

The Peter A. Allard School of Law

Allard Research Commons

Faculty Publications

Allard Faculty Publications

2021

Starting With Life: Murder Sentencing and Feminist Prison Abolitionist Praxis

Debra Parkes

Allard School of Law at the University of British Columbia, parkes@allard.ubc.ca

Follow this and additional works at: https://commons.allard.ubc.ca/fac_pubs



Part of the [Criminal Law Commons](#)

Citation Details

Debra Parkes, "Starting With Life: Murder Sentencing and Feminist Prison Abolitionist Praxis" in Chloe Taylor & Kelly Struthers Montford, eds, *Building Abolition: Decarceration and Social Justice* (London: Routledge, [forthcoming in 2021]).

This Working Paper is brought to you for free and open access by the Allard Faculty Publications at Allard Research Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Allard Research Commons.

Starting With Life: Murder Sentencing and Feminist Prison Abolitionist Praxis

Debra Parkes

Abstract

Advocates of decarceration often focus their critiques on imprisonment for non-violent offences. In this vein, current advocacy efforts to end mandatory sentences in Canada tend to carve out “serious violent offences” as not part of a reform agenda. In this chapter, Debra Parkes sketches out the contours of an argument for why feminists might not want to cede that ground, why anti-carceral feminism might involve centering our analysis on the most, rather than the least, serious crimes – starting with those who are serving life sentences for murder. Parkes identifies four non-exhaustive reasons for that focus. The first reason relates to the problem of using state violence through incarceration to address interpersonal violence. The second is about who bears the brunt of these sentences: in Canada, Indigenous women make up nearly half of all women sentenced to life in recent years. The third points to what we learn, and what informs anti-carceral feminist praxis, when we center the people who are living these sentences. A final reason relates to what we might be able to achieve, in concrete terms, by seeking to abolish these sentences.

“We have to do the hardest work first, not when we are done with the rest of the work. We have to do the hardest work first. To me it is a chance to take leadership from edginess, from energetic people who live in ways that are generative of enthusiasm for struggle.”
Beth Ritchie (2015)

There is much talk these days of criminal legal system¹ reform and sentencing reform. Policy-makers, advocates, and community members from a range of groups and social locations see the harms of punitive sentencing systems. There is growing awareness about the human and fiscal costs of mandatory sentences, about the harms of solitary confinement in prison, and about the truly alarming levels of mass incarceration of Black and Indigenous people in the U.S., Canada, and beyond. When it comes to sentencing reform, advocates often focus their critiques on imprisonment for “non-violent offences.”² In this vein, advocacy efforts to end mandatory sentences in Canada and elsewhere tend to carve out “serious violent offences,” particularly murder, as not the focus of a reform agenda.

However, as Ruth Wilson Gilmore (2015) has forcefully argued, identifying and focusing our decarceration efforts on the “relatively innocent” is a trap. It legitimates carceral logics and

punitive policies by implicitly conceding that there is a durable core of punishable subjects, usually those convicted of “violent offences.” This chapter sketches out the contours of an argument for why feminists might not want to cede that ground, why anti-carceral feminism might involve centering our analysis on the most, rather than the least, serious crimes³ – starting with those who are serving life sentences. In Canada, that means starting with everyone convicted of murder.

The chapter opens with a brief review of key concepts such as anti-carceral feminism, (new) prison abolitionism, and the challenge the “dangerous few” pose to abolitionist work. Next it briefly describes Canada’s punitive murder sentencing laws and the growing population of lifers that has been created by them. The balance of the chapter traces the contours of a feminist abolitionism that meaningfully includes – even centers – the law’s most extreme punishments, and the people subjected to them in its theorizing and organizing. In arguing for an anti-carceral feminist praxis that advocates for the abolition of life sentences, the chapter identifies four non-exhaustive reasons for that focus. The first reason relates to the problem of using state violence through incarceration to address interpersonal violence. The second is about who bears the brunt of these sentences. The third is about what we learn, and what informs anti-carceral feminist praxis, when we center the people who are living these sentences. A final reason relates to what we might be able to achieve, in concrete terms, by seeking to abolish these sentences. The chapter concludes with some thoughts on the future of this kind of organizing and scholarship in the current moment.

1. Anti-carceral feminism and the new prison abolitionism

While some of the foundational prison abolitionist scholarship of the 20th century was written by white, European men (*e.g.*, Mathiesen 1974), Black women have been central to the development of abolitionist organizing and scholarship (Davis, 2003; Critical Resistance-

INCITE!, 2003; Wilson Gilmore, 2007).⁴ The so-called “new abolitionism” of the past three decades is often identified with the Critical Resistance conference held at Berkeley in 1998, together with earlier organizing largely by women of color, that was rooted in a long-term political vision to end the prison industrial complex (Roberts, 2019). Dorothy Roberts (2019) outlines three main tenets of this new abolitionism: that the current (U.S.) carceral punishment system is rooted in slavery and the racial capitalist regime that undergirded it; that the criminal legal system functions to oppress Black people and other marginalized groups to maintain racial capitalism; and that it is possible to imagine and build a more humane and democratic society that does not rely on caging people to meet human needs and solve social problems.

