

**ICOPA**

CONFÉRENCE INTERNATIONALE SUR L'ABOLITION DE SYSTÈME PÉNAL  
INTERNATIONAL CONFERENCE ON PENAL ABOLITION  
CONFERENCIA INTERNACIONAL SOBRE LA ABOLICION DEL SISTEMA PENAL

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**ICOPA III**

**RECUEIL DE TEXTES ET DOCUMENTS**

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**COMPILATION OF PRESENTATIONS ABSTRACTS**

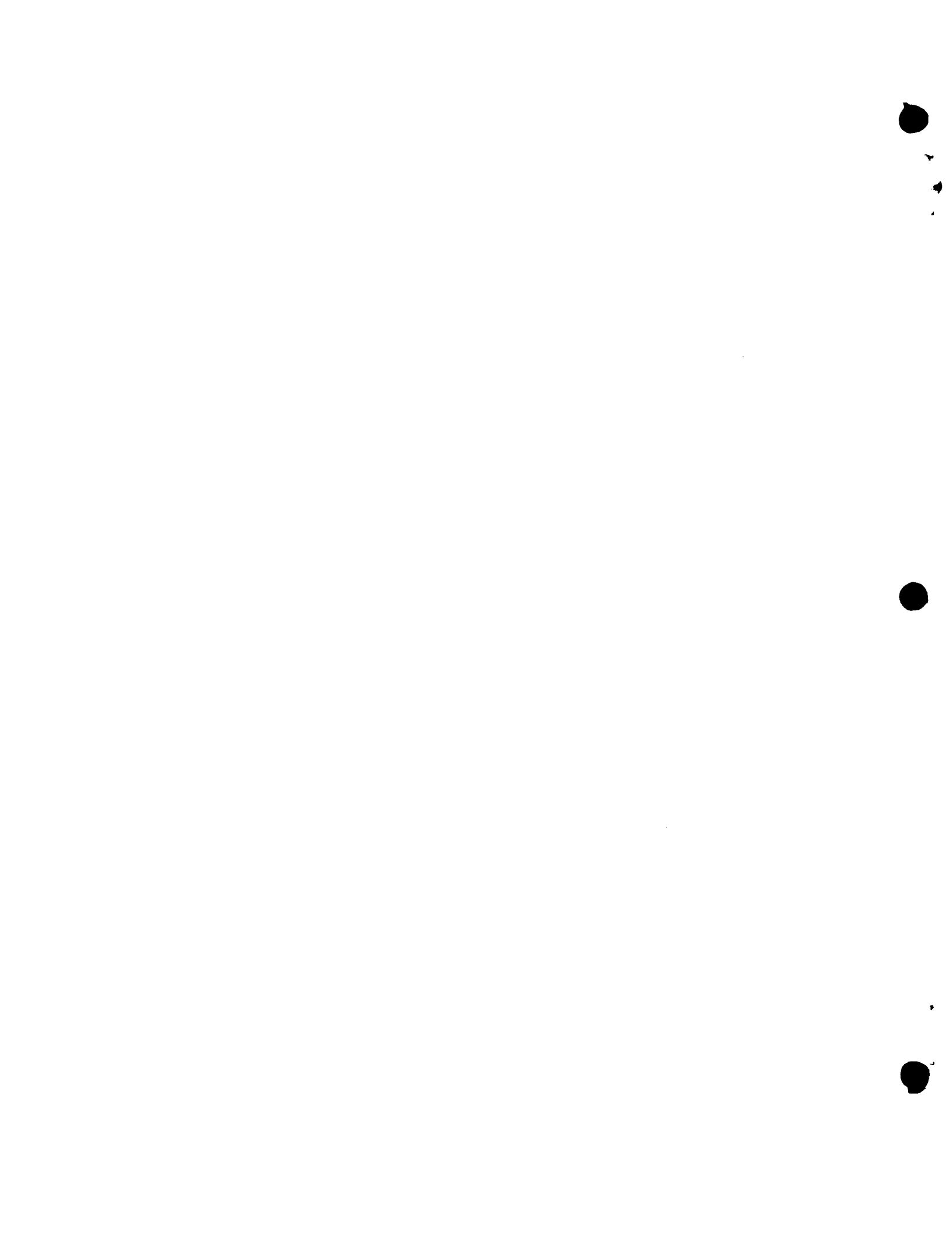
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**CONFERENCE INTERNATIONALE SUR  
L'ABOLITION DU SYSTEME PENAL**

**INTERNATIONAL CONFERENCE  
ON PENAL ABOLITION**

**MONTREAL**

**1987**



"Les autochtones et la justice au Québec  
Le cas des Inuit du Nouveau-Québec"

Mylène Jaccoud

Date: Mardi 16 juin/ Tuesday june 16

Atelier/ Workshop

5. Les droits des autochtones et les conséquences de la colonisation  
The outcome of colonization on Native rights

9:30              Français              salle 3260

Résumé de la présentation au Congrès international sur l'abolitionnisme:

Les Autochtones et la justice au Québec: le cas des Inuit au Nouveau-Québec.

En introduction, nous présenterons brièvement quelques données socio-démographiques sur les Autochtones (Amérindiens et Inuit) du Québec. Nous exposerons aussi des données illustrant clairement la sur-représentation des Autochtones dans le système pénal tant canadien que québécois et nous envisagerons cette sur-représentation comme étant une des conséquences de la colonisation des Autochtones par la société euro-canadienne québécoise. Nous illustrerons cette thèse par l'exemple des Inuit du Nouveau-Québec.

Le cas des Inuit du Nouveau-Québec:

Avant la colonisation des Inuit par les Blancs, les Inuit possédaient leur propres mécanismes de résolutions des conflits. Nous montrerons que ces mécanismes reposaient essentiellement sur une conception conciliatrice de la notion de "justice". Puis nous dresserons les grandes étapes de la colonisation juridique et judiciaire au Nouveau-Québec en présentant les infrastructures mises en place par l'Etat québécois: au niveau policier, au niveau judiciaire, puis nous parlerons des conséquences de la mise en place de tels appareils.

Selon nous, nous pouvons identifier au moins deux conséquences:

- assimilation culturelle: un modèle punitif est imposé aux Inuit; des appareils étatiques nouveaux sont implantés; des normes sociales et juridiques sont importées;
- résistances culturelles: l'importation d'un système de justice ne correspondant pas à la culture des Inuit ne va pas sans provoquer certaines résistances. Nous parlerons de ces résistances à l'assimilation et nous montrerons comment le système étatique des Blancs a su récupérer ces résistances: sous le couvert du respect de la culture inuit, l'Etat a mis sur pied des mécanismes encore plus subtils d'assimilation. C'est ici que nous parlerons de l'*autochtonisation* du système de justice (police autochtone, conseillers para-judiciaires, agents de probation autochtones etc.)

Nous terminerons en présentant les derniers développements de la justice dans le nord. Depuis 1984, une communauté, dissidente à la signature de la Convention de la Baie James et réticente à la "justice blanche" a proposé de mettre sur pied des *comités de justice*. Les membres de la Cour itinérante ont également proposé leur modèle de comité de justice. Il serait intéressant de conclure par la présentation de ces deux modèles, différents dans leur philosophie, et d'analyser les conséquences de ces nouveaux développements sur la société inuit: s'agit-il d'une continuité dans la politique d'assimilation ou peut-on parler d'une ébauche d'une réappropriation d'un pouvoir politique et d'une réaffirmation culturelle chez les Inuit ?

"The outcome of colonisation on Native rights"

Patricia Monture

Date: Mardi 16 juin/ Tuesday june 16

Atelier/ Workshop

5. Les droits des autochtones et les conséquences de la colonisation  
The outcome of colonisation on Native rights

13:30                    English                    room 3260

## COLONISATION

The impact of the European settlers on Native cultures has been devastating. This is largely due to the impacts of colonisation and patriarchy. Colonisation is most simply defined as the belief that 'white is right'. Native people have always disagreed. Patriarchy is the doctrine of male supremacy.

The impact of these two ideologies can be demonstrated by the over-representation of Native people within the prisons, jails, and child welfare institutions; high alcoholism and drug abuse rates; lack of education and the corresponding lack of employment, etc. Statistics that most Canadians are by now familiar with.

Colonisation can be traced through the legislation of the Canadian government in a clear and concise manner, the Indian Act is perhaps the best example, but not the only one. The recent First Minister's Conference is a further example of this policy at work, under the guise of self-government.

My knowledge is most specifically related to the former section 12(1)(b) of the Indian Act, the clause which prevented the marriage of Indian women to non-registered men without great personal cost (i.e. they gave up their Indian status). This issue is also an excellent example of the system of patriarchy present in the legal system. As this specific section of the Indian Act is the central theme of my M.A. thesis (currently underway), I can speak on it quite excessively. However, my knowledge is not just academic, as a Mohawk woman I have personal information on the effects of patriarchy and colonisation. Further my experience as a law student supplements the knowledge in the areas of correctional (penal) law and the criminal justice system to the issues of patriarchy and colonisation.

"Is pessimism about reducing prison populations warranted?"

Maeve McMahon

Date: Mardi 16 juin/ Tuesday june 16

Atelier libre/ Open workshop

Le pessimisme quant à la possibilité de réduire la population carcérale est-il justifié? L'expérience ontarienne

Is pessimism about reducing prison populations warranted?  
Reflections based on a study of trends in Ontario corrections

13:30

English

room 3265

## **IS PESSIMISM ABOUT REDUCING PRISON POPULATIONS WARRANTED? REFLECTIONS BASED ON A STUDY OF TRENDS IN ONTARIO CORRECTIONS**

### **Introduction**

An examination of trends in corrections in Ontario since 1951 will be used to analyse relationships between prisons and alternatives to prison over the past few decades. In addition, an effort will be made to critique and enhance the analytical frameworks used by academics and reformers in assessing the nature and significance of transformations in contemporary penal systems. The paper includes a strong theoretical component coupled with a specific empirical focus, both of which are seen as essential to understanding and challenging complex processes of social control exercised through the penal system.

### **Cause for pessimism: literature on stable and growing use of imprisonment**

Since the early 1950's Canada, the United States, Britain and most parts of the Western World have experienced a huge growth in the use of non-incarcerative dispositions for offenders. These include, for example, probation, half-way houses, community service orders, and victim-offender reconciliation programmes. The primary rationales advanced by reformers and policy-makers in supporting these programmes were that they would act as **alternatives** to prisons as well as being less expensive, more effective and more humane than imprisonment.

Over the past decade or so however, a voluminous literature has been developed by critical criminologists which has substantially undermined the "holy trinity" of reform discourse concerning costs, effectiveness and humaneness (cf. Ericson and Baranek, 1982, chap. 7). In particular, it has been argued that, whatever the intentions of reformers, the effect of community programmes has been to **expand** prison populations themselves as well as subjecting large numbers of people to non-incarcerative dispositions. A recent important publication by Cohen (1985), for example, asserts that the development of "alternatives" in Europe and North America has not been associated with a decrease in, but rather with the maintenance and often growth of, prison populations. In short, the assumption that alternatives to prison are "add-ons" to the pre-existent penal population permeates the criminological literature. Consequently, and in contrast to their predecessors, reformers, academic analysts and criminal justice administrators evidence a deep pessimism about the potential for the reduction of prison populations.

### **Limitations of the literature and basis of the Ontario study**

It is my belief that there are analytical and epistemological problems in the related literature which need to be addressed. There is little doubt that community-based programmes have indeed proliferated but the nature of their relationship to penal dispositions more generally may not have been sufficiently examined. It seems that some of the most frequently used sentences in the criminal justice system (e.g. suspended sentences and fines) have received the least attention in analysis of contemporary trends in corrections and are often completely neglected (Bottoms, 1983). The lack of consideration of all relevant dispositional alternatives must obfuscate the nature of the overall interrelationships which exist as well as those specific to prison and community programmes.

