



## Abolitionism. Some Answers to Frequently Asked Questions

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### Abstract:

In the 1970's penal abolitionism seemed on its way to become one of the most important currents of critical criminology. At least, this was the situation in Germany. Thomas Mathiesen and Nils Christie, but also LoukHulsman and (to a lesser degree) Herman Bianchi established very loyal communities in Germany. Young German scholars, some of whom are today leading German criminologists (like Karl Schumann or Sebastian Scheerer) took up their ideas. And this promised a potent theoretical tool with important and radical practical implications. However, by the end of the 1980's, critical criminologists took up other issues and abolitionism is hardly mentioned any more in the criminological discourse in Germany. A double question then arises, what became of abolitionism as a movement?, and, is abolitionism still valid as a theoretical and/or strategic approach? This paper explores the results of an email survey including nine abolitionist scholars, which led to a lively exchange of views and a lively discussion. This exchange started by the end of August 2007 and petered out by the end of September of the same year. We decided to group some excerpts in the guise of seven fictitious Frequently Asked Questions: 1) What is abolitionism? 2) Does abolitionism require the abolition of all prisons? 3) Are there any practical successes abolitionism can claim? 4) What about positive alternatives? 5) What became of the abolitionist movement/movements? 6) What about academic abolitionism? 7) Is there a future for abolitionism?

### Keywords:

Abolitionism, Prisons, Critical criminology, Germany.

## 1. WHAT EVER HAPPENED TO ABOLITIONISM?

Penal abolitionism goes back to the 1960's. In the 1970's, it seemed on its way to become one of the most important currents of critical criminology. At least, this was the situation in Germany. Thomas Mathiesen and Nils Christie, but also LoukHulsman and (to a

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lesser degree) Herman Bianchi<sup>2</sup> established very loyal communities in Germany. Many of their works were translated into German either from English or from the originals. Young German scholars, some of whom are today leading German criminologists (like Karl Schumann or Sebastian Scheerer) took up their ideas. These ideas were combined with the labeling approach, but also with feminism. And this promised a potent theoretical tool with important and radical practical implications.

Indeed by the end of the 1980's, the major mainstream German textbooks on criminology included chapters on abolitionism. But at about this time, the tide changed. Critical criminologists took up other issues. Maybe this was part of their coming of age, of reaching tenured positions. Maybe it was also the influence of critical realism. Maybe it was also the success of criminology, the media interest, the government money available. At any rate, today abolitionism is hardly mentioned any more in the criminological discourse in Germany.

Was abolitionism only a short lived fashion? Has its theoretical potential already been spent? Has it turned out to be utopian as a criminal policy strategy? Or are the old ideas and impulses still with us, but repacked under new brand names? What happened to the protagonists and supporters of abolitionism as a movement? Do we find the same or similar developments in other countries? Are there ways in which abolitionism could still have a future?

These and similar questions require careful research. But we stumbled on these questions while we were preparing a special issue of the German criminological journal *Kriminologisches Journal* (Feest and Bettina 2008). We were in no position to do very rigorous research, and also, this would not be the kind of research that is likely to attract funds in today's Germany. But we decided to do something rather simple and cheap: prepare a list of some of abolitionists and do a quick email-survey. The list started with the four names of the founding fathers already mentioned: Herman Bianchi, Nils Christie, LoukHulsman and Thomas Mathiesen. We then tried to think of some people of the second generation and ended up with 16 names. In the end, nine scholars actively participated, which we found valuable, also considering that two are in their eighties. One we did not manage to reach (Jerry Miller of Massachusetts fame), three declined for various reasons, two (LoukHulsman and Hal Pepinsky) participated largely in a passive vein, and one got so enraged in the course of the discussion that he dropped out and asked his name not to be mentioned.

We raised the following double question: what became of abolitionism as a movement?, and, is abolitionism still valid as a theoretical and/or strategic approach? And we asked the participants to respond directly to all others. This almost instantly led to a lively exchange of views and a lively discussion. This exchange started by the end of August 2007 and petered out by the end of September of the same year. The material was much too extensive to be published therefore we decided to group some excerpts in the guise of seven fictitious Frequently Asked Questions. These questions are:

1. What is abolitionism?
2. Does abolitionism require the abolition of all prisons?
3. Are there any practical successes abolitionism can claim?

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<sup>2</sup>See, for example: Mathiesen (1974, 2006), Christie (1981, 1993), Hulsman (1982, 1991) and Bianchi (1986, 1994).

4. What about positive alternatives?
5. What became of the abolitionist movement/movements?
6. What about academic abolitionism?
7. Is there a future for abolitionism?

I will now give you a brief overview of the answers to these FAQs. But for those of you who are interested in more detail, there is a full-length chronological version of this chat-experiment available as supplementary file to this article.

## 2. SOME ANSWERS TO FAQs ABOUT ABOLITIONISM

### 2.1 WHAT IS “ABOLITIONISM”?

We did not explicitly ask for definitions of abolitionism. But most participants would probably agree with **Sebastian Scheerer**'s attempt at a lexical definition:

Abolitionism is the ensemble of theoretical, empirical and political efforts to abolish (i.e. to get rid of) legalized institutions of coercion or repression like e.g. slavery, the death penalty or prisons.

At the same time, most participants came up with personal accentuations:

#### **Thomas Mathiesen:**

Abolitionism is a stance (Position). It is the attitude (Haltung) of saying “no”. This does not mean that the “no” will be answered affirmatively in practice. A “no” to prisons will not occur in our time. But as a *stance* it is viable and important. When I wrote *The Politics of Abolition* in 1974 (translated into German as *Überwindet die Mauern* in 1978), I was certainly preoccupied with strategies of achieving concrete abolitions. But I was also preoccupied with fostering and developing an abolitionist stance, a constant and deeply critical attitude to prisons and penal systems as human (and inhumane) solutions. ... To be sure, we cannot, and perhaps should not, have an abolitionist stance to everything in the world. But we should have an abolitionist stance to things highly negative and vital politically speaking in our professional lives, and perhaps in our lives as citizens.

#### **Nils Christie:**

Abolitionism is to me a cluster of ideas I like. And persons I like, much because they have these ideas. Now and then I disagree - think this goes too far. But these disagreements are as nothing compared to the general agreement. That agreement has first and foremost to do with creating limits to pain. In my simple world-view, an important goal in life is to attempt to reduce human suffering, particularly suffering that is intended as suffering.

**Marie-André Bertrand:** “Abolitionism is an ideal and a program that seek to put a stop to imprisonment, to even empty the prisons, but it can also mean the will to replace the criminal justice system by civil arrangements”.

#### **Gerlinda Smaus:**

Abolitionism, to my mind, is the visible tip of a movement which struggles against the exclusion of human beings from civil rights and human rights. Before people were sent to prison they have been excluded from the society by way of primary and secondary criminalization. Therefore it seems important to have some preventive abolitionism

which would struggle against the introduction of new clauses in the penal law and against the net widening of social control.

## 2.2 ARE ALL PRISONS TO BE ABOLISHED?

From the term “abolition” itself, as well as from the foregoing definitions, one could infer that the proposal is that all prisons are to be abolished. Our survey shows, however, that most prominent abolitionists rather regard themselves as reductionists, minimalists or “moderate abolitionists”.

**Marie-André Bertrand:** “Abolitionism?<sup>3</sup> – The idea and the dream are there. The policy is rather penal minimalism, pragmatism and human rightism”.

**Thomas Bianchi**<sup>3</sup>: “I have always argued that people who cause an immediate danger to other people should be incarcerated. ... But these very dangerous criminals constitute not more than eight or nine percent of the present prison population”.

### Nils Christie:

There are limits to my abolitionistic urge. Some people might be absolutely impossible to prevent from burning Mosques or Synagogues or Churches, or from beating their wives or parents. If we have tried all, from conversation to mediation, we might as a last resort be forced to use physical restrictions. In some of these cases, I think imprisonment gives better protection to the wrongdoer than euphemistic terms like treatment or cure. If we overload the systems of mediation, we risk converting boards of mediation to penal courts in disguise. So, maybe I am no abolitionist, only a minimalist in cooperation with all those others who share the general goal of reducing intended delivery of pain in society.

Only Sebastian Scheerer insists that abolition means total abolition. But he sees another way out of the unwanted practical consequences.

### Sebastian Scheerer:

The word “to abolish” means “to do away with wholly, completely”. To me that implies “total” abolition, be it of the death penalty, be it of slavery, be it of the prison. If you think that an institution (like slavery) is utterly unjust, then it would also lack any logic to argue for only a partial reform. Can one limit the fight against slavery to the aim of liberating only children or women, and not men? Can one limit the fight to ending slavery in Europe, but not in Asia or the Americas? The same holds true for all abolitionist movements, including that against prisons. – Clear as this seems, the “totality” of the abolitionist project has always been subject to misunderstandings. To abolish prisons as institutions of punishment does not mean to do away with all kinds of confinement. To deprive a person of his or her liberty for reasons of public health (quarantine, suicide or homicide prevention in cases of mental illness and the like) will always be necessary in specific situations. Abolitionism aims at the “total” abolition of the prison system and of confinement as punishment (including those cases where punishment is euphemistically concealed as being protection). Abolitionism does not aim at the total abolition of all kinds and justifications of confinement as such.

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<sup>3</sup>Herman Bianchi sent us the following message: “My present name is Thomas, I changed my first name, when I was 65, for Herman means warrior, “man in the army” in old Germanic. And I am such a peaceful person. When I retired at 65, I prayed the Dear Lord in Heaven to grant me the rest of my life a more peaceful existence”.

<sup>4</sup>Similarly also Pepinsky (2006, p. 42).

### 2.3 CAN ABOLITIONISM CLAIM ANY PRACTICAL SUCCESSES?

The answer to this question is in dispute. It depends on whether a “mere” change in academic and public attitudes can be seen as an abolitionist success or whether only the withering away of carceral institutions should be seen as a true success of abolitionism. Another question that can be raised is whether concrete changes can be causally linked to abolitionism.

**René van Swaaningen**, a disciple of both Bianchi and Hulsman, argues that abolitionism’s positive, reconstructive message has been taken up by various *other* perspectives. “I see very clear traces of abolitionist thought in ‘restorative justice’ (Braithwaite etc.), peacemaking criminology (Pepinsky etc.), the ‘social harm’ approach (Hillyard etc.), constitutive criminology (Henry & Milovanovic)”.

