

How Gender Structures the Prison System

"I have been told that I will never leave prison if I continue to fight the system. My answer is that one must be alive in order to leave prison, and our current standard of medical care is tantamount to a death sentence. Therefore, I have no choice but to continue . . . Conditions within the institution continually reinvoked memories of violence and oppression, often with devastating results. Unlike other incarcerated women who have come forward to reveal their impressions of prison, I do not feel 'safer' here because 'the abuse has stopped.' *It has not stopped.* It has shifted shape and paced itself differently, but it is as insidious and pervasive in prison as ever it was in the world I know outside these walls. What has ceased is my ignorance of the facts concerning abuse—and my willingness to tolerate it in silence."

—Marcia Bunny⁷²

Over the last five years, the prison system has received far more attention by the media than at any time since the period following the 1971 Attica Rebellion. However, with a few important exceptions, women have been left out of the public discussions about the expansion of the U.S. prison system. I am not suggesting that simply bringing women into the existing conversations on jails and prisons will deepen

our analysis of state punishment and further the project of prison abolition. Addressing issues that are specific to women's prisons is of vital importance, but it is equally important to shift the way we think about the prison system as a whole. Certainly women's prison practices are gendered, but so, too, are men's prison practices. To assume that men's institutions constitute the norm and women's institutions are marginal is, in a sense, to participate in the very normalization of prisons that an abolitionist approach seeks to contest. Thus, the title of this chapter is not "Women and the Prison System," but rather "How Gender Structures the Prison System." Moreover, scholars and activists who are involved in feminist projects should not consider the structure of state punishment as marginal to their work. Forward-looking research and organizing strategies should recognize that the deeply gendered character of punishment both reflects and further entrenches the gendered structure of the larger society.

Women prisoners have produced a small but impressive body of literature that has illuminated significant aspects of the organization of punishment that would have otherwise remained unacknowledged. Assata Shakur's memoirs,⁷³ for example, reveal the dangerous intersections of racism, male domination, and state strategies of political repression. In 1977 she was convicted on charges of murder and assault in connection with a 1973 incident that left one New Jersey state trooper dead and another wounded. She and her companion, Zayd Shakur, who was killed during the shootout, were the targets of what we now name racial profiling and were stopped by state troopers under the pretext of a broken taillight. At the time Assata Shakur, known then as Joanne Chesimard, was underground and had been anointed by the police and the media as the "Soul of the Black Liberation

Army." By her 1977 conviction, she either had been acquitted or had charges dismissed in six other cases—upon the basis of which she had been declared a fugitive in the first place. Her attorney, Lennox Hinds, has pointed out that since it was proven that Assata Shakur did not handle the gun with which the state troopers were shot, her mere presence in the automobile, against the backdrop of the media demonization to which she was subjected, constituted the basis of her conviction. In the foreword to Shakur's autobiography Hinds writes:

In the history of New Jersey, no woman pretrial detainee or prisoner has ever been treated as she was, continuously confined in a men's prison, under twenty-four-hour surveillance of her most intimate functions, without intellectual sustenance, adequate medical attention, and exercise, and without the company of other women for all the years she was in their custody.⁷⁴

There is no doubt that Assata Shakur's status as a black political prisoner accused of killing a state trooper caused her to be singled out by the authorities for unusually cruel treatment. However, her own account emphasizes the extent to which her individual experiences reflected those of other imprisoned women, especially black and Puerto Rican women. Her description of the strip search, which focuses on the internal examination of body cavities, is especially revealing:

Joan Bird and Afeni Shakur [members of the Black Panther Party] had told me about it after they had been bailed out in the Panther 21 trial. When they had told me, I was horrified.

"You mean they really put their hands inside you, to search you?" I had asked.

"Uh-huh," they answered. Every woman who has ever been on the rock, or in the old house of detention, can tell you about it. The women call it "getting the finger" or, more vulgarly, "getting finger-fucked."

"What happens if you refuse?" I had asked Afeni.

"They lock you in the hole and they don't let you out until you consent to be searched internally."

I thought about refusing, but I sure as hell didn't want to be in the hole. I had had enough of solitary. The "internal search" was as humiliating and disgusting as it sounded. You sit on the edge of this table and the nurse holds your legs open and sticks a finger in your vagina and moves it around. She has a plastic glove on. Some of them try to put one finger in your vagina and another one up your rectum at the same time.⁷⁵

I have quoted this passage so extensively because it exposes an everyday routine in women's prisons that verges on sexual assault as much as it is taken for granted. Having been imprisoned in the Women's House of Detention to which Joan Bird and Afeni Shakur refer, I can personally affirm the veracity of their claims. Over thirty years after Bird and Afeni Shakur were released and after I myself spent several months in the Women's House of Detention, this issue of the strip search is still very much on the front burner of women's prison activism. In 2001 Sisters Inside, an Australian support organization for women prisoners, launched a national campaign against the strip search, the slogan of which was "Stop State Sexual Assault." Assata

Shakur's autobiography provides an abundance of insights about the gendering of state punishment and reveals the extent to which women's prisons have held on to oppressive patriarchal practices that are considered obsolete in the "free world." She spent six years in several jails and prisons before escaping in 1979 and receiving political asylum by the Republic of Cuba in 1984, where she lives today.

Elizabeth Gurley Flynn wrote an earlier account of life in a women's prison, *The Alderson Story: My Life as a Political Prisoner*.⁷⁶ At the height of the McCarthy era, Flynn, a labor activist and Communist leader, was convicted under the Smith Act and served two years in Alderson Federal Reformatory for Women from 1955 to 1957. Following the dominant model for women's prisons during that period, Alderson's regimes were based on the assumption that "criminal" women could be rehabilitated by assimilating correct womanly behaviors—that is, by becoming experts in domesticity—especially cooking, cleaning, and sewing. Of course, training designed to produce better wives and mothers among middle-class white women effectively produced skilled domestic servants among black and poor women. Flynn's book provides vivid descriptions of these everyday regimes. Her autobiography is located in a tradition of prison writing by political prisoners that also includes women of this era. Contemporary writings by women political prisoners today include poems and short stories by Ericka Huggins and Susan Rosenberg, analyses of the prison industrial complex by Linda Evans, and curricula for HIV/AIDS education in women's prisons by Kathy Boudin and the members of the Bedford Hills ACE collective.⁷⁷

Despite the availability of perceptive portrayals of life in women's prisons, it has been extremely difficult to persuade the public—and even, on occasion, to persuade prison

activists who are primarily concerned with the plight of male prisoners—of the centrality of gender to an understanding of state punishment. Although men constitute the vast majority of prisoners in the world, important aspects of the operation of state punishment are missed if it is assumed that women are marginal and thus undeserving of attention. The most frequent justification for the inattention to women prisoners and to the particular issues surrounding women's imprisonment is the relatively small proportion of women among incarcerated populations throughout the world. In most countries, the percentage of women among prison populations hovers around five percent.⁷⁸ However, the economic and political shifts of the 1980s—the globalization of economic markets, the deindustrialization of the U.S. economy, the dismantling of such social service programs as Aid to Families of Dependent Children, and, of course, the prison construction boom—produced a significant acceleration in the rate of women's imprisonment both inside and outside the United States. In fact, women remain today the fastest-growing sector of the U.S. prison population. This recent rise in the rate of women's imprisonment points directly to the economic context that produced the prison industrial complex and that has had a devastating impact on men and women alike.

It is from this perspective of the contemporary expansion of prisons, both in the United States and throughout the world, that we should examine some of the historical and ideological aspects of state punishment imposed on women. Since the end of the eighteenth century, when, as we have seen, imprisonment began to emerge as the dominant form of punishment, convicted women have been represented as essentially different from their male counterparts. It is true that men who commit the kinds of transgressions that are

regarded as punishable by the state are labeled as social deviants. Nevertheless, masculine criminality has always been deemed more "normal" than feminine criminality. There has always been a tendency to regard those women who have been publicly punished by the state for their misbehaviors as significantly more aberrant and far more threatening to society than their numerous male counterparts.

In seeking to understand this gendered difference in the perception of prisoners, it should be kept in mind that as the prison emerged and evolved as the major form of public punishment, women continued to be routinely subjected to forms of punishment that have not been acknowledged as such. For example, women have been incarcerated in psychiatric institutions in greater proportions than in prisons.⁷⁹ Studies indicating that women have been even more likely to end up in mental facilities than men suggest that while jails and prisons have been dominant institutions for the control of men, mental institutions have served a similar purpose for women. That is, deviant men have been constructed as criminal, while deviant women have been constructed as insane. Regimes that reflect this assumption continue to inform the women's prison. Psychiatric drugs continue to be distributed far more extensively to imprisoned women than to their male counterparts. A Native American woman incarcerated in the Women's Correctional Center in Montana related her experience with psychotropic drugs to sociologist Luana Ross:

Haldol is a drug they give people who can't cope with lockup. It makes you feel dead, paralyzed. And then I started getting side effects from Haldol. I wanted to fight anybody, any of the officers. I was screaming at them and telling them to get out of

my face, so the doctor said, "We can't have that." And, they put me on Tranxene. I don't take pills; I never had trouble sleeping until I got here. Now I'm supposed to see [the counselor] again because of my dreams. If you got a problem, they're not going to take care of it. They're going to put you on drugs so they can control you.⁸⁰

Prior to the emergence of the penitentiary and thus of the notion of punishment as "doing time," the use of confinement to control beggars, thieves, and the insane did not necessarily distinguish among these categories of deviancy. At this phase in the history of punishment—prior to the American and French Revolutions—the classification process through which criminality is differentiated from poverty and mental illness had not yet developed. As the discourse on criminality and the corresponding institutions to control it distinguished the "criminal" from the "insane," the gendered distinction took hold and continued to structure penal policies. Gendered as female, this category of insanity was highly sexualized. When we consider the impact of class and race here, we can say that for white and affluent women, this equalization tends to serve as evidence for emotional and mental disorders, but for black and poor women, it has pointed to criminality.