With regard to the size of prison populations themselves, the breadth and variety of jurisdictions usually included in relevant studies are also problematic. The reader is faced with multifarious evidence that prison populations are being maintained if not increased in the Western World generally, but is rarely provided with detailed longitudinal information about what has been occurring in any one jurisdiction.

My paper seeks to redress this imbalance through providing and analysing an extensive data-base pertaining to Ontario since 1951, which includes not only statistics on imprisonment (both provincial and federal) and community alternatives such as probation, but also on crime rates, numbers of police personnel, other sentencing dispositions and expenditures on the criminal justice system. This data facilitates the longitudinal documentation of trends in corrections in greater depth than is usually the case, and additionally enables a systematic examination of the assumptions of the literature on community corrections.

#### **The decline of the prison population in Ontario**

Contrary to beliefs concerning the consistency and growth of prison populations internationally, and to the similar suggestion of previous inquiry in Ontario (Chan and Ericson, 1981), my research clearly demonstrates that the prison population in the province has actually declined since 1951. For example, while there were 1422 prison admissions per 100,000 (adult) population in 1951, in 1984 there were 988 per 100,000. While there was an average count of 168 per 100,000 in 1951, by 1984 this had decreased to 121. In Ontario then, it seems that whatever the other implications of the growth in community corrections may be, these programmes have been accompanied by a decline in the prison population.

#### **Explanations for the decline in the Ontario prison population**

I will attempt to explain the process through which the decline in the Ontario prison population has occurred. The parallel growth in community corrections, as evidenced, for example, by the increase in probation admissions from 128 per 100,000 in 1961 to 419 in 1984 will be documented. It will be argued however, that this expansion of probation, when examined in conjunction with trends in admissions to prisons in the province has not resulted in net-widening. In this context critical questions will be raised about the concept of "net-widening" and the utility of this and related concepts in analysing processes of social control.

While the above findings are conducive to the interpretation that probation may have effectively acted as an alternative to prison in Ontario, it will be argued that trends in the prison population are more closely related to those of sentencing dispositions other than probation. In particular, it will be argued that the trend of decline in the Ontario prison population can be closely associated with a similar trend of decrease in fine default admissions to prison. Specifically, it will be argued that while fine default admissions currently constitute about a third of "sentenced admissions" to prisons in Ontario (*Annual Reports*, Ontario Ministry of Correctional Services), examination of a variety of court and correctional sources suggests that in the early 1950s they may have comprised as much as two-thirds of sentenced admissions. Given the

significance of a decline in fine default admissions in affecting trends in the Ontario prison population questions concerning the rarity of discussion of fine dispositions by correctional analysts will be raised and explored. Why has penal discourse focussed on "alternatives" such as probation, community service orders, and half-way houses when in fact the fine disposition may be equally, and sometimes more, significant, in affecting prison population?

#### **Implications for analyzing trends in corrections**

In addition, my paper will assess the implications of the Ontario case for study of trends in corrections internationally. Simply put, is the Ontario experience of a decline in the prison population an exceptional one, or does the trend of growth most usually identified stem from the conceptual frameworks upon which other analyses are based? It will be argued that rigorous and empirically-informed re-examination of the relevant literature (e.g. Scull, 1984; Hylton, 1981; Bottoms, 1983) suggests that the arguments which have been formulated about increasing prison populations are far stronger than the data upon which they are based should allow.

In view of these findings questions will be raised concerning the epistemological bases of analyses of trends in corrections by critical criminologists. The adoption of tenets such as "nothing works" and that wider, stronger and different nets are bound to result from efforts at reform appears to substantially diverge from the personal, philosophical and political beliefs otherwise expressed by progressive criminologists. For critical academics the challenge is to confront the issue - what is to be done? - both in the context of action and analysis. What theoretical methodologies would yield as much opportunity for optimism as for pessimism?

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"The native people: a non-punitive way of life"

Patricia Monture

Date: Mercredi 17 juin/ Wednesday june 17

Atelier/ Workshop

1. Un mode non-punitif de vie: celui des autochtones  
The native people: a non-punitive way of life

9:30	English	room 3205
13:30	English	room 3205

## NON-PUNISHMENT

For the last fifteen years I have been actively following Mohawk traditions. As I was raised by non-Indian people after my parents death, I have experienced both the Indian and non-Indian ways in my childhood experience. I have consciously chosen to follow the Indian ways as I raise my three year old son. I continue to seek the teachings of my Elders, and am still a mere child on the road I walk.

I have experienced both cultures and see clearly the conflict currently inherent between the two. I do not believe this conflict to be necessary. Non-Indian people tend not to understand our ways of balance (body, mind, and spirit being one) and the natural flow of life that is circular (the plants, animals, wingeds, spirits, etc. are all my brothers and sisters, the earth is my mother). An aggressive, assertive stance (interference) is not the only answer. Discipline does not need equate to punishment. Our children are taught to act only in a way that will bring them honour, as one day they may be the chosen leaders. This is their responsibility. From birth, this is the role they must prepare themselves for.

Around the issue of non-punishment, I am most familiar with the Indian way to raise children. For the Mohawk nation the traditional manner of social control was to connect all individuals to the community. Clearly our survival meant (and still means) that this connection between all individuals be recognized and maintained. I would be most comfortable relating information regarding my experience as a Mohawk woman and mother. By using examples from the home, I think a most interesting discussion can be facilitated on how to implement lessons of connection and community within the social structure.

"Analyse d'expériences tirées de la Bible"

Antoine Mayère

Date: Mercredi 17 juin/ Wednesday june 17

Atelier/ Workshop

6. Analyse des expériences de certaines traditions religieuses  
Assessment of some religious traditions

13:30

Français

salle 3255

Peut-on interroger la Bible, lui poser nos questions actuelles sur la justice dans l'espoir de trouver des réponses autorisées ?

La Bible n'est pas la Pythie. Mais elle offre une masse d'expériences, réalisées au cours de plus de 2000 ans d'histoire, dans des structures politiques et culturelles les plus diverses.

L'intervenant présentera quelques traditions législatives qui nous parlent encore aujourd'hui :

Premier exemple : le code de l'Alliance et le code de Sainteté, nés d'un consensus religieux et social très fort, grâce à un régime d'obligations et d'interdits rigoureux, garantissent la sainteté du peuple par l'exclusion et l'élimination du délinquant.

Deuxième exemple : le code deutéronomique. Il introduit une série de modifications :

- passage de la responsabilité collective à la responsabilité personnelle,
- évaluation de châtiments proportionnés à l'importance du dommage causé et prise en considération de l'intention (naissance de la casuistique),
- recherche d'une pratique de dédommagement de la victime et processus visant à la "conversion" du coupable.

Ces points de vue entraînent toute une organisation judiciaire nouvelle pour déterminer l'application concrète des lois, l'exécution des sentences, la résolution des conflits.

Cette pratique est caractérisée par les points suivants :

- la considération accordée à l'accusé au cours du procès, respect et dignité assurés dans le châtiment même. On notera qu'au lieu de conditionner l'impartialité à l'absence de liens entre les parties en cause, la connaissance réciproque de celles-ci est considérée comme essentielle.
- la société est impliquée dans le procès au maximum, non dans un but de vindicte ou de rejet, mais dans une perspective de transformation du coupable. Le clan est solidaire non seulement de la victime, mais du "méchant" qui a sa place dans la vie commune, comme le fou, le pauvre, l'émigré, comme le fléau naturel, foudre, incendie, tempête ... Pour mettre terme au conflit, la réconciliation est aidée, en plus de la compensation ou réparation, par l'intercession, le compromis, le pardon.
- cette transformation de mentalité va de paire avec la reconnaissance d'un Dieu de miséricorde et de bienveillance, patient et compréhensif, sensible au cri de l'opprimé et du faible, mais protecteur aussi du "criminel".

Questions :

1. Quelles actions, quelles pratiques imaginer pour introduire dans le système actuel les éléments qui lui font défaut et le libérer de ceux qui l'entraînent ?
2. Comment élargir, dans les opinions publiques, les seuils de tolérance de nos sociétés ?

"Reconciliation as justice:  
the case for a communitarian model"

Peter Cordella

Date: Mercredi 17 juin/ Wednesday june 17

Atelier/ Workshop

6. Analyse des expériences de certaines traditions religieuses  
Assessment of some religious traditions

9:30                    English                    room 3255

PETER CORDELLA  
DEPARTMENT OF SOCIOLOGY  
CLARK UNIVERSITY  
WORCESTER, MA.

## **RECONCILIATION AS JUSTICE: THE CASE FOR A COMMUNITARIAN MODEL**

Is a system of justice based on reconciliation possible? The answer to this question will not be found in the secular societies of today where reconciliation is absent but in the religious communities of past where reconciliation was dominant. An assessment of Christian religious traditions reveals the emergence of two opposing models of justice; one, punitive, hierarchical and individualistic, the other reconciliatory, empowering and communitarian. The former represents the prototype on which our present penal system is modeled, while the latter might serve as the theoretical foundation for the non-punitive system of justice which lies beyond the abolition of penal sanctions.

Although these models arise from the same source, the teachings of Christ, their divergence can be traced to early Christianity, with the punitive model becoming almost immediately ascendant. Resistance to the punitive model, in the form of autonomous communities based on reconciliation, can be seen throughout the history of the Christian world, beginning with the Donatist communities of the early Christian period, the Waldensian and Franciscan communities of the Middle Ages and the Anabaptist communities that still endure to this day. Although widely separated by history and culture these communities, and others like them, were all characterized by a rigid moral standard but contrary to popular belief, these communities were far more likely to respond to transgressions with reconciliation rather than punitive sanctions.

Further analysis of Christian traditions indicates that reconciliation was limited to communities that were driven by an altruistic motivation. The ethical dimension of such communities was defined in terms of mutual obligation. Reconciliation with its emphasis on inclusion and community responsibility was uniquely capable of reinforcing the cycle of mutual obligation. In contrast, religious societies (as distinct from religious communities) that were based on individual rights were characterized by a more relative moral standard but were almost exclusively dependent on the use of punitive sanctions as a response to transgressions. The ethical dimension of such "rights based" systems was defined in terms of individual prohibitions and responsibility. Prohibitions, unlike obligations, required punitive sanctions in order to continually reinforce individual rights.

Based on evidence from the Christian traditions, the existence of a "rights based" system of justice would seem to preclude the use of reconciliation. It can be assumed, therefore, that secular societies that are also "rights based" are equally incapable of sustaining the process of reconciliation. It is necessary, then, to first discuss the possibility of establishing a society based on the communitarian model before we can discuss the possibility of establishing a system of justice based on reconciliation.

"Analyse des expériences de certaines traditions religieuses  
l'Eglise et le système pénal au cours des siècles"

Paul Magnan o.m.i.

Date: Mercredi 17 juin/ Wednesday june 17

Atelier/ Workshop

6. Analyse des expériences de certaines traditions religieuses  
Assessment of some religious traditions

13:30                   français                   salle 3255

## **ANALYSE DES EXPERIENCES DE CERTAINES TRADITIONS RELIGIEUSES**

### **L'EGLISE ET LE SYSTEME PENAL AU COURS DES SIECLES**

#### **INTRODUCTION**

Suite à mon engagement comme coordonnateur au Québec du Conseil des Eglises pour la Justice et la Criminologie de 1979 à 1983, je me suis demandé de quel héritage provenaient les principes et les attitudes de nos chrétiens face aux personnes marginalisées par notre système pénal canadien et québécois. Je me suis dit qu'il fallait que j'aille chercher dans le passé chrétien depuis Jésus Christ ce qui avait été dit, enseigné et expérimenté dans la réalité par les premiers chrétiens et leurs dirigeants ainsi que ceux qui les ont suivis. Retrouver notre héritage collectif à ce sujet, notre héritage de principes, de valeurs et de vécu que nous ont laissé nos ancêtres et qui s'est propagé jusqu'à maintenant. L'œuvre était de taille. Je me suis donc donné trois mois de ressourcement à l'automne 1983 pour fouiller dans les bibliothèques de ma communauté des Oblats à Ottawa, soit celle de l'Université St-Paul, de l'Edifice Deschatelets, du Pavillon des Arts de l'Université d'Ottawa et même celle des Archives Nationales. D'une lecture à l'autre j'y ai découvert une mine de renseignements touchant divers domaines connexes à la question que je me posais alors : Qu'est-ce que les Chrétiens ont fait depuis que Jésus nous a dit que nous serions jugés sur nos actes en donnant comme exemple que nous étions allés le visiter en prison ?

