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Re-Imagining Punishment: An Exercise in “Intersectional Criminal Justice”

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Abstract: Over the last 40 years a number of scholars have called upon fellow criminologists to rethink the field’s priorities and methods, as well as the American criminal justice system and current punishment practices. Drawing on alternative criminologies, including constitutive and peacemaking criminologies, as well as the practice of reintegrative shaming, this paper presents a new model of criminal justice that combines aspects of adversarial, restorative, social, and transformative justice frameworks. The resulting “intersectional criminal justice” offers a holistic harm-reduction model that moves the focus of our criminal justice system away from “rough justice” and towards collective restorative healing and positive social change.

Keywords: intersectional justice; social justice; restorative justice; transformative justice; reintegrative shaming; constitutive criminology; peacemaking criminology; punishment

1. Introduction

In 1973, Ian Taylor, Paul Walton, and Jock Young proposed a “new criminology”. In their revolutionary book, “The New Criminology for a Social Theory of Deviance”, these three exposed the numerous flaws inherent in traditional and mainstream criminology, such as an over-emphasis on individuals or acts as criminal without regard for contextual factors such as the unequal distribution of property and power in society, including the power to define law and produce knowledge. Overall, the three argued that criminology’s refusal to situate crime, criminality, and the law within a fluid social context that allows for human agency—specifically, creative responses to the social world—had served

to criminalize acts and people that do not comply with dominant norms, while simultaneously permitting and perpetuating a number of serious harms that are not reached by the law as they are not defined as crimes, or at least, as serious ones. Taylor, Walton, and Young insisted that, instead, deviance should be explored through a multifaceted examination incorporating structure, process, culture, and agency in a “continuous dialectic” [1].

In 2011, Jock Young revisited a number of these themes in *The Criminological Imagination*. Young concludes the book by arguing that criminology, for the most part, is still struggling with the same problems it faced over four decades earlier: a narrow focus emphasizing the mundane, miserable, and negative; superficial “selective vision”; an oversimplification of reality into ordered categories and structures; a loss of emotional understanding in the name of objectivity; “peering down the class structure”; “liberal Othering”; and, inhibiting imagination [2]. Arguably, our criminal justice system suffers from similar flaws, which is only logical as it is grounded in and stems from classically based criminological assumptions about law and human nature.

However, it is possible to point to examples of a “new criminology” aimed at addressing such problems in the realms of theory and practice. For instance, since 1973 we have seen the development of both constitutive and peacemaking criminology [3–7], which aim to alter our perceptions of crime, harm, and crime control. There has also been a rise in the number of scholars emphasizing the intersections of race, class, and gender in their theories and policy recommendations [8–10]. Furthermore, in recent years, serious attention has been given to the notion of restorative justice and other alternative or non-traditional dispute resolution models, as manifested in problem-solving courts like drug or family court; such alternative punishment practices bring the criminal justice system closer to achieving the goals of constitutive and peacemaking criminologies.

Yet, these innovative frameworks for understanding and analyzing crime, as well as for operationalizing criminal justice, remain on the periphery. This essay strives to bring such peripheral ideas regarding crime and criminality to the forefront in what I consider an exercise in intersectional criminal justice—or a model of the intersection of criminal justice between the individual and society that operates within and across adversarial, restorative, transformative, and social justice frameworks. This “idealistic” exercise is timely as the American criminal justice system is undergoing a period of significant change. Prompted, for the most part, by vast financial deficits, the United States has seen a continuous reduction in prisoner populations for the first time in nearly fifty years [11]. Many states such as California, Michigan, and Illinois are altering their mandatory sentencing, truth-in-sentencing, and three-strikes laws or getting rid of them altogether. A number of states have brought back parole [12,13]. This relatively recent, but consistent, shift away from “tough on crime” policies may signify an opening—a viable opportunity to move criminal justice policy in the direction of a “new criminology” and an intersectional criminal justice, which could drastically alter the landscape of the American criminal justice system away from practices of “rough justice”.

