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### The moving targets of penal abolitionism: ICOPA, past, present and future

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## The moving targets of penal abolitionism: ICOPA, past, present and future

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The history of the International Conference on Penal Abolition (ICOPA) is explored, assessing major trends shaping the current growth of carceral practices and offering suggestions for the future of the conference movement. The goal here is to facilitate the expansion of abolitionism by describing the changing nature of what is to be abolished. A discussion of the emergence of prison abolitionism and of the ICOPA is presented, describing the shift in focus from prison to penal abolition. Taking these developments and character into account, an abolitionist gaze must be expanded to reflect a carceral abolition project, encompassing contemporary penal abolitionism while acknowledging the proliferation of carceral practices and spaces outside the traditional penal system.

**Keywords:** prison abolition; penal abolition; carceral abolition; ICOPA

### Introduction

In his seminal text *Discipline and punish*, Foucault (1977) introduces the concept of the carceral to describe the diffusion and normalization of disciplinary techniques throughout social institutions. His discussion culminates in the emergence of a “panoptic society of which incarceration is the omnipresent armature” (p. 301) as he argues that the carceral extends beyond the prison to encompass broad social and cultural trends. At the time of his writing, Foucault, along with other observers, “failed to realize that, far from being fated to recede into the societal background to make room for dispersed disciplines, the prison was here to stay right alongside them – indeed, it was about to grow to proportions never before envisioned” (Wacquant, 2002, p. 384). It was in this context that the First International Conference on Prison Abolition (ICOPA I) was held in Toronto, Canada in 1983.

ICOPA can be understood as a “conference-movement”, intentionally merging event organizing and broader abolitionist strategizing. Unlike many academic gatherings, where “the eye-catching conference title is as far as the wider engagement goes” (Chancer & McLaughlin, 2007, p. 168), ICOPA was organized as a grassroots event with the explicit purpose of providing a space for proponents of prison abolition including “pacifist activists, academics, journalists, [and] ex-prisoners from all over the world to share analyses and strategies for change” (Nagel, 2003, p. 172). The event would also serve as a medium through which local nonabolitionists in the host community would be exposed to arguments for the eradication of imprisonment, in a manner consistent with Scheerer’s (1986) description of a sensitizing theory.

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Following ICOPA I, the international landscape of incarceration and punishment radically changed. The once-dreamt post-prison age has instead become another era of mass incarceration. The diffusion of the carceral was not simply a matter of the dispersal of discipline and control as described by Foucault (1977), but also the proliferation of practices and spaces of confinement. As the carceral – the term used throughout this article to describe the systematic and organized deprivation of liberty that takes place in prisons, other sites of confinement and in our communities, as well as the diffusion of penitentiary techniques and disciplinary norms throughout society – continues to grow unabated, abolitionists must take stock of the expansion and normalization of detention beyond the scope of traditional penal systems.

Throughout its existence, ICOPA has been able to adapt to the changing realities on the ground, including shifting its focus from prison to penal abolition in the mid-1980s, in part because of the recognition that the introduction of “alternatives” to imprisonment failed to reduce the reliance upon the use of confinement and other punishments. However, the prison embedded within the penal system remained the central object of critique of ICOPA and its eradication the focus for political action. This is reasonable, and our argument is not that abolitionists should ignore developments in the penal system, but rather that the proliferation of carceral controls in fields adjacent or peripheral to the realm of “criminal justice” requires the international abolitionist community to again assess and expand our understanding of what is to be abolished. We have chosen to focus on this question, although we acknowledge that further theorization is needed regarding how abolition is to be achieved and what alternative relations will emerge in a post-carceral, post-prison future.

ICOPA and the international abolitionist movement are not coterminous, and the latter encompasses a diversity of groups, meetings and sub-movements, including critical resistance in the United States. This being said, ICOPA is the longest-running abolitionist conference-movement with an explicitly international scope and agenda-setting ambition, and its history has reflected important signposts in the development of abolitionist discourse more generally.

