010/2011 and 2016/2017, arrests from drug searches halved for white people but did not fall for black people (Shiner, Carre, Delson, & Eastwood, 2019). Systems adapt.

## **Abolition is Our Only Path to Safety: Carceral Logics and the Prison Industrial Complex**

The prison industrial complex (PIC) can be understood as an interconnected web of carcerality, capitalism and state control that seeks to punish behaviours and activities that threaten its own continuation and expansion. 'Through its reach and impact', writes US-based organisation Critical Resistance,

the PIC helps and maintains the authority of people who get their power through racial, economic and other privileges. There are many ways this power is collected and maintained through the PIC, including creating mass media images that keep alive stereotypes of people of color, poor people, queer people, immigrants, youth, and other oppressed communities as criminal, delinquent, or deviant. (Critical Resistance, 2020)

The PIC itself produces wealth, or rather, maintains the inequalities that allow for capitalist accumulation to persist, through the forced inactivity of people in cages and the 'state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death' (Gilmore, 2007) understood as racism.

Carceral logics require us to believe that in order to create safe communities, we need policing, prisons and surveillance. In other words, the criminal justice system is constructed as an essential framework for how we understand what harm is and how to respond to it. But the criminal justice system does not tackle the root causes of harm. Instead, it sanctifies crime as a metric from which to gauge the morality and *goodness* of people, because the lives and behaviours of

*good* people respect the authority of the state and commit to its continuation. *Bad people*, conversely, threaten the continuation of the state with their actions, beliefs, and behaviours. Instead of developing the tools and language to be able to resolve conflict and understand the root causes of harm, we give such a capacity away to something outside of ourselves. We look to carceral logics to determine how and when individual people will be punished – *out of our hands*. This is a problem because our relationship to the state precipitates a collective and learned helplessness, for which the antidote is a focussed and intentional commitment to collective power: mutual aid, community care, tools for resilience, the deep and difficult work of conflict resolution, healing and finding more sustainable and effective ways to respond to harm when it occurs. But so focussed is punitive justice and carceral logics on punishing the individual for breaking a rule, so ill-equipped to address the root causes of harm, that our capacity to think and understand harm as collective rather than individual is deeply compromised. Collective power is not possible within logics that frame collective social issues as solely individual problems.

Carceral logics undermine our capacity to develop strong, empathic relationships with each other and to practice the hard work of conflict resolution in our everyday lives, alienating us from our own experiences and understanding of harm and our capacity to both cause and heal from it. This moral framework that is based on protecting wealth, ‘ideal’ notions of humanity and unchecked, institutionalised state control over people and behaviours produces a set of *crimes* instead of harms, and enforces punishment for those crimes as the correct and only way to respond to such behaviours. Instead of addressing harm itself, punitive justice (and the logics of carcerality that make such a framing of ‘justice’ possible) responds with punishment when somebody has broken a rule (Aorta Collective, 2013), as opposed to responding when harm occurs (the common sense notion of carceral safety). The PIC has been set up to define ‘harm’ in particular ways that protect some interests (like property and racial capital) and abandon others.

## The Inadequacy of Liberal Reforms

Understanding liberal reforms as wholly inadequate in moving us closer to abolition helps us to see the value – or futility – of our demands. When we are able to locate such reforms within a strategy of carceral or police humanitarianism, to use a term from Ruth Wilson Gilmore, we are better able to recognise when our efforts for reform are doing more harm than good. In her chapter *Abolition Geography and the Problem of Innocence*, Gilmore (2017, p. 235) writes:

Carceral/police humanitarianism is a domestic counterinsurgency program spreading rapidly throughout the United States and abroad. Like mass incarceration, this humanitarianism is a feature of what I’ve long called the anti-state state: a dynamic pattern among the patterns shifting and reconsolidating the anti-state state form, dispensing, to riff on Du Bois, the wages

of relative innocence to achieve a new round of anti-state state building. It's not new, but now all together notable in the general landscape of exclude and define, capture and reward. This too is part of devolution, and more aggrandizing of police organizations coupled with not-for-profit and state-linked partners to identify and attend to the (relatively) innocent victims of too much policing and prison – sometimes formerly incarcerated people, sometimes their families, sometimes their neighborhoods. Police humanitarianism targets vulnerable people with goods and services that in fact everybody needs – especially everybody who is poor. But the door opens only by way of collaboration with the very practices that sustain carceral geographies, thereby undermining and destroying so many lives across generations, in the first place.

Traditional reforms can thus be articulated as demands that necessitate *collaboration with the very practices that sustain carceral geographies*. Such reforms are immediately dangerous for some of us, and wholly inadequate for all.

