

"The point is to change it"

The pathology of the prison

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In HMP Wandsworth, 80% of the men are locked into overcrowded cells, most for more than 22 hours a day. The wings are rife with broken furniture, insects and rat faeces. Some cells reach over 35 degrees Celsius in the summer. Staff absences mean that many men struggle to regularly access the showers, attend medical appointments, or make it to classes or the library. In May, Chief Inspector of Prisons Charlie Taylor noted that he had encountered in Wandsworth ‘a degree of despondency that I have not come across in my time as Chief Inspector’. Seven inmates have taken their own lives in the past year alone.

Wandsworth is by no means an outlier. Similar problems are rife across the UK’s overcrowded prison system, where Taylor has issued seven ‘urgent notifications’ to highlight substantial failures since November 2022. Education, work and resettlement programmes were cut to the bone during the pandemic and have since been neglected. More than half of men and a staggering four-fifths of women in state custody reported experiencing mental health issues in 2022–2023, and yet mental healthcare provision is profoundly inadequate, with people in crisis spending too long in poor conditions before transfer to hospital. In turn, violence is rife inside, with many prison staff failing to turn on their body cameras when using batons or wielding chemical PAVA spray. Assaults are two-thirds higher in men’s prisons than they were a decade ago, and rates of self-harm among incarcerated women are eight times that of incarcerated men, reaching record highs last year.

From reading media reports over the so-called ‘prison crisis’, it can be all too easy to assume that the UK prison and probation system is caught up in an exceptional moment — a perfect storm of post-pandemic, post-austerity conditions that have deformed what would otherwise be the normal and humane functioning of the carceral state. Renovate the Victorian buildings, crack down on drug use, build new prison beds, and His Majesty’s Prisons will be back to their stated purposes as a tool of criminal justice and rehabilitation.

Within these debates, the failures are presumed to lie at the level of performance, not with the institution of the prison itself or with the practice of incarceration as punishment.

Yet this reading of the prison crisis only provides a narrow window into the brutalities that characterise contemporary carceral state. By carceral state, I refer to the system of institutions, agencies, technologies, laws, and discourses that use repressive state power to manage and control ‘dangerous’ or ‘disorderly’ populations. Such a state apparatus tends to encompass both the sites that immobilise people (such as jails, prisons, detention centres, asylums, etc) and the broader systems that decide who is to be surveyed, detained, charged, and locked up (such as the police, prosecutors, the courts, border control forces, and even welfare state agencies). This chapter contends that when we treat prisons like Wandsworth as mere aberrations from broader norms of criminal justice, we miss the systemic role that the prison plays within the carceral state and its broader project of racialised and class-based population control. Such an idealised account of the prison can indict and condemn poor prison policy, but it can’t explain or diagnose why we continue to incarcerate greater and greater numbers of people, even as crime rates have fallen. Nor does it have much to say about who is most likely to be intensively surveyed by police, arrested, remanded to prison, and sentenced to custodial sentences — and whose lawbreaking rarely brings them into contact with the carceral state.

This is where critical philosophy takes a different path from what we might call normative political philosophy. Instead of first identifying abstract values or principles and then applying them to various concrete situations, critical theorists embrace a practice of social critique — they work from actual instances of oppression to diagnose how power asymmetries produce these harms and to gesture towards the sorts of emancipatory practices that might overcome them. In this respect, social critique is problem-focused rather than principle-focused; it aims to understand the why and how of oppression, rather than simply provide a normative objection. And critical theorists acknowledge that building a more just future is rarely a straightforward task of simply revealing to people that their practices don’t align with their values (or that they ought to be valuing differently). It is not that the world cannot be changed, but that the work of doing so is never a simple project of asking people to become better moral agents or states to become better stewards. Existing power hierarchies place real constraints, both material and ideological, on what we can do and become, even as we might work to move beyond those limits.

The practice of social criticism, of course, is not the sole provenance of philosophers or political theorists. Nor is it an exercise exclusively carried out within the institutional remit of the academy. Within the discipline of philosophy, however, this model of social critique is often associated with the Frankfurt School, which took shape in and around the Institute for Social Research in Frankfurt during the 1920s. Under Max Horkheimer, the institute adopted a problem-oriented, interdisciplinary research agenda that sought to disclose the distortions and dysfunctions that capitalism produced — including the rise of fascism in 1930s Europe and in the Fordist US. As Horkheimer wrote in a famous essay on what distinguished critical from traditional theorizing, 'every part of the theory presupposes the critique of the existing order and the struggle against it along lines determined by the theory itself'.