And **Heinz Steinert** even calls the prison abolition movement of the 1960/70s “a major historical success”. He goes on to say this:

During those years the conviction was hegemonic that locking people up could only be justified (a) as an ‘ultima ratio’ concession to helplessness and (b) on condition that an environment could be provided inside the closed institution that was up to the standards of contemporary civilization and that every effort was expended to prepare the person for a more successful life afterwards. This also had a strongly technocratic side: Prison is not effective and even to the contrary and following folk-wisdom is the ‘university of crime’.

**Thomas Mathiesen** agrees with this and he gives some specific examples: “Partial abolitions of systems were carried out (in Norway, the youth prison system, the forced labour system, causing a major drop in incarceration in Norway). In several countries the number of inmates fell and remained lower than earlier for quite some time”.

But **Sebastian Scheerer** is more sceptical in this regard and points to the “intricate question of causality”.

Does abolitionism have the right to claim as its own victories events like the abolition of workhouses, the closing of certain penal and mental institutions and all (or any of) the other examples given by Heinz Steinert and Thomas Mathiesen? It seems that – at least outside the abolitionistic camp – some people have grave doubts about this. Sometimes things happen and you like the events because they seem to realize some of your dreams and values, but that does not always mean they happened because of your dreams, values, or speeches.

In response, **Heinz Steinert** argues strongly to distinguish between:

- a) a historical tendency all through the era of Fordism to abolish and at least diminish punishment and exclusion as a form of domination – with an extreme counter-movement that became dominant in fascism and Stalinism;
- b) the individual movements that organised around single issues in this over-all development; and c) the scholarly orientation towards and theoretical interest in both these processes and in thinking through their radical consequences and the conceptual foundations that can be imputed. It is impossible to say in a general way what influence the third process had on the first, probably none. It is not quite so hard to say what influence what measures had in the struggles around specific issues of the second kind, sometimes a lot, sometimes little, but that can be determined empirically. Political science does it all the time.

### 2.4 HOW ABOUT POSITIVE ALTERNATIVES TO IMPRISONMENT?

This question is also in dispute among abolitionists. Thomas Mathiesen has argued over the years for a strict line of “negative reforms”, i.e. the renunciation of positive alternatives. But Thomas Bianchi is speaking for a silent majority that thinks that not offering positive answers may prolong the process of abolition.

**Thomas Bianchi:**

It sometimes reminds me of the abolition of slavery. Because the US-government in 1865 did not or hardly come forward with the question what to offer to the liberated slaves, the racial suppression has lasted another century. If abolitionists offer no alternative to the question of vicious crimes other than locking up the actors. It is a pity that too few made studies of legal solutions in former historical periods of our culture or social anthropological studies of how other cultures handled the problem. Solutions like sanctuaries e.g. That`s why it will take such a long time to realize fundamental change.

And **Sebastian Scheerer** seems to be ready to consider that position:

I always believed (with Theodor Adorno and others) that the object of research and knowledge cannot and should not be “What is Good”, but rather “What is Bad”. The challenge is not to construct a better world (that would be presumptuous), but to criticize the conditions of inequality and injustice in our present world and to strive to abolish them – both in their manifestations and their root causes. We can identify injustice, but we are not clever enough to design blueprints for a better world ... Having read Thomas Bianchi’s forceful exhortation to spend more energy in designing alternatives to prisons I begin to doubt the wisdom of negative critique and would like to read what other colleagues think of his idea.

## 2.5 WHAT HAPPENED TO ABOLITIONIST MOVEMENTS?

Initially, abolitionism was based on social movements. This was particularly true for the Scandinavian countries. But the early phase of the Green movement also had a strong component of prison abolition. Where are those movements now? On this point, our respondents are cautious and ambivalent.

**René van Swaaningen:**

We can observe the demise of *many* typical Leftish social movements – oriented at broad social changes – since the mid 1980s. The new social movements are either oriented at global themes – environment, bio-industry, anti-globalism, peace etc. – or at narrower themes, closer to ‘home’ – often consumption-related. The trick is, I think, to introduce, or to fit, the penal question into the agenda of the new social movements.

**Thomas Mathiesen** insists that, in Norway, “the organization **KROM** still exists... during its 40 years existence, it has i.a. organized 38 large three day conferences on penal policy”.

And **LoukHulsman** asks us “to start organizing for the next ICOPA, the International Conference on Prison Abolition, whose next meeting will be in July 2008 in London”. This organization harks back to the independent roots of abolitionism in North America and Australia. Only few of us in Europe are aware of the work of Quakers like Fay Honey Knopp, feminist Quaker, who authored in 1976 an abolitionist manifesto (Instead of prisons) that can still be found on the internet. Her memory is preserved in the latest book by the American criminologist Hal Pepinsky. But among the Europeans it is only Bianchi who has a personal recollection of her.

**Thomas Bianchi:**

When you speak of Honey Knopp I get tears in my eyes. How I have known her. I stayed many times in her house upstate Vermont. She has been one of the greatest women I have ever known, she took part in many Vietnam demonstrations and she was the type that would go to a prison and if she noticed a prisoner maltreated she said to the warden: "Open that door". She was the Mother Teresa among abolitionists ..You see: Honey Knopp was an abolitionist not by scholarship, as most abolitionists are, but she was abolitionist by heart and soul. And that's the reason why I would like her name to be remembered.

**2.6 AND WHAT ABOUT ACADEMIC ABOLITIONISM?**

This turned out to be the most controversial issue. But by the same token, it made the debate more lively.

**René van Swaaningen** started out with a strong self-critical statement:

As an academic perspective abolitionism was in a way 'not good enough': it was often theoretically sloppy, there was little sound empirical research done in the tradition and the moralistic undertone was often too dominant. At least *my* students are no longer used to normative, prescriptive discourse and even get irritated when 'science' is mixed up with moralism; *particularly* left wing moralism. We can still get the abolitionist message across amongst the present generation students, I think, but we have to use another tone than 25 years ago: less 'standpoint criminology', more practical, empirical arguments, more connection with concrete policy debates and with different criminological debates.

And **Sebastian Scheerer** joins him on that matter:

... students today do not want to be taught opinions of the 1960s and 1970s, but prefer evidence-based arguments and honest discussions. And rightly so. The job of a teacher is not to teach opinions and not even a general stance of saying no! - In the end, the students have to make their own value judgements, and it is perfectly conceivable that their values teach them to opt in favour of the prison system. All we can do is (a) to show how one can think differently about the prison system, and how different values would suggest a different praxis, and (b) challenge the naturalistic view that everything that exists in society is there because it must be there. This means we can justly refuse to take this kind of burden of proof on our shoulders. It is the system that has to legitimize the existence of punitive institutions and indeed of the very institution of the penal law and punishment - it is not us who have to prove that one could also do without it. Especially in the legal education, this kind of not-taking-the-criminal-justice-system-for-granted would spark a revolution.

**Thomas Mathiesen** takes him immediately up on this:

You seem to be presupposing, Sebastian, that a stance of saying no! should be the only stance we present when we teach ... You make the following statement: 'Students today do not want to be taught opinions of the 1960s and 1970s, but prefer evidence-based arguments and honest discussions. And rightly so.' Leaving aside your implicit and just slightly insulting assumption of a major difference between the mere "opinions" of the 60s and 70s as opposed to the evidence-based arguments and honesty of today, my point is that the critiques of prisons which you find in writing are in fact solidly evidence-based.

And **Heinz Steinert** seconds this with a polemical broadside against ‘TradCrim’<sup>5</sup>:

I also strongly disagree with your [Sebastian] and René’s equation of abolitionism with ‘moralism’, mere ‘opinion’ or, as you say below, just ‘aphoristic wisdom’ and no arguments, whereas TradCrim and dominant thinking and politics had the ‘honest arguments’ and the evidence. I always thought we had the better, the reflexive arguments, even if they lack the benefit of going along with the dominant ideology and conventional wisdom. But that’s the point of a reflexive social science. We also have a lot of the empirical evidence needed, certainly not less than TradCrim (not least because we can use a lot of their empirical findings). .... I can’t see how you have come to believe that TradCrim has the better evidence and the “honest arguments”. Please explain what is not so honest about the abolitionist arguments. And would you say TradCrim has a pronounced tendency to leave “their own camp” and to “sincerely and thoroughly” seek for approaches that challenge them? (As the dominant ideology they have much less need to do so than a minority position does.)

## 2.7 DOES ABOLITIONISM HAVE A FUTURE?

On the question of the future of abolitionism, the answers are varied, but all of them upbeat. Two of our respondents predict the abolition of prisons as something that will come about within the present century (“positivist abolitionists”), e.g.:

**Thomas Bianchi:**

What about the future of abolitionism? During the period of 1960-1980, futurology had been a popular area of studies and investigation. We were all informed about cultural waves: small waves of 15 years, larger of 30 years and impressive culture changes every 60 years. Look: 1520 the religious reformation and first attempts to come to general penal legislation, 1580 religious wars, 1640 scientific and rationalist revolution and more penal philosophy, 1700 the enlightenment and more philosophical support for punishment, 1789 industrial and other revolutions and complete disappearance restorative justice; 1848 more democracy and more penal legislation, and rehabilitation attempts, 1900 modern technology and more massive prisons, 1960: cultural revolutions and abolitionism, 2020: first results and return of abolitionism, 2080 abolitionism all over. Futurology is a nice game. It is possible that around 2020 authorities come to their senses and will make attempts to introduce abolitionist perspectives. This will most certainly be the case in 2080. So progressive criminologists: keep the home fires burning.

In the second case, this is a somewhat less optimistic prediction. My former colleague in Bremen, **Stephan Quenselis:**

... convinced, that our prison-system, surviving the last 450 years (not to mention the older medieval inquisitorial prison system) will vanish during this century – like the other medieval signs of state power – pillory, gallows, the galleys, death-cruelties. Maybe this will happen earlier in our ‘Old Europe’ than in those insecure democratic states who have openly to demonstrate their monopoly of power yet; caused through our increasing anti-violence-efforts (best seen in the individual body-count during our preventative wars) and our increasingly economic thinking stretching now from social work to its final prison-product. Nevertheless the same state-induced harm won’t really vanish, but change into more indirect, technically more refined, less visible, better legitimated and deeper reaching harms – psychiatry, preventative exclusion, implanted chips etc. – as long, as the state and his professional gardeners (in the sense of Bauman) need the dangerous Other to demonstrate to an as yet not well informed society their existential security spending existence.

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<sup>5</sup>Traditional Criminology.

Others, like **Sebastian Scheerer**, see a bright future for abolitionism, but only under certain conditions (“conditional abolitionists”):

To the extent that the human species wants to free itself from ignorance, injustice and repression there will be a bright future for abolitionism. Obstacles on this way are the misery of the global masses on the one hand and the enormous manipulative strength of hegemonic ideologies in the industrialized countries on the other hand. What these forces risk to bury is not only the future of abolitionism, but rather of the future of the human species’ existence on this planet.