It should also be kept in mind that until the abolition of slavery, the vast majority of black women were subject to regimes of punishment that differed significantly from those experienced by white women. As slaves, they were directly and often brutally disciplined for conduct considered perfectly normal in a context of freedom. Slave punishment was visibly gendered—special penalties, were, for example, reserved for pregnant women unable to reach the quotas that

determined how long and how fast they should work. In the slave narrative of Moses Grandy, an especially brutal form of whipping is described in which the woman was required to lie on the ground with her stomach positioned in a hole, whose purpose was to safeguard the fetus (conceived as future slave labor). If we expand our definition of punishment under slavery, we can say that the coerced sexual relations between slave and master constituted a penalty exacted on women, if only for the sole reason that they were slaves. In other words, the deviance of the slave master was transferred to the slave woman, whom he victimized. Likewise, sexual abuse by prison guards is translated into hypersexuality of women prisoners. The notion that female "deviance" always has a sexual dimension persists in the contemporary era, and this intersection of criminality and sexuality continues to be racialized. Thus, white women labeled as "criminals" are more closely associated with blackness than their "normal" counterparts.

Prior to the emergence of the prison as the major form of public punishment, it was taken for granted that violators of the law would be subjected to corporal and frequently capital penalties. What is not generally recognized is the connection between state-inflicted corporal punishment and the physical assaults on women in domestic spaces. This form of bodily discipline has continued to be routinely meted out to women in the context of intimate relationships, but it is rarely understood to be related to state punishment.

Quaker reformers in the United States—especially the Philadelphia Society for Alleviating the Miseries of Public Prisons, founded in 1787—played a pivotal role in campaigns to substitute imprisonment for corporal punishment. Following in the tradition established by Elizabeth Fry in England, Quakers were also responsible for extended crusades

to institute separate prisons for women. Given the practice of incarcerating criminalized women in men's prisons, the demand for separate women's prisons was viewed as quite radical during this period. Fry formulated principles governing prison reform for women in her 1827 work, *Observations in Visiting, Superintendence and Government of Female Prisoners*, which were taken up in the United States by women such as Josephine Shaw Lowell and Abby Hopper Gibbons. In the 1870s, Lowell and Gibbons helped to lead the campaign in New York for separate prisons for women.

Prevailing attitudes toward women convicts differed from those toward men convicts, who were assumed to have forfeited rights and liberties that women generally could not claim even in the "free world." Although some women were housed in penitentiaries, the institution itself was gendered as male, for by and large no particular arrangements were made to accommodate sentenced women.

The women who served in penal institutions between 1820 and 1870 were not subject to the prison reform experienced by male inmates. Officials employed isolation, silence, and hard labor to rehabilitate male prisoners. The lack of accommodations for female inmates made isolation and silence impossible for them and productive labor was not considered an important part of their routine. The neglect of female prisoners, however, was rarely benevolent. Rather, a pattern of overcrowding, harsh treatment, and sexual abuse recurred throughout prison histories.⁸¹

Male punishment was linked ideologically to penitence and reform. The very forfeiture of rights and liberties implied

that with self-reflection, religious study, and work, male convicts could achieve redemption and could recover these rights and liberties. However, since women were not acknowledged as securely in possession of these rights, they were not eligible to participate in this process of redemption.

According to dominant views, women convicts were irrevocably fallen women, with no possibility of salvation. If male criminals were considered to be public individuals who had simply violated the social contract, female criminals were seen as having transgressed fundamental moral principles of womanhood. The reformers, who, following Elizabeth Fry, argued that women were capable of redemption, did not really contest these ideological assumptions about women's place. In other words, they did not question the very notion of "fallen women." Rather, they simply opposed the idea that "fallen women" could not be saved. They could be saved, the reformers contended, and toward that end they advocated separate penal facilities and a specifically female approach to punishment. Their approach called for architectural models that replaced cells with cottages and "rooms" in a way that was supposed to infuse domesticity into prison life. This model facilitated a regime devised to reintegrate criminalized women into the domestic life of wife and mother. They did not, however, acknowledge the class and race underpinnings of this regime. Training that was, on the surface, designed to produce good wives and mothers in effect steered poor women (and especially black women) into "free world" jobs in domestic service. Instead of stay-at-home skilled wives and mothers, many women prisoners, upon release, would become maids, cooks, and washerwomen for more affluent women. A female custodial staff, the reformers also argued, would minimize the sexual temptations, which they believed were often at the root of female criminality.

When the reform movement calling for separate prisons for women emerged in England and the United States during the nineteenth century, Elizabeth Fry, Josephine Shaw, and other advocates argued against the established idea that criminal women were beyond the reach of moral rehabilitation. Like male convicts, who presumably could be "corrected" by rigorous prison regimes, female convicts, they suggested, could also be molded into moral beings by differently gendered imprisonment regimes. Architectural changes, domestic regimes, and an all-female custodial staff were implemented in the reformatory program proposed by reformers,⁸² and eventually women's prisons became as strongly anchored to the social landscape as men's prisons, but even more invisible. Their greater invisibility was as much a reflection of the way women's domestic duties under patriarchy were assumed to be normal, natural, and consequently invisible as it was of the relatively small numbers of women incarcerated in these new institutions.

Twenty-one years after the first English reformatory for women was established in London in 1853, the first U.S. reformatory for women was opened in Indiana. The aim was to

train the prisoners in the "important" female role of domesticity. Thus an important role of the reform movement in women's prisons was to encourage and ingrain "appropriate" gender roles, such as vocational training in cooking, sewing and cleaning. To accommodate these goals, the reformatory cottages were usually designed with kitchens, living rooms, and even some nurseries for prisoners with infants.⁸³

However, this feminized public punishment did not affect all women in the same way. When black and Native American women were imprisoned in reformatories, they often were segregated from white women. Moreover, they tended to be disproportionately sentenced to men's prisons. In the southern states in the aftermath of the Civil War, black women endured the cruelties of the convict lease system unmitigated by the feminization of punishment; neither their sentences nor the labor they were compelled to do were lessened by virtue of their gender. As the U.S. prison system evolved during the twentieth century, feminized modes of punishment—the cottage system, domestic training, and so on—were designed ideologically to reform white women, relegating women of color in large part to realms of public punishment that made no pretense of offering them femininity.

Moreover, as Lucia Zedner has pointed out, sentencing practices for women within the reformatory system often required women of all racial backgrounds to do more time than men for similar offenses. "This differential was justified on the basis that women were sent to reformatories not to be punished in proportion to the seriousness of their offense but to be reformed and retrained, a process that, it was argued, required time."⁸⁴ At the same time, Zedner points out, this tendency to send women to prison for longer terms than men was accelerated by the eugenics movement, "which sought to have 'genetically inferior' women removed from social circulation for as many of their child-bearing years as possible."⁸⁵

At the beginning of the twenty-first century, women's prisons have begun to look more like their male counterparts, particularly facilities constructed in the contemporary era of the prison industrial complex. As corporate involvement in punishment expands in ways that would have been

unimaginable just two decades ago, the prison's presumed goal of rehabilitation has been thoroughly displaced by incapacitation as the major objective of imprisonment. As I have already pointed out, now that the population of U.S. prisons and jails has surpassed two million people, the rate of increase in the numbers of women prisoners has exceeded that of men. As criminologist Elliot Currie has pointed out,

For most of the period after World War II, the female incarceration rate hovered at around 8 per 100,000; it did not reach double digits until 1977. Today it is 51 per 100,000 . . . At the current rates of increase, there will be more women in American prisons in the year 2010 than there were inmates of both sexes in 1970. When we combine the effects of race and gender, the nature of these shifts in the prison population is even clearer. The prison incarceration rate for black women today exceeds that for white *men* as recently as 1980.⁸⁶

Luana Ross's study of Native American women incarcerated in the Women's Correctional Center in Montana argues that "prisons, as employed by the Euro-American system, operate to keep Native Americans in a colonial situation."⁸⁷ She points out that Native people are vastly overrepresented in the country's federal and state prisons. In Montana, where she did her research, they constitute 6 percent of the general population, but 17.3 percent of the imprisoned population. Native women are even more disproportionately present in Montana's prison system. They constitute 25 percent of all women imprisoned by the state.⁸⁸

Thirty years ago, around the time of the Attica uprising and the murder of George Jackson at San Quentin, radical

opposition to the prison system identified it as a principal site of state violence and repression. In part as a reaction to the invisibility of women prisoners in this movement and in part as a consequence of the rising women's liberation movement, specific campaigns developed in defense of the rights of women prisoners. Many of these campaigns put forth—and continue to advance—radical critiques of state repression and violence. Within the correctional community, however, feminism has been influenced largely by liberal constructions of gender equality.