Bree Carlton (2016) has described anti-carceral feminism as a unique voice within the prison abolitionist movement, one “grounded in intersectional feminist critiques, strategies, and actions driven to struggle against and undermine structures of oppression that give rise to violence and injustice” (285). She has documented how anti-carceral feminist campaigners in Victoria, Australia engaged strategically with efforts to reform women’s imprisonment in pursuit of decarceration and structural change.

On the crucial question of addressing gender violence, particularly sexual violence, Judith Levine and Erica Meiners (2020) draw on, and amplify, the work of abolition feminists, “women – Black, brown, queer, trans, poor, disabled – whom the state has never protected.” Levine and Meiners note that “[t]hese abolition feminists have learned from experience that prisons do not end violence, but instead perpetrate and perpetuate it, while destroying lives, families, and communities” (13). Abolition feminism, including the work of INCITE! Women, Gender Non-Conforming, and Trans People Against Violence, grew out of a desire to create a movement that took seriously the imperative to address gender violence while also, crucially, rejecting the use of

state violence through incarceration as an effective means to address that interpersonal violence (Levine & Meiners, 2020, pp. 34-35).

In a similar vein, Chloë Taylor (2018) has argued that it is imperative for feminist prison abolitionists to include sexual assault in our analysis. She points to the increasingly punitive sentences for sexual offences as a driver of mass incarceration; the way sexual violence is ubiquitous in prison life, perpetrated by both staff and incarcerated people; and the particular ways that the despised figure of the sex offender has been mobilized to justify long sentences and prison expansion (Taylor, 2018, pp. 29-30). Taylor notes that sex offenders are, in many respects, more despised than murderers. Yet murder is the most serious offence in Canadian law (and, indeed, in most legal systems) and the most severe punishments tend to be reserved for it.

Prison abolitionists have long debated the place of “the dangerous few” in abolitionist theorizing and movements. As Carrier & Piché (2015) note, “abolitionists have not satisfactorily confronted some critiques that have been forwarded to prison and penal abolitionism, including the irresolution... of the problem of the ‘dangerous few’” (p. 3). These “dangerous few” are a “set of constantly updated names and faces associated with acts so revoltingly egregious that they seem to defy the very possibility of language” (Carrier & Piché, 2015, p. 3). In media stories and Parliamentary debates about life sentences in Canada, names such as Clifford Olsen, Paul Bernardo, Robert Pickton — men convicted of multiple murders of women and children — regularly feature. The category of people convicted of murder is a large one and many, indeed most, of the people who are sentenced to life for murder are not in the league of Paul Bernardo or Robert Pickton. However, it is crucial that abolitionist movements reckon with the “dangerous few.” In fact, challenging the construction of dangerousness is critical and central to abolitionism (e.g., Neve & Pate 2005; Knopp et al. 1976). For Miriam Kaba the answer to the question of what

to do with the dangerous few is a collective project, “let’s figure out together, across our communities, what would be a just system for adjudicating and evaluating harm. ... It’s a question that invites people in, that invites people to offer their ideas” (Kaba & Duda, 2017).

Furthermore, there is merit in turning the logic of starting-with-the-easy-cases on its head. A notable exception to the tendency to leave the “dangerous few” or the “most severe” cases to the end, is the approach taken by Liat Ben-Moshe et al. (2015) in drawing on crip theory, queer theory, and the radical deinstitutionalization movement to argue for an inclusive, antinormative abolitionism. They argue:

[An] antinormative stance, enabled by a queer and disability studies/disability justice position, can be, and should be, the starting point of any abolitionary discussion and action.... A question raised often in the context of abolition of carceral spaces... is what to do with those deemed as having the most challenging behaviors. In prison abolitionist circuits, this discussion is known as “what to do with the dangerous few”.... Translated to praxis, some prison abolitionists and activists in the fields of developmental disabilities and antipsychiatry indeed begin their critique and suggestions for alternative social arrangements from the positionality of “severe” cases.... If left to the end, such people would most likely be placed in segregated settings (Ben-Moshe et al. 2015, 272-273).

Ben-Moshe et al. provide the American examples of Jerome Miller and Fay Honey Knopp, whom they say “illustrate the ways we should center nonnormativity in general in our discussions... and begin our conversations from the position of those who are perceived as the most “severe” and defiant in imagining more just futures” (Ben-Moshe et al. 2015, 273).