**Gerlinda Smaus**: “The concern of abolitionism needs to be reformulated in line with such new discourses of social philosophy which are sensitive to new conditions of society. History often proved that precisely idealistic concepts did yield a liberation in situations, which from realistic point of view would appear as unchangeable”.

But **Thomas Mathiesen** makes no predictions, sets no conditions and offers no reformulations. For him abolition is primarily a stance and it is a question of convincing people of that they should adopt it:

... it is not impossible to nurture an abolitionist stance, a stance of saying no! And in the long run it makes a difference. It may contribute to turning points. The turning points of the past – the abolition of slavery, the abolition of the death penalty at least in some places, the abolition of the youth prisons in Massachusetts, the abolition of forced labour, or what have you – should be scrutinized as examples for the future. What fostered them, what caused some of them to return under a different mantle? An abolitionist stance of saying no! was certainly a part of their creation. It may be so again.

### 3. SOME PROVISIONAL CONCLUSIONS

While we were already in the midst of our own little survey, we found that some research was about to be completed elsewhere. Rebecca Roberts was finishing her Master’s Thesis (with Prof. Tim Newburn at the *London School of Economics*) entitled “What happened to Abolitionism? An Investigation of a Paradigm and Social Movement” (2007). Her bases were interviews with the founding fathers and with British abolitionists like Pat Carlen, John Moore, Mick Ryan, Phil Scraton, Joe Sim and Tony Ward. It is not surprising that she reaches somewhat similar results. In order to avoid repetitions, let me quote and comment the four theses with which she summarizes her research:

#### 3.1 ABOLITIONISM ON THE DEFENSIVE?

Rebecca Roberts’ (2007) first thesis is that “Abolitionism is on the defensive”. There is no denying that this is a good description of the last twenty years. The focus is on “containing the system” rather than changing it (Mathiesen quoted by Roberts 2007). Even with respect to the prison question, the emphasis is on mitigating the worst abuses rather than on “transformative demands” (Willem de Haan quoted by Roberts 2007). But there are signs that this situation may be changing. In a liberal political climate, abolitionists were primarily seen as anti-reformist. The new punitiveness is providing abolitionism with a second life. While Liberals, Labour and Conservatives are exploiting the crime topic by constantly demanding more and longer imprisonment, some of us can go back to simply insisting on the evidence-based notion that prisons are not delivering. Rather than providing public safety, they help produce criminal careers. A possible renaissance of

abolitionism is also indicated by new publications and Web sites (see West and Morris 2000; Davis 2003; Ryan and Sim 2007; John Moore's "No more prisons"<sup>6</sup>). Penal abolitionists are increasingly joined by critics of custody pending deportation.

### 3.2 THEORETICAL WEAKNESS?

Rebecca Roberts' second Thesis reads "The question of reform versus abolition (or revolution) is unresolved" (2007, p. 37). While Mathiesen has addressed this question in his early writings<sup>7</sup>, he has remained relatively isolated in his attempts to develop a theoretical foundation on the basis of the juxtaposition of "negative" and "positive" reform (even more so with respect to his both intriguing and mysterious concept of "the unfinished"). In our little chat-survey, we have also seen that Mathiesen's anti-reformist stance is not shared by other important abolitionists. On the other hand, the critique of the concept of crime has become a rather broad and useful (negative) theoretical basis that has been developed independently by Christie and Hulsman, taken up by Scheerer, Hillyard. It is not by chance that reformers like Vivien Stern (2006) are picking up this theoretical thread rather than Mathiesen's. It should be added that Heinz Steinert and his associates in Frankfurt and Vienna have empirically grounded this line of reasoning and are trying to embed abolitionism into a broader theory of social exclusion (Cremer-Schäfer and Steinert 2014). This could link the prison question to other social movements and concerns.

### 3.3 PRAGMATIC TURN OF ABOLITIONISM?

Rebecca Roberts' third thesis is that "abolitionism has become 'more realistic'". This seems to allude to the old controversy between critical realists and critical idealists. This controversy has had much less impact in Germany than in Britain. But it remains true that abolitionism has "shifted away from the 'political' (in a 'revolution-making sense of the word'), with greater emphasis now placed on the moral and pragmatic arguments against imprisonment" (Roberts 2007, p. 38). One of the major figures of German penal abolitionism, Karl F. Schumann, who unfortunately could not participate in our survey, constitutes a good example of this pragmatic turn. He became involved with the government-sponsored "Periodischer Sicherheitsbericht" (periodic safety report), which has recently (2007) been published for the second time. This thick volume is an important attempt to provide an evidence-base for the German government's criminal policy. But this has little, if anything to do with abolitionism. It would therefore be better to say that some long-time abolitionists have abandoned abolitionism for other approaches.

### 3.4 NARROWER OR BROADER FOCUS OF ABOLITIONISM?

Rebecca Roberts' fourth thesis claims that "abolitionism now focuses primarily on radical reductionism" (Roberts 2007, p. 38 et sequ.). As we have seen in the above survey, some very confirmed abolitionists prefer to see themselves as penal reductionists, minimalists and the like. But the differences in between our respondents seem to point also in another direction. It may be advisable to speak of "abolitionisms" rather than of one abolitionist theory or strategy.

<sup>6</sup><http://nomoreprison.blogspot.mx/>

<sup>7</sup>Mathiesen (1974); in the preface to the reedition of his book, he has qualified this by writing: "perhaps we have become less purist in terms of 'negative' rather than 'positive reforms'" (2015, p. 23).

Let me finish by distinguishing at least three different types of penal abolitionism:

- Penal abolitionist reductionisms: Focusing on prison rates (with a long term goal of total abolition).
- Segmentary abolitionism: focusing on the total abolition of certain types of prisons (e.g. Youth prisons; women's prisons; expulsion prisons).
- Abolitionist normalization (abolishing the total character of institutions of detention).

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# **ZUSATZMATERIAL ZUM SCHWERPUNKT 1/2008 DES KRIMINOLOGISCHEN JOURNALS**

Bonus material for the issue 1/2008

In the course of producing a journal on the topic of prisons, we engaged a number of famous abolitionists of the first and second generation in a discussion on where abolitionism might stand today. An essence of the outcome is published in the above Journal. The total communication process is documented here, since it includes many more aspects for which there is no room within the journal.

Enjoy !

Johannes Feest & Bettina Paul

## **Does Abolitionism Have a Future?**

### **Documentation of an Email Exchange among Abolitionists**

#### **1. Johannes Feest/Bettina Paul (29.08.2007)**

Does abolitionism have a future?

We are about to edit a special issue of the journal "Kriminologisches Journal" on the topic "Ist das Gefängnis noch zu retten? Oder: Gefängnisse- wie lange noch?" ("Is there a future for prisons?"). And we have already found seven German authors to deal with these questions in a German context.

This prompts us to also ask what became of abolitionism as a movement and whether it is still valid as a theoretical and/or strategic approach. Your opinion, as an early and/or current exponent of prison abolition, would be of great interest.

We would be delighted, if we could start a little exchange of views, opinions, commentaries between you and your colleagues to be put together and published within a short reach. The idea is to gather fresh ideas and impulses to stimulate the abolitionist debate within today's framework.

So please feel free to express whatever comes to your mind with respect to the issue, as we will pass it all back to you before it is being published. We will publish the results in German, but we plan to quote you in whatever language you use.

To start the discussion, please answer directly to all addressees. Thanks and kind regards:

Bettina Paul (Hamburg)

Johannes Feest (Bremen)

#### **2. Comments by René van Swaaningen (30.08.2007)**

Because Bettina and Johannes asked us to mail our comments to everybody addressed, I think it is more useful to write in English here. I have a number of answers to the question ‘what became of abolitionism as a movement and whether it is still valid as a theoretical and/or strategic approach’.

First, I like to stress that abolitionism’s positive, reconstructive message has been taken up by various *other* perspectives. I see very clear traces of abolitionist thought in ‘restorative justice’ (Braithwaite, etc.), peacemaking criminology (Pepinsky, etc.), the ‘social harm’ approach (Hillyard, etc.), constitutive criminology (Henry & Milovanovic).

The ‘penal core’ of abolitionism has got under serious pressure in the ‘punitive turn’ in many Western countries, notably in the Netherlands; the country with the largest increase in imprisonment in the whole world – albeit we started at a very low level. In a climate where a punitive populism rules traditional penal abolitionism is easily discarded as loony idealism. So, many (previous) abolitionists have changed their focus a bit, by first arguing against punitiveness as such. The literature on ‘the new punitiveness’ can be seen as a reformulation of abolitionism’s negative critique.

As an academic perspective abolitionism was in a way ‘not good enough’: it was often theoretically sloppy, there was little sound empirical research done in the tradition and the moralistic undertone was often too dominant. At least *my* students are no longer used to normative, prescriptive discourse and even get irritated when ‘science’ is mixed up with moralism; *particularly* Left wing moralism. We can still get the abolitionist message across amongst the present generation students, I think, but we have to use another tone than 25 years ago: less ‘standpoint criminology’, more practical, empirical arguments, more connection with concrete policy debates and with different criminological debates.

Abolitionism’s role as a social movement is again a different – although not unrelated – story. We can observe the demise of *many* typical Leftish social movements – oriented at broad social changes - since the mid 1980s. The new social movements are either oriented at global themes – environment, bio-industry, anti-globalism, peace, etc. – or at narrower themes, closer to ‘home’ – often consumption-related. The trick is, I think, to introduce, or to fit, the penal question into the agenda of the new social movements.

These are, in a nutshell, my observations. Looking forward to seeing the ‘Sonderheft’,

With the very best wishes,

René

### **3. Comments by Heinz Steinert (30.08. 2007)**

Abolitionism? What Abolitionism?

The prison abolition movement of the 1960/70s was a major historical success: During those years the conviction was hegemonic that locking people up could only be justified a/ as an „ultima ratio“ concession to helplessness and b/ on condition that an environment could be provided inside the closed institution that was up to the standards of contemporary civilization and that every effort was expended to prepare the person for a more successful life afterwards. This also had a strongly technocratic side: Prison is not effective and even to the contrary and following folk-wisdom is the „university of crime“.

The effects of such reasoning were not unambiguous: The resocialization ideal led to the abolition of short prison sentences, often to be replaced by longer ones (as Karl Schumann showed for juvenile justice). But it also did abolish closed welfare institutions. And it paved the way for new mediation-type reactions first in juvenile law, generalized from there. Not least it produced some reluctance to incarcerate at all. Societies and states learned that conflicts and difficulties can be handled by other means than authoritarian decision and punishment.