In contrast to the nineteenth-century reform movement, which was grounded in an ideology of gender difference, late-twentieth-century "reforms" have relied on a "separate but equal" model. This "separate but equal" approach often has been applied uncritically, ironically resulting in demands for more repressive conditions in order to render women's facilities "equal" to men's. A clear example of this can be discovered in a memoir, *The Warden Wore Pink*, written by a former warden of Huron Valley Women's Prison in Michigan. During the 1980s, the author, Tekla Miller, advocated a change in policies within the Michigan correctional system that would result in women prisoners being treated *the same* as men prisoners. With no trace of irony, she characterizes as "feminist" her own fight for "gender equality" between male and female prisoners and for equality between male and female institutions of incarceration. One of these campaigns focuses on the unequal allocation of weapons, which she sought to remedy:

Arsenals in men's prisons are large rooms with shelves of shotguns, rifles, hand guns, ammunition, gas canisters, and riot equipment . . . Huron Valley Women's arsenal was a small, five feet by two feet

closet that held two rifles, eight shotguns, two bull-horns, five handguns, four gas canisters, and twenty sets of restraints.⁸⁹

It does not occur to her that a more productive version of feminism would also question the organization of state punishment for men as well and, in my opinion, would seriously consider the proposition that the institution as a whole—gendered as it is—calls for the kind of critique that might lead us to consider its abolition.

Miller also describes the case of an attempted escape by a woman prisoner. The prisoner climbed over the razor ribbon but was captured after she jumped to the ground on the other side. This escape attempt occasioned a debate about the disparate treatment of men and women escapees. Miller's position was that guards should be instructed to shoot at women just as they were instructed to shoot at men. She argued that parity for women and men prisoners should consist in their equal right to be fired upon by guards. The outcome of the debate, Miller observed, was that

escaping women prisoners in medium or higher [security] prisons are treated the same way as men. A warning shot is fired. If the prisoner fails to halt and is over the fence, an officer is allowed to shoot to injure. If the officer's life is in danger, the officer can shoot to kill.⁹⁰

Paradoxically, demands for parity with men's prisons, instead of creating greater educational, vocational, and health opportunities for women prisoners, often have led to more repressive conditions for women. This is not only a consequence of deploying liberal—that is, formalistic—

notions of equality, but of, more dangerous, allowing male prisons to function as the punishment norm. Miller points out that she attempted to prevent a female prisoner, whom she characterizes as a "murderer" serving a long term, from participating in graduation ceremonies at the University of Michigan because male murderers were not given such privileges. (Of course, she does not indicate the nature of the woman's murder charges—whether, for instance, she was convicted of killing an abusive partner, as is the case for a substantial number of women convicted of murder.) Although Miller did not succeed in preventing the inmate from participating in the commencement, in addition to her cap and gown, the prisoner was made to wear leg chains and handcuffs during the ceremony.⁹¹ This is indeed a bizarre example of feminist demands for equality within the prison system.

A widely publicized example of the use of repressive paraphernalia historically associated with the treatment of male prisoners to create "equality" for female prisoners was the 1996 decision by Alabama's prison commissioner to establish women's chain gangs. After Alabama became the first state to reinstitute chain gangs in 1995, then State Corrections Commissioner Ron Jones announced the following year that women would be shackled while they cut grass, picked up trash, or worked a vegetable garden at Julia Tutwiler State Prison for Women. This attempt to institute chain gangs for women was in part a response to lawsuits by male prisoners, who charged that male chain gains discriminated against men by virtue of their gender.⁹² However, immediately after Jones's announcement, Governor Fob James, who obviously was pressured to prevent Alabama from acquiring the dubious distinction of being the only U.S. state to have equal-opportunity chain gangs, fired him.

Shortly after Alabama's embarrassing flirtation with the possibility of chain gangs for women, Sheriff Joe Arpaio of Maricopa County, Arizona—represented in the media as "the toughest sheriff in America"—held a press conference to announce that because he was "an equal opportunity incarcerator," he was establishing the country's first female chain gang.⁹³ When the plan was implemented, newspapers throughout the country carried a photograph of chained women cleaning Phoenix's streets. Even though this may have been a publicity stunt designed to bolster the fame of Sheriff Arpaio, the fact that this women's chain gang emerged against the backdrop of a generalized increase in the repression inflicted on women prisoners is certainly cause for alarm. Women's prisons throughout the country increasingly include sections known as security housing units. The regimes of solitary confinement and sensory deprivation in the security housing unit (SHU) in these sections within women's prisons are smaller versions of the rapidly proliferating super-maximum security prisons. Since the population of women in prison now consists of a majority of women of color, the historical resonances of slavery, colonization, and genocide should not be missed in these images of women in chains and shackles.

As the level of repression in women's prisons increases, and, paradoxically, as the influence of domestic prison regimes recedes, sexual abuse—which, like domestic violence, is yet another dimension of the privatized punishment of women—has become an institutionalized component of punishment behind prison walls. Although guard-on-prisoner sexual abuse is not sanctioned as such, the widespread leniency with which offending officers are treated suggests that for women, prison is a space in which the threat of sexualized violence that looms in the larger socie-

ty is effectively sanctioned as a routine aspect of the landscape of punishment behind prison walls.

According to a 1996 Human Rights Watch report on the sexual abuse of women in U.S. prisons:

Our findings indicate that being a woman prisoner in U.S. state prisons can be a terrifying experience. If you are sexually abused, you cannot escape from your abuser. Grievance or investigatory procedures, where they exist, are often ineffectual, and correctional employees continue to engage in abuse because they believe they will rarely be held accountable, administratively or criminally. Few people outside the prison walls know what is going on or care if they do know. Fewer still do anything to address the problem.⁹⁴

The following excerpt from the summary of this report, entitled *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons*, reveals the extent to which women's prison environments are violently sexualized, thus recapitulating the familiar violence that characterizes many women's private lives:

We found that male correctional employees have vaginally, anally, and orally raped female prisoners and sexually assaulted and abused them. We found that in the course of committing such gross misconduct, male officers have not only used actual or threatened physical force, but have also used their near total authority to provide or deny goods and privileges to female prisoners to compel them to have sex or, in other cases, to reward them for hav-

ing done so. In other cases, male officers have violated their most basic professional duty and engaged in sexual contact with female prisoners absent the use of threat of force or any material exchange. In addition to engaging in sexual relations with prisoners, male officers have used mandatory pat-frisks or room searches to grope women's breasts, buttocks, and vaginal areas and to view them inappropriately while in a state of undress in the housing or bathroom areas. Male correctional officers and staff have also engaged in regular verbal degradation and harassment of female prisoners, thus contributing to a custodial environment in the state prisons for women that is often highly sexualized and excessively hostile.⁹⁵

The violent sexualization of prison life within women's institutions raises a number of issues that may help us develop further our critique of the prison system. Ideologies of sexuality—and particularly the intersection of race and sexuality—have had a profound effect on the representations of and treatment received by women of color both within and outside prison. Of course, black and Latino men experience a perilous continuity in the way they are treated in school, where they are disciplined as potential criminals; in the streets, where they are subjected to racial profiling by the police; and in prison, where they are warehoused and deprived of virtually all of their rights. For women, the continuity of treatment from the free world to the universe of the prison is even more complicated, since they also confront forms of violence in prison that they have confronted in their homes and intimate relationships.

The criminalization of black and Latina women includes

persisting images of hypersexuality that serve to justify sexual assaults against them both in and outside of prison. Such images were vividly rendered in a *Nightline* television series filmed in November 1999 on location at California's Valley State Prison for Women. Many of the women interviewed by Ted Koppel complained that they received frequent and unnecessary pelvic examinations, including when they visited the doctor with such routine illnesses as colds. In an attempt to justify these examinations, the chief medical officer explained that women prisoners had rare opportunities for "male contact," and that they therefore welcomed these superfluous gynecological exams. Although this officer was eventually removed from his position as a result of these comments, his reassignment did little to alter the pervasive vulnerability of imprisoned women to sexual abuse.

Studies on female prisons throughout the world indicate that sexual abuse is an abiding, though unacknowledged, form of punishment to which women, who have the misfortune of being sent to prison, are subjected. This is one aspect of life in prison that women can expect to encounter, either directly or indirectly, regardless of the written policies that govern the institution. In June 1998, Radhika Coomaraswamy, the United Nations Special Rapporteur for Violence Against Women, visited federal and state prisons as well as Immigration and Naturalization detention facilities in New York, Connecticut, New Jersey, Minnesota, Georgia, and California. She was refused permission to visit women's prisons in Michigan, where serious allegations of sexual abuse were pending. In the aftermath of her visits, Coomaraswamy announced that "sexual misconduct by prison staff is widespread in American women's prisons."⁹⁶

This clandestine institutionalization of sexual abuse vio-

lates one of the guiding principles of the United Nations' Standard Minimum Rules for the Treatment of Prisoners, a UN instrument first adopted in 1955 and used as a guideline by many governments to achieve what is known as "good prison practice." However, the U.S. government has done little to publicize these rules and it is probably the case that most correctional personnel have never heard of these UN standards. According to the Standard Minimum Rules,

Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.⁹⁷

Sexual abuse is surreptitiously incorporated into one of the most habitual aspects of women's imprisonment, the strip search. As activists and prisoners themselves have pointed out, the state itself is directly implicated in this routinization of sexual abuse, both in permitting such conditions that render women vulnerable to explicit sexual coercion carried out by guards and other prison staff and by incorporating into routine policy such practices as the strip search and body cavity search.