Dernièrement, en préparant cet exposé, le schéma des trois composantes Parent, Adulte et Enfant de l'Analyse Transactionnelle d'Eric Berne m'est revenu à la mémoire et j'ai tenté de l'appliquer à la Justice Pénale telle que nous la connaissons et telle que nous voudrions qu'une véritable Justice soit instauré. Et j'ai fait le lien avec mes recherches précédentes et ce schéma que je vous soumets en annexe. Dépendamment des principes véhiculés et assimilés dans notre Parent collectif, et en lien avec les sentiments et les émotions que cela fait naître dans notre Enfant Adapté au Parent Critique ou dans l'Enfant Libre encouragé par le Parent Aidant, nos choix et nos décisions pris par notre Adulte collectif s'ensuivront.

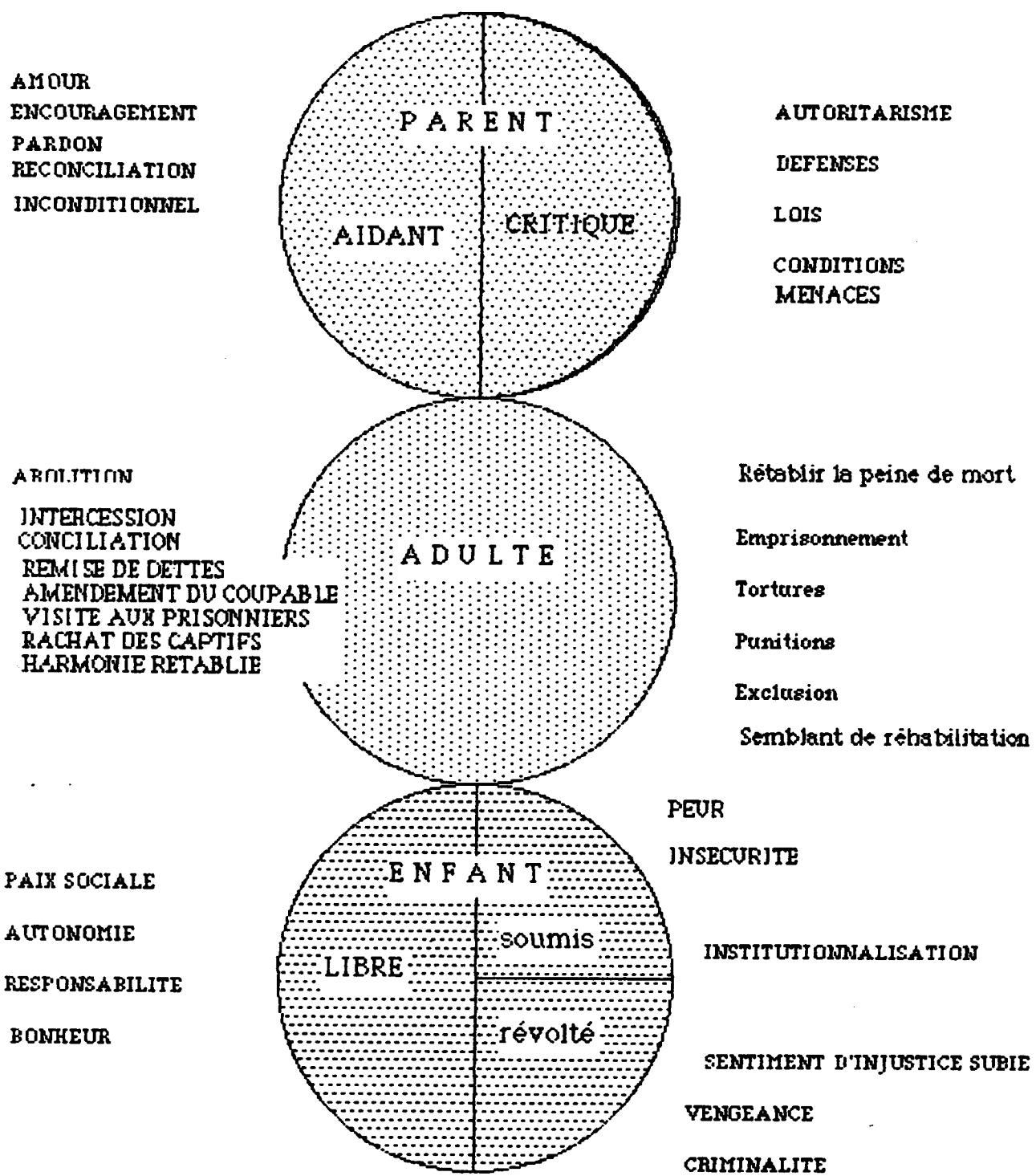
C'est donc dans cette perspective que je veux vous entretenir maintenant de l'expérience de l'Eglise au cours de certaines périodes de son Histoire en lien avec les personnes ayant eu des démêlés avec la Justice des hommes. En portant attention aux principes, aux sentiments et aux attitudes prises, vous pourrez constater le lien qu'il y a à faire entre les trois composantes P-A-E et en tirer des leçons pour notre temps afin de promouvoir une Justice plus humaine et plus équitable.

FAIT À ROUGEMONT LE 18 MAI 1987

Paul Magnan o.m.i.

*Paul Magnan o.m.i.*

## L'ANALYSE TRANSACTIONNELLE DE LA JUSTICE



"Internal asylum or sanctuary"

Herman Bianchi

Date: Mercredi 17. juin/ Wednesday june 17

Atelier/ Workshop

8. Les droits d'asile; solution non-punitive à la violence  
The rights to sanctuary: non-punitive response to violence

9:30	Français	salle 3265
13:30	English	room 3265

I

Herman Bianchi  
Amsterdam, Holland

Assensusmodel versus consensusmodel

The present punitive system of crime control is based on the pretense of general consensus regarding the interpretation of norms and values. This consensus as argued by the advocates of the punitive system, is being represented by the sentences and verdicts of criminal courts, believed to represent our consensus.

According to an assensusmodel the final judgement concerning the interpretation of norms and values is impossible, can never be pronounced and can only be discussed without the pretense of ultimate verdict. No decision but discussion is what we need. Consensus theory will always lead to punishment, assensus will lead to discussion and continued attempts to solve a conflict.

II The fatal error of "imposition".

All reform of the system of punitive crime control will fail as long as some kind of state organisation endowed with an overdosis of power will be entitled to "impose" the measure that is believed to replace punishment or correction. During the period of the "medical model" treatment was being imposed and by the mere fact of being imposed it did not work and was usually rejected by the "receiver". A similar error is to day being made by the introduction of alternative sanctions as a part of the developping diversion system. We will rapidly develop the re-introduction of forced labor if so-called "community-work" is to replace imprisonment. If we are not careful we will in short time be back where we were in around 1800, when philanthropists with good reasons pleaded for imprisonment to replace the horrors of forced labor. The idea that sanctions have to be "imposed" by some state organization proceed from the stubbornness to believe in the consensusmodel.

III Conflicts settlement.

We have to come back to earlier phases of our legal systems when crime was still defined as a conflict between plaintiff and defendant and not between state prosecutor and criminal. We have to proceed the new legal system from that starting point. Recently even adherents of the punitive model have come to believe in repair and conflictssettlement in cases of minor crimes. They might even give in to diversion of the state punitive model in cases of medium criminality as long as the development remains under firm control of state prosecution. They will however completely and thoroughly reject the idea of conflictsettlement and repair in cases of violent crime. Yet the abolitionist has to be aware that as long as we find no abolitionist model for violent crime the entire movement will remain at the mercy of state prosecution for its further development.

IV Internal asylum or Sanctuary

Like in former times we need again locations with the acknowledged right of Sanctuary where in cases of major criminality disputes can take place between parties involved: plaintiffs, prosecutors and defendants, in order to find a settlement for the conflict that has arisen. Disputes should, in case of violent crime, always take places between groups around individuals, in order to reduce abuse of power. Sanctuaries are no places "where every thing is owed" but im-unities for dispute settlement, "embassies" for conflict solution.

"Alternative sentence planning"

Andrew J. Smith

Date: Mercredi 17 juin/ Wednesday june 17

Atelier libre/ Open workshop

Planification des sentences alternatives  
Alternative sentence planning

13:30

English

room 4265

## ALTERNATIVE SENTENCE PLANNING

### INTRODUCTION:

Alternative Sentence Planning is a program that prepares Alternative Sentence Plans for presentation to sentencing judges for adult and young offenders. These offenders are ones who are facing a period of incarceration, and, who without such plans would be certain to receive a prison sentence. The Program has developed over the past two years, and gained considerable credibility both in Winnipeg and across Canada as an exemplary project effective in promoting community-based sentences for adult and young offenders.

### PROGRAM SUMMARY:

The program receives referrals from defense counsel for both adult and young offenders who are facing prison sentences. Offenders are accepted into the Program on the basis of three basic referral criteria:

- 1) That the offense for which the person is charged can reasonably be expected to result in a prison term of three months or more.
- 2) That the offender has plead or intends to plead guilty to the offenses for which they are charged.
- 3) That the offender demonstrates a capacity and motivation to participate in an Alternative Sentence Plan that may be proposed, in a manner that does not pose any undue risk to the community.

Potential referrals to the program are assessed by Project staff with respect to their ability to meet referral criteria. This is determined through an intake interview and necessary referral to clinical, forensic and other assessment resources available both within Children's Home of Winnipeg and the community.

Once a decision is made to prepare an Alternative Sentence Plan for an offender, a detailed social and criminal history is prepared in order that the offender's strengths and weaknesses may be determined and an appropriate course of action be proposed.

At this point, every attempt is made to obtain, on behalf of the offender, and on a voluntary basis, such social and treatment services, if any, that may be required. A detailed Alternative Sentence Plan is prepared that presents a profile of the offender, indicates what actions, if any, have been taken to meet the treatment and social needs of the offender and propose a specific course of action to a sentencing judge that would enable an offender to assume accountability for their offense. Typically,

PROGRAM SUMMARY (Cont'd):

such proposals try to provide appropriate reparation or restitution to the victim of the offense or the community, and present to the sentencing judge, options, consistent with sentencing practices, that would satisfactorily resolve the offense and satisfy the Court as being an appropriate sentence for the specific offense.

Copies of this Alternative Sentencing Plan are presented to the defense counsel for presentation to the sentencing judge, crown counsel and the offender.

Project staff attend in Court at the time of sentencing in order to address any concerns or questions that the sentencing judge may have with respect to the Alternative Sentence Plan and, following disposition ensure that information relevant to the case is provided to appropriate officials responsible for the administration of the sentence (i.e., Probation Services, Alcoholism Foundation of Manitoba, Community Services Supervisor, etc.).

The current staff complement of the Project consists of a Project Director and two Case Planners, with clerical and clinical services being provided by Children's Home of Winnipeg. The Program deals with approximately 15 active cases at any one time, and between 10 and 15 Alternative Sentence Plans are prepared and submitted to the Court monthly. Between 60 and 70 percent of Plans submitted to the Court are accepted as proposed.