Under a strict abolition perspective this may not look like much but during those years the combined and summary effect was that hundreds of years of prison were saved. It's notoriously hard to assign historical causation, but we were part of that effect and that's nothing to be ashamed of.

The tide changed in the 1980s, but that doesn't take away the prior success.

In retrospect we know better than we did then that this type of „inclusionary“ reasoning was dependent on a Fordist mode of production and, more specifically, on a favourable labour-market situation, i.e. high demand for labour. (Arno Pilgram and I have co-authored a series of papers proposing this interpretation as far back as 1975.) It was a historically unique situation – capital doesn't usually let this happen, and did answer first by importing foreign labour then by exporting capital to wherever cheap labour can be found (an important part of what came to be called „globalization“). Little surprise that this transition to a new variant of capitalism – which we first knew no better than to call „post-Fordism“ and for which the term „neo-liberalism“ seems to be accepted today – changed the Fordist „inclusionary“ strategy to an „exclusionary“ one. And this was not specific for the area of punishment, but changed the whole of welfare thinking inside an even wider frame of a style of politics for which Stuart Hall proposed the name „authoritarian populism“.

Do we need to feel desperate and ashamed that we couldn't stop such an encompassing change using the tiny lever of critical thinking in the not very central area of punishment that uses its „sensitivity for what is possible“ (Möglichkeitssinn)? At least we did not – as a lot of criminology did – provide justifications for the new exclusionary regime. At least we insisted that there is no necessity that demands more prisons and more incarceration. At least we can keep interesting questions open, like for instance:

How can a democratic state justify punishment, i.e. (in Nils Christie's apt formulation) the infliction of pain on its citizens?

(And against colleagues who found this a „dramatization“ we must insist that prison is literally pain, often even torture, even under „normal“ conditions in Germany and Austria, even more so in poorer and/or less controlled systems all over the world, beginning in the USA and in Russia.)

Abolitionism needs to be expanded to questions of „pain infliction“, discrimination, in general: damage done by the state.

Can imprisonment be reconciled with human rights?

Since in Europe imprisonment and punishment is concentrated on „foreigners“, what is it that makes the status of „foreigner“ so open to infringement of rights and fair treatment?

Abolitionisms needs to be expanded to questions of citizenship and human rights in war and peace.

Has one of the technocratic arguments against imprisonment been refuted? If not, how come we can – in a time of quality management and evaluation – afford such a monstrous error? Is it because the fantasy is we can get rid of certain people for good (by prison or by transportation)? Do societies and states foster eliminatory fantasies again? If so, do we understand why there are no other ideas for possible solutions of the problems brought about by the present mode of production? Can we provide some?

Abolitionism needs to be expanded to questions of how this mode of production works.

#### **4. Comments by Thomas (aka Herman) Bianchi (31.08.2007)**

Abolitionism,

During the first few decades after the 2nd world war, the Netherlands had the reputation of having the lowest number of imprisoned persons of the whole western world. The story went around that this had been caused by the after all not unlucky fact that many powerful officials had been imprisoned themselves during the war and knew what it means to be locked up. A wholesome narrative, whether true or not. It changed rapidly after 1980, like everywhere else. Political leaders and legal advisers then thought it necessary to join into world numbers and quite many new prisons were built. Although criminologists continued to describe alternatives, like restorative law, sanctuaries, the increase of imprisonment went on and on and punitive reactions got stronger and stronger and press and media reproduction of criminality more and more sensational.

What about the future of abolitionism? During the period of 1960-1980, futurology had been a popular area of studies and investigation. We were all informed about cultural waves: small waves of 15 years, larger of 30 years and impressive culture changes every 60 years. Look: 1520 the religious reformation and first attempts to come to general penal legislation, 1580 religious wars, 1640 scientific and rationalist revolution and more penal philosophy, 1700 the enlightenment and more philosophical support for punishment, 1789 industrial and other revolutions and complete disappearance restorative justice; 1848 more democracy and more penal legislation, and rehabilitation attempts, 1900 modern technology and more massive prisons, , 1960: cultural revolutions and abolitionism, .2020: first results and return of abolitionism, 2080 abolitionism all over. Futurology is a nice game. It is possible that around 2020 authorities come to their senses and will make attempts to introduce abolitionist perspectives. This will most certainly be the case in 2080. So progressive criminologist: keep the home fires burning.

Herman Bianchi, Netherlands

## 5. Comments by Marie André Bertrand (1. 09.2007)

Abolitionism, a necessary utopia.

Abolitionism is an ideal and a program that seek to put a stop to imprisonment, to even empty prisons, but it can also mean the will to replace the criminal justice system by civil arrangements.

For us, Canadians, abolitionism was and still is a great idea and a necessary utopia; it is deeply seeded. Quebec students, professors and professionals in criminology have learned of its desirability since the late 1970s. Louk Hulsman's *Peines perdues*, (1984) has been compulsory reading for thousands of undergraduates, graduates, researchers and teachers, in the "history of criminology", "penology" or "social reaction to crime" classes. Louk himself has spent two to four weeks every other year from the late 1970s to the early 1990s in Canada, between the Montreal School and the Ottawa Department of Criminology, developing his theses and describing alternative policies. In English Canada, Nils Christie played a similar role with a somewhat different content and regularity, at the Toronto Center of Criminology, Osgoode Hall Faculty of Law, and less regularly at Simon Fraser Department of Criminology, or UBC Faculty of Law. Nils has also been the star of more than one congress of the Canadian Association of Criminology and Criminal Justice in the last 30 years.

Many Canadian academics and professionals have nourished the utopia and worked at the transformation of penal institutions, fully conscious that reform was not abolition, it may even work to the opposite, but keeping the ideal in mind. Their good will was seconded at times by ministers and prison commissioners; there were other favourable 'circumstances'. First, the creation of a Strategic Penal Committee in 1980, whose reports came out at the time the Canadian Constitution was amended and the Canadian Charter of rights adopted, "sealing" the prisoners' rights. A second factor had nothing to do with government policies but everything to do with demographics: the 'criminal age cohort (18-30)' started to decrease in the late 1980s rendering possible the closing of a couple of short terms prisons. Thirdly, pragmatism and the "economics" prevailed in the late 1980s, "any thing but" (prison) became the rule, - fines, community surveillance with or without bracelet, reparation, a perspective that we asked our Australian friends to teach us. Last but not least, the Criminal code

was amended to include remission (sursis) and a set of 'principles for the determination of sentences' in conformity with the Charter.

Yet in the last five or six years, things have not been that good. It is not immigrants as in some European countries that are overrepresented in the prison population but Aboriginals who count for 17% of the prisoners while representing 2,5% of the Canadian population. First nation women are even more overrepresented than men. And since 9/11, suspected terrorists are detained as prisoners but without rights ...

Abolitionism? - The idea and the dream are there. The policy is rather penal minimalism, pragmatism and human rightism.

## **6. Further Comment from Heinz Steinert (01.09.2007)**

**(in reaction to comments that the original claims of abolitionism were "seriously delusional")**

Does abolitionism have a past?

1/ From historical accounts I have read I have gathered the notion that there was a movement for some specific treatment of juvenile offenders starting around 1900 and to particularly keep them out of merely punitive regimes and get them into educational ones. It seems to me we still have a separate system of juvenile justice that works pretty much along those lines. Or am I deluded in this?

2/ I remember a post-WWII movement to abolish the death penalty in western Europe. My impression is it was quite successful there (not so in other parts of the world, including North Korea, Iran and the USA). Am I deluded in this?

3/ I remember criminal law reforms in the 1960/70s that had the intention (it can be debated how well this intention was realized) to reduce prison sentences accompanied by prison reforms that aimed at making them a/ more „rehabilitative“ and b/ conform to standards of civilized living and human rights. Is this a delusion?

4/ I seem to remember this was embedded in social initiatives to reduce imprisonment by e.g. the Howard Society or the Religious Society of Friends, aka Quakers, and many smaller ones with a shorter history. Some, like the prisoners' movements in Skandinavia, seem to have faded out. (I guess Thomas will tell us more about them.) But many others, it seems to me, are still around. Am I deluded in this?

5/ I have a memory that, starting in the 1960s, „mediation“ (in all kinds of variants) was developed, debated and in the end taken up into law in practically all western countries. Again, this had at least the intention of reducing prison sentences. There is enough evidence that it did in fact do so (at least for a time). Is this a delusion?

6/ I also seem to remember that our Vienna Institute and even I personally had some part in making lawyers and law-makers aware of such ideas and in making them acceptable. I still understand this as a contribution to the historical movement (even though, as I said in my first paper, it doesn't make much sense to try to isolate historical „causes“). I also remember that this was derived from some theorizing that tried to re-conceptualize the legal category of „crime“ in sociological terms like „damage“, „conflict“, „moral outrage“, „scandal“ or „accusation“ and to derive forms of possible resolution from such re-definitions. Such attempts to think through other possibilities („Denken als Probehandeln“ and the cultivation of a „Möglichkeitssinn“), I always thought, is the modest but valid core of abolitionism (as well as all reflexive social science) as an intellectual undertaking. Am I deluded in any of this?

7/ As to „horrendously offensive to the suffering and plight of the victims of any form of slavery to whom abolitionism was originally applied“: I take it from research in the USA that imprisonment and the death penalty

have been and still are massively related to race there. Is it really „offensive“ to criticize the truly horrendous development of imprisonment that was started politically (and supported by changes in legal and criminological thinking) in the 1980s and its racist bias (in Europe against „foreigners“)?

(And just by the way: the term „abolitionism“ was not invented by intellectuals or criminologists, but by well-meaning bourgeois, early on mostly lady activists – against slavery, against state regulation of prostitution, against the death penalty, against life-sentences, against imprisonment, and probably a lot of other causes that I’m not aware of. The connection is historical: imprisonment was identified as „Strafknechtschaft“ – „punitive slavery“ –, probably derived from „Schuldnechtschaft“ – „debt slavery“ –, by early 20th c. theorists, and that’s not such an uninteresting line of conceptualizing.)

The „abolitionist movement“, then, is, in its application to punishment, a historical line of development, certainly in Europe and perhaps most pronounced in Skandinavia, consisting of a number of initiatives and „waves“ that can be summarized under this name. As social scientists who work in the field we were and are part of it one way or the other, with it or against it and with the hard-to-pin-down effects of all scholarly and intellectual activity on historical developments.

