CRIMINALIZATION

Criminalization is the process through which actions become illegal, actions become crimes only after they have been culturally or legally defined as crimes. Ideas about what is criminal reach far beyond specific actions. What counts as crime changes across both time and space, and sometimes happens really fast. Often these changes happen because of political forces that are manipulating public fears instead of corresponding to them.

The process of criminalization is an important piece of the PAC. It is one of the tools that make it possible for police and courts to target specific actions as well as specific groups of people. It sets us up to believe that everyone who breaks a law is a direct threat to us and to our families. This belief also adds to the myth that social, political, and economic problems are really law enforcement problems—that safety of all kinds, including economic security, can be guaranteed by watching, controlling, and policing the groups of people who suffer most because of poverty or racism.

MAROON ABOLITIONISTS:
Black Gender-Oppressed Activists in the Anti-Prison Movement in the US and Canada

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Since the 1970s, the exponential growth in incarceration in the US, combined with racial targeting in the use of state surveillance and punishment, has marked the prison as a primary site of contemporary struggles for racial and economic justice. At the same time, US-style penal politics have migrated across the border, generating resistance by disenfranchised communities in Canada (Roberts et al. 2002; Prisoners Justice Action Committee 2007). There are very significant differences in the scale and practice of imprisonment in the US and Canada. The US currently incarcerates approximately 2.3 million people, or 762 per 100,000, compared to approximately 35,000, or 108 per 100,000 in Canada (International Centre for Prison Studies 2008). Moreover, whereas “tough-on-crime” reforms over the past decades have led to the widespread construction
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The contemporary anti-prison movement is made up of a wide range of organizations with diverse goals. These include ending war; developing healthy, local, and non-violent strategies; challenging the war on drugs; advocating for prisoners' health needs; building community alternatives to incarceration; and building community alternatives to incarceration that integrate and support women, queer, and trans prisoners. The movement is working for prison reform, ending the criminalization and repression of immigrants, and building community alternatives to incarceration. This article examines the experiences of black, gender-led, and gender-identified people in the US and Canada.

During the past decade, I have developed a body of scholarship that seeks to educate the articulation of race, gender, and punishment through the lens of women of color's imprisonment and resistance. In this new work, I have expanded that focus to include transgender and gender-non-conforming people. I am doing so to address the lack of explicit focus on prison-based activism than on activities of color in the ways in which it is often overlooked African diaspora cultural and political legacies inform and undermine anti-prison work. The article explores the actions of...
I use "gender-oppressed" as an umbrella term to refer to women and transgender and gender-non-conforming people. The term represents a paradigm shift from prior feminist analyses of patriarchal state and interpersonal violence that are rooted in a gender binary and that therefore focus only on women’s oppression. The concept is implicitly aspirational in that it both utilizes and seeks to generate a coalitional identity that might serve as a basis for solidarity.

I am indebted to the activists who gave generously of their time to make this research possible. As with all activist scholarship, this article is informed by the collective analysis, theorizing, and wisdom of numerous grassroots activists whom I have learned from over the years.

See for example, Sudbury 2002; 2003; 2005.

"Transgender" is an overarching term that refers to a range of people whose lived experiences do not fit the binary gender system. The term "gender-non-conforming," in keeping with usage by the Audre Lorde Project, is used as an umbrella term that includes those who may not identify as transgender but who nevertheless experience policing, discrimination, or violence based on their non-conformist gender expression. I use "transgender and gender-non-conforming" as an inclusive term throughout this article. Where the term "transsexual" is used, this refers to a smaller group of individuals whose original biological sex is at odds with their sense of self, sometimes resulting in the choice to physically alter the body through hormones or surgery (Richard 2000).

Although there are many organizations and individuals who seek to reform the criminal justice system and improve prison conditions, this article focuses only on activists whose work aims ultimately to abolish prisons. Drawing on histories of resistance to slavery, these activists use the term "abolition" to indicate their goal of ending the use of imprisonment as a tool of social control and as a response to deep-rooted social inequalities.