For contemporary Frankfurt School thinkers like Axel Honneth, what makes this critical approach distinctive is its commitment to the diagnosis of social pathologies. Such a method is not uncontroversial. After all, the language of 'pathology' has all too often been used to blame racially and sexually minoritised communities for their own oppression. But many critical theorists argue that it is worth holding on to social pathology as a concept for two reasons. First, it provides a broader and more robust ethical toolkit through which to understand what can go wrong in a social formation. Instead of only focusing on individual wrongdoing or on structural inequalities, social pathology critique indicts specific forms of life and social practices as unethical, alienating, inhuman or otherwise dysfunctional. It reminds us that there are certain worlds that we shouldn't accept, that corrode or otherwise distort what we are capable of as human animals and planetary co-inhabitants. And second, this mode of critique focuses on the ways in which some societal problems tend to reproduce themselves. A pathological social formation degenerates; its problems become more entrenched and harder to dislodge. (One could think here of the continuing demand for intensifying fossil fuel extraction in the face of a climate catastrophe that is already upon us.) Like many illnesses or malignancies, social pathologies can only be successfully ameliorated by being tackled at their roots.

It is my contention, within this short and polemical essay, that the prison system today is best understood today as a kind of social pathology. Rather than view prisons as the 'legitimate' response to 'diseased' or otherwise 'deviant' individuals, I argue that the modern prison regime itself constitutes a pathological social development that not only fails to solve, but further entrenches broader problems of inequality, racialised and engendered violence, precarious employment, state neglect, and predatory practices

of dispossession. In making this claim, however, I take only indirect inspiration from the Frankfurt School, whose thinkers did little to problematise the prison or the carceral state more broadly. (The notable exception here is Otto Kirchheimer and Georg Rusche’s 1939 book, *Punishment and Social Structure*.)

Instead, I look to US-based abolitionists like Angela Davis, Ruth Wilson Gilmore, and Mariame Kaba, who ask different questions about the police and the prison. Rather than query the idealised ends a prison ought to serve, they investigate what prisons actually do to the people incarcerated in them and to our communities. Much of this abolitionist activism and scholarship has focused on challenging the racialised rise of mass incarceration in the US. But in this essay, I argue that such a conversation can also be productively re-deployed to tackle the expansion of the UK prison system. For all that we must recognise Britain’s disparate historical trajectory, I contend that those committed to sentencing and penal reform in the UK could learn from US abolitionists. Scholar-activists like Davis and Kaba remind us to ask which communities are more likely to end up behind bars and why — and to dare us to imagine a society that doesn’t see the police and the prison as the solution for a wide range of social problems.

Abolitionist social critique first seeks to denaturalise the prison — to show that it is not a ‘normal’ and natural part of a society’s response to crime, but instead a malignant development that produces more harm than good. This requires breaking the presumed link between crime and punishment. In an ideal society, we might hold that a person who breaks the law should be proportionately punished for that crime as a form of restitution. But over the last few decades, both the US and the UK have locked up many more people, for longer and harsher sentences, even as crime rates have fallen. In turn, most people who break the law won’t come into contact with the criminal justice system. It is increased state surveillance that produces convicts, not the act of offending itself. Nor do prisons today function as sites of rehabilitation, notwithstanding government rhetoric. Deep cuts to education, skills and work programmes; the horrifying decline in prison conditions; the decimation of offender resettlement services; and a lack of support for the formerly incarcerated once they are back on the outside — all these shifts reveal that the prison has become primarily a tool of incapacitation, as Ruth Wilson Gilmore puts it. We cage people to punish them and to remove them from society, not to transform or empower them.

Critics of the carceral state also challenge the idea that prisons make us safer. After all, moving people into state custody does little to solve the problems that cause law breaking in the first place, such as poverty, insecure housing, structural unemployment, drug addiction, mental health crises, gendered and sexualised violence, and racist pogroms. In theory, the prison should serve as a deterrent, especially to those who have suffered through it before. And yet recidivism rates remain incredibly high. In fact, evidence suggests that locking people up not only doesn't prevent them from reoffending, but that it increases their chances of breaking the law. Such studies should come as no surprise when we consider what prisons do to people. Incarcerating someone is to separate them from their family and their community, to expose them to routine forms of violence and indignity, to deny them healthcare and addiction treatment, to remove all sense of autonomy and purpose. Being incarcerated often means that people lose their housing and go into debt. When they leave, the state provides little support for re-entry and employers and landlords often discriminate against those with a criminal conviction. In turn, incarcerating too many people can scar the places they come from, cutting children off from their parents and breaking the social bonds of trust and support so vital to healthy communities. Prisons don't control crime. They help to produce it.