In response to the COVID-19 pandemic, many drug policy activists and organisations supported calls for the urgent decarceration of prisons and other places of detention to stop the spread of the virus and therefore protect life both within and outside of the prison. But whilst abolitionist organisers were demanding the release of all people in prison by any means necessary to protect life, the loudest echo from the drug policy community was an appeal to the lowest common denominator: 'innocence'. Fervent demands were made to release specific prisoners, who were incarcerated for non-violent, low-level possession offences, never mind that offence type has no relation to the relative health of a person in prison. The drug policy landscape did not, on the whole, support abolitionist calls to #FreeThemAll4PublicHealth, instead reiterating its own obsession with the relative innocence of people who use drugs. Demanding decarceration for those *who shouldn't be there in the first place*, only serves to justify that there are some people who *should* be there. Furthermore, despite the notion that we have to be conservative in our political demands in order to be taken seriously, as Harm Reduction International's research into the impact of calls for decarceration and prison decongestion on global prison populations exemplifies, the strategy of asking for as little as we deem sensible is not a strategy that works: COVID-19 related diversion or decarceration schemes reduced the global prison population by less than 6%, as of 24 June 2020 (Harm Reduction International (HRI), 2020). Furthermore, stopping short of advocating for all people in prison obfuscates the deeply entrenched racism that exists in relation to the slippery categories of 'violent' and 'non-violent'. Or as Micah Herskind (2020) has written:

Whereas calling for the incarceration of 'nonviolent drug offenders' is recognized as racist, the incarceration of 'violent offenders' has been near-universally accepted as objective – after all, the

crime was ‘violent’! [...] Despite the myth that racial disparities exist only because of enforcement of low-level, nonviolent drug offenses, we see similar racial disparities in offenses categorized as violent as we do nonviolent. Even still, many of those who are willing to use racial disparities for drug offenses as evidence of racism are unwilling to do the same for those convicted of violent offenses.

What might have occurred in the midst of global pandemics and insurrections if our collective, international demand was abolition?

When people are looking for the relative innocence line [...] in order to show how sad it is that the relatively innocent are being subjected to the forces of state-organized violence as though they were criminals

Gilmore explains,

they are missing something that they could see. It isn’t that hard. They could be asking whether people who have been criminalized should be subjected to the forces of organized violence. They could ask if we need organized violence. (Kushner, 2019)

When we try to reform drug policy without focussing on the broader contexts of violence within which drug policies are situated – organised social abandonment, interpersonal harm and state-sanctioned organised violence of policing, prisons and surveillance, to borrow Gilmore’s framework (Intercepted, 2020) – we do so without a political commitment to resisting punitive justice in all its forms. And that is harmful for all of us.

The danger of traditional reforms is that we have sought to change or amend the rules, or improve the technologies of punishment that punitive justice has in its cavalry. Traditional reforms, those that fall within police or carceral humanitarianism, ultimately have not served to transform our collective relationship to harm, nor our learned obsession with punishment. Perhaps in the same way that the war on drugs is not primarily about the substances themselves, punitive justice is not about creating safe communities.

Whereas carcerality thrives in the violent absences of state-organised abandonment and carceral violence, abolition has been thought as courageous presence

what the world will become already exists in fragments and pieces, experiments and possibilities. So those who feel in their gut deep anxiety that abolition means ‘knock it all down, scorch the earth and start something new,’ let that go. Abolition is building the future from the present, in all of the ways we can. (Gilmore & Lambert, 2019)

## Support Don't Punish: The Logical Extension of Harm Reduction is Abolition

Perhaps the antidote to carceral logic is a kind of harm reduction built for all who are harmed by the carceral logics of the war on drugs. A framework for harm reduction that has as its foundation a radical rejection of punishment in general is harm reduction's logical extension; abolition is the logical extension of harm reduction. Abolition is about working towards a world without punishment: thriving communities without police, prisons and surveillance, without the normalised idea that violence is inevitable.

In practice, this means developing lasting, alternative ways of responding to harm and holding each other responsible for the harms that we ourselves produce. We need responses that allow survivors of violence to heal from the harm they have experienced and that tackle the root causes of such harm by transforming our formal and informal commitments to carcerality and criminal justice as the sole pathway to creating safe communities. In the immediate context of drug policy, this means actively strategising with abolitionist organisers to ensure that our demands do not compromise the demands of others. It means reinforcing our efforts to decriminalise drug use, possession, cultivation, trafficking and supply as a wider strategy of *excarceration*, or ending the practice of putting people into prison. In this way, bringing an end to the prohibition of drugs becomes an essential part of creating safe communities for all, instead of a self-interested and siloed set of demands that seek to protect the notion of innocence and serve to strengthen the very same system that is harming us all.