2. Models of Justice

As Young notes, instead of being a space for the exploration of crime as meaningful, creative responses to oppressive structures, criminology has become defined by a narrow focus on the negative and the depressing, where equations have come to mean more than theory and where even liberal criminologists are guilty of “Othering” both crime and criminals [2]. Mainstream criminological theory

and criminal justice practice focus on the crimes and criminality of the marginalized, blaming working class and impoverished minorities for society's crime problem while blatantly ignoring some of the greatest harms to society, such as the destruction of social safety nets, financial harms, environmental harms, labor harms, and even state criminality [8,10,14]. For example, in his famous discussion of white collar crime, Sutherland notes that although white collar criminals often cause more harm to society than street criminals, such harmful acts are not typically classified as "criminal" [15]. In fact, even when such acts technically are criminal, white collar criminals experience relatively little sanction when one considers the harms they have caused—a fact that is as true today as it was in 1949 [8,10,15].

The myth of "equal justice"—a cornerstone of the American legal consciousness—has been used to perpetuate our rather narrow sense of crime, criminals, and criminal justice. As Barak, Leighton, and Flavin explain, American justice has been "sold" in both popular culture and political commentary as "equal justice", justice that is blind to class, race, and gender differences [8]. However, "equal treatment" is not necessarily "fair" treatment [8]. Thus throughout the 20th century, American punishment has been characterized by class justice, or the biased application of the law in relation to class, racial justice, or the discriminatory application of the law in relation to race, and gendered justice, or the differential application of the law in relation to gender [8].

The adversarial system also rests upon this premise of "equal justice". Stated simply, this system of justice views criminal wrongs as consisting of three essential components: two oppositional parties (*i.e.*, the victim and offender) and one absolute truth regarding what happened, how it happened, and who is responsible. In theory, this system treats all parties—regardless of race, class, gender, or any other characteristics—equally. To determine the accused's guilt or innocence, the two parties are publicly pitted against one another in pursuit of the truth [16]. A state prosecutor, who presents the state's version of the crime, represents the victim; the burden of proof beyond a reasonable doubt is placed upon the state. A private attorney, state-paid attorney, or the defendant herself represents the accused; this person is tasked with refuting the state's case and demonstrating that the accused is not guilty beyond a reasonable doubt. A state judge acts as the arbiter of legal rules. Whether settled outside of court through a plea bargain or within a courtroom by a jury's or judge's determination of guilt, the adversarial system produces "winners" and "losers". Either the prosecution wins and the accused is deemed responsible for the crime, or the accused wins and the crime remains unsolved, offering little resolution to the victim and/or victim's family members. Overall, then, adversarial justice is concerned, first and foremost, with assessing blame and punishing the blameworthy.

Yet models outside the adversarial justice system, which individualizes harm and reduces it to pieces of legal evidence, do exist. Restorative justice, social justice, and transformative justice are all viable alternatives to adversarial justice. For example, in a "nuts and bolts" manner, Marshall defines restorative justice as, "a problem-solving approach to crime which involves the parties themselves, and the community generally, in an active relationship with statutory agencies" ([17], p. 5). Braithwaite elaborates on this definition, noting that restorative justice emphasizes healing relationships over balancing hurt with hurt, and also places the problem—not the criminal—at the center of the criminal justice system [18]. Barak, Leighton, & Flavin offer a slightly different, simplified understanding of restorative justice, defining it as justice that emphasizes harm reduction and prevention over the amount of pain that has been caused [8]. Overall, restorative justice strives to create a space for offenders to take responsibility for their actions and makes amends with victims when possible, addresses the needs of

victims, offenders, and the community, and prevents reoffending through the reintegration of offenders into the community. Thus restorative justice is concerned with harm reduction at the individual and community levels—not blameworthiness and punishment—though it does hold the perpetrator accountable for her actions.

Social justice, on the other hand, is concerned with shifting perceptions of harm from the level of the individual to the level of structures and society as a whole [8]. In other words, social justice moves beyond immediate conflicts between offenders and victims, seeking to address the societal roots at the base of such conflicts [8]. Moreover, social justice not only includes harms as legally defined under criminal law, but also includes those harms not defined as crimes, including a whole host of human rights issues such as exploitation, discrimination, and the ability to migrate. Hence from a social justice perspective, crimes are not personal expressions, but actually manifestations of underlying political, economic, and social relations [8]. It is these relations that social justice seeks to address in order to reduce harm and prevent crime.