This forces us to ask, why have the numbers of the incarcerated, in both the US and the UK, grown so significantly over the past 50 years? Who benefits and who suffers from this aggressive expansion of state power? Just whose safety is the state concerned with — and who does it construe as the danger to be surveyed, policed, contained, and disposed of?

Here genealogical critiques can make a productive intervention. A genealogical critique problematises the status quo by revealing the contingent relations of force that produced a given institution, practice or discourse. Such historical reconstructions reveal that societies could have been organised otherwise and gesture towards the social functions that a given institution or practice serves. For example, scholars have shown how the development of the police and the prison system in the US has been intimately linked with forms of racialised, gendered, and class-based population management. Angela Davis has written extensively about how the afterlives of racial slavery and empire have shaped the modern carceral state, from the chain gang after abolition through to the mass incarceration crisis of the past 50 years. Abolitionists have re-conceptualised the late 20th century US carceral state as a 'prison-industrial complex', drawing on Dwight Eisenhower's warning about the growth of a 'military-industrial complex' in the wake of the

Vietnam War. In doing so, they draw strategic links between militarism, punishment and capitalism, arguing that a 'punishment industry' has taken root that profits from expanding and supplying the state's expansive custodial estate.

Perhaps no one has offered as clear a diagnosis of this punitive (and profoundly racialised) drive to lock people up in the late 20th century US than Ruth Wilson Gilmore, whose *Golden Gulag* explores why liberal California built upwards of 23 new major prisons, in addition to a range of other custodial institutions, between 1984 and 2005. Contrary to readings that attribute the mass incarceration crisis to the demand for cheap prison labour or the profit incentives of the private prison industry, Gilmore shows how it was the state, with the support of finance capital, large landowners, and de-industrialising rural areas, that drove this prison-building project. Ultimately, Gilmore argues that the growth of the US prison regime has been inseparable from the broader neoliberal project of 'organised abandonment' that stripped the welfare state for parts and left racialised, poor communities to fend for themselves as capital moved production abroad. For thinkers like Davis and Gilmore, then, it is not that today's prisons are failing to operate as they should and are therefore in need of reform, but that they are functioning as they are designed to — namely, as racialised, class-based, and gendered technologies of containment. They have become the primary means by which the state deals with racialised and class-based 'surplus populations' whose labour is both not needed and may never be needed under conditions of structural unemployment.

This critique of the US prison system is well trodden terrain. Less remarked upon is the ballooning numbers of people living behind bars in the UK. But I contend that the British prison regime can also be understood as a pathological state formation. It too functions as a form of surplus state power that has taken on a life of its own, sweeping up more targets and entrenching itself deeper within the institutional fabric regardless of whether it is necessary or useful. Today, the UK locks up a higher proportion of its people than any country in Western Europe. About 6,700 people in Britain are serving life sentences; by comparison, the remaining 51 countries in the Council of Europe (excluding Turkey) have a total of 9,002 people on life sentences combined. And the British state's carceral footprint has more than doubled in the past four decades, as the number of people in state custody went from around 40,000 in 1991 up to more than 88,500 people in early September of this year. The Ministry of Justice predicts that Britain could have as many as 114,800 people behind bars by March 2028, if current trends continue. Significant drivers of these skyrocketing

incarceration rates have been ill-thought-out and overly punitive sentencing laws, including the much-maligned Imprisonment for Public Protection sentences and mandatory minimums for certain crimes. Sentences have got longer, more people are spending time in prison for petty crimes, and the state has criminalised more and more activity, including forms of 'disruptive' protest.

This explosive growth in the prison regime, however, cannot be adequately diagnosed without reckoning with the long *durée* of Britain's imperial past or the inequities of its postcolonial present. In the wake of white backlash to postcolonial migration from the Caribbean, South Asia, and Africa in the 1960s and 70s, British authorities adopted many of these repressive techniques of population control it had developed in colonial counterinsurgency campaigns in Malaysia, Kenya, and Cyprus to discipline growing racially minoritised communities at home.