We as drug policy activists must assert a moratorium on new criminal sanctions for drug-related activity, particularly in the context of strict new models of drug legalisation (see Canada Department of Justice, 2020). *Decarceration* strategies, to get people who are currently in prisons back into the *free world*, including the expungement of criminal records and the proliferation of harm reduction as a prerequisite for drug legalisation, as opposed to an afterthought, are critical tools towards building an abolitionist drug policy. Such models must not only resist the expansion of the PIC at all costs, but also intentionally create opportunities to develop caring communities, for example, through trauma-informed, specialist services for drug-related issues and broader efforts to skill up non-drug specific services in eradicating drug-related stigma and discrimination. There must be intersectional, drug user led, inclusive resources, education and reparative efforts to be able to deal with the harms that legacies of punishment have themselves produced.

When we advocate for the abolishing of the death penalty for drug offences, for example, we must not only extend this to all uses of the death penalty, we must also reject the idea that commuting death sentences to life sentences is an acceptable alternative. We have to imagine and work to build a world in which we have greater autonomy over our lives. A fundamentally transformed world, in which our relationships to each other, to our own bodies, to controlled substances and to the state and its many arms, are radically altered. In general, this requires greater living standards overall – the root causes of drug dependency and

problematic use are galvanised and sustained by criminalisation, poverty, deprivation, fear, stigma and isolation.

Our responses to the violence of law enforcement against people who use drugs must also align with abolitionist principles. Punishing and harming people who exhibit violent behaviour becomes a cycle that doesn't prevent the recurrence of violence. The ongoing practice of tackling the root causes of the harm we experience is a daily effort and a long-term strategy for sustainable, transformative change, both for ourselves and the communities we live in. Abolition is thus a long-term goal and an everyday practice, an organisational vision and an individual commitment to transformation. Third sector organisations can often suffer from short-term insights that result in the siloing of issues, structured by competitive funding opportunities, budget restraint, and lowest common denominator recommendations that seek to garner support from the most stakeholders, rather than the right stakeholders. Building alliances with organisations that share long-term goals for prison abolition and alternative solutions for addressing harm, such as Bent Bars, Empty Cages Collective, Abolitionist Futures, Books Beyond Bars, No More Exclusions, 4Front Project and Community Action on Prison Expansion (*CAPE*) – to name a few in the UK – are important steps towards building a vision for abolitionist drug policy reform. So too is building alliances with struggles that are implicitly abolitionist, or that are supporting our capacities to create caring communities in the absence of carcerality: campaigns for housing, disability support, noncoercive mental health care and others. Policy recommendations and organisational goals should centre those who are most egregiously affected by drugs prohibition as a result of the PIC, and must never reinforce the PIC itself.

Abolitionist drug policy reform thus requires consistent reflection and creative strategy. The following questions are useful for the consistent personal, community and organisational reflection needed for abolitionist drug policy to take hold (Prison Research Education Action, 2005):

- *Do the actions we advocate make possible the development of the caring community?*
- *Do we move towards empowering the persons most adversely affected by the present system, the prisoners themselves?*
- *Does our advocacy reflect and support the values of economic and social justice throughout society, concern for all victims and reconciliation?*
- *Do the actions we advocate avoid improving or legitimising the prevailing system?*
- *Do our suggested campaigns move us closer to our long range goal of abolition?*

## **We Must Begin by Listening**

Harm reduction is about reducing the physical harms of drug use and educating ourselves to use drugs as safely as possible. But it is also about creating new ways of responding to harm through a radical rejection of punishment. It is about equipping ourselves and our communities with the capacity and knowledge of

how to protect ourselves from state and interpersonal violence, how to respond to harm and build empathic relationships that allow us to communicate and be ever more resilient and caring as communities. Anything else is an abstraction. The state has power over us, but we also have power with each other, and power to resist the violences produced and reproduced by the war on drugs. We may not be able to eradicate all forms of harm, but we can develop new ways to respond to it and prioritise transformative justice that seeks to heal from the harm experienced and to better understand the root causes of the harm itself, so that we might be able to prevent that same harms reoccurring. When we rely on the state to deal with situations of harm, we give up our power to deal with the situation at hand and authentically work through difficult and painful interactions. As all good drug policy activists will tell you, isolation is not harm reduction, community is.

Abolition is not necessarily about rupture (although there are immediate steps that can and should be taken). If tomorrow we woke up to a world with no prisons, no police and no surveillance, we would quickly and violently be faced with our own visceral unpreparedness for such a context. Transformation will continue to demand a lot of time, hard work and the courage to actually develop the tools and language needed to survive in such a radically different world, indeed even to survive in this one. Abolitionist perspectives are courageous in part because they are rooted in trust. Trust in the unknown, trust in the capacity of ourselves and our communities to keep going, through the pleasures and the challenges and the experiments, through the utter dissolution in times of great distress. Abolition is about trusting that our communities deserve something better than punishment as our only response to harm; that we are actually capable of something other than this, that we are capable of transformation. We must begin by listening (Brown). Through listening, we embrace the gradual and collective realisation that abolition is not just a set of ideas and actions, nor an abstract, utopic horizon. Abolition is our *only* path to safety.