Building on the works of Morris (2000a) and Finateri and Saleh-Hanna (2000), this examination also maps the emergence of ICOPA, its organization as a movement, its objectives, and how it positioned itself in relation to larger transformations in penal policy and practice. From there, the transition within ICOPA from prison to penal abolitionism that led the movement to consider alternative approaches to stated social problems outside the penal system is discussed. We then focus on three inter-related trends affecting the character of carceral practices and spaces: (1) the impact of the politics of insecurity and related practices of preventative security detention; (2) the ongoing expansion of immigration detention as a mode of confinement and the proliferation of camps for the imprisonment of “non-citizens”; and (3) the continuing practice of colonization through imprisonment, along with the racialized politics of disposability and exclusion. These trends have been explored to varying degrees at previous ICOPAs. We discuss the contributions of the meetings in Lagos, Nigeria (2002), which in many ways made visible the role of imprisonment in the colonization of the African continent and its on-going role in the so-called post-colonial context (Saleh-Hanna, 2008). The gains made during the Colloquium on the Universal Carceral, at ICOPA XII in London, UK (2008) are outlined as they map a number of the ways that confinement and carceral controls are embedded in various spheres and aspects of life today (Larsen, 2008). Taking current trends into account, we propose

that it is time for ICOPA to focus on and work towards *carceral abolition*, with the goal of creating a post-carceral, post-punitive world without prisons.

### **ICOPA: the emergence of an international prison abolitionist movement**

Since their very inception, prisons have been the subject of significant and sustained criticism, including calls for their abolition. As noted by Morris (2000a), many eighteenth-century critiques of imprisonment emerged from prominent individuals such as Thomas Buxton (1786–1845), a British Member of Parliament, and writer Victor Hugo (1802–1885), whose works, including *Le dernier jour d'un condamné* (1829) and *Les misérables* (1862), contained commentaries on the brutalities of confinement in France. In the Canadian context, a number of Royal Commissions and task forces (e.g. Brown, 1849; Archambault, 1938; Fauteux, 1956; Ouimet Report, 1969; MacGuigan, 1977; Arbour, 1996) have assessed and condemned the operations of prisons. Over time, there has been no persuasive evidence that the existence of prisons deters individuals from committing “crime” or that authorities can accurately select individuals to incapacitate in order to prevent future harms (Mathiesen, 1990). The idea that imprisonment can provide justice to those impacted by “crime” has also been strongly rejected by some, who argue that incarceration exacerbates existing harms and creates new ones, as the cold hand of retribution is ill-equipped to meet the needs of those in conflict (Hulsman & Bernat de Celis, 1982; Hulsman, 1986). It has also been established that imprisonment is largely incapable of rehabilitating prisoners and is in fact counterproductive to this end (Mathiesen, 1990). While the prison has been recognized as “a fiasco in terms of its own [stated] purposes” (ibid., p. 137), historically, authorities have responded to criticism by adopting an endless cycle of “reforms”, geared towards transforming the prison within, so that it could then in turn transform so-called criminals into law-abiding and productive citizens.

By the 1960s and 1970s, the abolition of prisons came to be seen by some as a tangible and practical response to efforts which perpetually failed to reform these institutions. It was during this time that prison abolitionist movements emerged around the world. For instance, groups such as the KROM – a Norwegian interest organization composed of prisoners, ex-prisoners, academics, lawyers and practitioners from the penal system founded in 1968 – successfully abolished the use of borstals for youth and the policy of treating vagrancy as a “crime” in Norway (Mathiesen, 1974). In France, the Groupe d'Information sur les Prisons (GIP) was founded in 1971 by Jean-Marie Domenach, Michel Foucault and Pierre Vidal-Naquet to provide prisoners with a vehicle “to speak for themselves” inside and outside prisons to advance their own interests (De Folter, 1986, p. 53).