I was a founding member of Critical Resistance, a national organization dedicated to dismantling the prison industrial complex, and have worked with and alongside Incite! Women of Color against Violence, the Prison Activist Resource Center, Justice Now, Legal Services for Prisoners with Children, National Network for Women in Prison, California Coalition for Women Prisoners, Arizona Prison Moratorium Coalition, the Prisoner Justice Day Committee, and the Prisoner Justice Action Committee, Toronto. For the past decade I have been based in Oakland, CA and Toronto, Canada; these two sites critically inform my activist scholarly work. For an in-depth discussion of anti-prison scholar-activist methodology, see Sudbury 2009.

While "black" is often treated as a unitary and homogeneous racial category, my participants, while identifying as "black," also embodied considerable ethnic and

For involvement and barriers to participation, and explores spirituality as a source of resilience and guidance. It examines the participants’ political analysis and abolitionist visions, and explores the possibility of "non-reformist reforms" that take up the challenge of a radical anti-racist gender justice perspective. The article posits the existence of a unique abolitionist vision and praxis, centered on the participants’ direct experience of gender oppression and racialized surveillance and punishment and rooted in African diasporic traditions of resistance and spirituality.

My research methodology draws from the insights of Feminist action research and participatory action research. The research is grounded in ten years of activist ethnography in the anti-prison movement in the US and Canada. In addition, I interviewed eight black women and transgender activists between the ages of twenty and thirty-two from the US and Canada during 2007. The participants had been involved in anti-prison activism in Ottawa, Vancouver, Toronto and environs, New York, the San Francisco Bay Area, Chicago, and Lagos, Nigeria. Most had been involved in more than one anti-prison organization, and several had held both volunteer and paid positions, although the paid positions were seldom full-time or well-remunerated and tended to grow out of prior volunteer work. Participants represented considerable diversity in terms of gender and sexual orientation: four described their gender as woman or female, and four chose the following gender-non-conforming labels: transsexual/trans-guy, trans/gender-variant/faggot, gender-queer, and two-spirited. Three identified their sexual orientation as hetero(sexual), with the remainder identifying as queer, gay, faggot, free-loving, bisexual, or fluid. Participants also had diverse experiences of class, social mobility, and the criminal justice system; two had personal experience of imprisonment, and all had family members or loved ones who had been in conflict with the law.

"Love and Anger": Reasons for Resistance

The 1960s and 70s were marked by the rise of what have been labeled "new social movements" based on racial, gender, and sexual identities. Starting from these social locations, activists generated radical critiques of interlocking systems of capitalism, white supremacy, patriarchy, and compulsory heterosexuality (Melluci 1989; Combahee River Collective 1995). Despite recognizing the power of identity politics, commentators have also been critical of its tendency to promote a hierarchy of oppression and to separate oppressed groups along lines of race and gender, thus limiting possibilities for coalitional work, particularly around a common
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police were there to protect them, and that people are arrested because they have done something wrong, the participants learned to fear the police as agents of social control and state violence.

The second way in which participants had been directly affected by the prison industrial complex is through having one or more family members imprisoned or working within the prison system. Six of the participants had had a family member in prison or on probation at some point in their life. Growing up poor and black in upstate New York, the prison was a central part of Jac’s family landscape:

My Dad had been a prison guard at Attica for about eleven years. He was hired just after the uprising because one of the things they decided to do was hire more black guards, as if that would actually make any difference. 11 And I also have another uncle who was also a guard in New York State and I had another uncle, their brother, who was imprisoned in New York. So the prison industrial complex was a huge part of our family understanding.

For Maya, the incarceration of family members was an everyday occurrence creating immense challenges for those left caring for dependents on the outside:

Of course everyone I know has some sort of family or friend who is currently or has been incarcerated. Including myself, so I’ve had cousins in and out. Mainly all women and separated from their children. And seeing the impact that’s had on our family has been horrific. So since very young, I’ve always known that there was something very wrong with this so-called correctional system.

Maya’s experience of the criminal punishment system was double-edged. At the same time that the criminal punishment system created havoc in their lives, her family also grasped it as the only “solution” available for problems including addiction and gender violence. The solution offered, however, was, as she recognized, temporary and illusory, leaving the family further entrenched in a cycle of state and interpersonal violence.

