

# The criminal justice system in a social justice society would look very different from the current system

Marsha Weissman advocates pursuing tackling high imprisonment within a wider framework than that of improving criminal justice practices and processes alone



*I learned my most important lessons about criminal justice reform more than 30 years ago while working on what has become known as the Attica Prison rebellion. The Attica Prison rebellion took place in September 1971 in the maximum security prison in upstate New York. Led by prisoners with a broad social justice agenda, the prisoners' demands were focused on basic human rights, including the right to organise, the right to be free from abuse from prison guards and the right to basic living conditions – health and sanitary conditions among others. The rebellion was ended when then Governor Nelson Rockefeller sent in state troopers to retake the prison by force, resulting in the death of 39 prisoners and prison guards. A political and legal struggle to defend prisoners charged in the uprising ensued, eventually resulting in the dismissal of the charges against the prisoners. In 2000, the people who had been prisoners at Attica during the 1971 rebellion were awarded an \$8m settlement from the State of New York.*

My teachers were former prisoners who were charged with leading the uprising. They taught me the importance of remaining true to one's principles and relying on allies for support when facing political forces that would

marginalise the struggle for justice. They taught me the importance of working side-by-side with friends and colleagues who have been directly affected by the criminal justice system. I have tried to implement these lessons through my organisation, the Center for Community Alternatives (CCA).

## Situating criminal justice in a wider socio-economic and political context

It is imperative to develop a coherent critique about the limits of achieving criminal justice reform within a socio-economic and political structure that privileges profits over human rights. Such a perspective understands that reform is not a 'technocratic' challenge to be solved by improved conditions of confinement or even expanded 'alternative-to-incarceration' (ATI) programmes.

It looks squarely at the social, economic and political agendas that drive our current criminal justice system. It exposes the major role of the restructuring of the labour market, including the collapse of the industrial section, changes in family structure and the globalisation of capital, in mass criminalisation. Criminal justice reform has, at its core, civil and human rights issues. The legacy of racism – slavery and Jim Crow – haunts the US criminal justice system. Racial discrimination in the US criminal justice system is historical and current, deliberate and inadvertent, and occurs at every stage, from arrest to sentencing. In the US, imprisonment rates per 100,000 are 3,218 for blacks, 1,220 for Latinos and 463 for whites.

That said, it is difficult to raise structural conditions in reform work. Policy makers are wedded to the present structure and dismiss even modest reforms as 'soft on crime'. Those with good intentions but a 'technocratic' gaze disregard or reject the inclusion of structural issues for fear of alienating public officials, considering these problems 'too big' to tackle and unlikely to be funded by government or philanthropy. Instead, many reformers focus on circumscribed changes to the current criminal justice system. The result is the continued expansion of the criminal justice system in lieu

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of the building of social institutions that are embedded in community life. A notable example is the myriad of 'speciality' courts in the US, which started with drug courts then expanded to mental health courts, veteran courts and even truancy courts. Speciality courts have become international – including England, Scotland and Wales – displaying a form of US criminal justice system imperialism.

### Social justice analysis

Nonetheless, incorporating wider socio-economic and political analysis in policy and practice interventions can move reform efforts closer to deconstruction of the carceral state. Such analysis offers the prospect of bringing the voices of those caught up in the criminal justice system to the fore – those prosecuted as criminals and their family members. It offers a meaningful way to reach out to crime victims, many of whom come from the very same communities as those charged with crime, communities marginalised by poverty and racism. A broader social justice analysis would lead to redefining crime; for example, considering why multinational banks go unchecked for their role in the current economic collapse while the average sentence for a person convicted of bank robbery in the US is nine years.

Criminal justice reform based on a socio-economic and political analysis neither negates individual responsibility for harmful acts, nor denies the need for accountability and/or rehabilitation. In the long term, a fair and humane criminal justice system will require social and economic justice so that people can access basic human rights of decent housing, nutritious food, adequate healthcare and education. These fundamentals will go a long way in mitigating conditions that contribute to crime and criminal behaviour.

The criminal justice system in a social justice society would look very different from the current system. It would minimise the use of the criminal justice system to address what are fundamentally social problems. Poor people in need of drug treatment or mental health services would no longer be pushed into the criminal justice system to access those services through structures such as drug court. A social justice-grounded criminal justice system would expect the parsimonious use of the formal state apparatus in meting out accountability measures and instead strengthen the

role of community-based institutions. It would focus on the healing of victims and restorative justice that give people who commit crimes meaningful opportunities to make amends.

### Struggle

The difficulties in undertaking criminal justice reform work within a socio-economic and political framework cannot be an excuse to withdraw from the effort. The struggles that take place every day in police stations, court rooms and prisons in the US do not permit us such a luxury. Even within the current carceral state, CCA tries to chip away at mass incarceration by focusing on those who would otherwise be incarcerated and rejecting *a priori* exclusionary rules that would turn away individuals based on the crime charged or prior criminal history. As practitioners, we work hard to ensure that our programmes do not widen the net of social control. As policy advocates, we emphasise that those who commit crimes, even crimes involving personal violence, are human beings and must be afforded basic civil and human rights.

CCA makes explicit commitments to recognise and confront racial discrimination and disparities in the system. Our organisation reflects all manner of diversity and includes formerly incarcerated people at every level including governing boards. We engage in community-

led struggles that are focused on social justice as well as criminal justice reform. We stand with youth-led efforts that are taking on police harassment through indiscriminate stop and frisk policies and practices that are turning schools into pipelines for prisons.

The barriers to decarceration are deeply embedded in the US social, political, economic and ideological being. Moving away from the carceral state will require community and grassroots organising efforts that open

the door to community-based solutions to crime, safety and social justice. ■

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