

10 Reasons for Penal Abolition – Michael J. Coyle, Ph.D.

Contrary to common assumptions, the historicity of the penal project demonstrates a construction that is more closely determined by paradigmatic thinking about society – that importantly sorts, values and treats humans according to indices of difference, (e.g. race/ethnicity, gender, class) – than it is driven by efforts to build livable human communities.

Analysis of the linguistic distinctions used in the everyday functioning of the penal system reveals a collection of shifting, serial myths. These myths, which base their claims in “human nature,” and “human intentionality,” characterize human conflict as reducible to originating “crime” events creating categories of people as “offenders” and “victims.” These myths obscure the constructed nature of penalty and facilitate the transformation of claims – about “good vs. bad” people, about “criminals” and the like – into truths.

Empirical data demonstrates, that with the exception of a small number of outliers at either end of the spectrum who either never commit “crimes” or who regularly and repeatedly commit “crimes,” the vast majority of persons commit a variety of violent and non-violent “crimes” throughout their lifespan (consider the ubiquity of driving and drug use “violations” and that, in the US, one out of four women is sexually assaulted at some point in her life). In other words, if everyone was held equally accountable for breaking the law, few would be outside prison. Therefore, it is more accurate to say that the penal project is less a response to “crime,” than it is a selection process for who will be made subject to the “criminal justice system.”

As a project reflecting the anxieties and social paradigmatic thinking of its age, the penal project has always been and always will be designed by one group that is threatened by another group according to its tally of “differences.” An examination of how law is designed, where police focus, how courts operate, and who is in prison or on probation/parole, demonstrates that those most feared by the dominant group today are predominantly persons of color, men, the destitute, the mentally ill, war veterans, and those with fewer chances of succeeding in social life (e.g. those lacking education, family wealth, or the opportunity for stable work).

There are influential threads that maintain and grow the penal system. A sample of important ones includes: *penalty as capitalism* (profiteering in the carceral project through political lobbies, private police, lawyering, private prisons, or what has been called the “Prison Industrial Complex”); *penalty as entertainment* (the use and sale of penal products in an endless looping of media, entertainment and consumer conglomerates); *penalty as power* (for career politicians and other moral entrepreneurs); *penalty as profession/career* (numerous jobs in policing, lawyering, guarding and academics); and *penalty as a complex cultural system* (disseminating social control, addressing conflict and harms in relationships, etc.).

The “criminal justice system” in the US is the most expensive government program globally and historically, (excepting only the US Department of Defense), and it is daily recognized for failing its mission.

The US “criminal justice system” has, by all accounts, failed to provide a reasonable “public safety” program, is internationally recognized as “criminogenic,” and is regularly in violation of national and international treaties and laws protecting human rights and civil liberties.

The majority of people employed in “criminal justice” institutions report significant lack of faith in the system’s capacity to deliver on the work it attempts. These failures are also demonstrated by institutions’ own measurements of their work, e.g. prison “recidivism” rates (above 70% in most states) or the failure of courts to accomplish even 10% of their work (more than 90% of cases never go to trial as a culture promoting “pleading out” has been developed to manage the courts incapacity to dispose of their cases in proper trials).

Therefore, empirical data demonstrate that the penal project and what is called “The Criminal Justice System” have little to do with the ideology of “crime,” “safety,” or “justice,” but is a system which is occupied with the tasks discussed above.

Penal Abolition is not based on naive or romantic perceptions of human beings, disregard for human taste for social control and community-building work, disregard for what is called “public safety,” or a pretense that human beings in community are not accountable to each other. Finally, penal abolitionists are in search of solutions for the very real conflicts of human relationships and have no magic bullet solutions for the unimaginably complex matters that penalty and the so-called “Criminal Justice System” attempt to address. Penal abolitionists want to begin by being honest about the penal project’s immense inhumanity, racism, and operational failures which advise us to leave it in the dust-bowls of historicity. Departing from there, the real work begins.