Drawing on aspects of both restorative and social justice, transformative justice aims to address hierarchy and harm, which it is argued, are facilitated by traditionally repressive disciplinary mechanisms of crime control [19]. This is done using elements of restorative justice that are “expanded [to a] critical structural-level” without overlooking micro-community levels ([19], pp. 29–30). In practical terms, this means dealing with the injustice of being victimized, as well as the injustices of inequality [20]. It also requires a stark departure from repressive, retributive, and vengeful modes of justice that “serve to perpetuate and reproduce the marginal and disempowering conditions of the victimized” (20), p. 323). As such, transformative justice calls upon individuals to “change their lives, families, and environments for the collective good and social responsibility of all” in addition to nonviolent modes of crime control ([20], p. 324). Overall, transformative justice advocates the “necessity of ongoing [x] social change” beyond the realm of the criminal justice system ([19], pp. 29–30).

Thus while all three provide alternative models of justice, the differences between restorative justice, social justice, and transformative justice are significant. For instance, under a restorative justice model, sanctions in response to domestic violence or financial fraud would occur at an individual level, likely involving some form of individual and couple’s therapy for the perpetrator of domestic violence and monetary restitution and community service for the financial fraudster. Under a social justice model, one might link a case of domestic violence to patriarchy or a case of financial fraud to economic inequality, perhaps resulting in demands for a vast adjustment in societal conceptions of gender relations and a redistribution of wealth and power. Finally, a transformative justice model would likely result in a combination of restorative and social justice sanctions, sending the perpetrator of domestic violence to therapy and requiring restitution and community service of the financial fraudster, while also critiquing systems of patriarchy and inequality and asking all those present to take such critiques with them into their daily lives and make change in societal arenas outside the criminal justice system.

Addressing these harms in the “either-or” fashion of restorative and social justice appears half-hearted at best and deeply flawed at worst: domestic violence cannot be neatly untangled from patriarchy just as financial fraud cannot be neatly untangled from economic inequality. Thus appropriate criminal justice sanctions must address such harms in a holistic fashion. However, blending restorative and social justice sanctions while also suggesting that individuals “be the change they want to see”, as with transformative justice, falls short of concretely addressing and reducing patriarchy and inequality in society. Ideally,

addressing an individual case of domestic violence or financial fraud requires simultaneous intervention at the individual and societal level coupled with intentional critiques and deliberate realignments of gender and economic hierarchies within society. In other words, to thoroughly address crime, one must adopt an intersectional criminal justice sanction that combines aspects of adversarial, restorative, social, and transformative justice. With these four modes of justice in mind, I have chosen two frameworks and one theory of punishment from which to construct such an intersectional system of criminal justice explored below.

3. Alternative Criminologies

In *Integrating Criminologies*, Gregg Barak asked criminologists to think about the possibility of incorporating differing assumptions, theories, schools, and perspectives from mainstream and alternative criminologies, positivist, and critical criminologies, and from modernist and postmodernist criminologies to create a holistic understanding of crime and crime control [21]. In the context of envisioning a hybrid or intersectional system of justice, I am accordingly re-imagining punishment by not only incorporating criminal, civil, and international law, but also by incorporating such alternative criminologies as “constitutive”, “peacemaking”, and “reintegrative shaming” with the classical and legalistic—or traditional—criminologies. Before delving into the system of intersectional justice proposed here, I will first provide a brief overview of the alternative criminologies it draws upon.

3.1. Constitutive Criminology

Within constitutive criminology, crime is defined as any harm-producing power relation [7]; this is, by all means, a very radical definition of crime. Conventional understandings of crime typically define crimes as acts legally considered criminal. Even more critical definitions of crime tend towards expansions of the definition of crime as opposed to complete re-workings, such as that provided by Henry and Milovanovic. For instance a number of critical criminologists have pushed for a definition of crime that includes white collar [15], state-corporate [22], environmental [23], and human rights violations [24], which may violate civil or regulatory law, or may even violate international treaties, but which are not defined domestically as criminal offenses.

In contrast, within constitutive criminology, crimes are divided into two categories, harms of reduction and harms of repression, which constrain who individuals are and also prevent them from becoming who they want to be [3,7]. Within this framework, offenders are seen as “excessive investors” in harmful power relations and victims are seen as “recovering subjects”, affording them more agency than most traditional understanding of victimization [7]. Ultimately, constitutive criminology is concerned with inverting harmful power relations and reducing harm [7].