The same cousin, her partner was extraordinarily abusive to her and to my great aunt, and we stepped in to separate them. But the only way to provide safety for the children and my great aunt, and my cousin to 2
I do not agree with your position, I take no stand on that issue. If you can agree to disagree, it would make our future meetings more enjoyable. If we can't, then I think it's best to discuss this in a different setting or separate.

Laura Lee

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liberatory African diasporic spiritual practices play a more important role in contemporary struggles for social justice than has previously been understood. This article draws on the work of black transgender and gender-non-conforming activists in order to move anti-prison praxis beyond the gender binary. While feminist anti-prison researchers and activists have worked to make imprisoned women visible, we have tended to assume that women’s prisons house only women, and that all women prisoners are in women’s prisons. This research demonstrates that we were wrong on both counts; many of those labeled “women offenders” by the state refuse to conform to this label, and some of those identifying as women are housed in men’s prisons. This double invisibility—to prison officials and to anti-prison practitioners—creates a location of multiple marginalization and vulnerability to violence, which is compounded by racial segregation and harassment. By engaging in non-reformist reforms, black gender-oppressed activists challenge prison regimes to engage the disrupting presence of prisoners’ non-conforming bodies politics while simultaneously working toward the dismantling of penal structures. In so doing, they place gender justice at the center of black liberation struggles.

WORKS CITED

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Multiple experiences of criminalization were a powerful motivator for the participants. But gaining access to a collective movement analysis was equally important. They was raised by his grandmother while his mother was in and out of jail for drug use, and was sent to Spofford Juvenile Facility in upstate New York at age thirteen for fighting in school. From there, he served time for a series of property and drug-related offenses before finding the Audre Lorde project, where he served as an intern. The political education he received there led to a lifelong commitment to penal abolition fueled by his personal experiences. When asked what motivated him, they responded:

My love and my anger. That I love my people and my heritage and what I know we can become too much to let it go down. And I’m angered by the oppression, and the atrocities that I see every day that are committed against my people and myself. It makes me too mad to just sit down and let it happen. And it makes me too mad to just close my eyes and pretend it’s not there.

The testimonies of black gender-oppressed activists reveal that even as we come together to work for social change based on our shared political analysis, rather than shared identities, we can reintroduce some of the strengths of identity politics. This is not to fetishize racialized and gendered bodies, but to tap the mobilizing force of personal experience and to rebuild some of the community power stripped by daily encounters with state violence and repression.

Maroon Abolitionism: Visions of Freedom

What makes me the most angry is that everybody’s sitting there kicking it. Not knowing that they’re building plantations.

—Bakari

The second distinct characteristic of anti-prison activism by black gender-oppressed activists is the development of an abolitionist vision shaped by direct confrontations with the prison industrial complex and imbued with the historical memory of slavery and rebellion. In the 1970s, political prisoners like Angela Y. Davis and Assata Shakur in conjunction with other radical activists and scholars in the US, Canada, and Europe began to shape a new anti-prison politics that combined campaigns for freedom for political prisoners with a call for the dismantling of prisons (Knopp
The concept of community engagement in research is a critical aspect of modern research practices. This involves fostering collaboration between researchers and community members to ensure that research is relevant, meaningful, and beneficial to the community. Engaging with communities not only enhances the quality and impact of research but also strengthens the trust and partnership between researchers and community stakeholders.

Community engagement approaches can take various forms, including participatory research methods, where community members are actively involved in the research process. This can include defining research questions, designing research methodologies, and interpreting research findings. Engaging with communities also involves addressing local needs and issues, ensuring that research is responsive to community concerns.

Incorporating community engagement into research practices requires a commitment to mutual respect, trust, and collaboration. Researchers must be open to learning from community members and adapting their research approaches accordingly. This can be achieved through regular communication, feedback mechanisms, and the establishment of sustained partnerships.

Promoting community engagement in research is not only a ethical imperative but also a strategic tool for advancing research impact and relevance. It enables researchers to gain deeper insights into the issues at hand, thereby contributing to more effective and equitable solutions.