Indeed, Miller was a prison administrator who closed Massachusetts’ major youth jails and instead placed young people who were criminalized into community programs or homes, beginning with the youth considered most violent and dangerous (Miller, 1991). In a similar vein, Knopp wrote the prison abolitionist manual, *Instead of Prisons*, in the 1970s and then spent her

life working with the “toughest” cases of those convicted of sexual and other violent offences. One of her seven modes of decarceration was abolishing indeterminate sentences and parole. Knopp sought to “demonstrate the ineffectiveness of prisons for this segment of the imprisoned population [such that] there will be no doubt that prisons are also an ineffective response to less criminalizable acts like theft or drug use” (Ben-Moshe 2013, 91).

2. Starting with whom?

Starting with life in Canada means that we start with people convicted of murder. As of 2018 there were 5,619 people serving life or indeterminate sentences⁵ (Public Works and Government Services Canada, 2019). During the past decade, there has been a 25% increase in the number of people admitted to prison on a life or indeterminate sentence, such that people under these sentences represent 24% of all individuals under federal correctional supervision in Canada. The vast majority of these people – 4,759 individuals – are serving a mandatory life sentence for murder (Public Works and Government Services Canada, 2019).

Everyone convicted of murder in Canada gets sentenced to life plus a mandatory period of time, set by a judge, that must pass before the person can apply for parole. That period must be at least 10 years but it can be set anywhere from 10-25, unless the law treats the killing as an aggravated form of “first degree” murder. The killing of a police officer or a prison guard, one that is found to have been planned, or one that took place in the course of certain other crimes such as sexual assault, forcible confinement or criminal harassment, is elevated to first degree murder. In those cases, the parole ineligibility period must be set at 25 years.

While Canadian law does not formally provide for life without parole sentences, a law passed in 2011 makes it possible for judges to “stack” parole ineligibility periods if a person is

convicted of more than one murder. The judge can make the ineligibility periods run consecutive to one another. Under this law, a number of people have been sentenced to 75-year parole ineligibility periods in the form of three 25-year parole ineligibility periods ordered to run consecutively (e.g., R v. Bourque 2014, R v. Ostamas 2016). This is *de facto* life without parole. Furthermore, there have been attempts to formally make life without parole sentences a part of Canadian law. In 2015, there was a bill before Parliament called the *Life Means Life Act* that would have made life without parole sentences available for certain murders. That bill died on the order paper when an election was called.

To be clear, the mandatory parole ineligibility periods simply provide a date at which the person becomes eligible to start applying for parole – for example after 10, 20, 25 or 50 years. This does not mean that the person will actually get parole at that time. Only 20% of lifers get parole on their first try (John Howard Society of Canada 2018). It is often only “model prisoners” – usually white, middle-class people – who ever get out at or near their eligibility dates. Indigenous people, for example, spend more time in prison before being released on parole than their non-Indigenous counterparts (The Correctional Investigator of Canada, 2019, p. 65). Some lifers are never released. Crucially, even when someone on a life sentence does get parole, they are under the thumb of corrections for their entire life, such that they can have their parole revoked and be returned to prison at any time until they die – even decades after they are first released on parole. Parole officers have broad discretion to suspend or revoke parole for reasons such as communicating with the wrong person, being high, being homeless, or being depressed, anything that might be considered to “indicate a potential increase in risk” (Correctional Service of Canada, 2019, s. 13).

This happened to a friend of mine, a woman who served 18 years of a life sentence in prison and was on parole in the community for eight years before her parole was revoked for being depressed. She was put in prison over the Christmas holidays and her lawyer was working on getting her released through a *habeas corpus* legal action. A few weeks later, my friend was moved to a halfway house where she died by suicide. Her husband, also a lifer, did more than 20 years inside before being successfully on parole for a decade. Shortly after the death of his wife, he was charged with a new offence (a charge that was later dropped for lack of evidence) and his parole was revoked. That was eight years ago. He remains in prison.

3. Why center lifers? Why start with abolishing life sentences?

a. On using state violence to respond to interpersonal violence

Harsh sentences for murder and other forms of interpersonal violence are often defended and justified as protecting everyone, but particularly women and children from violence. Feminist calls to take gender-based violence seriously have been heard as calls for more and longer punishment. The support of some feminists for criminal legal responses to intimate partner violence and sexual violence have lent legitimacy to particularly harsh sentencing regimes and have fueled the harmful policing and mass incarceration that come with these punitive polices (Bumiller, 2008, Kim, 2019a; 2019b). Levine & Meiners (2020) expose the relationship(s) between interpersonal violence and state violence through policing and incarceration, when viewed through an abolitionist feminist lens:

Interpersonal violence and the violence inflicted by the state are not opposing actors in a moral or political war. Rather, the abuser or rapist and the criminal legal system are a team, the former the bad cop, the latter the good. They speak in unison: *Might makes right*. ...[G]etting rid of punishment would be a great blow to the power of the patriarchy, as well as that of white supremacy (5).