Obviously, the movement has been stopped and reversed in and by the shift to a neoliberal mode of production and its political form of „authoritarian populism“ in the 1980s. The question to discuss in this situation is the role of the intellectual spin-off of that earlier movement: How do we react to a changed reality – what are the practical, what the intellectual adaptations that are necessary – or is it maybe our intellectual job *not* to adapt too easily and insist on those criticisms of a form of domination that are still valid, go on with research into other forms of resolving problems, even if the powers that be will not listen? (Do we give them the right to determine our research agenda?)

H. Steinert (# 2)

## **7. Further Comment from Thomas Bianchi (02.09.2007)**

Dear Johannes,

A) the abolition of prisons will come, as sure and certain as the day follows the night, and as certain as the abolition of slavery followed at a Godgiven time.

B) while awaiting the total abolition, progressive criminologists should spend all their time not in struggle against the stupidities of the prison system but in describing and and working out effectfull alternatives of crime control.

Thanks

Herman Bianchi

## **8. A first attempt at summing up by Johannes Feest (02.09.2007)**

### **Definitional issues**

Abolitionism broadly conceived can be seen as an effort to abolish patently inhuman social institutions (slavery, capital punishment, prisons etc.). The term encompasses social movements dedicated to such causes as well as theories (of the “abolishability” of such institution), which underlie such movements.

We are here primarily concerned with prison abolition. Prison abolitionism is usually distinguished from (but

also bears some resemblance to) prison reductionism, penal minimalism etc.

## **Theories of prison abolition**

Some theories of prison abolition start from the unethical, character of punishment and suggest alternative ways of dealing with conflicts (Herman Bianchi). Others focus on deficiencies of the purportedly rational justifications of punishment (Thomas Mathiesen: “prison logic”). Still others start with deconstructing the concepts of “crime” and “criminal” (Nils Christie, Louk Hulsman, Heinz Steinert).

Most abolitionists have some preferred alternatives to state organized punishment: conflict solution and reconciliation (Bianchi), replacing criminal by civil procedure (Hulsman), creating social conditions for pain reduction (Christie). But some insist that only the abolition of institutions before creating alternatives (“negative reforms”) can achieve the desired result (Mathiesen).

## **Abolitionist movements**

With respect to prison abolition mainly the famous Scandinavian movements Krim/Krom/Krum come to mind. What happened to them?

On an international level, the International Conference for Prison Abolition (ICOPA) is organizing conferences (since 1982) every few years. It is financially supported by the International Fund for a Prisonless Society.

Related movements should be mentioned: the successful movement to abolish closed psychiatric institutions in Italy (connected with the names of Franco and Franca Basaglia).

## **Abolitionist achievements**

Memorable abolitionist events:

- the closing of juvenile institutions in Massachusetts
- on a much smaller basis: the closing of the only short-sharp-shock institution (Jugendarrest-Anstalt) in Bremen
- as a related event: the abolition of closed juvenile care institutions (Fürsorgeerziehungsheime) in Hamburg

To what extent was theoretical abolitionism the basis (handlungsleitende Theorie) of instances of prison abolition? Surely, some of the smaller abolitionist projects (Hamburg, Bremen) were directly influenced by the Oslo school. But: was Jerry G. Miller in Massachusetts influenced by Thomas Mathiesen?

On the other hand: maybe some remarkable penal reforms had nothing to do with theoretical abolitionism (Haferkamp’s “realer Abolitionismus” = real existing abolitionism)?

## **Future of Abolitionism**

After years of prison-bashing in the 1970ies, we find today a veritable renaissance of prison building and prison use. Was abolitionism only a short-lived error? Are prisons “here to stay”? And what does the new punitivity mean for abolitionism?

Here are some answers from our survey:

- While the short term situation is rather depressing, hope may be gained by looking at the long waves

(Bianchi)

- The idea and the dream are still alive, albeit under different names and guises (Bertrand).
- “The literature on ‘the new punitiveness’ can be seen as a reformulation of abolitionism’s negative critique” (van Swaaningen)
- Maybe prison abolitionism as a social movement only lost touch and the penal question needs to be re-connected to newer social movements? (van Swaaningen)
- **Rather than abolishing it**, abolitionism needs to be expanded: to questions of „pain infliction“, discrimination, in general: damage done by the state. It needs to be expanded to questions of citizenship and human rights in war and peace. It even needs to be expanded to questions of how the present mode of production works (Steinert).

## **9. Comments from Nils Christie (04.09.2007 from Buenos Aires, where he attends a conference on abolitionism, with Hulsman and Zaffaroni)**

### **Reflections on abolitionism**

I have never understood if I am a purified abolitionist, - or not. And I am not highly interested in knowing. Abolitionism is to me a cluster of ideas I like. And persons I like, much because they have these ideas. Now and then I disagree, - think this goes too far. But these disagreements are as nothing compared to the general agreement.

That agreement has first and foremost to do with creating limits to pain. In my simple world-view, an important goal in life is to attempt to reduce human suffering, particularly suffering that is intended as suffering. I suppose that relatively few among us would argue for the opposite principle; let us to the best of our ability increase the level of suffering in society.

Prisons are major institutions for the delivery of pain in our societies. They stand therefore as a major target for abolitionistic activities.

I hear some say it has not worked. While abolitionists talk or organize protests, the prison population bulge. Try then to imagine how the situation had been if abolitionists had not been there. Also: Should one stop fighting for important values because so much in society work against these ideas. Abolish what Gandhi, Jesus and Mandela stood and stand for, because it does not work?

But there are limits to my abolitionistic urge. Some people might be absolutely impossible to prevent from burning Mosques or Synagogues or Churches, of from beating their wives or parents. If we have tried all, from conversation to mediation, we might as a last resort be forced to use physical restrictions. In some of these cases, I think imprisonment gives better protection to the wrongdoer than euphemistic terms like treatment or cure. If we overload the system of mediation, we risk converting boards of mediation to penal courts in disguise.

So, may be I am no abolitionist, only a minimalist in cooperation with all those others who share the general goal of reducing intended delivery of pain in society.

Nils Christie

## **10. More Comments from Thomas Bianchi (05.09.2007)**

Dear Johannes,

Once more a few remarks. One gets the impression that many abolitionists to day are a bit disappointed about abolitional developments. The point is that too few have really come forwards with real alternatives to serious crimes. It sometimes reminds me of the abolition of slavery. Because the US government in 1865 did not or hardly come forward with the question what to offer to the liberated slaves, the racial suppression has lasted another century. If abolitionists offer no alternative to the question of vicious crimes other than locking up the actors. It is a pity that too few made study of legal solutions in former historical periods of our culture or social anthropological studies of how other cultures handled the problem. Solutions like sanctuaries e.g. That's why it will take such a long time to realize fundamental change.

Herman Thomas Bianchi

## 11. Mail from Johannes Feest to Thomas Bianchi (05.09.2007)

Dear Herman,

thank you again for sharing your thoughts with us. And for reminding us that prisons are not the only solution for "serious crimes". And to remind us of the sanctuary idea. I have just browsed in your book (Gerechtigheid als vrijplaats, in the German version "Alternativen zur Strafjustiz"). And I saw that you considered it most difficult to convince people that "terrorists" could be allowed to enter sanctuaries. But today it seems almost as difficult to argue that a child molestor, especially a pedophile killer should be allowed to go to a sanctuary rather than to a prison. By the way: do you conceive of therapeutic sanctuaries?

I will now send your thoughts, together with these questions around to the other participants in this discussion.

Kind regards: Johannes

## 12. Mail from Thomas Bianchi to Johannes Feest (06.09.2007)

Dear Johannes,

You are right. But I have always argued that people who cause an immediate danger to other people should be incarcerated. The idea of sanctuaries is to give actors AND victims with therapeutic help an opportunity to come to terms with one another; with good help it can be wholesom to both actors and victims. That is the best way to help BOTH actors and victims. But these very dangerous criminals constitute not more than 8 or 9 % of the present prison population. And sancturies have been a substantial part of the legal system from the most ancient times until 1800 (some countries 1500 others 1800).

I have never imagined that at my 83 years of age I would again be somewhat enthousiactic about these topics.

Herman Bianchi

(my present name is Thomas, I changed my first name when I was 65, for Herman means warrior, "man in the army" in old germanic. And I am such a peaceful person. When I retired at 65, I prayed the Dear Lord in Heaven to grant me the rest of my life a more peaceful existence).

Dear Johannes: one more remark. When I retired a text of Schiller came to my mind: "Gegen die Dummheit kämpfen sogar die Gotter vergeblich". Unser Strafrecht ist dumm.

Thomas (Herman).

## 13. Comments from Thomas Mathiesen (07.09.2007)

## THE ABOLITIONIST STANCE

I agree with Heinz Steinert that some very important abolitionist gains were made in the 1960s and 1970s. This was indeed a period, as he puts it, of “major historical success”. Partial abolitions of systems were carried out (in Norway, the youth prison system, the forced labour system, causing a major drop in incarceration in Norway). In several countries the number of inmates fell and remained lower than earlier for quite some time. Secondly, I agree with Heinz that we don’t need to feel desperate or ashamed that we could not stop the strong wave towards increased punitive populism, media panics and rising prison figures, and their societal and political underpinnings, which were increasingly characteristic of the 1980s, 1990s and later. As he says, those of us who belong to the (admittedly vaguely defined) “abolitionist movement” have at least not provided justifications for “the new exclusionary regime”.

There is also more to be said. What does it mean to be an “abolitionist”? Why do I call myself an “abolitionist”? Max Weber described the concept of the “ideal type” by making clear what an ideal type is not. It is not an average, it is not an hypothesis, and so on. So with “abolitionism”. An abolitionist, whether a scientist, a teacher or a person practising his/her trade, is not a person who is preoccupied with what I would call system justification. He/she is not a person who is preoccupied with refining the existing.

But it is possible also to define abolitionism in positive terms; not only in terms of what it is not, but also in terms of what it is:

Abolitionism is a stance (Position). It is the attitude (Haltung) of saying “no”. This does not mean that the “no” will be answered affirmatively in practice. A “no” to prisons will not occur in our time. But as a *stance* it is viable and important. When I wrote *The Politics of Abolition* in 1974 (translated into German as *Überwindet die Mauern* in 1978), I was certainly preoccupied with strategies of achieving concrete abolitions. But I was also preoccupied with fostering and developing an abolitionist stance, a constant and deeply critical attitude to prisons and penal systems as human (and inhumane) solutions.