As implied above, constitutive criminology exemplifies several of the key aspects of an intersectional criminal justice. First, as with the key goal of restorative and transformative justice, constitutive criminology is primarily concerned with harm reduction. Second, it locates offenders and victims in a structural web of crime producing power relations, reframing individualized harm as aspects of broader social harms. Thus while not explicitly calling for criminal justice sanctions that address crime in a holistic intersectional manner, the work of constitutive criminologists suggests a form of crime control that simultaneously addresses individual harms and social problems.

3.2. *Peacemaking Criminology*

Peacemaking criminology strives to “make peace on crime”—not war [6]. The crux of peacemaking criminology lies in the belief that one cannot and should not respond to violence with violence, something our traditional criminal justice system is often guilty of doing. Instead, the focus is on a de-escalation of violence through the use of conciliation, mediation, and dispute settlement as alternatives to traditional criminal prosecution and sentencing models [6]. Hence, regardless of the fact that a crime is legally considered to be a matter between the state and the defendant, settlement should include all key stakeholders, such as the victim and offender, as well as their family members, and even community members [5]. All parties should take part in arriving at a solution and this process, as well as the solution, should, above all, operate along the principles of dignity and respect for all [5].

Like constitutive criminology, peacemaking criminology is also grounded in the goal of harm reduction, although harm has been replaced with the term violence. Furthermore, peacemaking criminologists’ insistence on including stakeholders and community members in criminal justice adjudication and sanctioning exemplifies restorative justice’s commitment to interpersonal and community healing around a harmful event. This, if carried out in a thoughtful manner (as opposed to a blame-session), could be one practical application of intersectional criminal justice’s goal of addressing individualized crimes in their community, or social, context.

3.3. *Reintegrative Shaming*

Reintegrative shaming is perhaps one of the oldest forms of punishment, and is still commonly used today among families and in collective societies [25]. In short, proponents of reintegrative shaming argue that standard criminal justice punishments stigmatize offenders, actually driving them to commit subsequent deviance [25]; this critique exemplifies peacemaking criminologists’ claim that the American criminal justice system is guilty of responding to violence with more violence. Braithwaite argues that in place of harmful shaming, reintegrative shaming practices aim to strengthen offenders bonds to society and reintegrate them back into the collective [25]. Thus instead of only incorporating degradation ceremonies into punishment—like that of the courtroom ritual, the sentencing ritual, or the ritualized dehumanization one experiences upon entering prison, all of which attach incredible amounts of stigma to the suspect, offender, and convict—reintegrative shaming calls for the incorporation of processes or ceremonies that remove stigma, that de-label the offender or inmate and acknowledge her success as well as her acceptance by society.

As evidenced here, reintegrative shaming addresses two of the primary concerns of constitutive and peacemaking criminology: the question of harm reduction and the issue of responding violently to violence. Reintegrative shaming operates on the assumption that traditional criminal justice methods are often counterproductive—inflicting harm upon offenders through psychologically and emotionally violent stigmatization that not only causes distress and social isolation, but also increases the likelihood of subsequent offenses as opposed to reducing it. Thus although not explicit, reintegrative shaming is an ideal component of intersectional criminal justice as it strives to reduce harms produced by the criminal justice system and reintegrate offenders into society through social, community-based sanctions.

Taken together, constitutive criminology, peacemaking criminology, and reintegrative shaming offer a harsh critique of current criminal justice practices, effectively linking our criminal justice system to

the reproduction—not prevention—of crime in the United States. Each of these approaches to crime and crime control suggests that the way to rid society of harm and violence is not through continued harm and violence, but through holistic, integrative, community-based methods that address the root causes of crime in the individual and society at large. Moreover, they embody many of the principles found in restorative, social, and transformative justice while not being opposed to the accountability principles of adversarial justice. As such, they provide an ideal grounding for the model of intersectional criminal justice proposed here.