We know that the pursuit of punishment has not led to the end of sexual and gender violence (Levine & Meiners, 2020, p. 2). As Jeff Shantz and Eva Ureta (2020) have argued recently in the Canadian context, “[p]roperly assessing calls to defund the police and other carceral institutions means a proper reckoning with what these systems are actually doing -- not what we imagine them to be doing.” While not to blame for the punitive regime of sexual offences and mass incarceration, some feminists “have played a large role in sketching the blueprint and supplying the parts that make the machine function” (Levine & Meiners, 2020, p. 4). Elsewhere, Lawston and Meiners (2014) provide a thorough, intersectional feminist account of some of the harmful implications of appeals to the carceral state to punish gender violence, drawing attention to the particular ways that women of color are caught in the carceral net. They critique the “pathways to crime” framework and subsequent gender-responsive programming, highlighting their role in expanding the carceral state, their failure to address the structural roots of harm and victimization, and their essentialism.

Prisons are institutions of state violence. As Vicki Chartrand (2015) has explained in the context of women’s imprisonment, “violence occurs under a complex rubric of security and institutional order” (p. 6). It is routinized and manifest in such practices as strip searches, special handling units, involuntary transfers, solitary confinement, dry cells, lack of medical attention, self-harm, suicide, assaults, and forced injections. Through interviews with incarcerated women, Vetten and Bhana (2005) have identified similarities between women’s experiences of incarceration and abusive relationships. Both include authoritarianism, enforced restriction of movement, violence, and enforcement of trivial and arbitrary demands (p. 265). By punishing interpersonal violence with state violence through incarceration we locate the responsibility for that violence solely in individuals and we leave untouched the structures and cultures that facilitate

and perpetuate it, such as heteropatriarchy, colonial dispossession, white supremacy, capitalism, and the like.

b. On who bears the brunt of these sentence

In Canada, Indigenous women make up nearly half of all women sentenced to life in recent years (Public Works and Government Services Canada 2019), despite this group only comprising approximately four percent of the population of women in Canada. The rate of incarceration of Indigenous women is growing at a rate significantly faster than it is for Indigenous men. Gilmore (2015) argues that a focus on the relatively innocent – those convicted of non-violent offences – “helps to obscure the fact that categories such as ‘serious’ or ‘violent’ felonies are not natural or self-evident, and more important, that their use is part of a racial apparatus for determining ‘dangerousness’.” Campaigns that are focused on decarcerating people serving time for non-violent offences are going to leave out Indigenous women.

Critiques of the mass incarceration of Indigenous people in Canada have largely focused on the “crisis” of Indigenous mass incarceration (Arbel, 2019), as the number and proportion of Indigenous people in prisons and jail rise each year. For example, the rate of federal incarceration (sentences of two years or more) decreased overall by 15% from 2009-2018. However, for Indigenous people it increased by 46%, including a 61% increase for Indigenous women (Public Works and Government Services Canada, 2019). As such, it is disturbing that there has been relatively little interrogation of the colonial violence that is at the heart of the history of policing and prison expansion in these lands now called Canada (Nichols, 2014; Arbel, 2019; Chartrand, 2019). Robert Nichols notes that “[w]hen the critique of incarceration rests upon the over-representation of racialized bodies within penal institutions, this tacitly renders carcerality a

dehistoricized tool of state power – even if distorted by the pathological effects of a racist society – displacing an account of the continuity and links between carcerality, state formation, and territorialized sovereignty” (Nichols, 2014, 444). Taking this history, and Indigenous sovereignty, seriously “calls for an alternative normativity that challenges the very existence of the carceral system, let alone its internal organization and operation” (445).

There has been some long-overdue attention in Canada in recent years to the horrifying reality of missing and murdered Indigenous women. In 2019, the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG) released its final report, identifying Canadian state responsibility for MMIWG as a genocide, and issuing 231 Calls to Justice, very few of which have been implemented. Those of us who go into prisons to meet with incarcerated people know that the Indigenous women, girls, trans, and two-spirit people whose disappearances and deaths have been largely ignored by law enforcement in Canada are the same people who fill women’s prisons in Canada. Indigenous people are, at once, over-policed and under-protected by law (Dhillon, 2015; Nichols, 2014). The maximum security units of Canadian women’s prisons are filled with Indigenous women (The Correctional Investigator Canada, 2019; Parkes, 2016).