It is possible to get closer to the core of this stance. It is a stance which goes beyond the parameters or conditions of existing systems. Systems such as the prison or the penal system are complex functionally interrelated systems. Therefore, if you criticize one aspect of, say, the prison system, you are immediately confronted with the “necessity” of that aspect. If you criticize the security regime, you are immediately confronted by the necessity of maintaining the regime in view of, say, public opinion. When something is said to be “necessary”, you should beware: Functionally interrelated systems are not inherently conservative, but grow conservative by our succumbing to all of the parameters of the system. The succumbing to the parameters is close to the non-abolitionist stance. The abolitionist stance goes beyond (some of) the parameters. For example, it says “sorry, but public opinion is not my concern”, or perhaps better, “public opinion can be changed, or contains other and quite different components” (more about this below).

It is easy to succumb to all of the parameters. Many forces work in this direction: Social pressures at the work place (you have to cooperate with people, share secrets with them, strike very informal, almost unnoticeable bargains with them, all of which compromise you); hierarchical disciplinary pressures at the work place (staying in line); simply fatigue from everyday chores. Imperceptibly your stance is altered into something more or less different from saying “no” to given arrangements. To be sure, we cannot, and perhaps should not, have an abolitionist stance to everything in the world. But we should have an abolitionist stance to things highly negative and vital politically speaking in our professional lives, and perhaps in our lives as citizens.

Is abolitionism as a stance a movement? There are probably variations nationally and internationally. In my country, Norway, I see at least rudiments of such a movement, indeed despite the dark 1990s and early 2000s. There is wide concern and worry in the professions and among segments of the population about “the new

exclusionary regime”, to use Steinert’s apt term. There is also, more specifically, concern and worry about the use of prisons, perhaps especially against younger delinquents. But the concern and worry, the abolitionist stance, is not so apparent on the surface. The surface is covered by frightening media stories about terrifying murders and rapes, and about people being terrified by the stories. But under the surface layer there are more nuances. We have recent and solid empirical grounds for saying that it is a matter of distance and closeness. The closer you come to those who have committed unwanted acts, the more nuanced you become. A large scale Danish study, headed by the Danish criminologist Flemming Balvig, recently documented this in detail ([www.advokatsamfundet.dk](http://www.advokatsamfundet.dk), unfortunately so far only in Danish). Though very important, this can probably not be taken as a full scale proof of the existence of an abolitionist stance. More important is perhaps the concern you sense at large meetings with a critical focus, outside the realm of television. Through the years, and also during the 2000s, I have attended or organized a very large number of open meetings on criminal and social policy. The organization KROM still exists, though the parallel Swedish organization vanished many years ago (to answer a question raised by Johannes Feest – the disappearance of the Swedish organization raises interesting sociological questions). KROM has organized some of the meetings: During its 40 years existence, it has i.a. organized 38 large three day conferences on penal policy. They are held in a particular mountain resort, giving historical continuity and a sense of belonging. Many generations of professionals and others have been covered by these conferences - inmates, ex-inmates, social workers, lawyers, teachers, medical personnel, prison officers, people from the ministries and what have you. As opposed to most meetings of this kind, the conferences are cross-sectional, covering a wide variety of trades. Those who disagree with us are also there: In the 1960s and 70s, the Prison Department avoided us. Now they feel forced to come. Debates are very heated. Networks are created and maintained.

The conferences have always drawn a much larger crowd than first expected. And not only at these conferences in Norway. This gives ground for optimism. A one-day public meeting in Stockholm a few years ago on prisons is an example. The organizers expected an audience of 100. 400 came, and the meeting was a success. And the crowd in fact said “no!” to some important elements in the development of Swedish prisons. An abolitionist stance surfaced.

Some will perhaps say that meetings of this sort are only dramatized and executed by fossils from the 1960s. I think not – there are too many young people about. An important sense of community sometimes appears. Some people have said to me, “I thought I was alone with my thoughts. But here are many others!” Isn’t this a sign of a movement?

I don’t want to idealize this. There are certainly obstacles. One obstacle, again, is television, instigating and “sucking up” popular meetings, staging their own “debates” as entertainment events. But we should not think of television and other media as constituting the only public space. Public space is a much more complex phenomenon – there are many alternative public spaces outside the realm of the mass media. The mass media, incidentally, have their “mass” character as their Achilles’ heel, unorganized and individualized as they are. Another obstacle is the everyday grind – you grow up, you get married, you get children, you get divorced, you have to go to work to earn a living and you dump down exhausted in front of the TV at the end of the day. But the events I just mentioned, at least some of them, also create vigour and life, also at least some surplus of energy. A third obstacle is the neo-liberalism and market orientation of our time. But isn’t that in part what we are struggling against?

In others word, it is not impossible to nurture an abolitionist stance, a stance of saying no! And in the long run it makes a difference. It may contribute to turning points. The turning points of the past - the abolition of slavery, the abolition of the death penalty at least in some places, the abolition of the youth prisons in Massachusetts, the abolition of forced labour, or what have you - should be scrutinized as examples for the future. What fostered them, what caused some of them to return under a different mantle? An abolitionist stance of saying no! was certainly a part of their creation. It may be so again.

## 14. Comments by Sebastian Scheerer (09.09.2007)

Dear All:

first of all, I would like to thank Johannes and Bettina for their initiative. It was a beautiful and very productive idea to start this discussion. It's exactly what had been missing the last couple of years or even decades, respectively.

I think a lot has been said already, and I only want to comment on two questions: (1) can abolitionism deservedly claim victory in the cases mentioned by Heinz Steinert and Thomas Mathiesen? (2) What can/should university teachers do in relation to prison abolition?

(1) One important detail is that intricate question of causality. Does abolitionism have the right to claim as its own victories events like the abolition of workhouses, the closing of certain penal and mental institutions and all (or any of) the other examples given by Heinz Steinert and Thomas Mathiesen? It seems that - at least outside the abolitionistic camp - some people have grave doubts about this. I thank Johannes Feest for bringing the point up.

Sometimes things happen and you like the events because they seem to realize some of your dreams and values, but that does not always mean they happened because of your dreams, values, or speeches.

For instance, the institution of the "workhouse" (Arbeitshaus) has been deleted from some countries' catalogue of penal sanctions, but only sometimes there had been groups of people from the grass-roots and from the universities who connected that demand with larger political and theoretical ambitions. As Mathieu Deflem said: maybe most of these innovations were reforms that had been brought about by the dynamics of the prison system/the criminal justice system itself and not by outside abolitionists.

I remember personally the innovative methadone treatment approach for heroin users that had been introduced in Germany by the mid- and late 1980s. Preceded by and accompanied by loud drug policy reform minded criminologists (including myself), but certainly not because of their (our) clamour.

In the case of the abolition of the transatlantic slave trade, on the other hand, it was a dozen (sic!) determined men who proved that moral determination could overpower even the most "vital" economic "necessities" embodied in the triangular (slave) trade of the 18th century. After only little more than a lifetime, an institution that had seemed absolutely natural and unchangeable had been outlawed, stigmatized, and soon effectively brought to an end.

It is good to have Heinz Steinert's list of (possible) successes of the abolitionist movement. But was there a movement, really? And were these events attributable to the abolitionist movement (if there was one)? To me, these questions have been brought up - and I am thankful for this - but they have not been answered in a conclusive, well-substantiated manner.

[1] To me, this is a research question: "Abolitionism and negative reforms in the late 20th century: some problems of causality". The burden of proof, I am afraid, should be ours. If we are afraid or unwilling to shoulder this burden we will (continue to) attract reproaches of wishful thinking and even self-delusion.

(2) [2] René van Swaaningen's experience is also mine: students today do not want to be taught opinions of the 1960s and 1970s, but prefer evidence-based arguments and honest discussions. And rightly so. The job of a teacher is not to teach opinions and not even a general stance of saying no! - In the end, the students have to make their own value judgements, and it is perfectly conceivable that their values teach them to opt in favour of

the prison system. All we can do is (a) to show how one can think differently about the prison system, and how different values would suggest a different praxis, and (b) challenge the naturalistic view that everything that exists in society is there because it must be there. This means we can justly refuse to take this kind of burden of proof on our shoulders. It is the system that has to legitimize the existence of punitive institutions and indeed of the very institution of the penal law and punishment - it is not us who have to prove that one could also do without it. Especially in the legal education, this kind of not-taking-the-criminal-justice-system-for-granted would spark a revolution.

Academic abolitionism, as Louk Hulsman calls it, is a stance of being deeply sceptical about the self-legitimation of the criminal justice system, and especially concerning the "necessity" of the prison. This is close to Thomas Mathiesen's position, but not identical, since it does not aspire to produce specific choices in the students.[\[3\]](#)

Oh, and thirdly, I propose to distinguish between confinement and the prison.[\[4\]](#)

Confinement will always be necessary for a few people in very specific situations - and it has been in existence long before the birth of the prison. But the prison as an institution of punishment - that is neither necessary nor good in itself, and probably the first society who gets rid of it will be admired and envied by later generations and the states which follow suit.

It is getting late and I will go to bed soon and have a beautiful dream about a society without prisons.

Herzlichen Gruss,

Sebastian

N.B.

I always believed (with Theodor Adorno and others) that the object of the social sciences is not to develop a future good world, but to point to the bad aspects of reality, i.e. to speak out against injustice, but not to design blue-prints of how everything could be improved.

After having read Thomas (a.k.a. H.) Bianchi's appeal to design positive alternatives to the prison system I would like to read what other colleagues think of his idea ... [\[5\]](#)

## **15. More comments by Sebastian Scheerer (11.09.2007)**

Dear All, and especially dear Thomas:

how nice to get into this discussion.

Maybe I make it shorter and clearer what I wanted to communicate when I wrote the last parts of my statement (pleading for "less opinions and more evidence", much in line with René v.S.):

Pro-Abolition arguments could profit a lot if they took the adversaries of their position more serious. It is my impression that there are quite a few values and facts around that are a challenge to abolitionism. I really do not see that abolitionists search for these values and facts and try to cope with them sincerely and thoroughly. Most prefer to stay in their own camp. I loved to read Bianchi's aphorism about the stupidity of prisons.

But aphoristic wisdom is one thing, arguments are another.

Sebastian

## 16. More Comments from Thomas Mathiesen (11.09.2007)

Dear all:

Since Sebastian Scheerer touches on my contribution to the debate on abolitionism, I will take the opportunity to respond to him.

Sebastian Scheerer raises two questions:

(1) Can abolitionism deservedly claim victory in the cases mentioned in this debate? This is the question of causality. In my first contribution I mentioned turning points of the past - abolition of slavery, of the death penalty at least in some places, of youth prisons in Massachusetts, of forced labour (Norway), "or what have you". And I said: "An abolitionist stance of saying no! was certainly a part of their creation".