Australian lawyer/activist Amanda George has pointed out that

[t]he acknowledgement that sexual assault does occur in institutions for people with intellectual disabilities, prisons, psychiatric hospitals, youth

training centres and police stations, usually centres around the criminal acts of rape and sexual assault by individuals employed in those institutions. These offences, though they are rarely reported, are clearly understood as being "crimes" for which the individual and not the state is responsible. At the same time as the state deplors "unlawful" sexual assaults by its employees, it actually uses sexual assault as a means of control.

In Victoria, prison and police officers are vested with the power and responsibility to do acts which, if done outside of work hours, would be crimes of sexual assault. If a person does not "consent" to being stripped naked by these officers, force can lawfully be used to do it . . . These legal strip searches are, in the author's view, sexual assaults within the definition of indecent assault in the *Crimes Act 1958 (Vic)* as amended in section 39.⁹⁸

At a November 2001 conference on women in prison held by the Brisbane-based organization Sisters Inside, Amanda George described an action performed before a national gathering of correctional personnel working in women's prisons. Several women seized control of the stage and, some playing guards, others playing the roles of prisoners, dramatized a strip search. According to George, the gathering was so repulsed by this enactment of a practice that occurs routinely in women's prisons everywhere that many of the participants felt compelled to disassociate themselves from such practices, insisting that this was not what they did. Some of the guards, George said, simply cried upon watching representations of their own actions outside the prison context. What they must have realized is that "without the

uniform, without the power of the state, [the strip search] would be sexual assault."⁹⁹

But why is an understanding of the pervasiveness of sexual abuse in women's prisons an important element of a radical analysis of the prison system, and especially of those forward-looking analyses that lead us in the direction of abolition? Because the call to abolish the prison as the dominant form of punishment cannot ignore the extent to which the institution of the prison has stockpiled ideas and practices that are hopefully approaching obsolescence in the larger society, but that retain all their ghastly vitality behind prison walls. The destructive combination of racism and misogyny, however much it has been challenged by social movements, scholarship, and art over the last three decades, retains all its awful consequences within women's prisons. The relatively uncontested presence of sexual abuse in women's prisons is one of many such examples. The increasing evidence of a U.S. prison industrial complex with global resonances leads us to think about the extent to which the many corporations that have acquired an investment in the expansion of the prison system are, like the state, directly implicated in an institution that perpetuates violence against women.

The Prison Industrial Complex

"For private business prison labor is like a pot of gold. No strikes. No union organizing. No health benefits, unemployment insurance, or workers' compensation to pay. No language barriers, as in foreign countries. New leviathan prisons are being built on thousands of eerie acres of factories inside the walls. Prisoners do data entry for Chevron, make telephone reservations for TWA, raise hogs, shovel manure, and make circuit boards, limousines, waterbeds, and lingerie for Victoria's Secret, all at a fraction of the cost of 'free labor.'"

—Linda Evans and Eve Goldberg¹⁰⁰

The exploitation of prison labor by private corporations is one aspect among an array of relationships linking corporations, government, correctional communities, and media. These relationships constitute what we now call a prison industrial complex. The term "prison industrial complex" was introduced by activists and scholars to contest prevailing beliefs that increased levels of crime were the root cause of mounting prison populations. Instead, they argued, prison construction and the attendant drive to fill these new structures with human bodies have been driven by ideologies of racism and the pursuit of profit. Social historian Mike Davis first used the term in relation to California's penal system, which, he observed, already had begun in the 1990s to rival

agribusiness and land development as a major economic and political force.¹⁰¹

To understand the social meaning of the prison today within the context of a developing prison industrial complex means that punishment has to be conceptually severed from its seemingly indissoluble link with crime. How often do we encounter the phrase "crime and punishment"? To what extent has the perpetual repetition of the phrase "crime and punishment" in literature, as titles of television shows, both fictional and documentary, and in everyday conversation made it extremely difficult to think about punishment beyond this connection? How have these portrayals located the prison in a causal relation to crime as a natural, necessary, and permanent effect, thus inhibiting serious debates about the viability of the prison today?

The notion of a prison industrial complex insists on understandings of the punishment process that take into account economic and political structures and ideologies, rather than focusing myopically on individual criminal conduct and efforts to "curb crime." The fact, for example, that many corporations with global markets now rely on prisons as an important source of profit helps us to understand the rapidity with which prisons began to proliferate precisely at a time when official studies indicated that the crime rate was falling. The notion of a prison industrial complex also insists that the racialization of prison populations—and this is not only true of the United States, but of Europe, South America, and Australia as well—is not an incidental feature. Thus, critiques of the prison industrial complex undertaken by abolitionist activists and scholars are very much linked to critiques of the global persistence of racism. Antiracist and other social justice movements are incomplete with attention to the politics of imprisonment. At the 2001

United Nations World Conference Against Racism held in Durban, South Africa, a few individuals active in abolitionist campaigns in various countries attempted to bring this connection to the attention of the international community. They pointed out that the expanding system of prisons throughout the world both relies on and further promotes structures of racism even though its proponents may adamantly maintain that it is race-neutral.

Some critics of the prison system have employed the term "correctional industrial complex" and others "penal industrial complex." These and the term I have chosen to underscore, "prison industrial complex," all clearly resonate with the historical concept of a "military industrial complex," whose usage dates back to the presidency of Dwight Eisenhower. It may seem ironic that a Republican president was the first to underscore a growing and dangerous alliance between the military and corporate worlds, but it clearly seemed right to antiwar activists and scholars during the era of the Vietnam War. Today, some activists mistakenly argue that the prison industrial complex is moving into the space vacated by the military industrial complex. However, the so-called War on Terrorism initiated by the Bush administration in the aftermath of the 2002 attacks on the World Trade Center has made it very clear that the links between the military, corporations, and government are growing stronger, not weaker.

A more cogent way to define the relationship between the military industrial complex and the prison industrial complex would be to call it symbiotic. These two complexes mutually support and promote each other and, in fact, often share technologies. During the early nineties, when defense production was temporarily on the decline, this connection between the military industry and the criminal jus-

tice/punishment industry was acknowledged in a 1994 *Wall Street Journal* article entitled "Making Crime Pay: The Cold War of the '90s":

Parts of the defense establishment are cashing in, too, sensing a logical new line of business to help them offset military cutbacks. Westinghouse Electric Corp., Minnesota Mining and Manufacturing Co, GDE Systems (a division of the old General Dynamics) and Alliant Techsystems Inc., for instance, are pushing crime fighting equipment and have created special divisions to retool their defense technology for America's streets.¹⁰²

The article describes a conference sponsored by the National Institute of Justice, the research arm of the Justice Department, entitled "Law Enforcement Technology in the 21st Century." The secretary of defense was a major presenter at this conference, which explored topics such as, "The role of the defense industry, particularly for dual use and conversion."

Hot topics: defense-industry technology that could lower the level of violence involved in crime fighting. Sandia National Laboratories, for instance, is experimenting with a dense foam that can be sprayed at suspects, temporarily blinding and deafening them under breathable bubbles. Stinger Corporation is working on "smart guns," which will fire only for the owner, and retractable spiked barrier strips to unfurl in front of fleeing vehicles. Westinghouse is promoting the "smart car," in which minicomputers could be linked up with big

mainframes at the police department, allowing for speedy booking of prisoners, as well as quick exchanges of information . . .¹⁰³

But an analysis of the relationship between the military and prison industrial complex is not only concerned with the transference of technologies from the military to the law enforcement industry. What may be even more important to our discussion is the extent to which both share important structural features. Both systems generate huge profits from processes of social destruction. Precisely that which is advantageous to those corporations, elected officials, and government agents who have obvious stakes in the expansion of these systems begets grief and devastation for poor and racially dominated communities in the United States and throughout the world. The transformation of imprisoned bodies—and they are in their majority bodies of color—into sources of profit who consume and also often produce all kinds of commodities, devours public funds, which might otherwise be available for social programs such as education, housing, childcare, recreation, and drug programs.

Punishment no longer constitutes a marginal area of the larger economy. Corporations producing all kinds of goods—from buildings to electronic devices and hygiene products—and providing all kinds of services—from meals to therapy and healthcare—are now directly involved in the punishment business. That is to say, companies that one would assume are far removed from the work of state punishment have developed major stakes in the perpetuation of a prison system whose historical obsolescence is therefore that much more difficult to recognize. It was during the decade of the 1980s that corporate ties to the punishment system became

more extensive and entrenched than ever before. But throughout the history of the U.S. prison system, prisoners have always constituted a potential source of profit. For example, they have served as valuable subjects in medical research, thus positioning the prison as a major link between universities and corporations.