A unique aspect of the Program (the only of its kind in Canada) is its function of advocacy, in an appropriate manner, in order that the social and treatment needs of offenders be met through the social service and treatment resources in the community. This permits the Criminal Justice System to be provided with innovative community-based sentencing proposals directly related to the offense.

FUTURE PLANS:

The program is currently seeking to expand the program, consolidate the youth and adult components, and begin piloting the development of release plans. These release plans will be directed toward both young offenders and adults who are in custody but, without such plans, would be unlikely to be released. Plans will be submitted to the review process for young offenders and to correctional authorities for administrative release, or the Parole Board for release on parole.

FUNDING:

The program is currently supported by The Ministry of the Solicitor-General, Canada, Manitoba Community Services, The

FUNDING (Cont'd):

Winnipeg Foundation and The Children's Home of Winnipeg as a demonstration project. Negotiations for ongoing support are underway.

REFERRALS:

The program is located at 400-777 Portage Avenue, in Winnipeg. For further information or to make referrals, please call us at 786-8998.

"La pratique abolitionniste et le système pénal"

Antoine Zarzour

Date: Jeudi 18 juin/ Thursday june 18

Atelier/ Workshop

2. Pratiques abolitionnistes dans le système pénal (déjudiciarisation)  
Abolitionst practices within the penal system (dejudiciarization)

9:30              Français              Salle 3215

Mesdames, messieurs,

Bonjour. Il y a presque dix ans maintenant, j'étais arrêté, inculpé puis condamné à la réclusion à perpétuité pour avoir assassiné, sous l'effet de la drogue, une personne que je considérais mon ami et mon associé. J'étais, à ce moment-là, au point de fêter mes 23 ans, et je vous avoue franchement que j'aurais certainement traité de sotte la personne qui m'aurait suggéré qu'à ma première sortie du pénitencier, j'irais livrer une conférence sur l'abolition du système pénal à l'Université de Montréal...plus maintenant. Si je suis parmi vous aujourd'hui, c'est grâce à des gens tel M. André Normandeau, M. Pierre Landreville, M. Jean-Claude Bernheim, M. Guy Lemire et Mme Arlène Gaudrault entre autres qui ont cru en moi et respecté l'expérience carcérale que je leur amenaïs, et c'est aussi parce que j'ai la conviction de mes opinions sur les pratiques abolitionnistes et le système pénal.

Au cours de mes années de réclusion, dont six ont été passé en milieu à sécurité maximale et quatre en médium, j'ai vu et vécu des événements qui auraient vite fait de faire perdre la raison aux plus forts d'entre nous. C'est dans l'univers de nos prisons que j'ai découvert la quintessence même de l'Homme humain et de l'Homme animal. Partout autour de moi rôdaient l'angoisse, l'anxiété, la peur et la haine. Voici ce que j'écrivais dans mon journal personnel en septembre 1982 pour décrire l'atmosphère qui régnait au Vieux pénitencier de Laval:

"Dans l'espace caverneux de l'édifice principal. les roues de bateau tournent à vive allure. Le fer cogne contre le fer et les portes cellulaires s'ouvrent les unes après les autres. Une cacophonie infernale s'élève,

attaque et fait vibrer les fondations-mêmes du corps et de l'esprit humains. Le pénitencier se transforme en une énorme fourmillière aux rangées droites et profondes. Et au centre de cet enfer humain, un garde rôde dans sa cage ronde, le museau de son canon pointé vers la masse qui circule dans les gueules des rangées."

Permettez-moi de vous donner quelques exemples d'événements fort regrettables qui se sont produits lorsque j'étais dans ce pénitencier.

J'étais couché un soir, après que le dernier compte avait été effectué, lorsque vers minuit une odeur de feu a pénétré ma cellule (les portes au Vieux pénitencier sont en barreaux). J'ai enlevé mes écouteurs et, en regardant le reflêt de la fenêtre en face de moi, je me suis apperçu que le type dans la cellule à côté avait mis le feu à son matelat et à ses murs. Il avait ramassé des journaux et des revues durant les semaines précédentes avec l'intention exprès de s'immoler par le feu. Il était assis là, en plein milieu d'un cercle enflammé et il riait tout bonnement, et nous, ses voisins, étouffions sous l'épais nuage de fumé. Les gardiens ont mis quelques minutes avant d'arriver et d'arroser le forcéné. Ils l'ont ensuite escorté à l'hôpital de l'établissement, et lorsqu'il était mieux, ils l'ont emmené dans le 'trou' (isolement), où il a passé quelques semaines pour sa conduite anormale.

Dans deux autres situations, un détenu s'est jetté en bas du troisième palier parce que le médecin ne voulait pas lui donner les médicaments qu'il réclamait pour des maux intestinaux. On a pu lui sauver la vie, et il a éventuellement regagné la population carcérale. Enfin, un autre s'est tailladé les bras à plusieurs reprises parce qu'il ne recevait

pas les soins psychologiques que le juge avait recommandés lors de son procès.

Ces exemples démontrent en partie jusque où un détenu peut aller pour attirer l'attention qu'il sent qu'il a besoin lorsqu'il doit vivre dans des conditions extrêmes. Et puis il y a toute la dynamique interactionniste de la sous-culture des détenus et des gardiens qui est régie par la loi du plus fort. C'est une véritable lutte pour la survie qui se développe dans les populations carcérales à haute sécurité et pour les plus forts et pour les plus faibles. Les victimisations physiques et psychologiques sont multiples, et personne ne peut se vanter d'en être immunisé, tant au niveau des intervenants qu'au niveau des reclus eux-mêmes. Il est clair pour moi que tous les acteurs du système sont sujets à l'aliénation qu'offre l'isolement social des uns et des autres et le pouvoir qui les distancie.

Depuis quelques années maintenant, ma cellule est devenu un cabinet de consultation pour des détenus qui cherchent à se retrouver et à trouver les moyens de s'en sortir. Comme je le soulignais l'an dernier, au Congrès de la Société de Criminologie du Québec, partout où le détenu passe dans le circuit juridico-pénal on l'oblige à jouer un jeu où il doit accepter de porter un masque pour plaire à ceux qui administrent son avenir. Nous assistons ainsi au règne du double jeu, de la fausse identité et du faire semblant.

On le libère alors progressivement sur des absences temporaires avec et sans escorte, la libération conditionnelle de jour, la totale puis la surveillance obligatoire, et lorsqu'il récidive, souvent avant même

la fin du mandat, le système judiciaire le re-filtre dans sa passoire, et le détenu reprend son rôle légitime de victime social ou, mieux encore de bouc émissaire... et ça tourne. Le système pénal justifie son existence en surface par les médias, et contribue dans les faits à perpétuer le malaise qui afflige notre société. Encore une fois, je pose la question: Quelle valeur ont les résultats issus d'un jeu théâtral?

Combien des fois ai-je eu à rencontrer des gars complètement découragés, frustrés et révoltés par l'étiquetage systématique que leur font subir les agents de gestion des cas... caractère antisocial, manipulateur, égocentrique, psychopathe, et la liste continue. Il n'y a pas moyen de prouver à nos agents que nous cherchons vraiment l'amendement! Pourtant, ces détenus sont comme vous et moi, sauf que certains ont un peu plus de difficulté à exprimer ce qu'ils ressentent. Et puis, s'ils osaient s'exprimer honnêtement à leurs agents, ils risqueraient fort bien d'être étiquettés d'instable parce qu'ils sont, justement, des détenus!

Aujourd'hui nos futurs criminologues étudient toutes les belles théories de la criminologie et ne rêvent qu'à pouvoir aider ces pauvres bigres en prison. Mais lorsqu'ils sont finalement engagés par le Service Correctionnel, on leur inculque la philosophie pratique du carcéral; on les limite dans leur démarche interventionniste avec des procédures et des politiques à n'en plus finir, et on fait d'eux, non pas des cliniciens mais des simples gestionnaires de peine ni plus ni moins...

Au revoir les idées d'aider et de récupérer. Au revoir la consultation clinique. Bonjour la sécurité d'emploi et les bénéfices marginaux. Bonjour l'aliénation du pouvoir coercitif. Non, mais sérieuse-

on devrait envoyer ces gens là non pas à l'Ecole de criminologie mais à une nouvelle Ecole de Gestion de peines carcérales!

Vous voulez que je vous dise... je crois, et ce, en toute modestie, que j'ai à mon actif une meilleure fiche de récupération que tous ces soit-disant cliniciens en milieu carcéral, et vous savez pourquoi?

Parce que les gars viennent me voir VOLONTAIREMENT. Ils me demandent conseil, s'ouvrent à moi et acceptent les valeurs que je leur véhiculent parce qu'ils ne se sentent pas MENACES par moi. Croyez-moi, ce n'est pas sous la menace qu'on parvient à aider les gens. La menace sous-tend la violence, et comme vous le savez tous la violence et la haine se perpétuent tant et aussi longtemps qu'il y aura un environnement pour l'alimenter.

Tous les chercheurs et les théoriciens sont d'accord sur un point: rien n'a marché jusqu'à présent. Tout pointe au fait que la prison n'a pas d'effet dissuasif sur nos jeunes. Au contraire ils en sortent pire que ce qu'ils étaient à leur entrée. Comment voulez-vous aider un jeune à se prendre en main et à intégrer des valeurs pro-sociales lorsqu'on le force à cohabiter avec des individus qui sont aux prises avec les mêmes problèmes que lui. Enfermé, puni, rejeté par la société, institutionnalisé pour ne pas dire dépersonnalisé, il est compréhensible qu'il cherche à rehausser son estime de soi auprès de ses co-détenus et à adopter ce que plusieurs qualifient d'un comportement égocentrique devant ses juges. Très peu de détenus ont la chance d'avoir l'amour et le soutien que j'ai eu de mes parents, de mes amis, et de ma future épouse au cours de leur peine.

J'ai vu des jeunes de 18, 19, et 20 ans entrer en prison de vrais

innocents. Mais après avoir tout perdu, leur famille et leurs amis, après que le système eut fini de jouer avec leur esprit, je les ai vu ressortir des hommes marqués et complètement aliénés par les structures de dépendance qu'ils ont développées envers l'institution pénale. Pourtant, si leur cas avait été déjudiciarisé, qu'on les avait pris en main et qu'on avait amorcé un programme de réconciliation puis de dédommagement avec la victime, ils auraient pu s'en sortir et passer à une vie plus acceptable. Au contraire, ils font le circuit maintes et maintes fois jusqu'à ce qu'ils soient tués dans une fusillade ou qu'ils deviennent complètement brûlés vers l'âge de 35 ans.. Alors on ne les revoit plus... ils disparaissent dans l'anonymat. Certains réussissent à atteindre un semblant de vie normale, d'autres deviennent dépendants du Bien-Etre social alors que d'autres se réfugient dans la boisson et la drogue.

Mais ne vous en faites surtout pas. Le système s'assure d'un renouvellement perpétuel. D'autres jeunes sont prêts à passer au pénitencier parce qu'ils y ont été soigneusement préparés par leurs séjours dans des maisons d'accueil (beau nom pour "Centre de détention Juvenile". n'est-ce pas?) et dans des prisons provinciales.

La première fois que j'ai pensé à la réconciliation comme mode de règlement de conflit mon but n'était pas scientifique, je vous l'avoue, mais motivé par mon désir de prouver à mon équipe de gestion de cas que ma remise en question était belle et bien amorcé. Je présentais donc, au cours d'une évaluation tri-annuelle, l'idée de contacter la famille immédiate de ma victime afin d'amorcer un processus de réconciliation. Inutile de vous décrire l'expression qui s'est dessinée sur leur visage. Leur réponse était presque condescendante comme celle

qu'on donne à un enfant handicapé qui veut pratiquer un sport qui exige concentration, habileté et des reflexes rapides. C'est juste si on ne m'a pas traité de fou...