I don't know enough about the abolition of slavery to be sure that an abolitionist stance was a part of its "creation". But from what I have read, the actions of right-minded people do seem to have been a part of it (though i.a. economic forces probably also contributed). The same holds for the abolition of the death penalty. The notion that a stance of saying no! was "a part of" it to me seems plausible. I know more about the abolition of the youth prisons in Massachusetts. The recent story of the youth prisons in Massachusetts has been scrutinized carefully, and it seems more than just plausible that central people who turned abolitionist (as far as the youth prisons went), were "a part of" what took place.

I know still more about the abolition of forced labour in Norway, and also about the abolition of the youth prison system in Norway, because I took a direct and active part in the struggles. It seems inescapable to me to conclude that a stance of saying no! was "a part of" the causal chain. There is neither time nor space to relate these stories in detail here, but, in the case of forced labour, remember how we lobbied parliament members, divided the country between us and wrote newspaper articles all over, communicated with forced labour inmates and got their stories out, how we also got the forced labour inmates themselves out to give public talks and lectures, how we got one of our central lawyers to become secretary of the justice committee in Parliament, how he, as secretary, used our manuscripts as drafts when writing the central opinion of the justice committee, how that central opinion and the committee in turn influenced Parliament as a whole to a unanimous vote to abolish forced labour in Norway. And much more. All of this is in my mind a telling story of how the system was brought down. In a similar vein you might go into the story of the abolition of the youth prison system in Norway, where, incidentally, the head of the youth prison turned abolitionist (as far as his own prison went), and played a part in bringing that system down - much like his counterpart in Massachusetts. To be sure, the heads of the systems in Norway and Massachusetts had roles inside the systems in question, but at least as far as the Norwegian situation goes, I dare say that the head would not have acted in the same way if he had had no ties to and support from the outside.

I don't know what your similar concrete experiences with abolitionist movements are, Sebastian. In any case, remember that I have been careful all the time to say that abolitionism has been "a part of" these results. No sociologist in his right mind would venture a simplistic cause-effect chain from abolitionism to abolition. The movement favouring abolition of forced labour in Norway in 1970 was fairly broad, containing religious groups, various political and social groups as well as academics writing reports on the situation, and certainly also containing "internal dynamics" of the penal system, which you refer to (whatever "internal dynamics" are - the term is both catch-all and vague). Internally, there were increasing doubts and conflicts. These various forces interacted with each other in various ways. Internal doubts and conflicts inter alia fed on the activism of outside groups. But if a stance of saying no! had not existed before and during the time span in question, it seems likely to me that it would at least have taken much longer to have forced labour abolished, and possibly it would have been abolished only with "alternative" camps or institutions in the making.

Through a large part of the later 1970s there was an ongoing struggle to avoid such camps and institutions. In these very concrete struggles earlier forced labourers played a significant part. They formed an "Action group for vagrants", and said no! to new camps, with a fairly broad public hearing. The avoidance of the of new camps (and "a key to our own door!") was to a large extent successful. This is also a long and fascinating story which time and space prevents me from relating here (for those few who read Norwegian, see my "Løsgjengerkrigen" (The Vagrants' War), 1975). But it would probably be worth writing these various experiences up in German or English before it is too late.

## **(2) What can/should university teachers do in relation to prison**

abolition? I will be briefer about this. You seem to be presupposing, Sebastian, that a stance of saying no! should be the only stance we present when we teach. Of course, as a university teacher I attempt to spell out the various alternative ways of looking at the matter. I spell out the "no!" arguments, but also the opposite arguments. This is an obvious part of my teaching role, which you seem to ignore or twist. You seem to assume that a teacher who is also an abolitionist, is onesided in his teaching. I don't know where you have this assumption from. Also, my experience is that students of today like arguments pro and con. I present my arguments, but I take care also to present the arguments of others. Maybe I am not always successful in this. But neither are those who typically argue from the other side. All we can do, is to do our very best in this matter.

When I in writing present the "no!" arguments, I try very hard to do so on the basis of very concrete evidence emanating from research (Prison on Trial, 2006 ed.). You make the following statement: "Students today do not want to be taught opinions of the 1960s and 1970s, but prefer evidence-based arguments and honest discussions. And rightly so."

Leaving aside your implicit and just slightly insulting assumption of a major difference between the mere "opinions" of the 60s and 70s as opposed to the evidence-based arguments and honesty of today, my point is that the critiques of prisons which you find in writing are in fact solidly evidence-based. I am coming to the end. Thanks to Sebastian Scheerer for having contributed to an interesting debate.

Best wishes,  
Thomas Mathiesen

## **17. More Comments by Heinz Steinert (12.09.2007)**

Dear Sebastian, dear colleagues and friends,

maybe what you gave us below, Sebastian, is a bit too short and not clear enough: Could we name some of those "quite a few values and facts around" and discuss them in detail?

I guess one of the "values" (wouldn't "aims" be the better word?) is "victim protection": But isn't it abolitionism that thinks in terms of a social relation like "conflict", "damage inflicted" or "provocation escalated" etc. and has, therefore, in its very concepts included what traditional criminology (TradCrim) treats as separate? And do I need to mention particularly that TradCrim has, by inventing a new speciality: Victimology, even cemented that separation? - with the practical consequence of playing the two, victim and perpetrator, against each other, instead of looking for reconciliation and compensation at least in those interpersonal situations (shall we call them "social crimes"?) where this is possible. There is another category of "damage" that cannot be resolved interpersonally - shall we call them "crimes of domination"? - where we need something like "compensatory empowerment". (Many of these crimes of domination, by the way, depend on and exploit state regulations - e.g. trafficking in drugs or in humans - or at least "official" encouragement - e.g. most hate crimes. Solutions, therefore, would have to be sought in the domain of "official" domination.)

Perhaps these are the two dimensions that can be used to analyse most "crimes" and to develop proper solutions - instead of the "stupid" pseudo-solutions offered by punishment.

I guess another such value is "prevention": But again, there abolitionism offers the advice to use as much situational prevention as possible and neuro-bio indicators, of course).

In both examples mentioned so far, abolitionism simply opts for better, "less stupid" solutions for the problems that are mis-constructed by TradCrim.

I guess another value might be "order": Insofar as there is an opposition of order and liberation (which can be debated in general and detailed for particular situations), abolitionism will be on the side of liberation and of an order that can be negotiated by those immediately concerned. So in many instances there is no such opposition. There is nothing liberating in mutual neglect and reckless use of the social infrastructure, if that's what you mean.

Abolitionism will also be on the side of more democracy. We could probably do more to spell out the theory of democracy implied and its relation to the mode of production and its change from Fordism to Neoliberalism. But I don't see there is much neglect of what the other side, including TradCrim, says, does and theorises, just a well-founded difference.

Please give more examples, especially if these should not be the ones you had in mind.

(I also strongly disagree with your and René's equation of abolitionism with "moralism", mere "opinion" or, as you say below, just "aphoristic wisdom" and no arguments, whereas TradCrim and dominant thinking and politics had the "honest arguments" and the evidence. I always thought we had the better, the reflexive arguments, even if they lack the benefit of going along with the dominant ideology and conventional wisdom. But that's the point of a reflexive social science. We also have a lot of the empirical evidence needed, certainly not less than TradCrim (not least because we can use a lot of their empirical findings). You may remember my old article on Quinney's "radical rhetoric and sloppy data", but such criticism is standard scholarly procedure - and how many more such articles could we have written (and did we write) on the data and rhetoric of TradCrim? I can't see how you have come to believe that TradCrim has the better evidence and the "honest arguments". Please explain what is not so honest about the abolitionist arguments. And would you say TradCrim has a pronounced tendency to leave "their own camp" and to "sincerely and thoroughly" seek for approaches that challenge them? (As the dominant ideology they have much less need to do so than a minority position does.) I guess what you mean is that there was a time when the conventional wisdom was sort of abolitionist, whereas now it is punitive and exclusionary. That may have been the case in the university, and even there ... just remember the problems we had with the "authoritarian left" at the time - but outside of that institution there never was such a situation in which abolitionist arguments would pass unchallenged.)

And just a P.S. to the question of historical influence:

I strongly propose to distinguish between:

- a historical tendency all through the era of Fordism to abolish and at least diminish punishment and exclusion as a form of domination - with an extreme counter-movement that became dominant in fascism and Stalinism; - the individual movements that organised around single issues in this over-all development; - the scholarly orientation towards and theoretical interest in both these processes and in thinking through their radical consequences and the conceptual foundations that can be imputed. It is impossible to say in a general way what influence the third process had on the first, probably none. It is not quite so hard to say what influence what measures had in the struggles around specific issues of the second kind, sometimes a lot, sometimes little, but

that can be determined empirically. Political science does it all the time.

Unless we use a Hegelian model we will also have to assume that the historical process consisted of the single-issue movements (on the basis of the demands and conditions provided by the mode of production). And if some part of theory is the preservation and systematic analysis of a historical tradition then theory also has a part in all of this. There is no good reason for grandiose self-enlargement, but we also need not hide what we contributed as much as legislators, administrators, journalists, traditional criminologists, ex-prisoners and their relatives and many others did to these struggles.

Regards  
Heinz

## 18. More Comments by Sebastian Scheerer (17.09.2007)

Dear Heinz and Thomas, dear All:

thank you for your - very thoughtful and largely convincing - arguments.

Thomas made a very forceful point about the relevance of KROM's movement for the abolition of repressive institutions in Norway.

But: weren't the same institutions (workhouse ...) abolished in other countries as well - and without such a big movement? How was it in Denmark and Sweden? I remember that the "Zuchthaus" was abolished in Germany in 1969. There was no movement at all and no abolitionists who claimed to have had anything to do with it. Still, it was a nice thing to see the Zuchthaus go away.

People who like to see it go away may have been "part of it all", but as long as they did not exert an "influence", that would not be enough to claim participation in the "victory". If not "causality", one should at least strive for "influence" in the process.

With the abolition of the transatlantic slave trade things had been different. The abolitionists of those days were not content to have been "part of a process that ended in the abolition of slave trade", but they had been the *conditio sine qua non*. They had been the cause of slave trade abolition.

They did not even have the mode of production on their side. Much to the contrary. They stood up against vital economic interests (almost: economic laws). And won. I mean that is quite something else. Where did this movement have its strength from? 1787-1833: a provisional answer would be: they were powered merely by the ideals of (Christian and enlightenment) philanthropy. And maybe they falsified some later marxian assumptions about the relationship between the subjective factor and economic conditions. Some hypotheses to be worked on by us today would possibly include: The mode of production can be changed by ideas. And the mode of production allows for a wide array of means of social control: the same mode of production can function with a repressive and a liberal regime.