As prisons were being used to silence and dismantle political groups such as the Black Panther Party and Black Liberation Army (see Saleh-Hanna & Omowali Alston, 2006) in the United States, political prisoners such as George Jackson (1970) and Angela Davis (1974) raised awareness and galvanized support for the abolition of imprisonment. Alongside others, such as members of the American Indian Movement (AIM), they argued that imprisonment was an instrument of oppression that targeted the poor, people of color and other disenfranchised groups, continuing the American legacy of slavery and colonization (see Davis, 2003). During this period, there was also sustained criticism of youth imprisonment (Mathiesen, 1990). It is in this context that officials in Massachusetts abolished youth reform schools in 1972 (Miller, 1991). This development serves as an important example for the abolitionist case, proving

that such a drastic change is possible and also desirable given the negligible impact that the measure had on the Massachusetts crime rate (*ibid.*). Quakers in the United States such as Fay Honey Knopp (1976) also came to see prisons as unjust and violent, and promoted their eradication.

Having been introduced to the ideas of the American Quakers, the Quaker Committee on Jails and Justice in Canada began education campaigns promoting the abolition of prisons (Morris, 2000a). This resulted in the following official declaration from Canadian Quakers in 1981:

*The prison system is both a cause and a result of violence and social injustice. Throughout history, the majority of prisoners have been the powerless and oppressed. We are increasingly clear that the imprisonment of human beings, like their enslavement, is inherently immoral, and is as destructive to the cagers as to the caged.* (Morris, 2000a, p. 70, original emphasis)

As movements across the globe gathered steam, the committee determined that an international forum to discuss the politics and practices of prison abolition was needed. In 1982, planning for the inaugural International Conference on Prison Abolition began.

Held in Toronto, Canada in 1983, ICOPA I focused on creating “international unity among those already adhering to the prison abolitionist approach” (Finateri & Saleh-Hanna, 2000, p. 261). This involved building the organizational capacities of the conference-movement. An interim committee was established which would have the “policy responsibility to keep the abolition goal and plan sites and general broad themes for each conference, and that once a site was decided, local committees would arrange all the immediate details” (*ibid.*). The committee was also responsible for the management and production of an international newsletter. It was decided that these conferences would take place every two years (*ibid.*) and would be guided by the following goals: (1) “motivate the abolitionist community while increasing solidarity”; (2) “provide a forum for the flow and exchange of ideas advancing abolitionist goals”; (3) “public sensitization and education on these issues”; and (4) “addressing questions of viable alternatives” (Finateri & Saleh-Hanna, 2000, p. 262). At ICOPA I, an event which “attracted 400 people from fifteen countries in North America, Europe, and Australia” (Morris, 2000a, p. 71), the origins of prisons, abolitionist strategies and a number of “alternatives” to incarceration were central to the discussions. Since that time, ICOPA meetings have been held in North and Central America, Africa, Europe and Oceania.

The themes discussed at the initial ICOPA initial meeting mirrored in many ways “crime talk” that was taking place within many penal systems across the world, where community-based “alternatives” that sought to take justice out of the hands of the state, its “experts” and institutions were being pursued (Cohen, 1985). Following the premise that imprisonment was a practical, fiscal and ethical failure, proponents of the decarceration movement that became known as “community corrections” sought to replace carceral institutions with nonsegregative arrangements in the community. The goal of “community corrections” was not punishment, nor rehabilitation, but rather to reintegrate those who deviated from the “norm” back into society. This philosophy was rooted in evidence that institutional care is often a harmful and stigmatizing experience, and thus must be a measure of last resort. This view was also supported by the idea that the root causes of “crime” and “delinquency” originate in community settings such as the family and in schools, and thus “deviancy” must be dealt with in those very same

Table 1. ICOPA meetings.