"The prisoner as a forced labourer"

Gerard de Jonge

Date: Jeudi 18 juin/ Thursday june 18

Atelier/ Workshop

3. Pratiques abolitionnistes et les droits des détenu-e-s  
Abolitionist practices and prisoners' rights

9:30              English              Room 3240

THE PRISONER AS A FORCED LABOURER

The wage-struggle as an abolitionist activity

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1. Of course penal abolition encompasses much more than the eventual overthrowing of the prison system. Still, contemplating strategies for putting abolitionist theory into reality, it seems to be the prison system giving the best possibilities for mobilizing people against the penal system.  
Prisoners are a clearly cut interest group and their, most of the time, very material problems give them and action-groups outside their walls ample opportunity to focus their energy on easily definable targets.  
The problems within the walls are much more "real" and condensed than the more abstract problems regarding views on abolition of the criminal system as a whole, e.g. by "civilising" it. It is easier to agree with such abstract issues than to convert them into real changes. Highly specialised (juridical) strategies are hard to develop and still harder to reify. People are difficult to mobilize on such theoretic issues. So, on opportunistic grounds, the battle against the prison system needs to be cherished.  
History learns us that no major changes in the upper-structures of the state have ever occurred as a result of well-meaning intellectuals trying to convince the state-administrators by their well-founded theories. Whenever important changes in criminal praxis have taken place, they always were provoked by economic necessities and/or more or less massive action from the directly by that system affected people.
2. Regarding the prison system (anyway as a symbol of the criminal penal system as a whole) as the clearest exponent of the targets of the abolitionist movement the question is now which are the most promising issues to attack , who is going to do that and what results ~~you~~ <sup>we</sup> can expect from such actions.  
In the Dutch situation (and no doubt this goes for many other countries) the immediate living-conditions of the imprisoned are, for strategies that aim on "negative reforms" of the prison system, the most feasable objects. These living -conditions prove again again fit to mobilize prisoners and their helpers outside. Experiences with actions in this field in Holland have proven that results on behalf of the imprisoned can be obtained. These results are, however, most of the times to be interpreted as "positive" reforms and are always claimed by the prison-bureaucracy itself as proof of its own good intentions. That taken into account, the abolitionists should not (only) rally in favour of minor changes in the material living conditions of prisoners but try to hit the system where it definitely does not want

any major changes, because these would unbalance the prison-power structure in its roots. Meant are here changes on the wage/ labor front, leading to the abolishment of the obligation to work and leading to a normal salary for these prisoners who, voluntarily, want to work.

In the Netherlands there were never concerted actions regarding these topics, though now and again the prisoners themselves show by striking against low payments and unjustified differences in wages between some prisons their great eagerness to act on these points.

3. Defining the prisoner as a labourer whose only asset, his manual labour, is taken away from him in change for an insultingly low remuneration, has undoubtedly a big mobilising effect. The question is now how to use this potential force in such a way, that activist prisoners will not run into too much trouble personally (e.g. by losing favours or rights because they are viewed as trouble-makers) and optimal results in a abolitionist sense can be obtained. Therefore a country-wide (that's not so wide for Holland) strategy must be developed, which aims at involving the prison system in a struggle against forced prison-labor.
4. In Holland the conditions for a successful strategy seem to be existant:
  - There is a juridical/moral "right" on the side of future anti-forced-labor campaigners. The first article of the Dutch constitution proclaims the principle of equality before the law of everyone residing in Holland. Exceptions upon this rule are (by art. 15 of this constitution) possible regarding prisoners, but need explicit juridical/moral justification.
  - There is an easily demonstrable factual inequality on all levels between "free" labourers and imprisoned labourers.
  - There is a reasonably good infra-structure of prisoners-right groups to support labour/wage issues from the outside.
  - The prisoners themselves are "stand by" and only need a clue to spring into action.
  - The (labour)laws offer plenty of still unexploited possibilities for legal procedures against the state and/ or private enterprises who profit from forced prison labour;
  - There are plenty of well-informed and well skilled lawyers who can and certainly will operate on behalf of the prisoners interests. They are financed by the Dutch legal aid system.

5. The hypothesis is, that whenever prison-labour will not be compulsory any more and voluntarily undertaken labour will be payed on the level as<sup>s</sup> normal outside the walls, the prison system will have lost one of the main fundaments of its disciplining function. and will have become a too costly instrument as to use its as freely as is it used nowadays.
6. Any action-programme in this respect must at least contain schemes regarding:
  - a) the various juridical procedures against state organs and private enterprises;
  - b) the support of prisoners strikes from the outside;
  - c) the blacklisting of products of forced labour;
  - d) the blacklisting of private enterprises using prison labour;
  - e) political lobbying on this issue;
  - f) getting the support of the "official" trade unions
  - g) getting the support of prison personnel;

60) 23/37

(this is a provisional translation)

"Dealing with problematic situations in a Dutch urban  
neighbourhood and in a rural village from  
an abolitionist point of view "

Hilde Van Ransbeek

Date: Jeudi 18 juin/ Thursday june 18

Atelier/ Workshop

5. Pratiques abolitionnistes vs certaines "situations-problèmes"  
Abolitionist practices vs "criminal law"

9:30	English	room 3250
13:30	English	room 3250

Dealing with problematic situations in a Dutch urban neighbourhood and in a rural village from an abolitionist point of view.

Summary of the paper presented at ICOPA III  
(workshop 5, the 18th of June) by Hilde  
Van Ransbeek, Erasmus University Rotterdam.

1. The political context in which the research took place: the Dutch policy on petty crime.

In the Netherlands, the political interest in what is called petty crime, has increased enormously recently.

In 1983, a governmental committee was established, which had to analyse the field of petty crime and generate recommendations on how it could be dealt with. This committee begins its interim report<sup>[1]</sup> with problematising the concept of petty crime<sup>[2]</sup>. Instead of the abstract notion petty crime, the committee designs and works with concrete outlines of the following problematic situations: petty violence and threats, shoplifting, burglary, theft of bicycles, vandalism, football related vandalism, fraud in public traffic and traffic violation. Apart from this concrete and wide interpretation of the concept of petty crime, another important contribution of the committee is its non-criminalising way of talking<sup>[3]</sup> about these different situations. In searching for ways of dealing with these problematic events, the committee doesn't focus on repression but on prevention and the revitalization of social control on the level of neighbourhoods, schools, football-clubs, etc.

In 1985, our right-winged government published a policy plan called 'society and crime'<sup>[4]</sup>. In this plan the field of crime is bifurcated into petty crime and serious crime<sup>[5]</sup>. Policy-makers introduce in this document a pile of repressive measures which have to foster the struggle against serious crime. Their policy on petty crime is a transformed and reduced version of the ideas and recommendations of the committee.

In their fight against petty crime, policy-makers focus more (and more) on repression and the widening of social control in semi-public and public areas. Several forms of non-police surveillance are created. Policy-makers don't speak of petty crime any longer but of frequently occurring crime. In their opinion problematic situations as vandalism, shoplifting, etc. are too serious to be called 'petty'.

Dealing with problematic situations in a Dutch urban neighbourhood and in a rural village from an abolitionist point of view.

2. Doing abolitionist research in this political context.

We have tried (and are trying) to take advantage of the room created by the governmental committee. As starting point for our research in the neighbourhood and in the village, we have taken the committee's ideas of prevention and revitalization of social control. We have not explored in which ways the neighbourhoodcenters, the schools, the churches, the clubs, etc. (the meso-level) can be used by 'the state' (the macro-level) in its struggle against petty crime. We have analysed how the people living in the neighbourhood and in the village can make use of this meso-level and of the interest and money of the macro-level to revitalize their social networks and to deal themselves with some of the problematic situations they experience. Whereas policy-makers look down from the top to the bottom, we look up from the bottom to the top. In using policy-ideas and governmental money for our own purposes, we have followed the Foucauldian strategy. Foucault illustrates his strategy by means of the example of judo. "When you take part in judo and your adversary is attacking you, it is the best method not to retreat, but to take advantage of his attacking manoeuvre for oneself as a starting point for the next phase"<sup>[6]</sup>

3. Type of research.

In both the urban neighbourhood and the rural village, we were asked to explore the experienced problematic situations (some people spoke about petty crime) and to generate concrete recommendations on how to deal with them. Together with all the directly involved (inhabitants and directly involved professionals<sup>[7]</sup>) we have agreed to the research-proposals. During the research and the actions in consequence of the research, these directly involved people had a central position. Their interpretation of events was always taken as basic assumption. They were able to give comments on the research and on the written report. Together we have worked (and are working) on the recommendations and on their realisation.

4. Some of the results.

Both the research in the village and in the neighbourhood have given us more theoretical insights as well as more practical insights. I'll limit myself here to the last category of more concrete results. I'll try to answer the ques-

Dealing with problematic situations in a Dutch urban neighbourhood and in a rural village from an abolitionist point of view.

tion: What has happened/changed during and after the research/activities in both social contexts?

I am aware of the fact that I'll present you some (small) success-stories. But I think they can function as a refreshing counter-balance to pessimistic tales of net-widening of social control and failing of abolitionist activities. The positive (small scale) success we have had, makes us believe that the micro-level can be strengthened to such a degree that it (in the long run) can blend or disrupt institutionalised powerblocks (one of these blocks is the criminal justice system).

In the following scheme a survey of the concrete research-results will be given.

PHASES OF THE RESEARCH	ACTIVITIES	EFFECTS/RESULTS
RESEARCHERS	DIRECTLY INVOLVED	DIRECTLY INVOLVED
<b>gathering data</b>	<ul style="list-style-type: none"> <li>-interviewing</li> <li>-observing</li> <li>-talking to each other</li> <li>-reading written materials</li> <li>-offering a description of the neighbourhood/village</li> <li>-description of the different life-worlds and power-relations</li> </ul>	<p><b>RESEARCHERS</b></p> <ul style="list-style-type: none"> <li>-becoming part of several networks</li> <li>-becoming mediator in certain conflicts</li> </ul> <p><b>EFFECTS/RESULTS</b></p> <ul style="list-style-type: none"> <li>-speaking for themselves</li> <li>-pointing to other problems than 'crime'</li> <li>-transcending movements thinking about one's own position/relations and those of other inhabitants and professionals.</li> </ul>
<b>analysing data</b>	<ul style="list-style-type: none"> <li>-discussing new information adding new information</li> <li>-inhabitants change power relations vs each other</li> </ul>	<p><b>RESEARCHERS</b></p> <ul style="list-style-type: none"> <li>-different life-words meet each other</li> <li>-conflicts arise: are dealt with</li> <li>-old conflicts appear again</li> </ul> <p><b>EFFECTS/RESULTS</b></p> <ul style="list-style-type: none"> <li>-offering another language/other frames of reference</li> <li>-taking over language/frames of reference</li> <li>-changing definitions/reactions.</li> </ul>
<b>meetings</b>	<ul style="list-style-type: none"> <li>-discussion of written texts</li> <li>-discussion of the research etc.</li> <li>-talking about chapters/parts of the report</li> </ul>	<p><b>RESEARCHERS</b></p> <ul style="list-style-type: none"> <li>-working together with professionals</li> <li>-contacting the national and local policy-makers.</li> </ul> <p><b>EFFECTS/RESULTS</b></p> <ul style="list-style-type: none"> <li>-old conflicts appear again</li> <li>-taking over language/frames of reference</li> <li>-changing definitions/reactions.</li> </ul>
<b>producing written text</b>	<ul style="list-style-type: none"> <li>-What do we want?</li> <li>-What is possible and how?</li> </ul>	<p><b>RESEARCHERS</b></p> <ul style="list-style-type: none"> <li>-working together 'in difference'</li> <li>-using research, researchers, bureaucracy and media for own purpose.</li> </ul> <p><b>EFFECTS/RESULTS</b></p> <ul style="list-style-type: none"> <li>-searching for means</li> </ul>
<b>developing recommendations</b>	<ul style="list-style-type: none"> <li>-making recommendations more concrete</li> </ul>	<p><b>RESEARCHERS</b></p> <ul style="list-style-type: none"> <li>-working together on playing-field</li> <li>-2nd handshop</li> <li>-neighbourhood-service-center</li> <li>-neighbourhood-party</li> </ul> <p><b>EFFECTS/RESULTS</b></p> <ul style="list-style-type: none"> <li>-people can show other skills than their 'bad' ones</li> <li>-strengthening of the autonomy of the neighbourhood/village</li> </ul>
<b>bringing recommendations into practice</b>		