As long as we cannot argue convincingly that the prison system (or the criminal justice system) are political "sins" just like slave trade and slavery used to be, we shall have a hard time convincing anybody.

So much for the movement aspects.

Now another question or two concerning the theoretical aspects.

What does abolitionism offer in terms of deterrence? And: What does abolitionism have to offer in terms of justice? In stranger-to-stranger-crimes the victim has a right to be left alone. He or she usually does not want to engage in victim-offender-mediation. And I do not think we have a right to force the victim to engage in such an alternative conflict resolution. Normally, one would not even consider this a conflict. So why not have the state punish the perpetrator? That sends out a good message: a person has been wronged, another person has committed an unjustified aggression. This has to be made clear - that is norm-affirmation and -clarification needed in order to prevent norm erosion. Who else could do it? How else could it be done if not by way of criminal justice?[6]

Of course one could propose a family group conference. But wouldn't that seem a little odd in such cases?

Please excuse the fragmentary nature of these associations ... hopefully it inspires you all to more responses

best:

Sebastian

### **19. Email from Harold Pepinsky (17.09.2007)**

I read this discussion with interest. I'll attach page proofs of a book[7] that later came out last fall, explaining my opposition to punishment and making a conscious attempt to "do" justice (which will be an author meets critics book at the Amer. Soc. of Crim. in Atlanta this Nov.). I'm glad this conversation continues. As the book indicates, I certainly learned a lot from my times in Norway. love and peace--hal

### **20. Comment by Stephan Quensel (24.09.2007)**

Dear colleagues, I miss in your commentaries some broader ‚Foucaultian’ aspects.

As a practically engaged but really sceptical ‘minimalist’ (in the sense of my old friend Derek McClintock) I am convinced, that our prison-system, surviving the last 450 years (not to mention the older medieval inquisitorial prison system) will vanish during this century – like the other medieval signs of State power – pillory, gallows, the galleys, death-cruelties. Maybe this will happen earlier in our ‘Old Europe’ than in those insecure democratic States who have openly to demonstrate their monopoly of power yet; caused through our increasing anti-violence-efforts (best seen in the individual body-count during our preventative wars) and our increasingly economic thinking stretching now from social work to its final prison-product.

Nevertheless the same state-induced harm won't really vanish, but change into more indirect, technically more refined, less visible, better legitimated and deeper reaching harms - psychiatry, preventative exclusion, implanted chips etc.- as long, as the state and his professional gardeners (in the sense of Bauman) need the dangerous Other to demonstrate to an as yet not well informed society their existential security spending existence.

Originally, heretics and than witches peopled this ‘inquisitorial model’. Today all forms of drug addicts, who are overcrowding our prisons, fulfill the same function together with those ‘dangerous foreigners’ (or blacks) as products of our school systems, some terrorists as consequences of our foreign policy, and – really yes – some really dangerous people coming from an excluded ‘underclass’, who give the existing prison system the needed official authorization.

If it were possible – and some commitments of democratic states and social movements give hope (The Hague or some courageous state attorneys) – to send some of the really big criminals behind bars, I could possibly

change into an anti-abolitionistic mood. But, never give up hope and let us further fight for abolitionism, that means humanity.

## 21. Johannes Feest (26. 09 2007)

While our exchange is nearing its end, let me add that Hal Pepinsky made me realize the importance of Faye Honey Knopp (Instead of Prisons, 1976), early abolitionist and important influence in ICOPA, is completely unknown in German criminological writings. Is that true also in other parts of the world?

## 22. Thomas Bianchi (26. 09.2007)

Dear Johannes Feest,

When you speak of Honey Knopp I get tears in my eyes. How I have known her. I stayed many times in her house upstate Vermont. She has been one of the greatest women I have ever known, she took part in many Vietnam demonstrations and she was the type that would go to a prison and if she noticed a prisoner maltreated she said to the warden: "Open that door". She was the Mother Teresa among abolitionists. If she had been Roman-Catholic I would propose her beatification. When she died her husband wrote to me: "Honey loved you".

Yes tears in my eyes. It is very good that you take her out of oblivion

Thomas Bianchi

## 23. Comments from Gerlinda Smaus (02.10.2007)

Abolitionism, to my mind, is the visible tip of a movement which struggles against the exclusion of human beings from civil rights and human rights. Before people were sent to prison they have been excluded from the society by way of primary and secondary criminalization. Therefore it seems important to have some preventive abolitionism which would struggle against the introduction of new clauses in the penal law and against the net widening of social control. Nowadays we witness strong attempts to curtail the civil rights, in order to prevent terrorism, as it is said. It seems to me that the freedom of opinion and the sanctity of the private sphere are endangered in the first place. Besides these *legal* ways of exclusion attention should be paid to rather administrative ways of either exclusion or not admittance of people to civil societies in which they seek the fulfilment of their human rights. I refer here to refugees of different origin who are „processed“ in procedures not open to the public and in a de-humanising way (as the German term *Abschiebung* = pushing things away) reveals. In my opinion, the abolitionist movement has to consider these executive detention camps as seriously as the prisons.

As far as the unity of the movement, its basis of solidarity is concerned, we can not count on any kind of group solidarity any more (to which Matthiesen referred in the 1980s). The prevailing official ideology is a neo-liberal one and as Ulrich Beck says, an individualization process is going on. In this situation a new call can be heard, that is a rather metaphysical call of the right of each individual as a single “face“, in the sense of Lévinas (as cited by Baumann). That is: unqualified, innate rights of a human being, his countenance. Axel Honneth's concept of "recognition" goes in the same direction. Human rights consider the situation of individuals who suffer under compulsive group solidarity which denies the freedom and a “real” recognition of its members (see [Redistribution or recognition? A philosophical exchange](#) [Nancy Fraser](#) and [Axel Honneth](#). London : Verso, 2003).

As sociologists we may doubt the „prehuman“ foundation of the value of each individual in this kind of religious ethics. But in our abolitionist practice we apply similar values to every member of societies without

caring much about their origins. The concern of abolitionism needs to be reformulated in line with such new discourses of social philosophy which are sensitive to new conditions of society.

History often proved that precisely idealistic concepts did yield a liberation in situations, which in from realistic point of view would appear as unchangeable.

## 24. Another Comment from Sebastian Scheerer (04.10.2007)

**(in going over his earlier comments, Sebastian has amended or revised some of them. We have indicated that in the above footnotes; with respect to the future of abolitionism, he has added the following new thought)**

To the extent that the human species wants to free itself from ignorance, injustice and repression there will be a bright future for abolitionism. Obstacles on this way are the misery of the global masses on the one hand and the enormous manipulative strength of hegemonic ideologies in the industrialized countries on the other hand. What these forces risk to bury is not only the future of abolitionism, but rather of the future of the human species' existence on this planet.

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[1] Before this paragraph Sebastian has added:

*In many desert parts of Africa, people dance for rain. Sometimes it works and sometimes not. As an "academic abolitionist" I wonder about the causal relationship not only with regard to this example, but also with relation to the abolitionist victories in the past. Sometimes things happen and you like the events because they seem to realize some of your dreams and values, but that does not always mean they happened because of your dreams, values and speeches.*

[2] Before this paragraph Sebastian has added:

*In the past, "left" criminology has often been an intellectually "lazy" criminology that isolated itself from serious discussions and limited itself to a self-indulgent "standpoint-rhetoric" which made it lose much of its initial appeal.*

[3] Sebastian later expanded this paragraph quite a bit:

*Abolitionism is the ensemble of theoretical, empirical and political efforts to abolish (i.e. to get rid of) legalized institutions of coercion or repression like e.g. slavery, the death penalty or prisons. Penal abolitionism is an important part of abolitionism. According to Louk Hulsman, it consists of two branches, the practical or political abolitionism on one hand, and academic abolitionism on the other. The former designates the efforts of part of civil society (reformers, activists, social movements, moral crusaders) to abolish penal institutions such as the death penalty and the prisons, i.e. to put an end to incarceration as a form of accepted punishment in society. Some of these reformers even want to abolish criminal courts and want to substitute the criminal justice system by procedures of restorative or transformative justice on a community basis. In these cases penal abolitionism means to challenge the state's right to have trials and mete out punishments altogether. Secondly, there is a corresponding intellectual endeavour, i.e. a set of teachings and theories which are sceptical towards the usual self-justifications of the penal law and the so-called criminal justice system. With relation to the hegemonic belief systems governing the fields of law, criminology, and also public opinion – i.e. with relation to the conviction that both the penal law and prisons are supposedly necessary – abolitionists are "heretics" or "infidels". Such a position vis-à-vis the common sense of their times was also characteristic of the early abolitionists who had been regarded as completely out of their minds by the vast majority of their contemporaries.*

[4] Sebastian has added here another paragraph:

*The word “to abolish” means “to do away with wholly, completely”. To me that implies “total” abolition, be it of the death penalty, be it of slavery, be it of the prison. If you think that an institution (like slavery) is utterly unjust, then it would also lack any logic to argue for only a partial reform. Can one limit the fight against slavery to the aim of liberating only children or women, and not men? Can one limit the fight to ending slavery in Europe, but not in Asia or the Americas? The same holds true for all abolitionist movements, including that against prisons. – Clear as this seems, the “totality” of the abolitionist project has always been subject to misunderstandings. To abolish prisons as institutions of punishment does not mean to do away with all kinds of confinement. To deprive a person of his or her liberty for reasons of public health (quarantine; suicide or homicide prevention in cases of mental illness and the like) will always be necessary in specific situations. Abolitionism aims at the “total” abolition of the prison system and of confinement as punishment (including those cases where punishment is euphemistically concealed as benign protection). Abolitionism does not aim at the total abolition of all kinds and justifications of confinement as such.*

[5] Sebastian has rephrased this as follows:

*I always believed (with Theodor Adorno and others) that the object of research and knowledge cannot and should not be “What is Good”, but rather “What is Bad”. The challenge is not to construct a better world (that would be presumptuous), but to criticize the conditions of inequality and injustice in our present world and to strive to abolish them – both in their manifestations and their root causes. We can identify injustice, but we are not clever enough to design blueprints for a better world .... Having read Thomas Bianchi’s forceful exhortation to spend more energy in designing alternatives to prisons I begin to doubt the wisdom of negative critique and would like to read what other colleagues think of his idea....*

[6] Here Sebastian has added:

These are legitimate albeit uncomfortable questions. To demystify the status quo and to face up to uncomfortable facts – uncomfortable to ourselves and our own preferences – has been and still is the most difficult, but noble task.

[7] Harold Pepinsky: PEACEMAKING. Reflections of a Radical Criminologist, University of Ottawa Press 2006