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ICOPA I (1983) – Toronto, Canada
How to Include All the Most Difficult Groups in the Community
ICOPA II (1985) – Amsterdam, Netherlands
Theoretical Directions in Abolitionism
ICOPA III (1987) – Montreal, Canada
From Prison Abolition to Penal Abolition
ICOPA IV (1989) – Kazimierz, Poland
Abolitionism in Eastern Europe
ICOPA V (1991) – Bloomington, Indiana, United States
Aboriginal Roots and Radical Empowerment
ICOPA VI (1993) – San Jose, Costa Rica
Challenging Third World Governments to Adopt Abolitionist Steps
ICOPA VII (1995) – Barcelona, Spain
Penal Abolition, A Real Utopia
ICOPA VIII (1997) – Auckland, New Zealand/Aotearoa
Pathways to Penal Abolition
ICOPA IX (2000) – Toronto, Canada
Transformative Justice: New Questions, New Answers
ICOPA X (2002) – Lagos, Nigeria
ICOPA XI (2006) – Tasmania, Australia
ICOPA XII (2008) – London, UK
Creating a Scandal: Prison Abolition and the Policy Agenda
ICOPA XIII (2010) – Belfast, Northern Ireland
Abolition, Reform and the Politics of Global Incarceration

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This table is adapted and updated from Morris (2000a).

locations. The policy of decarceration also gained credence due to the rising popularity of a neoliberal governing ethos whereby the goal of any government policy “should be less harm rather than more good” (*ibid.*, p. 34).

In the mid to late 1970s and early 1980s “something was happening” (*ibid.*, p. 36). It was thought that, at best, prisons were being closed, or at the very least, new institutions were not being built as illustrated by the proliferation of community-based “alternatives” such as parole, half-way houses, diversion programs and the like (Chan & Ericson, 1981). However, as with past penal “reform” efforts, decarceration did not produce the results intended by its proponents.

Around this time, governments began a systematic dismantling of the welfare state, driven by discourses of fiscal conservatism, individualism and market fundamentalism (Giroux, 2009). The resulting loss of services, including mental health facilities and community-based alternatives to incarceration, left many who needed help to fend for themselves (Scull, 1984). Under-funded and under-resourced, community-based interventions were anything but “humane”, and as was observed later, would create a larger pipeline to conduct the mentally ill and poor to prison (Collins, 2008). For Cohen (1985) and others (see Matthews, 1979; Chan & Ericson, 1981), the decarceration project also did little to address the fiscal concerns of welfare capitalist states, but instead was a rather costly endeavor.

In addition to the growth of community “alternatives”, penal institutions remained operational, retributive bureaucratic structures had not disappeared and the so-called

justice system certainly did not reflect the diversionary rhetoric of informalism, as the convicted were diverted into the system rather than away from it. The politics of decarceration did not reduce our reliance on the punitive structures in society, but rather served as a rhetorical shield legitimating the expansion of the carceral into community spaces, “subjecting more and newer groups of deviants to the power of the state and increasing the intensity of control directed at former deviants” (Cohen, 1985, pp. 37–38). In keeping with the history of “reform”, the “alternatives” and their objectives were absorbed and transformed to meet the expansionary and punitive demands of carceral institutions (Mathiesen, 1990). While many of the apparatuses of the welfare state were destroyed or severely weakened, institutions of confinement, including penal systems, expanded. For Cohen (1985), the fact that nations who experimented with decarceration were left with “wider, stronger and different nets” was not an accidental (p. 38), but rather “business as usual”, revealing the existence of an enduring “master pattern” of social control (p. 39).

### **From prison to penal abolitionism**

The pitfalls of decarceration did not go unnoticed by proponents of prison abolition. As discussed at ICOPA II in Amsterdam (1985), the eradication of prisons depended not on the creation of alternative forms of punishment, but on a shift away from handling conflicts through all retributively oriented institutions (Bianchi & van Swaaningen, 1986) – the logic being that a “court and policing system based on revenge would need something just like prisons or even worse, if we got rid of prisons” (Morris, 2000a, p. 71). While the academic agenda at the conference was vital to increasing “awareness of the role a punitive and retributive criminal justice system plays in erecting and maintaining prisons” (Finateri & Saleh-Hanna, 2000, p. 262), the scholarly orientation and composition of participants at the meeting prompted some to critique the conference-movement for moving away from activist engagement.