4. Intersectional Criminal Justice

To re-imagine punishment is no small feat, requiring a flare for the imaginative and a shedding of preconceived notions of crime and crime control. Nevertheless, more than a few criminologists and criminal justice practitioners have been doing just this since the days of Beccaria. Similarly, this exercise in intersectional criminal justice is also a holistic synthesis of existing models of micro and macro justice and crime control at the points at which they meet and overlap.

So what might intersectional criminal justice look like in the real world? To begin, a system of intersectional criminal justice would require a reconceptualization of crime, defining it more broadly to include harms outside the traditional legal criminal sphere, while at the same time shedding such victimless crimes as drug use, prostitution, and other morally proscribed illegal acts. Borrowing from Kramer and Michalowski and in accordance with constitutive criminology, crime would be understood as illegal or socially injurious actions that may or may not be linked to harm-producing power relations [22]. By reworking the definition of crime, a swath of formerly harmful yet noncriminal acts would now fall under the jurisdiction of intersectional criminal justice, allowing criminal justice institutions and actors to address broader social justice issues as part and parcel of daily justice activities and sanctions. At the same time, this reconceptualization would free up criminal justice actors from the tedious and costly task of responding to morally proscribed acts like drug use and prostitution. For example, harmful drug use and addiction would be treated as medical issues and be dealt with *vis a vis* the healthcare system, while prostitution would become sex work and be subject to American labor law.

Overall, intersectional criminal justice would work simultaneously to address individualized property and violent crimes within the broader context of poverty, hunger, poor health and holistic (physical, emotional, and psychological) wellbeing, exploitation, discrimination, and inequality, all of which would be considered criminal in their own right under this proposed system of justice. Calls to reduce the aforementioned “social” harms through poverty reduction and rebuilding the social safety net (*i.e.*, welfare, health care, and education) are by no means innovative, and have been made by numerous criminologists over the last fifteen or so years [10,26,27]. However, such calls rarely include an integrated response to both individualized and social harms.

This integrated response would be achieved through a combination of community-based, education and social justice “sanction-to-solution” programs in which those convicted of criminal acts would work side-by-side with community members to simultaneously restore the harm caused by their individualized crime and tackle its broader social, economic, and political roots. Such programs would offer transformative punishment to individual offenders, incorporating elements of restitution, reconciliation, rehabilitation, and deterrence, as well as harm-prevention measures aimed at society as a whole. Furthermore, by bringing offending and non-offending community members together to work towards

common goals, sanction-to-solution programs would reduce the stigmatization often attached to offenders without singling out offenders [26,27]. Overall, these programs would stress reintegrative shaming with constructive punishments that strengthen offenders bonds to society and reintegrate them back into the collective, uniting them with non-offenders to work towards shared social goals.

In short, an intersectional criminal justice system would seek to prevent and reduce harm, sanction offenders, and address the needs of victims and society all at once, thus it is difficult to adequately capture its functioning using a process or flow chart. In fact, intersectional criminal justice is neither linear nor circular. Intersectional criminal justice is more akin to a dreamcatcher of interconnected actors and programs laced together in random intersecting movements, with each individual actor subject to an infinite number of hypothetical criss-crossing pathways around the dreamcatcher's edge, or within the criminal justice system. Thus offenders never "enter" or "exit" the system just as non-offenders never "enter" or "exit", but instead are always integrally involved in the intersectional criminal justice project—to address and eliminate individualized and social harms. In fact, at any given point in time an individual may be an offender, a victim, a bystander, or all of the above, and it is likely that offenders guilty of individual offenses will also be victims of any number of related—even somewhat causal—social harms.

At the center of the dreamcatcher is a large bead representing the "core" of the intersectional criminal justice system—the mechanisms for detecting offenses and offenders, assessing offenses and offenders, and assigning sanctions. Just as some lines on a dreamcatcher never cross the center, some individuals may never cross paths with the core of the criminal justice system, instead only participating in the criminal justice project as a non-offender. Other individuals, just like the lines of a dreamcatcher, may cross through the center repeatedly, offending at multiple points throughout their lives. To better understand the proposed system, however, we will now "enter" this intersectional criminal justice system at a theoretical moment when an individual becomes an offender. This allows us to move through our intersectional criminal justice system on one hypothetical path out of many possible paths.