In conclusion, community engagement is a critical component of modern research practices. By fostering collaborations and ensuring that research is driven by the needs and voices of the communities involved, researchers can enhance the relevance, impact, and sustainability of their work.
Globalization has created an international plantation. I’ve begun to see symbolically that black people in the US represent house-slaves and that black people in the diaspora represent field-slaves. And that globalization has made that plantation of racist relationships a global one. And prisons are for the people that don’t fit in the field or the house.

Samina’s social location as a black woman from Canada with roots in North Africa acts as a site of epistemic privilege producing an insightful and nuanced analysis of US empire. As an African-Canadian who has moved to the US, Samia is an “outsider-within” in relation to both US global power and African American discourses of oppression and resistance (Collins 2000, 11–13). This critical lens enables her to identify the simultaneity of racial subordination and imperial privilege, suggesting that transnational solidarities must be formed not around an assumed sameness of racial oppression, but around a complex understanding of differential racisms in the context of global inequalities. These unequal positionalities rest upon both violent colonial histories and contemporary geopolitical and economic formations. This means that while black people in the US, Canada, Africa, and the Caribbean are all affected by the neoliberal economic reforms and cutbacks in spending on social welfare and education that have accompanied the globalization of capital, the impact is refracted through the particularities of local socioeconomic conditions (Steady 2002). These systemic cutbacks, coupled with inflated spending on forms of global and domestic social control, indicate the continued devaluing and dehumanization of black people and other people of color. Maya pointed to this contradiction:

We have horrifically dilapidated schools with inadequate resources, no computers, no materials, teachers underpaid, we don’t have health clinics. There are so many resources we need in our poor communities, communities of color. How do we have billions of dollars for this war? How do we have a million dollars to try to re-enslave a woman who fought for her political beliefs?

Just as the dehumanization of captives was central to maintaining the economic system of plantation slavery, the dehumanization of people of color through racialized and criminalizing ideologies legitimates the devastation wrought by capitalist globalization. Abolition is therefore not only transformation and accommodation to authority. At the same time, the continued struggle for religious freedom within prisons indicates that many prisoners view religious practice as a powerful source of inspiration and inner strength. As Hamidya Cooks, former Director of the California Coalition for Women Prisoners, and a formerly incarcerated activist comments: “inside you have to have something to sustain you and fight being treated like ‘things’. … My faith gave me the ability to fight, gave me the belief that I am a human being and have the right to be treated like one” (Cooks 2008). Taking a lead from imprisoned activists, this study seeks to illuminate the importance of spirituality in radical anti-prison praxis.

Six of the participants stated that spiritual beliefs played an important role in their lives, supporting their sense of self in the face of racist-sist ideologies, lending them the strength and resiliency to keep doing insurgent work in the face of immense barriers, and guiding their activist work. Developing a personal relationship with a higher power gave Bakari the strength to give up crack cocaine and to find a calling in advocacy work with women in prison. Bakari draws our attention to the psychic brutality of the prison and the emotional strength required to continually to hear women’s stories of injustice, violence, and revictimization by the state:

Spirituality’s very important to me. Spirituality stopped me from using drugs.... It helps me get up at 4:45 to drive three hours away to deal with some messed-up COs [Correctional Officers] and hold the pain of other sisters that are still there. It helps me to do that. It helps me spend all my free time doing this work.... It fills me up.

Like Bakari, Trey called on Spirit as a source of strength, but he also saw this relationship as a source of wisdom and guidance: “I do believe in a Higher Power. I’m not going to say I don’t pray because I do. I’m not going to say I don’t ask my grandmother for guidance because I do.” Although Nathaniel was raised in Toronto, he spent summers with his grandparents in Memphis, Tennessee. There he absorbed southern black spiritual beliefs that later came to form a central but invisible foundation for his activist work, informing both his commitment to abolition and his organizing methods:

My grandparents were famous for saying that if they wanted to pray or speak to anything spiritual they would go into the middle of the forest because that would be the most holy place that you could go to.
In terms of prison and the penal system, I think that's the core of a lot of our oppression. So, my position as a Black man is not to fight that. So, I prefer to fight against a system of work. I'm a black man. I think that is what we are all about working to improve the conditions of all people of color and that we don't have to just accept the status quo. We have to continue to fight against systemic oppression.
cultures and social practices. And when you are at war you have no option but to fight back.