At ICOPA III, the International Conference on Prison Abolition officially became the International Conference on Penal Abolition. This shift in name and the resulting expanded focus of analysis, politics and practice led the movement to consider alternative forms of justice outside the penal system to address interpersonal conflicts, contributing to the modest growth of approaches such as restorative justice (Zehr, 1990), peacemaking criminology (Pepinsky & Quinney, 1991), and transformative justice (Morris, 2000b).

To address the under-representation of marginalized voices at the previous meeting, the organizers of ICOPA III made efforts to include “grassroots organizations such as the Anarchist Black Cross groups and the Leonard Peltier Defense Committee”, along with Canadian aboriginal groups such as the Native Women’s Association (Gaucher, 2002, p. 8). The organizers also sent out a call for papers written by prisoners to be presented in person or by designated delegates at the conference. These papers would form the basis of the first volume of the *Journal of Prisoners on Prisons* in 1988, a publication which aims “to bring the knowledge and experience of the incarcerated to bear upon ... academic arguments and concerns, and to inform public discourse about the current state of our carceral institutions” (Gaucher, 1988, p. 54).

With renewed momentum, ICOPA meetings were held in countries where the use of confinement was prevalent, such as post-communist Poland (1989) and in Indiana (1991) “when the USA had become the imprisoning capital of the world” (Morris, 2000a, p. 72). Since that time, the focus of many penal abolitionists has been directed

towards mounting resistance against the exportation of Americanized mass imprisonment approaches, which has been felt to a greater or lesser extent across the globe. For example, Wacquant (2009, p. 1) describes the selective importation of policies grounded in a “new punitive common sense” in a number of European countries, which he attributes to the rise of neoliberalism and the “wedding [of the] ‘invisible hand’ of the deregulated labor market to the ‘iron fist’ of an intrusive and omnipresent punitive apparatus”.

The logics of risk and economic managerialism found in the “free market” formed the basis of a “new penology” in “corrections” which focused on the incapacitation of aggregate offender populations based on static and dynamic risk factors (Feeley & Simon, 1992). Market forces have become further embedded within prison walls and other “criminal justice” institutions with the development of a robust “crime control industry” that turns a profit on the backs of those subjected to the violence of the penal system (Christie, 2000). Instead of assessments based on need, “crime” is now also considered a primary lens through which individuals can be sorted, as illustrated by such developments as the use of drug testing by government agencies to establish eligibility for welfare assistance (Simon, 1997, 2007). As the disparity between rich and poor has grown, government officials and professional managers of unease (Bigo, 2002) have played on the insecurities of the public (Garland, 2001), increasing their political capital through calls for harsher sentences (Reiman, 2004), often for short-term electoral gain (Pratt, 2005b). This has permitted a “new punitiveness” in which there is an increasing “tolerance for brutalizing penal sanctions and prison conditions that some 30 years ago or so would surely have been quite unthinkable” (Pratt, 2005c, p. xi). These developments cannot be detached from increased social marginalization and rising rates of poverty (Beckett & Western, 2001; Wacquant, 2009), and broad cultural shifts towards more exclusionary forms of society (Young, 1999).