The authors of *The Long Term: Resisting Life Sentences, Working Towards Freedom* (Kim et al., 2018) understand the teaching they do in a men’s maximum security prison as feminist, abolitionist labour, connected to the labour of families and communities organizing on the outside. This work has made it evident to them that “[a]n abolitionist feminist praxis is needed now more than ever to challenge the indefinite long-term caging of our communities.” The brunt of punitive sentencing policies aimed at addressing violence, and murder in particular, is felt most harshly by those who are Indigenous and racialized. It is whole families and communities who are doing these

life sentences; and it is whole communities and networks that are seeking liberation through organizing and activism.

c. On what our movement gains by centering lifers

By listening to, and centering lifers – and particularly women lifers – in feminist abolitionist praxis we can see how the lives of these women and trans, non-binary, or two-spirit people are so profoundly shaped and harmed by structural and state violence and what Ruth Wilson Gilmore (2011) has aptly described as “organized abandonment.” By centering people living under life sentences we do not allow the official stories that are told about them to stand unchallenged. We tell different stories, ones that locate the particular event that led them to be criminalized in a context of state and structural violence, including experiences of trauma, poverty, racism, abuse at the hands of authority, and abandonment to deal with all of this individually. Rejecting carceral responses to violence, particularly murder, is unfathomable to many people. Yet when we actually engage with lifers’ lived realities, in their complexity, we tend to think quite differently. We need to start with these stories and not leave them for another day.

For lawyers, who are regularly complicit in what Alec Karakatsanis (2019) has aptly called the “usual cruelty” of the criminal legal system, the abolitionist practice of developing participatory defence campaigns provides a promising model. Groups such as Survived and Punished (S&P) center people charged with serious offences, often women, and build a movement around the task of defending them. S&P is a national coalition that includes survivors, organizers, victim advocates, lawyers, policy experts, scholars, and currently and formerly incarcerated people. S&P organizes to de-criminalize efforts to survive violence, support and free criminalized survivors, and abolish gender violence, policing, prisons, and deportations. Through campaigns

and legal advocacy such as Free Breasha (Breasha Meadows killed her abusive father when she was 14 years-old) and Free Marissa (Marissa Alexander was prosecuted and threatened with 60 years in prison for firing a gun to defend herself from an abusive partner), S&P brings attention to, and rallies coalitions of people and broader public support around individual women's cases, while understanding and locating them within broader prison abolitionist critiques.

Survived and Punished is, crucially, rooted in a rejection of the politics of exceptionalism. As the S&P website says, “[t]he ‘politics of exceptionalism’ occurs when people advocate for the freedom of an individual only because they are considered exceptional to other imprisoned people — for example, the perfect survivor, the perfect immigrant, etc.” S&P rejects that politics, going on to say that “[w]hen we support individual defense campaigns, or when we call for the freedom of ‘survivors’ in particular, we promote a ‘politics of relationality,’ or strategies that help people engage the broader crisis of criminalization.” The work of Survived and Punished is connected to, and integrated with, other prison abolitionist organizing. It does not see the women and trans folk whose cases S&P champions as exceptional. Their experiences are the result of the system working in the ways that Ruth Wilson Gilmore has laid out so powerfully, through organized abandonment.

d. On what we might achieve by centering lifers

Another way that those of us with legal training can contribute to abolitionist movements is through supporting strategic law reform efforts. Over the past three years I have been supporting the work of an Independent Senator in the Parliament of Canada who has put forward a bill to abolish all mandatory sentences (Bill S-208; Pate, 2020).⁶ The legislative change would allow judges to order a shorter sentence – or no prison sentence at all – instead of the minimum sentence currently mandated. The Bill's sponsor, Senator Kim Pate, who identifies publicly as a prison

abolitionist, has insisted that the reforms would apply to all mandatory sentences, including the life sentence for murder, even though the inclusion of murder sentences no doubt makes the bill politically less palatable. I was called as a witness before the Senate committees considering the Bill and I wrote an opinion editorial on abolishing the mandatory life minimum sentence for murder when Senator Pate's bill was being considered in the Senate (Parkes, 2018) in an effort to raise public awareness about the harms caused by these sentences. At the time of writing, Bill S-208 is stalled in Parliament and is unlikely to be passed into law.

From an abolitionist perspective, this legislative proposal involves possibilities but also serious limitations. The amendment would effectively turn mandatory sentences into presumptive sentences, meaning that a judge would not have to sentence everyone convicted of murder to life. And even if they did hand out a life sentence, the judge could order that the person subject to the sentence be eligible for parole at a number of years lower than 10, the current minimum. This is admittedly a relatively small change. And without a significant cultural shift it would not likely benefit many people because life sentences have become normalized in the Canadian criminal legal system. When capital punishment was abolished in Canadian law in 1976, the compromise was to bring in a harsh regime of life sentences and long parole ineligibility periods. Lawyers and judges – even criminal defence lawyers who otherwise advocate for no prison or as little time in prison as possible – tend to accept as unproblematic the idea that a person should be caged or at least under some form of correctional supervision for their entire life.