During the post-World War II period, for example, medical experimentation on captive populations helped to hasten the development of the pharmaceutical industry. According to Allen Hornblum,

[T]he number of American medical research programs that relied on prisoners as subjects rapidly expanded as zealous doctors and researchers, grant-making universities, and a burgeoning pharmaceutical industry raced for greater market share. Society's marginal people were, as they had always been, the grist for the medical-pharmaceutical mill, and prison inmates in particular would become the raw materials for postwar profit-making and academic advancement.¹⁰⁴

Hornblum's book, *Acres of Skin: Human Experiments at Holmesburg Prison*, highlights the career of research dermatologist Albert Kligman, who was a professor at the University of Pennsylvania. Kligman, the "Father of Retin-A,"¹⁰⁵ conducted hundreds of experiments on the men housed in Holmesburg Prison and, in the process, trained many researchers to use what were later recognized as unethical research methods.

When Dr. Kligman entered the aging prison he was awed by the potential it held for his research. In

1966, he recalled in a newspaper interview: "All I saw before me were acres of skin. It was like a farmer seeing a fertile field for the first time." The hundreds of inmates walking aimlessly before him represented a unique opportunity for unlimited and undisturbed medical research. He described it in this interview as "an anthropoid colony, mainly healthy" under perfect control conditions.¹⁰⁶

By the time the experimentation program was shut down in 1974 and new federal regulations prohibited the use of prisoners as subjects for academic and corporate research, numerous cosmetics and skin creams had already been tested. Some of them had caused great harm to these subjects and could not be marketed in their original form. Johnson and Johnson, Ortho Pharmaceutical, and Dow Chemical are only a few of the corporations that reaped great material benefits from these experiments.

The potential impact of corporate involvement in punishment could have been glimpsed in the Kligman experiments at Holmesburg Prison as early as the 1950s and 1960s. However, it was not until the 1980s and the increasing globalization of capitalism that the massive surge of capital into the punishment economy began. The deindustrialization processes that resulted in plant shutdowns throughout the country created a huge pool of vulnerable human beings, a pool of people for whom no further jobs were available. This also brought more people into contact with social services, such as AFDC (Aid to Families with Dependent Children) and other welfare agencies. It is not accidental that "welfare, as we have known it"—to use former President Clinton's words—came under severe attack and was eventually dismantled. This was known as "welfare reform." At the same

time, we experienced the privatization and corporatization of services that were previously run by government. The most obvious example of this privatization process was the transformation of government-run hospitals and health services into a gigantic complex of what are euphemistically called health maintenance organizations. In this sense we might also speak of a "medical industrial complex."¹⁰⁷ In fact, there is a connection between one of the first private hospital companies, Hospital Corporation of America—known today as HCA—and Corrections Corporation of America (CCA). Board members of HCA, which today has two hundred hospitals and seventy outpatient surgery centers in twenty-four states, England, and Switzerland helped to start Correctional Corporations of America in 1983.

In the context of an economy that was driven by an unprecedented pursuit of profit, no matter what the human cost, and the concomitant dismantling of the welfare state, poor people's abilities to survive became increasingly constrained by the looming presence of the prison. The massive prison-building project that began in the 1980s created the means of concentrating and managing what the capitalist system had implicitly declared to be a human surplus. In the meantime, elected officials and the dominant media justified the new draconian sentencing practices, sending more and more people to prison in the frenzied drive to build more and more prisons by arguing that this was the only way to make our communities safe from murderers, rapists, and robbers.

The media, especially television . . . have a vested interest in perpetuating the notion that crime is out of control. With new competition from cable networks and 24-hour news channels, TV news and programs about crime . . . have proliferated madly.

According to the Center for Media and Public Affairs, crime coverage was the number-one topic on the nightly news over the past decade. From 1990 to 1998, homicide rates dropped by half nationwide, but homicide stories on the three major networks rose almost fourfold.¹⁰⁸

During the same period when crime rates were declining, prison populations soared. According to a recent report by the U.S. Department of Justice, at the end of the year 2001, there were 2,100,146 people incarcerated in the United States.¹⁰⁹ The terms and numbers as they appear in this government report require some preliminary discussion. I hesitate to make unmediated use of such statistical evidence because it can discourage the very critical thinking that ought to be elicited by an understanding of the prison industrial complex. It is precisely the abstraction of numbers that plays such a central role in criminalizing those who experience the misfortune of imprisonment. There are many different kinds of men and women in the prisons, jails, and INS and military detention centers, whose lives are erased by the Bureau of Justice Statistics figures. The numbers recognize no distinction between the woman who is imprisoned on drug conspiracy and the man who is in prison for killing his wife, a man who might actually end up spending less time behind bars than the woman.

With this observation in mind, the statistical breakdown is as follows: There were 1,324,465 people in "federal and state prisons," 15,852 in "territorial prisons," 631,240 in "local jails," 8,761 in "Immigration and Naturalization Service detention facilities," 2,436 in "military facilities," 1,912 in "jails in Indian country," and 108,965 in "juvenile facilities." In the ten years between 1990 and 2000, 351 new places of

confinement were opened by states and more than 528,000 beds were added, amounting to 1,320 state facilities, representing an eighty-one percent increase. Moreover, there are currently 84 federal facilities and 264 private facilities.¹¹⁰

The government reports, from which these figures are taken, emphasize the extent to which incarceration rates are slowing down. The Bureau of Justice Statistics report entitled "Prisoners in 2001" introduces the study by indicating that "the Nation's prison population grew 1.1%, which was less than the average annual growth of 3.8% since yearend 1995. During 2001 the prison population rose at the lowest rate since 1972 and had the smallest absolute increase since 1979."¹¹¹ However small the increase, these numbers themselves would defy the imagination were they not so neatly classified and rationally organized. To place these figures in historical perspective, try to imagine how people in the eighteenth and nineteenth centuries—and indeed for most of the twentieth century—who welcomed the new, and then quite extraordinary, system of punishment called the prison might have responded had they known that such a colossal number of lives would be eventually claimed permanently by this institution. I have already shared my own memories of a time three decades ago when the prison population was comprised of a tenth of the present numbers.

The prison industrial complex is fueled by privatization patterns that, it will be recalled, have also drastically transformed health care, education, and other areas of our lives. Moreover, the prison privatization trends—both the increasing presence of corporations in the prison economy and the establishment of private prisons—are reminiscent of the historical efforts to create a profitable punishment industry based on the new supply of "free" black male laborers in the

aftermath of the Civil War. Steven Donziger, drawing from the work of Norwegian criminologist Nils Christie, argues:

[C]ompanies that service the criminal justice system need sufficient quantities of raw materials to guarantee long-term growth . . . In the criminal justice field, *the raw material is prisoners*, and industry will do what is necessary to guarantee a steady supply. For the supply of prisoners to grow, criminal justice policies must ensure a sufficient number of incarcerated Americans regardless of whether crime is rising or the incarceration is necessary.¹¹²

In the post-Civil War era, emancipated black men and women comprised an enormous reservoir of labor at a time when planters—and industrialists—could no longer rely on slavery, as they had done in the past. This labor became increasingly available for use by private agents precisely through the convict lease system, discussed earlier, and related systems such as debt peonage. Recall that in the aftermath of slavery, the penal population drastically shifted, so that in the South it rapidly became disproportionately black. This transition set the historical stage for the easy acceptance of disproportionately black prison populations today. According to 2002 Bureau of Justice Statistics, African-Americans as a whole now represent the majority of county, state, and federal prisoners, with a total of 803,400 black inmates—118,600 more than the total number of white inmates. If we include Latinos, we must add another 283,000 bodies of color.¹¹³

As the rate of increase in the incarceration of black prisoners continues to rise, the racial composition of the incarcerated population is approaching the proportion of black

prisoners to white during the era of the southern convict lease and county chain gang systems. Whether this human raw material is used for purposes of labor or for the consumption of commodities provided by a rising number of corporations directly implicated in the prison industrial complex, it is clear that black bodies are considered dispensable within the “free world” but as a major source of profit in the prison world.

The privatization characteristic of convict leasing has its contemporary parallels, as companies such as CCA and Wackenhut literally run prisons for profit. At the beginning of the twenty-first century, the numerous private prison companies operating in the United States own and operate facilities that hold 91,828 federal and state prisoners.¹¹⁴ Texas and Oklahoma can claim the largest number of people in private prisons. But New Mexico imprisons forty-four percent of its prison population in private facilities, and states such as Montana, Alaska, and Wyoming turned over more than twenty-five percent of their prison population to private companies.¹¹⁵ In arrangements reminiscent of the convict lease system, federal, state, and county governments pay private companies a fee for each inmate, which means that private companies have a stake in retaining prisoners as long as possible, and in keeping their facilities filled.

In the state of Texas, there are thirty-four government-owned, privately run jails in which approximately 5,500 out-of-state prisoners are incarcerated. These facilities generate about eighty million dollars annually for Texas.¹¹⁶ One dramatic example involves Capital Corrections Resources, Inc., which operates the Brazoria Detention Center, a government-owned facility located forty miles outside of Houston, Texas. Brazoria came to public attention in August 1997 when a videotape broadcast on national television showed prisoners

there being bitten by police dogs and viciously kicked in the groin and stepped on by guards. The inmates, forced to crawl on the floor, also were being shocked with stun guns, while guards—who referred to one black prisoner as “boy”—shouted, “Crawl faster!”¹¹⁷ In the aftermath of the release of this tape, the state of Missouri withdrew the 415 prisoners it housed in the Brazoria Detention Center. Although few references were made in the accompanying news reports to the indisputably racialized character of the guards’ outrageous behavior, in the section of the Brazoria videotape that was shown on national television, black male prisoners were seen to be the primary targets of the guards’ attacks.