The emergence of neoliberalism, where restructuring resulted in “an uneasy marriage between economic liberalism and authoritarian governance” (Peck, 2003, p. 225), propelled an “emergent process of ‘carceralization’” (ibid., p. 226) that disproportionality targets women who do not conform to gender expectations, the poor, people of color and youth (Davis, 2003; Giroux, 2004, 2009). The rush to punishment has had numerous collateral consequences – “intended or unintended” (Mauer & Chesney-Lind, 2002, p. 1) – for the loved ones of prisoners and their communities, along with the social and political fabric of societies. Children without mothers and fathers (Braman, 2002; Richie, 2002; Bernstein, 2003), much-needed resources taken out of urban neighborhoods to fund prisons built in rural towns (Gonnerman, 2007), and voting districts redrawn in some instances due to the forced migration of prisoners to jurisdictions where they are now counted as residents (Hunter & Wagner, 2007), are some of the impacts of imprisonment rendered invisible. Once revealed, they illustrate how the effects of punishment are not limited to individuals with whom the law is in conflict, but extend throughout social structures and relationships. Yet the public generally experiences imprisonment only through the consumption of often-sensationalist accounts enabling a false sense of disconnect – a “perceptual fallacy” – between the community and the prison, despite the fact that the two are growing ever more intertwined (Nagelsen & Huckelbury, 2008, p. 16).

The surge in incarceration described above emerged following a socio-historical context that saw large-scale civil rights and progressive movements operating across

a number of social spheres. This being the case, there is reason to be concerned about the present prospects for abolition, given that the dominant themes of contemporary politics are risk, uncertainty and insecurity (Ericson, 2007). The post-Boomer generations have grown up in a time of normalized mass incarceration (Parenti, 2008) and have experienced “9/11” as a defining cultural and historical signpost. We grew up with police liaison officers and drug searches in schools, C.O.P.S. on television, bomb-sniffing dogs in public transportation hubs and everywhere a perpetually expanding surveillant assemblage. We have experienced the creeping paramilitarization of the public police, illustrated by the shift from blue service uniforms to black tactical outfits, complete with an array of lethal and “less-lethal” weaponry. We have seen the growth of a massive private security sector backed by an explosion in university and college training programs geared towards the production of insecurity and “criminal justice” professionals – a development that has entrenched the carceral by linking its growth to the employment of millions (Neocleous, 2008). Perhaps most importantly, we have witnessed the ascendancy of a mono-discourse on “crime” in the political sphere where many Western states have fallen into a populist “get tough” rut. This includes left and centrist parties who have adopted the parrot hard-line talking points about crime control and sentencing (Tham, 2001), lest they expose themselves to an accusation of being “soft on crime”. Several observers have argued that, rather than being discrete targets of governance, “crime” (Simon, 2007), “security” (Valverde, 2001) and uncertainty (Ericson, 2007) have become dominant vectors or standpoints for the governance of society in general.

It is against this backdrop of ubiquitous fears (Bauman, 2006), normalized mass incarceration, pervasive surveillance and industrialized insecurity that current penal abolitionist efforts must be organized. In many ways, the challenges that face us are similar to those faced by earlier proponents of abolitionism. However, if, as Mathiesen (2008) argues, the abolitionist stance is about the fostering and channeling of *turning points*, it seems evident that the current situation requires not only a shift in direction but also an emergency brake. One of the greatest challenges facing abolitionists today is the prospect of fostering an abolitionist stance in a generation socialized to view the world through a lens of insecurity. Working towards this goal will require an awareness, on the part of the abolitionist movement and ICOPA, of the trends that shape penal policy and the systematic deprivation of liberty in the contemporary context. It is once again necessary for the ICOPA conference-movement to re-assess what is to be abolished and to expand its gaze accordingly.

### **The need to expand the gaze of penal abolitionism**

We need to increasingly be thinking and talking about *carceral abolition*. We use carceral to mean both the diffusion of mechanisms of surveillance and control encompassed by Foucault’s (1977) exploration of disciplinary power and practices of confinement more generally. Whereas the first two ICOPAs focused on the prison, and subsequent meetings expanded their focus to encompass broader punitive trends, future ICOPAs need to address the use of confinement, and the systematic deprivation of liberty in spaces outside and adjacent to the penal system, as traditionally conceived. This was one of the central themes of the Universal Carceral Colloquium held at ICOPA XII.