5. Re-Imagining Punishment

Traditionally, the criminal justice system "begins" with an "individualized" crime narrowly defined as an act violating criminal law regardless of the harm it has caused or is causing. This example shall also begin with an individualized crime. A crime occurs. Not unlike what happens today, the police would investigate and the prosecutor, in consultation with the victim, would have the authority to charge. Let us imagine that our offender has been charged with a crime. As with our current criminal justice system, our offender would next participate in a public community-based examination of guilt and innocence, followed by a sentencing of sorts if determined culpable. However, alternative forms of examination and sentencing would take precedence over the traditional model. Conciliation, mediation, arbitration, and dispute settlement in a non-criminal, non-adversarial setting would operate in a similar fashion to modern-day drug and family courts, however, such courts would include all stakeholders related to the harm (offense/crime) in the resolution process. There would be three—not two—parties to every resolution process: the offender, the victim and/or victim's family members or state-appointed representative, and the community; the state would be present *vis-à-vis* a presiding judge, mediator, or arbitrator. Both the offender and victim could choose to obtain legal representation, which would be

provided by the state if either party could not afford one her or himself. The community would be represented by a jury of randomly chosen community members.

In accordance with the principles of restorative justice, offenders would be urged to take responsibility and acknowledge the harm they had caused, while victims and community members would be urged to de-individualize the harm and connect it to broader structural forces and power relations. Ultimately, after all voices had been heard, a community-based jury, along with stakeholder representatives, would arrive at a collectively discussed determination of responsibility. Then, in consultation with the presiding mediator(s), arbitrator, attorneys, judge, victim and/or victim's representative(s), and the offender, the community jury would provide a sentencing plan [28]; the judge would then approve the plan before the sentence was officially handed down.

Returning to our offender, charged with murder, let us say that she has been found guilty. Just as alternatives to criminal sentencing would be given preference in our system of intersectional criminal justice, so, too, would alternatives to incarceration and the death penalty. In fact, the death penalty would be abolished and incarceration would be reserved for the most violent offenses: rape and murder. The maximum sentence in such instances would be life with the possibility of parole. These are not very radical ideas when one considers that the death penalty has no deterrent effect [29–31] and is rather costly [31], just as incarceration has no deterrent effect at the federal or state level [32] and is both costly [27] and detrimental to the well-being of inmates [28,33]. Furthermore, the death penalty is diametrically opposed to the underlying philosophies of constitutive and peacemaking criminology, as well as integrative shaming [33,34], as it responds to violence with violence, harm with harm. Similarly, the effects of long-term incarceration, including life without parole, can cause incredible pain and suffering to be borne not only by inmates, but by their friends and families, and even the correctional officers tasked with managing them [33]. Hence, long-term incarceration is harmful, and thus in opposition to constitutive and peacemaking philosophies.

By reducing the number of prison-eligible crimes, as well as the average length of a prison sentence, we would drastically reduce the demand for prisons. A vast majority of prisons would be closed, remodeled, and reopened as community centers to be used for sanction-to-solution programs whenever possible. Correctional workers would be retrained and certified so that they could operate such sanction-to-solution programs. The handful of prisons that would remain open would also be remodeled into graduated living-learning-working communities that, in functionality, would not be very different from college campuses. They would include educational and recreational buildings and spaces, along with dorm-style living arrangements. They would also grant general educational developments (GEDs) and higher education degrees, as well as offer a number of viable job-skills certifications.

In the event that an offender, like ours, was sentenced to prison, she would find a prison environment that was constructive, a space that would foster self-actualization and dignity. The prison would no longer be a mere warehouse for storing the unwanted, but instead would be used to facilitate mature coping, which entails understanding and taking responsibility for oneself, tackling situations and decisions without deceit or violence and building meaningful relationships with others [28]. Furthermore, the prison environment would be a space of learning, therapy, and preparation for reintegration into society [27]. It would operate as a “parallel universe” to the outside world, modeled after the society beyond the prison walls [27]. It would be composed of constructive niches for learning and work that inmates would voluntarily choose to participate in as part of their sentencing plan, which

they would have made with a community jury and judge prior to entry [28]. Offenders who had committed repeat offenses or more serious offenses would experience greater surveillance and security measures than first-timers and those who had committed less serious offenses, along with restrictions of mobility and prison community participation upon first entering the prison. However, with time, and by demonstrating not only the capacity, but also the desire, to reintegrate into the larger community such restrictions would gradually be lifted. Eventually, inmates would move from single rooms to shared, apartment-style dorms complete with kitchens and living rooms, and be granted unrestricted movement throughout the prison campus.