The proposed legislative amendment, even if passed, remains a long way from actually abolishing life sentences, a goal that seems impossible to achieve in the short term. But that posture of impossibility is exactly what abolitionist thinking and organizing challenges. As Perry Zurn notes in the Foreword to this volume, abolition is a “kite-idea,” up against entrenched “aircraft-

carrier-ideas.” Kites can be built at home. They are child-like, imaginative. They take flight only with a willing wind and are tagged as feminine, queer. By contrast, aircraft carrier ideas – punishment, incarceration, white supremacy, capitalism – are floating freight trains of destruction. Ben-Moshe (2018) argues that abolition is a radical epistemology – or what she calls *dis-epistemology*. It is about both knowing and unknowing, “letting go of attachment to certain ways of knowing... [and] letting go of the idea that anyone can have a definitive pathway for how to rid ourselves of carceral logics” (347). The abolition of life sentences, and the decarceration of people subject to them, are part of the abolitionist alternative that Thomas Mathieson (1974, 1) describes as being rooted in “the unfinished, in the sketch, in what is not yet fully existing.”

4. Conclusion

As discussed by Mathieson (1974) and throughout the literature, abolitionists have long wrestled with the challenge of identifying “non-reformist” or positive reforms that pursue decarceration in meaningful ways while not entrenching carceral logics and penal institutions. Notwithstanding these worries and challenges, abolitionist work is productive, generative, difference-making. Berger, Kaba and Stein (2017) put it well:

Prison abolitionists aren't naive dreamers. They're organizing for concrete reforms, animated by a radical critique of state violence. Central to abolitionist work are the many fights for non-reformist reforms — those measures that reduce the power of an oppressive system while illuminating the system’s inability to solve the crises it creates. Rather than juxtapose the fight for better conditions against the demand for eradicating institutions of state violence, abolitionists navigate this divide... Abolitionists have worked to end solitary confinement and the death penalty, stop the construction of new prisons, eradicate cash bail, organized to free people from prison, opposed the expansion of punishment through hate crime laws and surveillance, pushed for universal health care, and developed alternative modes of conflict resolution that do not rely on the criminal punishment system.

Locating people subject to life sentences at the heart of abolitionist work does at least two things. It creates the potential to alleviate some of the worst harms of incarceration for those doing

the longest time. It also reveals and challenges the liberal lie that the criminal punishment system is actually about protecting people from violence and harm. By centering these harshest of sentences and those subject to them in our work we participate in the unfinished business of abolition. For me, that unfinished business includes teaching future lawyers, campaigning for the closure of prisons, and advocating for the freedom of currently incarcerated people.

The law students I teach go on to become defence lawyers, prosecutors, or other participants in the criminal legal system. In bringing an abolitionist vision to my law school teaching, I hope to unsettle my students, these future lawyers, and to provide them with some tools to bring a prison abolitionist ethic to their lawyering work (Parkes, 2017; Karakatsanis, 2019). To close on a hopeful note, each year I meet law students who already identify as prison abolitionists. Admittedly, this is a small minority but I have seen it growing over the past 20 years. In 2020, the #BlackLivesMatter uprising and related work to defund the police and decarcerate our communities have brought prison abolitionist ideas and organizing into the mainstream (e.g., Paiella, 2020). In my view, centering those doing the longest time for the most serious offences will be key to the movement's long term success. #FreeThemAll

References

- Arbel, E. (2019). Rethinking the 'crisis' of mass imprisonment. *Canadian Journal of Law and Society*, 34(3), 437-456. <https://doi.org/10.1017/cls.2019.37>
- Ben-Moshe, L., Gossett, C., Mitchell, N., & Stanley, E. A. (2015). Critical theory, queer resistance, and the ends of capture. In G. Adelsberg, L. Guenther & S. Zeman (Eds.), *Death and other penalties: Philosophy in a time of mass incarceration* (pp. 266-295). Fordham University Press.
- Ben-Moshe, L. (2013). The tension between abolition and reform. In M. E. Nagel & A. J. Nocella II (Eds.), *The end of prisons: Reflections from the decarceration movement* (pp. 83-92). Rodopi.
- Ben-Moshe, L. (2018). Dis-epistemologies of abolition. *Critical Criminology*, 26(3), 341-355. <https://doi.org/10.1007/s10612-018-9403-1>
- Berger, D., Kaba, M., & Stein, D. (2017, August 24). *What abolitionists do*. Jacobin. <https://www.jacobinmag.com/2017/08/prison-abolition-reform-mass-incarceration>
- Bill C-53: An Act to Amend the Criminal Code and the Corrections and Conditional Release Act and to Make Related and Consequential Amendments to Other Acts (the Life Means Life Act)*. (2015). 1st Reading Mar. 11, 2015, 41st Parliament, 2nd session. Retrieved from the Parliament of Canada website: <https://www.parl.ca/legisinfo/BillDetails.aspx?billId=7865843&Language=E>