Notes:

- [1] INTERIMRAPPORT VAN DE COMMISSIE KLEINE CRIMINALITEIT. Staatsuitgeverij, 's-Gravenhage, 1984 (only a Dutch version exists).
- [2] In the inauguration decree of the committee, petty crime is defined as ".... punishable forms of behaviour occurring on a large scale which can be dealt with by the police on a discretionary basis or, in the case of a first offence, are generally handled by the Public Prosecutor or are dealt with by the courts at the most through the imposition of a fine and/or a conditional custodial sentence and which - mainly because of the scale on which they occur - are a source of nuisance or engender feelings of insecurity among the public".
- [3] In our opinion the criminal justice system is more than the gathering of all criminal laws and penal organisations such as the police, justice and penitentiary institutions. A criminalising way of thinking and talking about events and persons is also part of the criminal justice system. Abolishing these 'deviant behaviour/crime-talks and thoughts' is one of the first steps in our abolitionist strategy.
- [4] SOCIETY AND CRIME, A POLICY PLAN FOR THE NETHERLANDS  
Staatsuitgeverij, 's-Gravenhage, 1985. (An English version exists)
- [5] In the policy plan serious crime exists out of three categories:  
To begin with there is 'traditional' serious crime: capital crimes, sexual offences and robbery with violence. In addition there are the newer forms of serious crime, such as large-scale banking and insurance frauds. Finally, this category also includes what is referred to as organized crime which, often in conjunction with illegal drug dealing, operates in the areas of illegal gambling, the arms trade, prostitution and illegal employment contractors.
- [6] ENZINE, S., "Sur la sellette: Michel Foucault in Les nouvelles littéraires, 1975, 2477, p. 3.
- [7] Directly involved professionals are those professionals who have direct contacts/communication with the inhabitants e.g. the local policeman, the school-teacher, the doctor and the vicar.

"Proposed international minimum standard rules  
for the treatment of juvenile prisoners"

Cynthia Price Cohen

Date: Jeudi 18 juin/ Thursday june 18

Atelier libre/ Open workshop

Projet de normes minimales internationales pour le traitement  
des jeunes contrevenants  
Proposed international minimum standard rules for the treatment  
of juvenile prisoners

9:30

English

room 4265

PROPOSED INTERNATIONAL MINIMUM STANDARD RULES  
FOR THE TREATMENT OF JUVENILE PRISONERS

International Minimum Standard Rules for the Treatment of Prisoners were adopted by the United Nations in 1955 at the first Congress on the Prevention of Crime and the Treatment of Offenders. Although this document makes some provisions for the treatment of young prisoners, it was not until the 1985 Rome meeting of the International Crime Congress that a move was undertaken to draft a separate set of standards for the treatment of juveniles.

This process is now taking place, under the auspices of the crime prevention branch of the United Nations Centre for Social Development and Humanitarian Affairs, with considerable international non-governmental organizations.

Prior to the 1985 Congress, rules had been drafted which set international standards for the administration of justice in juvenile cases, and it had generally been thought that these regulations (the "Beijing rules"), when coupled with the provisions for young prisoners in the 1955 Minimum Standard Rules, would be sufficient to protect the rights of detained juveniles. Due to pressure from non-governmental organizations, the decision was finally made by delegates to the Congress to include consideration of a draft of standards for the treatment of incarcerated juveniles in the agenda for its 1990 meetings.

As an outgrowth of this decision, a group of representatives from approximately ten non-governmental organizations has had regular meetings in Geneva to draft a text which they will propose to the Center in Vienna for consideration at the next Congress. This draft, which should be completed sometime early in 1987, is entitled Minimum Standard Rules for the Treatment of Juveniles Deprived of their Liberty. While the goal of this draft, like that of the "Beijing rules", is rehabilitation in a non-coercive atmosphere, preferably without detention, the draft also accepts the fact that, given the contemporary standards in some countries, it may not be possible to eliminate incarceration entirely. To this end the draft attempts to, at least, upgrade the existing conditions under which juveniles are detained and to clearly define the rights to which juveniles are entitled.

The preliminary drafts of standards to be considered at the 1990 Crime Congress should be available in time for I.C.O.P.A.III conference in June. I am sure that text of these draft rules will be of interest to anyone concerned with the handling of juvenile delinquents.

"Workshop on fine default"

Brenda E. McGilliard

Date: Jeudi 18 juin/ Thursday june 18

Atelier libre/ Open workshop

Le non-paiement des amendes  
Workshop on fine default

13:30

English

room 4265

## WORKSHOP ON FINE DEFAULT.

Scotland has the highest prison population in Western Europe ( 81 per 100,000).

In 1985 about half of all admissions of persons under sentence to Scottish prisons were for fine default ( 11, 435 ). Widespread concern about this trend led to a working party being convened in 1986 to consider the problem. It was under the auspices of the Association of Directors of Social Work, chaired by Fred Edwards, Director of Social Work for Strathclyde Region\*. On the working party, along with social work officials, were a sheriff (judge), a representative of the Law Society of Scotland, the chairman of the Scottish Prison Governors Committee and a District Court Clerk.

IN ENGLAND AND WALES THE PROPORTION IS ABOUT HALF THAT OF SCOTLAND,  
i.e.ABOUT A QUARTER OF THE TOTAL ADMISSIONS. IN MOST OTHER COUNTRIES IT IS  
CONSIDERABLY LESS.

### WHY SO IN SCOTLAND?

In the workshop I would hope to describe the Scottish situation, outline the proposals of the A.D.S.W. Report ( of which I was assistant secretary) and, more importantly, draw from other participants, views and suggestions about what happens to fine defaulters in their countries.

Although the number fined in Scottish courts between 1980-85 fell by 28% of the total disposals, the number received into prison for default rose by 55%.

A survey of fine defaulters released from penal establishments in 1979 found that 75% were unemployed. The figure today is even higher.

The average outstanding fine was £109. About half of the defaulters owed less than £75. Indeed, 839 persons owed less than £25.

IT COSTS ABOUT £ 256 A WEEK TO KEEP SOMEONE IN PRISON IN SCOTLAND.

It should be noted also that, in Scotland noone who has never been in prison before can be jailed for any offence, even murder, without the benefit of legal advice and a social enquiry report, UNLESS that person is in default of a fine, usually for an offence that would not have warranted a prison sentence in the first instance.

\*(all social work services in Scotland are under one 'generic' umbrella.)

SUMMARY OF STATISTICAL INFORMATION.

1. In 1982, 173,856 persons ( 80% of all those against whom a charge was proved) had a fine imposed on them in Scottish courts.
  2. In 1985, 1,308 people ( 6% of the average daily prison population) were there as a result of fine default.
  3. In 1985 almost half of all admissions to Scottish prisons (excluding remand prisoners) were as a result of fine default. (11,435).
    - a) Adult prisoners  
49% (8,555) of adult prisoners under sentence were fine defaulters :  
i.e. 63% of women (630) and 48% of men (7,925).
    - b) under 21s.  
39% (2,725) of young offenders were fine defaulters : 47% of young females (98) and 39% of young males (2,627)
  4. Since 1984, therefore, there has been an increase of 23% of adult offenders and 43% of young offenders. (i.e. although the number fined was similar, the number jailed rose from 8,883 in 1984 to 11,435 in 1985.)
  5. Three out of every 10 defaulters imprisoned were subsequently released on full or part payment of the fine without serving their full sentence.
  6. Most sentences imposed on defaulters were of 14 days or less. In 1985 the average sentence was 19 days.
  7. The average outstanding fine was £109. About half of the defaulters owed less than £75. and 839 owed fines of less than £25.
- IT COSTS ABOUT £256 A WEEK TO KEEP SOMEONE IN PRISON IN SCOTLAND
8. A survey of fine defaulters released from penal establishments found that, in 1979, approximately 75% were unemployed.

"Prisoners on Penal Abolition"

Howard Davidson

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

2. L'éducation en prison: stratégie abolitionniste ?  
Education within prison: an abolitionist strategy ?

9:30	English	room 3245
13:30	English	room 3245

## Prisoners on Prison Abolition

A collection of articles by prisoners on the work of prison abolitionists

**Project Purpose:** A commonplace criticism expressed at conferences on crime and punishment is that the voices of prisoners are silent. An ex-prisoner may comment from the floor or prisoners' experiences may be incorporated anecdotally into an article presented at a conference session; otherwise, the participation of prisoners is typically non-existent. Theoretical work by prisoners on the question of imprisonment or prison abolition is, in my experience, rarely presented. Few attempts have been made to develop this theoretical work. On this problem the work of prison abolitionists, contrary to what one might expect, is not very different from that of criminologists who support (or seek to reform) the prison system. Examples of this are the Proceedings of the Second International Conference on Prison Abolition (Amsterdam: Criminologisch Instituut, in press) and Toward Community Solutions to Sexual Violence: Conference Proceedings (Toronto: Quaker Committee on Jails and Justice, 1984). Papers and workshop reports on imprisonment and its relationship to society are beginning to flood the field, but nearly all are written by individuals whose experience does not include being a prisoner.

The purpose of Prisoners on Prison Abolition is to take a step in addressing this problem. The articles to be

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compiled in this pamphlet will be written by prisoners who have had the opportunity to read and discuss a selection of articles written by prison abolitionists. The contributors to this project will have considered abolitionists' arguments in the context of their immediate experience with the prison. In doing so, this project seeks to accomplish at least three things: (i) to introduce prisoners to the work of prison abolitionists, (ii) to build prisoner consciousness of the political economy of punishment, and (iii) to further the work of abolitionists by adding a most necessary perspective to their understanding of the prison and society. Furthermore, it is hoped that this project will encourage others to work toward these and similar goals.

**Project description:** Prisoners on Prison Abolition will take the form of a pamphlet that contains about six articles (each approximately 1000 words in length) written by prisoners, with an introduction and conclusion written by the project coordinators. The articles will examine the positions of abolitionists on a number of topics (e.g. "restraint of the few," non-violent civil disobedience protests against imprisonment), thus connecting the experiences of prisoners to abolitionists' analyses. The introduction will explain the purpose of the pamphlet and the process by which it was produced. The conclusion will review the articles' major themes and suggest the implications for the abolitionist movement.

The project coordinators are two teachers working with prisoners incarcerated in a forensic psychiatric treatment centre. The prisoners/students are serving a portion of their sentences in a "rehabilitation" program for violent offenders, a federal maximum security prison, and a provincial prison.

The project coordinators will compile a selection of readings by abolitionists and a bibliography of additional materials. The prisoners will choose from these. (A preliminary list of these selections is attached.) Participants will have an opportunity to read and discuss these articles. Prisoners who cannot read this material will be assisted by fellow prisoners and/or the project coordinators.

Then each person will write (or dictate) a paper which examines the abolitionists' positions in the context of their experiences. Everyone will have an opportunity to comment on their work and the submissions of others during several discussion sessions. Following this, the contributors will revise their first drafts. The second drafts will be edited for correctness of grammar, spelling, punctuation, and conciseness. Edited papers will be returned to their authors for approval before they become part of the final manuscript.