The thirty-two-minute Brazoria tape, represented by the jail authorities as a training tape—allegedly showing corrections officers “what *not* to do”—was made in September 1996, after a guard allegedly smelled marijuana in the jail. Important evidence of the abuse that takes place behind the walls and gates of private prisons, it came to light in connection with a lawsuit filed by one of the prisoners who was bitten by a dog; he was suing Brazoria County for a hundred thousand dollars in damage. The Brazoria jailors’ actions—which, according to prisoners there, were far worse than depicted on the tape—are indicative not only of the ways in which many prisoners throughout the country are treated, but of generalized attitudes toward people locked up in jails and prisons.

According to an Associated Press news story, the Missouri inmates, once they had been transferred back to their home state from Brazoria, told the *Kansas City Star*:

[G]uards at the Brazoria County Detention Center used cattle prods and other forms of intimidation to win respect and force prisoners to say, “I love Texas.” “What you saw on tape wasn’t a fraction of

what happened that day,” said inmate Louis Watkins, referring to the videotaped cellblock raid of September 18, 1996. “I’ve never seen anything like that in the movies.”¹¹⁸

In 2000 there were twenty-six for-profit prison corporations in the United States that operated approximately 150 facilities in twenty-eight states.¹¹⁹ The largest of these companies, CCA and Wackenhut, control 76.4 percent of the private prison market globally. CCA is headquartered in Nashville, Tennessee, and until 2001, its largest shareholder was the multinational headquartered in Paris, Sodexho Alliance, which, through its U.S. subsidiary, Sodexho Marriott, provides catering services at nine hundred U.S. colleges and universities. The Prison Moratorium Project, an organization promoting youth activism, led a protest campaign against Sodexho Marriott on campuses throughout the country. Among the campuses that dropped Sodexho were SUNY Albany, Goucher College, and James Madison University. Students had staged sit-ins and organized rallies on more than fifty campuses before Sodexho divested its holdings in CCA in fall 2001.¹²⁰

Though private prisons represent a fairly small proportion of prisons in the United States, the privatization model is quickly becoming the primary mode of organizing punishment in many other countries.¹²¹ These companies have tried to take advantage of the expanding population of women prisoners, both in the United States and globally. In 1996, the first private women’s prison was established by CCA in Melbourne, Australia. The government of Victoria “adopted the U.S. model of privatization in which financing, design, construction, and ownership of the prison are awarded to one contractor and the government pays them back for

construction over twenty years. This means that it is virtually impossible to remove the contractor because that contractor owns the prison."¹²²

As a direct consequence of the campaign organized by prison activist groups in Melbourne, Victoria withdrew the contract from CCA in 2001. However, a significant portion of Australia's prison system remains privatized. In the fall of 2002, the government of Queensland renewed Wackenhut's contract to run a 710-bed prison in Brisbane. The value of the five-year contract is \$66.5 million. In addition to the facility in Brisbane, Wackenhut manages eleven other prisons in Australia and New Zealand and furnishes health care services in eleven public prisons in the state of Victoria.¹²³ In the press release announcing this contract renewal, Wackenhut describes its global business activities as follows:

WCC, a world leader in the privatized corrections industry, has contracts/awards to manage 60 correctional/detention facilities in North America, Europe, Australia, South Africa and New Zealand with a total of approximately 43,000 beds. WCC also provides prisoner transportation services, electronic monitoring for home detainees, correctional health care and mental health services. WCC offers government agencies a turnkey approach to the development of new correctional and mental health institutions that includes design, construction, financing, and operations.¹²⁴

But to understand the reach of the prison industrial complex, it is not enough to evoke the looming power of the private prison business. By definition, those companies court the state within and outside the United States for the pur-

pose of obtaining prison contracts, bringing punishment and profit together in a menacing embrace. Still, this is only the most visible dimension of the prison industrial complex, and it should not lead us to ignore the more comprehensive corporatization that is a feature of contemporary punishment. As compared to earlier historical eras, the prison economy is no longer a small, identifiable, and containable set of markets. Many corporations, whose names are highly recognizable by "free world" consumers, have discovered new possibilities for expansion by selling their products to correctional facilities.

In the 1990s, the variety of corporations making money from prisons is truly dizzying, ranging from Dial Soap to Famous Amos cookies, from AT&T to health-care providers . . . In 1995 Dial Soap sold \$100,000 worth of its product to the New York City jail system alone . . . When VitaPro Foods of Montreal, Canada, contracted to supply inmates in the state of Texas with its soy-based meat substitute, the contract was worth \$34 million a year.¹²⁵

Among the many businesses that advertise in the yellow pages on the corrections.com Web site are Archer Daniel Midlands, Nestle Food Service, Ace Hardware, Polaroid, Hewlett-Packard, RJ Reynolds, and the communications companies Sprint, AT&T, Verizon, and Ameritech. One conclusion to be drawn here is that even if private prison companies were prohibited—an unlikely prospect, indeed—the prison industrial complex and its many strategies for profit would remain relatively intact. Private prisons are direct sources of profit for the companies that run them, but public prisons have become so thoroughly saturated with the

profit-producing products and services of private corporations that the distinction is not as meaningful as one might suspect. Campaigns against privatization that represent public prisons as an adequate alternative to private prisons can be misleading. It is true that a major reason for the profitability of private prisons consists in the nonunion labor they employ, and this important distinction should be highlighted. Nevertheless, public prisons are now equally tied to the corporate economy and constitute an ever-growing source of capitalist profit.

Extensive corporate investment in prisons has significantly raised the stakes for antiprison work. It means that serious antiprison activists must be willing to look much further in their analyses and organizing strategies than the actual institution of the prison. Prison reform rhetoric, which has always undergirded dominant critiques of the prison system, will not work in this new situation. If reform approaches have tended to bolster the permanence of the prison in the past, they certainly will not suffice to challenge the economic and political relationships that sustain the prison today. This means that in the era of the prison industrial complex, activists must pose hard questions about the relationship between global capitalism and the spread of U.S.-style prisons throughout the world.

The global prison economy is indisputably dominated by the United States. This economy not only consists of the products, services, and ideas that are directly marketed to other governments, but it also exercises an enormous influence over the development of the style of state punishment throughout the world. One dramatic example can be seen in the opposition to Turkey's attempts to transform its prisons. In October 2000, prisoners in Turkey, many of whom are associated with left political movements, began a "death

fast" as a way of dramatizing their opposition to the Turkish government's decision to introduce "F-Type," or U.S.-style, prisons. Compared to the traditional dormitory-style facilities, these new prisons consist of one- to three-person cells, which are opposed by the prisoners because of the regimes of isolation they facilitate and because mistreatment and torture are far more likely in isolation. In December 2000, thirty prisoners were killed in clashes with security forces in twenty prisons.¹²⁶ As of September 2002, more than fifty prisoners have died of hunger, including two women, Gulnihal Yilmaz and Birsen Hosver, who were among the most recent prisoners to succumb to the death fast.

"F-Type" prisons in Turkey were inspired by the recent emergence of the super-maximum security—or supermax—prison in the United States, which presumes to control otherwise unmanageable prisoners by holding them in permanent solitary confinement and by subjecting them to varying degrees of sensory deprivation. In its *2002 World Report*, Human Rights Watch paid particular attention to the concerns raised by

the spread of ultra-modern "super-maximum" security prisons. Originally prevalent in the United States . . . the supermax model was increasingly followed in other countries. Prisoners confined in such facilities spent an average of twenty-three hours a day in their cells, enduring extreme social isolation, enforced idleness, and extraordinarily limited recreational and educational opportunities. While prison authorities defended the use of super-maximum security facilities by asserting that they held only the most dangerous, disruptive, or escape-prone inmates, few safeguards existed to prevent

other prisoners from being arbitrarily or discriminatorily transferred to such facilities. In Australia, the inspector of custodial services found that some prisoners were being held indefinitely in special high security units without knowing why or when their isolation would end.¹²⁷

Among the many countries that have recently constructed super-maximum security prisons is South Africa. Construction was completed on the supermax prison in Kokstad, KwaZulu-Natal in August 2000, but it was not officially opened until May 2002. Ironically, the reason given for the delay was the competition for water between the prison and a new low-cost housing development.¹²⁸ I am highlighting South Africa's embrace of the supermax because of the apparent ease with which this most repressive version of the U.S. prison has established itself in a country that has just recently initiated the project of building a democratic, non-racist, and nonsexist society. South Africa was the first country in the world to create constitutional assurances for gay rights, and it immediately abolished the death penalty after the dismantling of apartheid. Nevertheless, following the example of the United States, the South African prison system is expanding and becoming more oppressive. The U.S. private prison company Wackenhut has secured several contracts with the South African government and by constructing private prisons further legitimizes the trend toward privatization (which affects the availability of basic services from utilities to education) in the economy as a whole.

South Africa's participation in the prison industrial complex constitutes a major impediment to the creation of a democratic society. In the United States, we have already felt the insidious and socially damaging effects of prison

expansion. The dominant social expectation is that young black, Latino, Native American, and Southeast Asian men—and increasingly women as well—will move naturally from the free world into prison, where, it is assumed, they belong. Despite the important gains of antiracist social movements over the last half century, racism hides from view within institutional structures, and its most reliable refuge is the prison system.