Bill S-208: An Act to Amend the Criminal Code (Independence of the Judiciary). 1st Reading Feb. 4, 2020, 43rd Parliament, 1st session. Retrieved from the Parliament of Canada website: <https://parl.ca/DocumentViewer/en/43-1/bill/S-208/first-reading>

Bumiller, K. (2008). *In an abusive state: How neoliberalism appropriated the feminist movement against sexual violence*. Duke University Press.

Carlton, B. (2016). Penal reform, anti-carceral feminist campaigns and the politics of change in women's prisons, Victoria, Australia. *Punishment & Society*, 20(3), 283-307. <https://doi.org.ezproxy.library.ubc.ca/10.1177/1462474516680205>

Carrier, N., & Piché, J. (2015). Blind spots of abolitionist thought in academia: On longstanding and emerging challenges. *Champ Pénal*, 12, 1-38. <https://doi.org/10.4000/champpenal.9162>

Chartrand, V. (2015). Landscapes of violence: Women and Canadian prisons. *Champ Pénal*, 12, 1-27. <https://doi.org/10.4000/champpenal.9158>

Chartrand, V. (2019). Unsettled times: Indigenous incarceration and the links between colonialism and the penitentiary in Canada. *Canadian Journal of Criminology and Criminal Justice*, 61(3), 67-89.

Christie, N. (2004). *A suitable amount of crime*. Routledge.

Correctional Service Canada. (2019, April 15). Commissioner's directive 715-2 post-release decision process. <https://www.csc-scc.gc.ca/politiques-et-lois/715-2-cd-en.shtml#5>

Critical Resistance & INCITE! (2003). Critical resistance-incite! Statement on gender violence and the prison-industrial complex. *Social Justice*, 30(3), 141-150.

Davis, A. Y. (2003). *Are prisons obsolete?* Seven Stories Press.

- Dhillon, J. K. (2015). Indigenous girls and the violence of settler colonial policing. *Decolonization: Indigeneity, Education & Society*, 4(2), 1-31.
- Gilmore, R. W. (2015, February 23). The worrying state of the anti-prison movement. *Social Justice*. <http://www.socialjusticejournal.org/the-worrying-state-of-the-anti-prison-movement/>
- Gilmore, R. W. (2011). What is to be done? *American Quarterly*, 63(2), 245-265. 10.1353/aq.2011.0020
- Gilmore, R. W. (2007). *Golden gulag: Prisons, surplus, crisis, and opposition in globalizing California*. University of California Press.
- John Howard Society of Canada. (2018, May 30). *Canada gives less parole despite excellent results*. John Howard Society of Canada. <https://johnhoward.ca/blog/less-parole-despite-excellent-results/>.
- Karakatsanis, A. (2019). *Usual cruelty: The complicity of lawyers in the criminal injustice system*. The New Press.
- Knopp, F. H., Boward, B., Brach, M. J., Christianson, S., Largen, M. A., Lewin, J., Lugo, J., Morris, M., & Newton, W. (1976). *Instead of prisons* (M. Morris, Ed.). Prison Research Education Action Project.
- Kaba, M., & Duda, J. (2017, November 9). Towards the horizon of abolition: A conversation with Mariame Kaba. *The Next System Project*. <https://thenextsystem.org/learn/stories/towards-horizon-abolition-conversation-mariame-kaba>.
- Kim, A., Meiners, E. R., Petty, A., Petty, J., Richie, B. E., & Ross, S. (Eds.). (2018). *The long term: Resisting life sentences working toward freedom*. Haymarket Books.