By conceptualizing state policies toward disenfranchised communities as a war, Samia implicitly refutes a prison-reform agenda, and pushes us to adopt an uncompromising position against the prison industrial complex. As Dylan Rodríguez points out, the state has long declared a series of domestic "wars"—against crime, drugs, gangs, and now terror—involving official declarations, mobilizations, and body counts, which have been waged in the streets and homes of low-income communities of color and immigrant communities (Rodríguez 2008). In claiming the language of war and mobilizing it against the state, Samia brings a radical positionality and sense of urgency common to the political visions articulated by the participants in the study.

Second, while it honors the participants’ understanding of contemporary incarceration as a continuation of slavery, the concept “maroon abolitionist” avoids implying that the society outside the prison is “free.” Joy James argues that we must reject the illusion that a return to civil society via parole or clemency constitutes an escape to the liberated “North” (James 2005, xxi). Instead, state penal practices exist on a continuum from the prison, the juvenile hall, and the detention center to the urban hood, the reservation, the school, and the welfare office where surveillance, policing, and punishment extend far beyond the prison walls. Trey’s story told above is one example of the extension of captivity beyond the prison walls. Continuing her analysis, Trey argues that prison abolition involves far more than the abolition of the physical prison building:

When I say the prisons, I mean the physical prison itself, but also the prisons we create in our communities. Whether those are physical like the projects that the government keeps building up and locking us in, and also the mental ones that we put ourselves in, all the social constructs that society projects on us…. If we have so many drug crimes and we have so many property crimes, then let’s start addressing the mental health of our people and the economic development of our communities. Let’s get to the root causes of why people commit crimes.

Jamila elaborated on this expansive vision of maroon abolitionist politics by distinguishing between emancipation and abolition. Rather than ending imprisonment in an otherwise unchanged society, emancipation there. If they try to resist or question, they get the smackdown a lot sooner. Like they get hit, punched, thrown down to the ground…. There was one trans man in CCWF that had facial hair that was put in segregated housing for refusing to shave their facial hair…. Because it’s arbitrary power in there. They can virtually do whatever it is they want unmitigated, unchecked, unquestioned. To your body, to your soul, to your spirit.

It is not only guards who enact this regime of violent punishment of gender non-conformity. Other prisoners are often complicit in the policing and abuse of transgender prisoners. Prisoner violence, including sexual assault, is often represented as the inevitable outcome of containing “violent criminals” in a confined space, with guards preventing the violence as best they can. This narrative leads to the common practice of placing transgender prisoners in administratively segregated, ostensibly for their own protection, where they are isolated in highly restricted conditions otherwise used as punishment for “unruly” prisoners (Richard 2000a). However, the participants in this study argued that institutional transphobia supported violent and exploitative acts by other prisoners. Jac spoke from experience of activist work in men’s prisons in California:

[P]risons create gangs because they create the need to create your own safety. But different groupings will not accept someone on the basis of some part of their identity. So for black trans women one of the black groupings will say “We don’t want you.” Or “We’ll only have you if you sleep with all of us and give us all favors.” So it means having to find a husband immediately and he’s not a good one you can be out of luck. And being out of luck means being raped at a regular basis. Being harassed by guards on a regular basis…It’s OK to be racist to trans women because they’re “traitors to the race.”

Jac points to the way in which racism and transphobia intersect within the prison to create an atmosphere of extreme vulnerability to violence for transgender prisoners of color. This interaction between racism and transphobia in the prison is the basis for an anti-black, gender-queer, anti-prison agenda promoted by black transgender and gender-non-conforming activists.

In contrast to calls to develop a “normative transgender prison order,” or trans-sensitive prisons (Edney 2004, 336–37), the participants point to
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Although a relatively ubiquitous phenomenon, sexual and gender-based violence is often overlooked and underreported. In many women's prisons, the experiences of transgender prisoners have been marginalized and ignored. The prevalence of violence in women's prisons is well-documented, with a high number of incidents involving physical and sexual abuse. Women's prisons are often characterized by a culture of silence and fear, where prisoners are afraid to report incidents of violence due to the risk of retaliation.