The racist arrests of vast numbers of immigrants from Middle Eastern countries in the aftermath of the attacks on September 11, 2001, and the subsequent withholding of information about the names of numbers of people held in INS detention centers, some of which are owned and operated by private corporations, do not augur a democratic future. The uncontested detention of increasing numbers of undocumented immigrants from the global South has been aided considerably by the structures and ideologies associated with the prison industrial complex. We can hardly move in the direction of justice and equality in the twenty-first century if we are unwilling to recognize the enormous role played by this system in extending the power of racism and xenophobia.

Radical opposition to the global prison industrial complex sees the antiprison movement as a vital means of expanding the terrain on which the quest for democracy will unfold. This movement is thus antiracist, anticapitalist, antisexist, and antihomophobic. It calls for the abolition of the prison as the dominant mode of punishment but at the same time recognizes the need for genuine solidarity with the millions of men, women, and children who are behind bars. A major challenge of this movement is to do the work that will create more humane, habitable environments for people in prison without bolstering the permanence of the prison system. How, then, do we accomplish this balancing

act of passionately attending to the needs of prisoners—calling for less violent conditions, an end to state sexual assault, improved physical and mental health care, greater access to drug programs, better educational work opportunities, unionization of prison labor, more connections with families and communities, shorter or alternative sentencing—and at the same time call for alternatives to sentencing altogether, no more prison construction, and abolitionist strategies that question the place of the prison in our future?

Abolitionist Alternatives

"Forget about reform, it's time to talk about abolishing jails and prisons in American society . . . Still—abolition? Where do you put the prisoners? The 'criminals'? What's the alternative? First, having no alternative at all would create less crime than the present criminal training centers do. Second, the only full alternative is building the kind of society that does not need prisons: A decent redistribution of power and income so as to put out the hidden fire of burning envy that now flames up in crimes of property—both burglary by the poor and embezzlement by the affluent. And a decent sense of community that can support, reintegrate and truly rehabilitate those who suddenly become filled with fury or despair, and that can face them not as objects—'criminals'—but as people who have committed illegal acts, as have almost all of us."

—Arthur Waskow, Institute for Policy Studies¹²⁹

If jails and prisons are to be abolished, then what will replace them? This is the puzzling question that often interrupts further consideration of the prospects for abolition. Why should it be so difficult to imagine alternatives to our current system of incarceration? There are a number of reasons why we tend to balk at the idea that it may be possible to eventually create an entirely different—and perhaps more egalitarian—system of justice. First of all, we think of the

current system, with its exaggerated dependence on imprisonment, as an unconditional standard and thus have great difficulty envisioning any other way of dealing with the more than two million people who are currently being held in the country's jails, prisons, youth facilities, and immigration detention centers. Ironically, even the anti-death penalty campaign tends to rely on the assumption that life imprisonment is the most rational alternative to capital punishment. As important as it may be to abolish the death penalty, we should be conscious of the way the contemporary campaign against capital punishment has a propensity to recapitulate the very historical patterns that led to the emergence of the prison as the dominant form of punishment. The death penalty has coexisted with the prison, though imprisonment was supposed to serve as an alternative to corporal and capital punishment. This is a major dichotomy. A critical engagement with this dichotomy would involve taking seriously the possibility of linking the goal of death penalty abolitionism with strategies for prison abolition.

It is true that if we focus myopically on the existing system—and perhaps this is the problem that leads to the assumption that imprisonment is the only alternative to death—it is very hard to imagine a structurally similar system capable of handling such a vast population of lawbreakers. If, however, we shift our attention from the prison, perceived as an isolated institution, to the set of relationships that comprise the prison industrial complex, it may be easier to think about alternatives. In other words, a more complicated framework may yield more options than if we simply attempt to discover a single substitute for the prison system. The first step, then, would be to let go of the desire to discover one single alternative system of punishment that would occupy the same footprint as the prison system.

Since the 1980s, the prison system has become increasingly ensconced in the economic, political and ideological life of the United States and the transnational trafficking in U.S. commodities, culture, and ideas. Thus, the prison industrial complex is much more than the sum of all the jails and prisons in this country. It is a set of symbiotic relationships among correctional communities, transnational corporations, media conglomerates, guards' unions, and legislative and court agendas. If it is true that the contemporary meaning of punishment is fashioned through these relationships, then the most effective abolitionist strategies will contest these relationships and propose alternatives that pull them apart. What, then, would it mean to imagine a system in which punishment is not allowed to become the source of corporate profit? How can we imagine a society in which race and class are not primary determinants of punishment? Or one in which punishment itself is no longer the central concern in the making of justice?

An abolitionist approach that seeks to answer questions such as these would require us to imagine a constellation of alternative strategies and institutions, with the ultimate aim of removing the prison from the social and ideological landscapes of our society. In other words, we would not be looking for prisonlike substitutes for the prison, such as house arrest safeguarded by electronic surveillance bracelets. Rather, positing decarceration as our overarching strategy, we would try to envision a continuum of alternatives to imprisonment—demilitarization of schools, revitalization of education at all levels, a health system that provides free physical and mental care to all, and a justice system based on reparation and reconciliation rather than retribution and vengeance.

The creation of new institutions that lay claim to the

space now occupied by the prison can eventually start to crowd out the prison so that it would inhabit increasingly smaller areas of our social and psychic landscape. Schools can therefore be seen as the most powerful alternative to jails and prisons. Unless the current structures of violence are eliminated from schools in impoverished communities of color—including the presence of armed security guards and police—and unless schools become places that encourage the joy of learning, these schools will remain the major conduits to prisons. The alternative would be to transform schools into vehicles for decarceration. Within the health care system, it is important to emphasize the current scarcity of institutions available to poor people who suffer severe mental and emotional illnesses. There are currently more people with mental and emotional disorders in jails and prisons than in mental institutions. This call for new facilities designed to assist poor people should not be taken as an appeal to reinstitute the old system of mental institutions, which were—and in many cases still are—as repressive as the prisons. It is simply to suggest that the racial and class disparities in care available to the affluent and the deprived need to be eradicated, thus creating another vehicle for decarceration.

To reiterate, rather than try to imagine one single alternative to the existing system of incarceration, we might envision an array of alternatives that will require radical transformations of many aspects of our society. Alternatives that fail to address racism, male dominance, homophobia, class bias, and other structures of domination will not, in the final analysis, lead to decarceration and will not advance the goal of abolition.

It is within this context that it makes sense to consider the decriminalization of drug use as a significant component of a larger strategy to simultaneously oppose structures of

racism within the criminal justice system and further the abolitionist agenda of decarceration. Thus, with respect to the project of challenging the role played by the so-called War on Drugs in bringing huge numbers of people of color into the prison system, proposals to decriminalize drug use should be linked to the development of a constellation of free, community-based programs accessible to all people who wish to tackle their drug problems. This is not to suggest that all people who use drugs—or that only people who use illicit drugs—need such help. However, anyone, regardless of economic status, who wishes to conquer drug addiction should be able to enter treatment programs.

Such institutions are, indeed, available to affluent communities. The most well known program is the Betty Ford Center, which, according to its Web site, “accepts patients dependent on alcohol and other mood altering chemicals. Treatment services are open to all men and women eighteen years of age and older regardless of race, creed, sex, national origin, religion or sources of payment for care.”¹³⁰ However, the cost for the first six days is \$1,175 per day, and after that \$525 per day.¹³¹ If a person requires thirty days of treatment, the cost would amount to \$19,000, almost twice the annual salary of a person working a minimum-wage job.

Poor people deserve to have access to effective, voluntary drug treatment programs. Like the Betty Ford program, their operation should not be under the auspices of the criminal justice system. As at the Ford Center, family members also should be permitted to participate. But unlike the Betty Ford program, they should be free of charge. For such programs to count as “abolitionist alternatives,” they would not be linked—unlike existing programs, to which individuals are “sentenced”—to imprisonment as a last resort.

The campaign to decriminalize drug use—from marijuana-

na to heroin—is international in scope and has led countries such as the Netherlands to revise their laws, legalizing personal use of such drugs as marijuana and hashish. The Netherlands also has a history of legalized sex work, another area in which there has been extensive campaigning for decriminalization. In the cases of drugs and sex work, decriminalization would simply require repeal of all those laws that penalize individuals who use drugs and who work in the sex industry. The decriminalization of alcohol use serves as a historical example. In both these cases, decriminalization would advance the abolitionist strategy of decarceration—that is, the consistent reduction in the numbers of people who are sent to prison—with the ultimate aim of dismantling the prison system as the dominant mode of punishment. A further challenge for abolitionists is to identify other behaviors that might be appropriately decriminalized as preliminary steps toward abolition.

One obvious and very urgent aspect of the work of decriminalization is associated with the defense of immigrants' rights. The growing numbers of immigrants—especially since the attacks on September 11, 2001—who are incarcerated in immigrant detention centers, as well as in jails and prisons, can be halted by dismantling the processes that punish people for their failure to enter this country without documents. Current campaigns that call for the decriminalization of undocumented immigrants are making important contributions to the overall struggle against the prison industrial complex and are challenging the expansive reach of racism and male dominance. When women from countries in the southern region are imprisoned because they have entered this country to escape sexual violence, instead of being granted refugee status, this reinforces the generalized tendency to punish people who are persecuted in

their intimate lives as a direct consequence of pandemics of violence that continue to be legitimized by ideological and legal structures.