After the first drafts have been discussed, the coordinators will write the introduction and conclusion.

. These will be submitted to the prisoners for discussion prior to completion.

Publication: Questions about the publication, distribution, copyright, etc. will be settled by the contributors. The coordinators will recommend that a final manuscript be presented at the Third International Conference on Prison Abolition (Montreal, 1987), and a second manuscript be submitted for publication to the editors of the Prison Journal (Institute for the Humanities and Prison Education, Simon Fraser University) because these reach the public most immediately concerned with the purpose of the project.

Time line: Clare Culhane, activists and author in the movement for prison abolition, will speak to the prisoners on January 12, 1987 to launch the project. Between January and April the articles will be written and discussed. Edited editions will be produced in early May.

Contacts: If you require additional information concerning Prisoners on Prison Abolition please contact:

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"Education within prisons: an Abolitionist strategy ?"

Elizabeth Barker

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

2. L'éducation en prison: stratégie abolitionniste ?  
Education within prisons: an Abolitionist strategy ?

9:30	English	room 3245
13:30	English	room 3245

I.C.O.P.A. III. Abolitionist Strategies and Political Consciousness  
Friday, June 19, 1987 Workshop #6

Education Within Prisons: an Abolitionist Strategy?

The title of this workshop well merits a question-mark. Some abolitionists have, quite understandably, seen prison education as one of those palliative programs which camouflage the repressive and regressive nature of the penal system. There is, however, significant evidence that it can produce an opposite effect--can help to awaken those outside the prisons to the true state of affairs within, hence help to develop a new political consciousness.

The key issue is the question of educational aims. The distinction between prison-perpetuating programs and those with an abolitionist potential rests primarily upon the distinction between vocational training and the liberal arts, the original definition of which is "education befitting free men." In presenting evidence for liberal arts education within prisons as a long-range abolitionist strategy, this workshop will draw upon Canadian and U.S. experience, primarily from programs in British Columbia and in Massachusetts. Persons with experience from elsewhere in the world are urged to share it with the workshop.

In order to demonstrate how liberal arts education within prisons can help to build a new political consciousness, it is necessary to consider its impact not only upon the prisoners but upon the educators themselves, the "system" employees who observe it in process, and the voter-taxpayers who benefit from its results.

For the prisoner, a liberal arts education can lead to a changed perception of the world and of his place in it, hence to cognitive and moral growth. Most official, prison-run programs take no account of this, focused as they are on remedial and vocational training to the near-exclusion of any sort of general education beyond the secondary level. While the prisoner's need for marketable skills is not to be belittled, mere job training, without an enhanced understanding of the world that he will re-enter upon his release, hardly prepares him to cope with its complexities, to live in freedom. The dramatic drop in the recidivism rate of those who have left prison with a liberal arts education points not only to its value for the prisoner but to its potential as an abolitionist strategy. It prepares the ex-prisoner to educate his fellow-citizens about the practical failures and moral wrongs that they blindly perpetuate by their passive support of the penal system. Further, the effect of the liberal arts within prisons presents a model for the sort of humanistic education outside that will lead people to recognize and question injustices which have become habit in our society.

For the teacher who enters the walls to meet his classes, no less than for his students, liberal education within the prison opens up a new world. He learns at once that which the system and its political supporters make sure that the general public does not learn: namely, that those who live behind the walls are not creatures of another species but are as varied, as complex, as human as any of us. Before long, he becomes educated in the workings of the penal system, the daily dehumanization suffered by his students. Rare is the instructor who does not return from his prison classes ready to voice a fundamental criticism of the penal system. As a professional

communicator with prestigious institutional connections, his is, furthermore, a voice that can be heard. Many prison educators have already found their way into the abolitionist movement and brought others with them.

Even among some of those employed to run the system, prison education has a healthily disquieting influence. Its salutary effect on the attitudes of their charges, combined with contacts it affords with thoughtful outsiders, has led some officials to question the system they serve. Correctional Education Association conferences have become a virtual forum for criticism of today's punishment trend.

The education of prisoners, of prison educators, and of even a few prison professionals to the point of advocating a search for alternatives to the penal system constitutes a step toward educating the public--hence toward those changes of political consciousness necessary to achieve abolition. As things now stand, public support for prisons is created through the manipulation of fear and ignorance by politicians for whom the "tough on crime" slogan is a free ride to office. Out of the education of prisoners, their educators and their keepers, comes the realization that prisons are tough on people, tough on justice, but not tough on crime. With this comes the recognition that the penal system as it exists did not drop from the sky--that, as an historical construction, it can be dismantled and a new historical era begun. This is the message that the voter-taxpayer who knows nothing of the unjust world behind the walls must receive from those who do.

"Stratégies abolitionnistes et conscience politique"

Jacqueline Bernat de Celis

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

3. Stratégies et conjonctures socio-politiques  
Strategies within a socio-political context

9:30                   Français                   Salle 3250

## Atelier n° ( 3 ) ou ( 4 ) : intervenante : Jacqueline Bernat de Celis

On a tenté un peu partout, au cours des 50 dernières années, d'ouvrir, d'humaniser, de vider les prisons... L'expérience montrant l'inanité de tels efforts ( réformes non appliquées, retour en force des idéologies rétributives/ répressives, augmentation constante du nombre des incarcérés...) on en est venu à souhaiter, non plus simplement la transformation, mais la disparition de la prison . Ce 3ème congrès d'ICOPA marque encore un pas de plus : nous sommes maintenant convaincus que si nous voulons supprimer la prison, nous devons travailler à l'élimination du système qui produit la prison . L'abolition de la prison suppose l'abolition du système pénal lui-même . Comment viser un tel but ? C'est à cela que nous sommes invités à réfléchir ici . L'intervenante propose de le faire en deux temps : 1) quelle conception avons-nous du système pénal ? 2) quelles stratégies proposer pour faire advenir une société sans système pénal ?

premier temps Avant d'imaginer les étapes d'une stratégie abolitionniste, il est important de bien concevoir ce que nous mettons sous les termes " système pénal". La sociologie pénale, science neuve qui tend à supplanter la criminologie, nous apprend à le faire . Elle montre le système pénal sous le jour suivant :

1° c'est un champ spécial de règlement des conflits que l'on pourrait, techniquement, abandonner sans péril pour notre société. En effet :

- . les situations qui entrent dans ce champ spécial n'ont rien de spécifique : elles s'y trouvent en raison des définitions de la loi pénale et des sélections opérées par les institutions chargées d'appliquer celle-ci.

- . de même qu'il n'y a pas de notion ontologique de crime ou de délit, on ne saurait prétendre que les personnes prises dans le champ pénal et envoyées en prison appartiennent " par nature" à une sorte de sous humanité qu'il serait évident de punir et de marginaliser . Elles se trouvent seulement ciblées par le droit et les institutions pénales .

- . notre société connaît toutes sortes de procédés de règlement des conflits autres que le système pénal pour résoudre l'énorme majorité des situations-problèmes qui surgissent de la vie en société. Le champ pénal n'a donc rien de nécessaire.

2° contrairement aux principes qui prétendent le justifier, le système pénal, discriminatoire, inégalitaire, producteur de souffrances injustes et stériles, est un mal social à extirper . La disparition de ce champ spécial de règlement des conflits, qui laisserait en place l'ordre juridique civil, ouvrirait des espaces neufs de médiation .

deuxième temps La proposition d'abolir le système pénal rencontre de très vives résistances de la part d'un grand public non préparé comme de la part des secteurs professionnels spécialisés : juristes ( magistrats, avocats, professeurs d'université ), policiers, assistantes sociales, aumôniers de prison, journalistes, hommes politiques . Vouloir abolir le système pénal suppose donc que l'on travaille dans le long terme et sur tous les fronts de résistance, en envisageant à la fois des dispositifs permettant de désamorcer ce système et des opérations d'information susceptibles de transformer les mentalités .

Désamorcer le système pénal, cela veut dire/enlever progressivement des champs de compétence ( dériminaliser, dépénaliser...) et mettre en place des procédés susceptibles de le rendre moins actif ( ~~que le retrait d'une plainte stoppe l'action pénale, qu'il existe des processus de conciliation auprès de la police, du procureur, du juge d'instruction.~~ ) Afin que puissent être mises en place de telles mesures, qui supposent une volonté politique généralement absente, il y a lieu d'envisager ensemble, pendant ce congrès d'ICOPA, le genre de campagnes d'information et de réflexion à susciter parmi les porteurs d'influence dans notre société.

"Conditions socio-politiques de  
la réalisation de l'abolitionnisme"

Lode Van Outrive

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

3. Stratégies et conjonctures socio-politiques  
Strategies within a socio-political context

9:30              Français              Salle 3250

## Conditions socio-politiques de la réalisation de l'abolitionnisme (atelier 7)

Il faut d'abord se mettre d'accord sur la signification du terme "abolitionnisme". La plupart des abolitionnistes visent l'élimination ou la reduction maximale du recours à l'emprisonnement. En même temps, ils pronent l'élimination des concepts de crime, de culpabilité et de punition et leur remplacement par les notions de situation problématique, personne-problème et mesure. Il est remarquable qu'on veuille maintenir le système d'administration de justice et ses agents (police, magistrature, lieu de détention)... Il faut qu'il se passe autre chose dans le système, que les agents fonctionnent d'une autre façon, changent de mentalité.

1. En fait, on ne veut supprimer ni "l'ordre juridique", ni "les valeurs éthiques". Mais comment considérer cet ordre, ces valeurs comme naturelles, comme éternelles, comme inchangeantes et inchangeables? Un abolitionnisme authentique ne devrait-il pas introduire un autre ordre juridique, accentuer d'autres valeurs éthiques, mettre en place un autre priorité des besoins et des valeurs: la solidarité (au lieu de l'individualisme), la collaboration (au lieu de la concurrence), le vrai bien commun, la responsabilité collective (au lieu de la responsabilité individuelle), le bien-être matériel, physique, psychique et social (au lieu de la propriété privée): Alors, l'administration de la justice protégerait véritablement d'autres biens et valeurs.
2. Il faudrait sans doute en même temps trouver le moyen pour démocratiser cette administration de la justice en impliquant tous les intéressés à part égale... mais est-il possible de réaliser cela sans l'abolition des inégalités sociales, bureaucratiques, économiques et politiques? On ne peut pas, comme font certains abolitionnistes, compter sur un changement de mentalité, sur une autre sociabilité.
3. La mise en pratique de l'abolitionnisme ne sera possible qu'en réalisant des changements plus globaux: c'est à dire sociaux (une plus grande égalité de formation et de connaissances), politiques (une participation politique plus effective et plus directe), économiques (une plus grande égalité des conditions de vie matérielles).
4. Il s'agit finalement d'entamer d'abord ou en même temps un projet sociétaire autre que "neo-tibérale". Mais cela implique encore une fois qu'on respecte une certaine priorité dans l'action: d'abord introduire de nouveaux mécanismes de prise de décisions politiques, puis des changements dans les structures économiques. Après, on peut s'attendre à des changements idéologiques. En même temps on pourrait graduellement remplacer des peines pénales par des mesures moins répressives, plus civilisées.