Many women's prisons lack proper facilities and resources to address the unique needs of transgender prisoners. This can result in a lack of access to medical care, counseling, and other support services. As a result, transgender prisoners are at increased risk for physical and mental health problems.

One way to combat this issue is to prioritize the safety and well-being of all prisoners. This includes ensuring that prisoners have access to necessary resources and support services. By addressing the unique needs of transgender prisoners, we can help create a more just and equitable system for all women in prison.
treated in a humane way. But my goal is not to have prisons. My goal
is not to have capitalism.

These "non-reformist reforms" create solidarity with prisoners while
paying attention to the penal system's tendency to co-opt reforms to con-
solidate and expand prisons. By carrying out their reformist work as part
of a broader strategy of decarceration, abolition, and fundamental social
transformation, maroon abolitionists address the immediate needs of cap-
tives while ultimately challenging the legitimacy of their captivity. Black
gender-oppressed activists' advocacy for transgender and gender-non-
conforming prisoners is one example of non-reformist reform: demands
for change that challenge the logic of incarceration while simultaneously
addressing prisoners' immediate needs.

Trans/forming Anti-prison Work: Beyond the Gender Binary
During the past decade, transgender and gender-non-conforming activ-
ists, both imprisoned and non-imprisoned, have worked to end the hu-
man rights abuses faced by transgender prisoners while also tackling the
incarceration.22 The participants in this study moved beyond the human
rights implications of this work to generate a radical critique of the state's
power to delimit and police gender. In so doing, they produced an anti-
racist, gender-queer, anti-prison praxis that constitutes a challenge to the
violent gender regime of the penal system and suggests new dimensions
of abolitionist thought.

Penal systems are based on the premise of a rigid and fixed gender
binary that, as Bakari points out, ignores the actuality of gender fluidity
and multiplicity in society as a whole and within the prison in particular:

You have male and female prisons. I ain't male or female, so which
one do I get to go to? And you're housed according to your genitalia,
which to me does not connote gender.

By reducing gender to biological sex represented by prisoners' geni-
talia, prison administrators routinely violate the right to self-determin-
ation of prisoners who do not match the narrow range of sex/gender
identification allowed within the prison. This is particularly devastating
for transsexual prisoners. Since many transsexuals do not choose or can-
not afford gender reassignment surgery, prisoners who may have had hor-
monal treatment and "top surgery" (to remove breasts) will be assigned
to an institution according to a gender assignment based on one part of
their body, which does not match the rest of their physical and emotional
experience. The psychological and physical impact can be devastating, as
Nathaniel shared based on his experiences of advocacy work in Ontario
prisons:

[F]or trans people depression and suicide, you can have really high risk
factors for that when you're consistently being denied for who you are.
When people take away your opportunity to have self-determination
which happens in many ways in prison, but can be so detrimental
when you're a trans woman and you're put in a men's prison, and
you're denied your hormones and you're denied being called the name
that you chose and you're being called he all the time.

The denial of adequate medical treatment to transgender prisoners,
including but not limited to a failure to continue hormone treatment,
constitutes a form of state violence enacted on prisoners' bodies and
psyches (Richard 2000b).23 In this context, the denial of adequate medical
care is one method by which the state punishes gender non-conformity.

The penal system seeks to produce women's prisons inhabited by fe-
male women and men's prisons inhabited by male men, out of a popula-
tion that in actuality embraces an immense range of gender diversity. In
addition to transsexual prisoners who may or may not be on hormones
and/or in the process of transitioning surgically, this includes butch lesbi-
ans, feminine gay men, and transgender, gender-queer, and two-spirited
prisoners who identify as neither male nor female nor in transition. Since
transgender and gender-non-conforming individuals are more likely to
be stopped by police, both because of higher rates of homelessness and
involvement in street economies arising from discrimination and familial
rejection, and because of police profiling and harassment, the prison is
actually a site of heightened gender variation (Amnesty International
2006). The process—and ultimately unattainable objective—of produc-
ing binary gender in the prison is one that enacts psychological, emo-
tional, and physical violence on all transgender and gender-non-conforming
prisoners. Bakari shared a critique of gender policing in the California
Institution for Women:

How they control you and mandate you to this gender binary is if
you're in a women's facility you must wear whatever society says is for

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