- Kim, M. E. (2019a). The carceral creep: Gender-based violence, race, and the expansion of the punitive state, 1973-1983. *Social Problems*, 67(2), 251–269. <https://doi-org.ezproxy.library.ubc.ca/10.1093/socpro/spz013>
- Kim, M. E. (2019b). Anti-carceral feminism: The contradictions of progress and the possibilities of counter-hegemonic struggle. *Affilia: Journal of Women and Social Work*, 35(3), 309-326. <https://doi-org.ezproxy.library.ubc.ca/10.1177/0886109919878276>
- Lawston, J. M., & Meiners, E. R. (2014). Ending our expertise: Feminists, scholarship, and prison abolition. *Feminist Formations*, 26(2), 1-25. 10.1353/ff.2014.0012
- Levine, J., & Meiners, E. R. (2020). *The feminist and the sex offender*. Verso Press.
- Mathiesen, T. (1974). *The politics of abolition*. Halsted Press.
- Miller, J. G. (1991). *Last one over the wall: The Massachusetts experiment in closing reform schools* (2nd ed.). Ohio State University Press.
- Monture, P. A. (2006). Confronting power: Aboriginal women and justice reform. *Canadian Woman Studies*, 25(3/4), 25-33.
- Nichols, R. (2014). The colonialism of incarceration. *Radical Philosophy Review*, 17(2), 435-455. <https://doi-org.ezproxy.library.ubc.ca/10.5840/radphilrev201491622>
- National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). *Reclaiming power and place: The final report of the national inquiry into missing and murdered indigenous women and girls*. <https://www.mmiwg-ffada.ca/final-report/>
- Neve, L., & Pate, K. (2005). Challenging the criminalization of women who resist. In J. Sudbury (Ed.), *Global lockdown: Race, gender, and the prison-industrial complex* (pp. 19-33). Routledge.

- Paiella, G. (2020, June 11). How would prison abolition actually work? *GQ*.
<https://www.gq.com/story/what-is-prison-abolition>
- Parkes, D. (2016). Women in prison: Liberty, equality, and thinking outside the bars. *Journal of Law & Equality*, 12, 123-152.
- Parkes, D. (2017). Solitary confinement, prisoner litigation, and the possibility of a prison abolitionist lawyering ethic. *Canadian Journal of Law and Society*, 32(2), 165-185.
<https://doi-org.ezproxy.library.ubc.ca/10.1017/cls.2017.16>
- Parkes, D. (2018, September 28). Mandatory minimum sentences for murder should be abolished. *The Globe and Mail*. <https://www.theglobeandmail.com/opinion/article-mandatory-minimum-sentences-for-murder-should-be-abolished/>
- Pate, K. (2020, February 3). Mandatory minimums are toughest on the most vulnerable. *The Star*. <https://www.thestar.com/opinion/contributors/2020/02/03/mandatory-minimums-are-toughest-on-the-most-vulnerable.html>
- Public Works and Government Services Canada. (2019, August). Corrections and Conditional Release Statistical Overview 2018. Public Safety Canada
<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2018/index-en.aspx>
- Richie, B. E. (2015). Reimagining the movement to end gender violence: Anti-racism, prison abolition, women of color feminisms, and other radical visions of justice. *University of Miami Race & Social Justice Law Review*, 5(2), 257-273.
- Roberts, D. E. (2019). Abolition constitutionalism. *Harvard Law Review*, 133(1), 1-122.
- R v. Bourque*, 2014 NBQB 237, 2014 NBBR 237.
- R v. Ostamas*, 2016 MBQB 136, 131 W.C.B. (2d).

Shantz, J., & Ureta, E. (2020, July 23). *Here's why we can abolish most of the criminal justice system now without endangering public safety*. Rabble.ca.

<https://rabble.ca/blogs/bloggers/views-expressed/2020/07/heres-why-we-can-abolish-most-criminal-justice-system-now>

Taylor, C. (2018). Anti-carceral feminism and sexual assault – a defense: A critique of the critique of the critique of carceral feminism. *Social Philosophy Today*, 34, 29-49.

<https://doi-org.ezproxy.library.ubc.ca/10.5840/socphiltoday201862656>

The Correctional Investigator Canada. (2019, June 25). *2018-2019 annual report*.

<https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20182019-eng.pdf>

Vetten, L., & Bhana, K. (2005). The justice for women campaign: Incarcerated domestic violence survivors in post-apartheid South Africa. In J. Sudbury (Ed.), *Global lockdown: Race, gender, and the prison-industrial complex* (pp. 255-270). Routledge.

¹ I use the term “criminal legal system” or “criminal punishment system” rather than “criminal justice system” to challenge the assumption that the system delivers justice. See generally Karakatsanis (2019).

² See, e.g., the website of the Smart Justice Network of Canada <http://smartjustice.ca/smart-justice/prison/> (“the Smart Justice approach to prison is to reserve it for violent and dangerous offenders, and as a response of last resort, while aiming to solve the problem of non-violent crime in ways that are effective for people and for the public purse — outside the prison system.”)

³ Crucially, abolitionist thought problematizes the notion of crime itself (e.g., Christie 2004).

⁴ In Canada, Indigenous women such as the late Patricia Monture (2006) have been important voices in the movement.

⁵ Indeterminate sentences are reserved for people declared by a sentencing judge to be “dangerous offenders” (usually for repeat convictions for violent offences). See *Criminal Code of Canada*, R.S.C., 1985, c. C-46, s. 753.

⁶ This was the second incarnation of this bill championed by Senator Pate. She put forward a similar bill in 2018, which was not passed but was subject to Parliamentary hearings and significant media attention.