Inmates could elect to participate in a number of prison-to-community skills training programs, running many aspects of prison campus functioning including gardening, cooking, cleaning, technical support, and other campus maintenance. Inmates would also be encouraged to participate in, lead, or start various prison community groups, clubs, and activities, and could even teach courses at the prison once they acquire the proper certification. In fact, this system of punishment would extend “beyond the boundaries of prison and the community” [27] gradually integrating inmates into the community and transitioning them out of the prison as participants in sanction-to-solution programs and members of community-based support systems, not simply mere systems of surveillance and supervision. Thus ultimately, the focus of the prison would be reintegration, not punishment for punishment’s sake—in other words, prison would be a transitional and transformative space, not a space of confinement.

Alternatives to incarceration would include various sanction-to-solution programs combining restitution, reconciliation, harm-prevention, education, therapy, and offender-driven life skills and work training. Depending on the type and severity of harm, some offenders might be required to join a form of therapy-halfway house or be subject to another mode of supportive community supervision, like probation coupled with individual or group therapy, in addition to participating in the restorative and reintegrative programs mentioned above.

Finally, whether completing a prison sentence or an alternative sentence, offenders would be re-embraced by the community, welcomed back through reintegrative ceremonies, perhaps appearing before their sentencing judge and community stakeholders who would congratulate them on their restorative efforts. Through such a ceremony, the offender, along with the victim and the community, would be collectively reasserting their dedication to deescalating violence and reducing all harms—whether officially criminalized or not. Again, this is not a particularly novel idea. For instance, it is not unlike the processes adopted by Alcoholics Anonymous or Narcotics Anonymous, which collectively celebrate success through ceremony. Nor is it unheard of (although it may be uncommon) for audiences to clap at drug court appearances in which the offender has successfully completed her required course of action [25]. Yet despite such reintegration ceremonies, in some ways signifying program completion, offenders would be encouraged to continue participating in sanction-to-solution programs, alongside other non-offenders and offenders. Having participated in one or more sanction-to-solution programs as part of their alternative sentencing package, they would be in a special position to mentor new offenders and non-offenders alike.

6. Conclusions

The intersectional criminal justice model and legal reforms proposed here might appear radical to some, yet they do not require a significant departure from our current model of criminal justice. What

they do call for is a reduction in state harms and repression perpetrated by the dominant model of adversarial justice. Ultimately, reforming punishment and altering practices of “rough justice” is not about the sweeping reinvention of the criminal justice system from the bottom up, but rather, it is about incorporating other marginal models of justice (e.g., restorative, social, and transformative) and redirecting the philosophies of punishment away from revenge, retribution, and incapacitation and towards collective restorative healing and positive social change.

Both radical and conservative calls to reinvent the criminal justice system have often been criticized for potentially perpetuating the scope of criminalization and the reach of the crime control apparatus, increasing incarceration, and legitimizing a system that, traditionally, has been rather repressive and violent in its own right [35,36]. However, such criticisms are not a cause to stop creatively re-imagining the criminal justice system. While it may be difficult for some to embrace the concept of a “good” criminal justice system, our response to crime can be better or worse according to design, implementation, intention, and most importantly, our framing of crime itself [35]. Crime is more than legally proscribed acts. The courtroom need not be a place of hostility, Othering, and blame. Prisons do not have to be mere storage facilities. Instead, the criminal justice system can be a space of “reformist” revolution, transformation, and meaningful social change.

Finally, while this exercise intersectional criminal justice has been somewhat vague in regards to the specific logistics of such transformation—for instance, it lacks concrete examples of sanction-to-solution programming—such logistics have been deliberately excluded so as not to create a rigid one-size-fits-all system of criminal justice. Of equal importance, these specifics have been avoided so as not to stifle practitioner creativity. Instead, the intersectional criminal justice proposed here is intended to inspire local actors, agencies, and institutions to rethink their own criminal justice practices and adapt them away from “rough justice” and towards an intersectional justice.

Conflicts of Interest

The author declares no conflict of interest.

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