"Strategies within a socio-political context"

Gail Kellough

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

3. Stratégies et conjonctures socio-politiques  
Strategies within a socio-political context

13:30                  English                  room 3250

## **STRATEGIES WITHIN A SOCIO-POLITICAL CONTEXT**

When political theory and political strategy are discussed in public forums such as this, there is one basic feature of the socio-political context which is rarely considered to be of fundamental importance to the debate. Despite the fact that in most countries of the world, women "hold up more than half the sky", political theories, and the strategies derived from these theories, are almost universally based on a political consciousness peculiar to the activities and relationships of men. It isn't simply that women are ignored but rather that there is an implicit and unquestioned assumption that what is "true" or "good" for the well-being of men will also be "true" or "good" for the well-being of women. That this is so is all the more surprising given the amount of attention given to the differing life experiences of men and women. While women constitute slightly more than half the population of the world and while they have a different relation than men to the modes of production and reproduction, the unique activites which they perform in society are rarely considered when strategies for social change, or means of providing social order, are discussed. This is as true for movements of the left as for movements of the right. Their theories may be said to reflect a class dimension but rarely do they reflect a gender dimension despite much lip-service to the contrary. While most political frameworks have in recent years acknowledged the importance of the women's movement and feminist theory, such acknowledgement has generally been an attempt to incorporate feminist insights without substantially altering basic premises or strategies in order to more accurately reflect the experience of women and their relation to the mode of production and/or reproduction. The result has been, I think, a misperception of the human experience.

The question which I would like to pose to this workshop is: "Can those of us who are interested in a praxis of abolition theory and abolition strategy learn anything from women? Is there anything in the particular experience of women which can help us better understand the ways in which social order may be achieved and the current dynamics of social control within our society?" I would like to point to three interrelated factors from the experience of women which would appear to have relevance for any discussion of abolitionist theory or practice. These three factors revolve around the fact that women generally have had a different relation to the state and its institutions than have men.

**WOMEN AS "OBJECTS" OF "INFORMAL" SOCIAL CONTROL:** Women are less likely to be imprisoned by the state than are men but they have, nevertheless, traditionally been subjected to a more pervasive type of social control - one not unlike that described by the critics of the deinstitutionalization movement. Women understand (in the Gramscian sense of experientially "understanding") the so-called "less punitive" informal forms of social control because they have long been subjected to the subtle imprisonment which accompanies the rhetoric of "less state." Less state intervention has not allowed women to be subjects in their own lives precisely because the principle involved in "lack of interference" renders invisible the human necessity for positive social supports (not coincidentally supplied to most men by most women!)

**WOMEN AS "OBJECTS" OF "FORMAL" SOCIAL CONTROL:** The "private" world of home and family has traditionally been an "extra-legal" one, operating outside of legal regulation. However, "informal" arrangements within the family are circumscribed by formal state policies and procedures just as the new so-called informal community programs are held within the parameters of formal state objectives. The relationship between formal and informal state control (now recognized in the operation of "community" programs) has existed for some time in the informal control of women. Existing outside the public sphere, women have still had their "choices" framed by the formal legal system.

While our system of law has generally worked to consolidate male control, the woman's movement has also discovered that the legal arena CAN be useful as a site of struggle against patriarchal control. In a world abstractly defined by male consciousness - but a world which women must concretely live in - law has had its empowering aspects in the on-going struggle against subordination. Just as male workers have forced the state to respond with laws which protect them from the worst excesses of capitalism, so too have women forced the state to provide some measure of protection from the sexual violence of men. Some of these concessions which undermine patriarchal control are absolutely necessary for women who have no choice but to live in a society currently defined and organized from a "masculine" perspective. In a society based on a "individualistic rights paradigm", the state is often the only safeguard women have in areas where "responsibility for collective needs" remains largely theirs. Some of the "protections" sought by women in the legal arena are in contradiction with abolitionist goals and objectives. Without a conscious consideration of the well-being of women, abolition strategies remain (in the words of one feminist) "concerned mainly with alleviating men's pain". — *And Prisons are Male-oriented institutions of Social Control! Women Segregate maleness.*

**WOMAN AS "SUBJECTS" OF MAINTAINING SOCIAL ORDER:** There is an area in which the experience of women is compatible with abolitionism. This relates to a correlation between the supportive and collective nature of women's work. In a world where autonomy and freedom are defined in individualistic terms, the activities which women perform provide for the collective relational needs of a human society. In the work they perform, women have been active subjects in providing peace and order at the "private" level of home and family. It has also been widely observed by feminist scholars that the work which women perform in the "public" sphere shares important characteristics with the work assigned to them as wives and mothers. This "order" which women (as a group) produce is related to their "care-giving" activities and is characterized by what Ruddick has called "maternal thinking". Such thinking is collectively oriented and its practices are geared toward providing the necessities which will allow for the self-sufficiency and autonomy of other family or community members. The punitive (and one might say "masculine") practices characteristic of formal social control are alien to the work-related objectives and gender-specific activities which have been traditionally relegated to women. This is not to argue for a glorification of motherhood or to suggest that women are biologically less oriented towards retribution than are men, only that the social activities assigned to them engender supportive collective solutions rather than individualistically punitive ones.

At the same time, while the "social order" created by care-giving activities has substantially different (and counter-hegemonic) characteristics from that of the dominant order, without a reciprocity of collective concern for women's well-being, the cost of providing these socially necessary activities will be the continued subordination of women AND a maintenance of the status quo. Thus, an integration of the experience of women into abolitionist thought requires a conscious reciprocity toward the collective needs of women.

Concretely, what can abolitionist practise do to integrate the experience into our strategies? I do not have a complete answer but I do think that we must recognize that, while abolitionist practices have much in common with feminist concerns, they are not identical to them. This should lead abolitionists to opening up a conscious concerted dialogue with feminism. Without this, I think that feminists will remain rightly skeptical in their belief that abolitionism is only one more instance where women are being ask to pay the cost of male liberation.

— How?

"Crime and punishment as war"

Harold E. Pepinski

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

3. Stratégies et conjonctures socio-politiques  
Strategies within a socio-political context

13:30

English

room 3250

**CRIME AND PUNISHMENT AS WAR  
and peacemaking strategies**

Harold E. Pepinsky  
Criminal Justice  
Indiana University  
Bloomington, IN 47405 USA  
1987

***Abstract***

Crime and punishment are a form of war. International belligerence goes hand in hand with wars on crime. Together, international and domestic belligerence mount with the scale of economic and political organization. Peacemaking occurs only as political economies become democratized. Punishment, an inherently undemocratic process, inevitably extends the fear and suffering of crime. The conflict between peacemaking and wars--as on crime--recurs in every religious and "scientific" tradition as a choice between mysticism and creationism. Crime and punishment are thus a manifestation of global social issues.

"Civil justice as an alternative to criminal justice"

Joyce Hes  
and  
Louk Hulsman

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

4. Civil-"*iser*" les lois pénales ?  
Civil-"*izing*" penal law ?

9:30	English	room 3255
13:30	English	room 3255

by Joyce Hes and Louk Hulsman.

Abstract.

The paper consists of three parts.

Part I. This part contains:

- a. A condensed analysis of developments in (post) industrial societies in order to be able to develop criteria under which conditions and in which respects civil justice is to be prefered to criminal justice.

On the basis of an analysis inspired by Habermas' distinction between system worlds and life worlds and Foucault's ideas about the production of knowledge and his approach of the concept of power, we conclude that one of the important features of modern development is the unrealistic picture of social life (especially with respect to the dimension of the life worlds in their diversity) which is produced through a process of professionalisation, bureaucratisation and fragmentation. This unrealistic picture of social life obscures its diversity. In several areas of the system world the bureaucracies and professions deal with people "as individuals". Often their "targets" or "clients" are in this instance not "real" individuals as they perceive themselves in their life worlds (and cannot be known by the bureaucracies and professions in their diversity), but "fictitious" individuals constructed by the professions and bureaucracies involved. This focus on (fictitious) individuals obscures the role which co-operative and collective action by the directly involved play and can play in dealing with problematic situations (micro and macro).

This wrong image of social life depicted in public knowledge has real consequences. It has a tendency to make people feel powerless and disinterested to deal with the problematic situations they face and to rely on bureaucratic and professional answers which are under those conditions of no real use to them. Bureaucratic and professional activities are only useful when they are guided by an active participation of the directly involved in which the reality of their life worlds is represented and taken into account.

On the basis of this analysis we formulate as criterion to judge the acceptability of civil justice as an alternative to criminal justice: how far can civil justice serve the emancipation of the persons or groups involved in certain problematic situations. This orientation on emancipation has two sides: (1) Do the activities in the frame of civil justice help the involved persons or groups to have a better, more realistic insight in their situation or at least do they not hamper such a realistic insight; (2) do they increase the possibilities of the involved persons or groups to influence their position - where useful collect-

tively or in co-operation - in a way which may be considered by all the involved as positive and just, taking into account the diversity of the life worlds.

- b. A brief recall of the conceptual frame in which we are working and the terminology which we are using.
- c. A certain number of "caveat's" against errors which are often made in discussions about alternatives to criminal justice.

Part II contains a discussion of civil justice as an alternative to criminal justice based on a qualitative empirical research into the actual use and development of a particular type of civil proceeding (Kort Geding) in Holland with respect to a specific problem field (sexual violence).

This research is part of a wider research in which also other types of civil proceedings and other problem areas are dealt with.

In Part III we discuss some questions related to the role civil justice alternatives could play in an abolitionist strategy. We deal among other things with questions about legal protection and the claim of the State with respect to "the monopoly of physical constraint and physical force".

"Critique de l'abolitionnisme:  
l'analyse réductionniste du système pénal"

Lode Van Outrive

Date: Vendredi 19 juin/ Friday june 19

Atelier/ Workshop

6. Une analyse critique de l'abolition et d'ICOPA  
A critical analysis of penal abolition and ICOPA today

13:30

Français

Salle 3265

## Critique de l'abolitionnisme: l'analyse réductionniste du système penal (atelier 10)

Les abolitionnistes fondent leurs propositions pour abolir le système pénal ou réduire son intervention sur une critique du fonctionnement de ce système? Cette critique est généralement exacte, mais largement insuffisante.

La non-validité de l'analyse découle du fait que la plupart des abolitionnistes font usage du modèle phénoménologique-interactionniste, alors qu'une analyse structuraliste se révèlerait plus complète et plus valable. En effet, l'analyse interactionniste se limite à considérer le système pénal comme une organisation "en vase clos", qui peut à peu près être isolé de la société environnante, de ses structures économiques, politiques et idéologiques. Par ailleurs, cette analyse met l'accent sur la parcellisation de système, sur ses activités discrétionnaires et non-controlables. Par contre, l'analyse structuraliste démontre l'articulation du système pénal avec les structures mentionnées, leurs idéologie et fonction communes, qui ont pour effet de (ré)produire l'image d'une société consensuelle, tout en maintenant une inégalité certaine entre classes et groupes sociaux (hommes-femmes, autochtones-à-lochtones etc.)

Comment illustrer la nécessité d'une analyse structuraliste?

1. Il faut faire usage d'un concept de contrôle externe, au lieu de contrôle interne, d'une notion de rationalité (politique, économique, idéologique) au lieu d'irrationalité (du comportement des agents de contrôle).
2. L'effet de l'aliénation et de (re)production des inégalités sociales n'est pas spécifique au système pénal, mais seulement une illustration d'une aliénation et d'une (re)production plus générale.
3. Au lieu de confondre les appareils d'Etat avec les relations de pouvoir politique, il faut faire la distinction entre les deux et démontrer comment le système pénal est le reflet de ces relations de pouvoir, tout en faisant apparaître une autonomie relative.
4. Au lieu de supposer un consensus concernant le crime et la loi pénale, il faut tenir compte des conceptions relativement diversifiées chez les citoyens, en fonction de leurs intérêts et valeurs.
5. Il faut reconnaître que le fonctionnement des tribunaux civiles, administratives et de travail, proposé comme une solution de rechange, n'est au fond pas autre ou différent de celui de l'administration pénale.
6. Il est assez inacceptable de négliger la relation entre le système pénal et le système économique. Ce dernier conditionne trop manifestement le fonctionnement des appareils d'Etat.