Within the United States, the “battered women’s syndrome” legal defense reflects an attempt to argue that a woman who kills an abusive spouse should not be convicted of murder. This defense has been abundantly criticized, both by detractors and proponents of feminism; the former do not want to recognize the pervasiveness and dangers of intimate violence against women and the latter challenge the idea that the legitimacy of this defense resides in the assertion that those who kill their batterers are not responsible for their actions. The point feminist movements attempt to make—regardless of their specific positions on battered women’s syndrome—is that violence against women is a pervasive and complicated social problem that cannot be solved by imprisoning women who fight back against their abusers. Thus, a vast range of alternative strategies of minimizing violence against women—within intimate relationships and within relationships to the state—should be the focus of our concern.

The alternatives toward which I have gestured thus far—and this is only a small selection of examples, which can also include job and living wage programs, alternatives to the disestablished welfare program, community-based recreation, and many more—are associated both directly and indirectly with the existing system of criminal justice. But, however mediated their relation might be to the current system of jails and prisons, these alternatives are attempting to reverse the impact of the prison industrial complex on our world. As they contest racism and other networks of social domination, their implementation will certainly advance the abolitionist agenda of decarceration.

Creating agendas of decarceration and broadly casting the net of alternatives helps us to do the ideological work of pulling apart the conceptual link between crime and punishment. This more nuanced understanding of the social role of the punishment system requires us to give up our usual way of thinking about punishment as an inevitable consequence of crime. We would recognize that "punishment" does not follow from "crime" in the neat and logical sequence offered by discourses that insist on the justice of imprisonment, but rather punishment—primarily through imprisonment (and sometimes death)—is linked to the agendas of politicians, the profit drive of corporations, and media representations of crime. Imprisonment is associated with the racialization of those most likely to be punished. It is associated with their class and, as we have seen, gender structures the punishment system as well. If we insist that abolitionist alternatives trouble these relationships, that they strive to disarticulate crime and punishment, race and punishment, class and punishment, and gender and punishment, then our focus must not rest only on the prison system as an isolated institution but must also be directed at all the social relations that support the permanence of the prison.

An attempt to create a new conceptual terrain for imagining alternatives to imprisonment involves the ideological work of questioning why "criminals" have been constituted as a class and, indeed, a class of human beings undeserving of the civil and human rights accorded to others. Radical criminologists have long pointed out that the category "lawbreakers" is far greater than the category of individuals who are deemed criminals since, many point out, almost all of us have broken the law at one time or another. Even President Bill Clinton admitted that he had smoked marijuana at one time, insisting, though, that he did not inhale. However,

acknowledged disparities in the intensity of police surveillance—as indicated by the present-day currency of the term "racial profiling" which ought to cover far more territory than "driving while black or brown"—account in part for racial and class-based disparities in arrest and imprisonment rates. Thus, if we are willing to take seriously the consequences of a racist and class-biased justice system, we will reach the conclusion that enormous numbers of people are in prison simply because they are, for example, black, Chicano, Vietnamese, Native American or poor, regardless of their ethnic background. They are sent to prison, not so much because of the crimes they may have indeed committed, but largely because their communities have been criminalized. Thus, programs for decriminalization will not only have to address specific activities that have been criminalized—such as drug use and sex work—but also criminalized populations and communities.

It is against the backdrop of these more broadly conceived abolitionist alternatives that it makes sense to take up the question of radical transformations within the existing justice system. Thus, aside from minimizing, through various strategies, the kinds of behaviors that will bring people into contact with the police and justice systems, there is the question of how to treat those who assault the rights and bodies of others. Many organizations and individuals both in the United States and other countries offer alternative modes of making justice. In limited instances, some governments have attempted to implement alternatives that range from conflict resolution to restorative or reparative justice. Such scholars as Herman Bianchi have suggested that crime needs to be defined in terms of tort and, instead of criminal law, should be reparative law. In his words, "[The lawbreaker] is thus no longer an evil-minded man or woman, but simply a debtor, a

liable person whose human duty is to take responsibility for his or her acts, and to assume the duty of repair."¹³²

There is a growing body of literature on reshaping systems of justice around strategies of reparation, rather than retribution, as well as a growing body of experiential evidence of the advantages of these approaches to justice and of the democratic possibilities they promise. Instead of rehearsing the numerous debates that have emerged over the last decades—including the most persistent question, "What will happen to the murderers and rapists?"—I will conclude with a story of one of the most dramatic successes of these experiments in reconciliation. I refer to the case of Amy Biehl, the white Fulbright scholar from Newport Beach, California, who was killed by young South African men in Guguletu, a black township in Capetown, South Africa.

In 1993, when South Africa was on the cusp of its transition, Amy Biehl was devoting a significant amount of her time as a foreign student to the work of rebuilding South Africa. Nelson Mandela had been freed in 1990, but had not yet been elected president. On August 25, Biehl was driving several black friends to their home in Guguletu when a crowd shouting antiwhite slogans confronted her, and some of them stoned and stabbed her to death. Four of the men participating in the attack were convicted of her murder and sentenced to eighteen years in prison. In 1997, Linda and Peter Biehl—Amy's mother and father—decided to support the amnesty petition the men presented to the Truth and Reconciliation Commission. The four apologized to the Biehls and were released in July 1998. Two of them—Easy Nofemela and Ntobeko Peni—later met with the Biehls, who, despite much pressure to the contrary, agreed to see them.¹³³ According to Nofemela, he wanted to say more about his own sorrow for killing their daughter than what

had been possible during Truth and Reconciliation hearings. "I know you lost a person you love," he says he told them during that meeting. "I want you to forgive me and take me as your child."¹³⁴

The Biehls, who had established the Amy Biehl Foundation in the aftermath of their daughter's death, asked Nofemela and Peni to work at the Guguletu branch of the foundation. Nofemela became an instructor in an after-school sports program and Peni an administrator. In June 2002, they accompanied Linda Biehl to New York, where they all spoke before the American Family Therapy Academy on reconciliation and restorative justice. In a *Boston Globe* interview, Linda Biehl, when asked how she now feels about the men who killed her daughter, said, "I have a lot of love for them." After Peter Biehl died in 2002, she bought two plots of land for them in memory of her husband so that Nofemela and Peni can build their own homes.¹³⁵ A few days after the September 11 attacks, the Biehls had been asked to speak at a synagogue in their community. According to Peter Biehl, "We tried to explain that sometimes it pays to shut up and listen to what other people have to say, to ask: 'Why do these terrible things happen?' instead of simply reacting."¹³⁶

Resources

CRITICAL RESISTANCE: BEYOND THE
PRISON-INDUSTRIAL COMPLEX
www.criticalresistance.org
National Office:
1904 Franklin Street, Suite 504
Oakland, CA 94612
Phone: (510) 444-0484
Fax: (510) 444-2177
crnational@criticalresistance.org

NORTHEAST REGIONAL OFFICE
460 W. 128th Street
New York, NY 10027
Phone: (917) 493-9795
Fax: (917) 493-9798
crne@criticalresistance.org

SOUTHERN REGIONAL OFFICE
P.O. Box 791213
New Orleans, LA 70179
Phone: (504) 837-5348 or toll free (866) 579-0885
crsouth@criticalresistance.org

HUMAN RIGHTS WATCH PRISON PROJECT
350 5th Avenue, 34th Floor
New York, NY 10118-3299
Phone: (212) 290-4700
Fax: (212) 736-1300
hrwnyc@hrw.org
www.hrw.org

INCITE! WOMEN OF COLOR AGAINST VIOLENCE
P.O. Box 6861
Minneapolis, MN 55406-0861
Phone: (415) 553-3837
incite-national@yahoo.com
www.incite-national.org/

JUSTICE NOW (JUSTICE NETWORK ON WOMEN)
1322 Webster Street, Suite 210
Oakland, CA 94612
Phone: (510) 839-7654
Fax: (510) 839-7615
cynthia@jnow.org, cassandra@jnow.org
www.jnow.org

THE NATIONAL CENTER ON INSTITUTIONS
AND ALTERNATIVES (NCIA)
3125 Mt. Vernon Avenue
Alexandria, VA 22305
Phone: (703) 684-0373
Fax: (703) 549-4077
info@ncianet.org
www.ncianet.org/ncia; www.sentencing.org

PRISON ACTIVIST RESOURCE CENTER
P.O. Box 339
Berkeley, CA 94701
Phone: (510) 893-4648
Fax: (510) 893-4607
parc@prisonactivist.org
www.prisonactivist.org

PRISON LEGAL NEWS
2400 NW 80th Street, PMB #148
Seattle, WA 98117
Phone: (206) 781-6524
www.prisonlegalnews.org

PRISON MORATORIUM PROJECT
388 Atlantic Avenue, 3rd Floor
Brooklyn, NY 11217
Phone: (718) 260-8805
Fax: (212) 727-8616
pmp@nomoreprisons.org
www.nomoreprisons.org

THE SENTENCING PROJECT
514-10th Street NW #1000
Washington, DC 20004
Phone: (202) 628-0871
Fax: (202) 628-1091
www.sentencingproject.org

Notes

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