As Stuart Hall and his colleagues presciently showed in *Policing the Crisis*, the state and the media fed a racialised moral panic over young Black men and 'mugging' in the 1970s and, in doing so, built a popular consensus around the need for harsh 'law-and-order' measures, including long custodial sentences. Such a crisis was 'lived' and explained through race, Hall and his Centre for Contemporary Cultural Studies colleagues argued, but it had its roots in the broader economic crises of postwar British capitalism and the fast pace of social and cultural change that had left many British people feeling displaced and insecure.

Over the interceding decades, a revolving cast of racialised scares has driven the public appetite for tougher sentencing laws, from concerns over 'gang' activity and knife crime to Islamophobic worries over the 'Muslim terrorist' to the recent preoccupation with racially minoritised migrants and asylum seekers. As five senior former judges pointed out in a September briefing paper denouncing Britain's 'sentencing inflation', many of today's punitive sentencing requirements can be linked back to 'single-issue campaigns' that were mobilised by 'emotive media attention' and called for mandatory minimums and harsher state responses, thereby removing judicial discretion.

Structural racism, overpolicing, educational inequities, substandard housing, changing migration laws, and increased susceptibility to precarious under- and unemployment, in turn, mean that racially minoritised communities disproportionately suffer the repressive heel of the British state. Racially minoritised people, especially Black men, are much more

likely to be arrested, and they are more likely to be sent to prison than white people for the same offences. It should come as no surprise, then, that the racially minoritised are overrepresented in British prisons (27% of those incarcerated versus 18% of the general population). There are almost three times more Muslims in prison today than there were two decades ago. As the senior justices warned, 'Without urgent remedial action to address sentence inflation, this country will soon experience US-style mass incarceration.' The new Labour government, however, seems more invested in 'fixes' to the prison crisis that expand the footprint of the carceral state, rather than in radical solutions that would reduce the number of people we lock up and the communities we abandon.

Perhaps most importantly, abolitionists like Davis advance a fierce ethical indictment of incarceration as a deeply inhuman and inhumane practice. This is where critical theory diverges from applied analytical jurisprudence. Within analytical jurisprudence, philosophers of law debate how to best to understand legal concepts and theories of punishment, to ascertain how our practices might be better brought into alignment with those theories. Such a focused analytic exercise, of course, is important and can bring real insight into what we should (and should not) expect from the law. But critical theorists want to offer a more radical critique of punishment in modern societies than what is available within jurisprudence alone. On one hand, they want to diagnostically situate the rise of repressive state power within a broader picture of neoliberal capitalism and the making-surplus of whole communities. And on the other, critical theory mobilises a more robust ethical critique, one in which existing practices of penal 'justice' are indexed against a theory of human flourishing and found wanting. Whereas sociologists or criminologists might offer data on the (in)effectiveness of specific carceral policies, practitioners of social critique are unafraid to indict a broader form of life that sees the prison as a normal and natural response to socially produced insecurity and deprivation.

Social critique therefore raises the question of whether we want to live in a society that locks people in cages for years at a time, sometimes for decades, and calls it justice. That abandons people to overcrowded cells where they are trapped for 22 hours a day without purpose or hope. That exposes them to routine violence, medical neglect, unsanitary conditions, and the daily humiliations of prison life. That sanctions routine sexual coercion and the intensive state disciplining of gendered bodies. And social criticism calls many of us out for supporting policies that have abandoned entire communities to violence, poverty and neglect while pathologising them as 'deviant' or 'dangerous' and therefore making them

disposable. In doing so, critical philosophy of this kind dares us to envision a world without prisons, without militarised policing and immigration detention centres.

Such a political horizon might seem utopian, especially in a social formation in which global capitalism sets the terms of possibility. But abolitionists aren't as worried by the charge of utopianism. After all, while everyday political change tends to take place through incremental reforms, mobilising people often requires a radical and emancipatory vision — one committed to the idea that other worlds are possible. And there are concrete decarceral strategies that can move us further away from these repressive and dysfunctional responses to inequality, poverty, drug use, migration and crime without opening the doors on all the prisons tomorrow. As Davis points out, abolition isn't just about the negative work of dismantling repressive institutions and state practices; it is also about building new institutions that can make the prison obsolete. This vision of 'abolition democracy' involves making a radical investment of state resources into communities — from healthcare to education to housing to childcare to public spaces — and doing so on terms that give communities autonomy and input over that support. Social critique certainly doesn't have all the answers about how we get to this decarceral future. But it does the important work of denaturalising what Pierre Bourdieu called the 'inert violence in the order of things'. Abolitionists force us to ask what kind of human and humane world we might want to live in together, if we just had the conviction and the courage to work for it.