### *Preventative detention and the politics of insecurity*

A first trend that we argue is shaping the contemporary carceral is the ascendancy of the precautionary paradigm and associated tactics of pre-emption. While preventative logics have been a driver in the penal system for some time (e.g. use of indeterminate and lengthy sentences for “dangerous offenders”), the emergence of “security” as the dominant discourse, problem and mode of governing of our time by the politics of the post-11 September 2001 context (Neocleous, 2008), has led to a significant expansion of precautionary incarceration in various fields of governance.

Governing through security is about shaping the present in response to the imagined harms of the future. The contemporary politics of insecurity employ a catastrophic imaginary, where the hypothetical consequences of the failure to take preemptive action are viewed as unacceptable (Ericson, 2007). The future, according to this logic, is considered to be simultaneously characterized by pervasive uncertainty and fatalistic inevitability. Ericson suggests that the all-encompassing pursuit of security is essentially an attempt to impose control, order and certainty on an increasingly uncertain world. One of the fundamental paradoxes of this pursuit is that efforts to render uncertainty calculable – and therefore manageable – as risk inevitably gives rise to additional uncertainties. The result is that “[u]ncertainty ends up proving itself” (ibid., p. 35). Bauman (2006) suggests that this manifests socially in a self-perpetuating state of “derivative fear”, characterized by feelings of susceptibility, insecurity, and vulnerability.

The one certainty of this anti-utopian vision of the future is that it will remain fraught with insecurity. Elmer and Opel (2008) argue that invocations of an inevitable – and inevitably insecure – future are central to contemporary forms of governing. Under the politics of this seemingly inevitable future, officials are able to legitimize preemptive and precautionary actions through a discourse that reconfigures “what if” scenarios as “when, then” scenarios (Elmer & Opel, 2008, p. 19). Threats such as “terrorism” and “crime” cease to be intelligible as temporally bounded, contextualized and socially constructed problems, and instead become reified as omnipresent perils demanding perpetual vigilance and expanding systems of control (Larsen & Piché, 2009a). Being able to speak authoritatively about aspects of this future has become a key vehicle for the exercise of power, giving rise to what Bigo (2005) describes as a transnational field of unease management, where professional insiders derive legitimacy from claims to expert, and often secret, knowledge about security and future threats.

These developments continue to have a significant impact on contemporary penal policies and on the character of the “supranational carceral regime” (Hallett, 2009, p. 114) more generally. The aforementioned cycle of uncertainty-securitization-uncertainty is driving the expansion of the pool of criminalizable acts, which, as Christie (2000, p. 23) notes, are in “never ending supply”. The UK, for example, has passed dozens of new bills over the last decade that have created thousands of new “criminal offenses”. This expansion is in part driven by government responses to new trends, major events and moral panics, including the rapid and ongoing proliferation of anti-terrorism measures in the post-11 September 2001 context. While only a small fraction of new long-term prisoners are incarcerated based on anti-terrorism acts, these laws have predictably made possible the further criminalization of dissent, allowing for the continued growth of paramilitary forms of public order policing (Newburn, 2007; Elmer & Opel, 2008), first introduced in the United States during the Vietnam War era (Davis & Mendieta, 2005).

The politics of insecurity and precaution do more than contribute quantitatively to the growth of existing systems of control. They also expand them in radically new directions. Perhaps the most problematic aspect of this expansion – and one that we suggest should be a central concern at future ICOPAs – is the ongoing shift towards what Zedner (2007, p. 262) calls “pre-crime societies”, in which “the possibility of forestalling risks competes with and even takes precedence over responding to wrongs done”. Ericson (2007, p. 2) describes these policies as demonstrations of the “criminalization of the merely suspicious”. In concrete terms, this means the proliferation of mechanisms that allow for arrest, imprisonment, deportation and other forms of control and exclusion on the basis of categorical assertions of what an individual will do in the future. Such actions are justified according to the dominant mantra “better safe than sorry”. This trend is reflected in an expansion of the groups deemed to pose a persistent danger to society, such as “sex offenders”, who are often subjected to various forms of indefinite control including imprisonment and electronic monitoring in a stated effort to prevent harm these individuals may pose to communities in the future (Spencer, 2009).

The deprivation of liberty according to a logic of security and prevention is generally referred to as detention, as opposed to imprisonment or incarceration, and it takes many forms. Detention is a slippery concept that is often used to describe short-term or transitory forms of imprisonment, and it is almost always accompanied by an unspoken “pending” (charge, trial, deportation, and so on). Terms of detention are rarely of a fixed length, which sets them apart from many forms of imprisonment that result from a sentence under the criminal law. In a pre-crime paradigm, however, detention takes on an increasingly indefinite and secretive character. Individuals deemed to represent future threats are detained, sometimes for years, on the basis of intelligence that they are unable to view or contest. For example, Canadian immigration security certificate detainees, United Kingdom “non-citizens” subject to control orders, as well as captives of the American archipelago of “new war prisons” (Butler, 2006) all experience prolonged and indefinite forms of incarceration and control imposed for preventative purposes. In each of these cases, the goal of the proceeding is to facilitate precautionary incapacitation through incarceration, on the basis of secret evidence. Due process is considered an anachronism under these mechanisms, and hearings are often held *ex parte* and *in camera* without any recognition of the judicial principle of *audi alteram partem* (Justice, 2009). This ethos of secrecy is justified as a necessary measure to protect national security, which officials argue would be jeopardized by the exposure of intelligence materials or techniques in open court.

A specific example of preventative detention in action can be seen in the case of Mohamed Harkat, an Algerian refugee who has been subject to a Canadian security certificate since 2002. Harkat spent between 10 December 2002 and 21 June 2006 in detention, and is currently on conditional release under a shifting and historically unprecedented regime of conditions (Larsen, Harkat, & Harkat, 2008). While the government maintains that he has links to the “Bin Laden Network” and is a terrorist sleeper agent who poses a threat to Canada’s national security, he has never been charged with or convicted of a “crime”, nor has he been permitted to view or challenge the secret evidence against him. Instead, through the use of an obscure component of immigration law, he has been detained “pending removal” to Algeria. The likelihood that he would be tortured or disappeared if he was deported with vague terrorist allegations hanging over his head has led him – and the other detainees that make up Canada’s “Secret Trial Five” – to mount a vigorous opposition to the certificate

mechanism. In this case, detention pending removal transformed into indefinite detention and then into indefinite transcarceral control (*ibid.*).

Pre-crime practices like security certificates are not justified by their proponents through a discourse of punishment and retributive justice. Unlike other trends driving the expansion of the carceral such as the adoption of “three strikes” sentencing laws, truth-in-sentencing or the use of mandatory minimum sentences, preventative detention is not a response to “crime”. Instead, it is a pre-emptive – an action taken to forestall some future threat, according to government rationales. Often, as in the examples mentioned above, preventative detention operates outside the realm of criminal law, instead relying on administrative, immigration or quasi-military legal frameworks (Ericson, 2007; Larsen & Piché, 2009b). The net result is often incarceration without allegations about specific wrongs committed, without alleged victims, without adjudicated convicts and without a sentence. Abolishing these mechanisms requires the extension of carceral processes that operate outside the traditional logics, systems and spaces of the penal system.

The issue of preventative detention arose several times at ICOPA XII. Former Guantanamo “enemy combatant” prisoner and British citizen Moazzam Begg spoke about being arrested in Pakistan, kidnapped by the CIA, abused, denied access to legal representation, shipped to Guantanamo, subjected to years of extrajudicial detention and eventually released without charge (see Begg & Brittain, 2006). His account provided an entry point for a broader discussion of the complex links between the prison-industrial-complex and the military-industrial-complex, with the American facilities at Guantanamo and Bagram demonstrating their convergence in the form of the “new war prison” (Butler, 2006; see also Davis & Mendieta, 2005). On this point, Neocleous (2008, p. 152) suggests that “we have what appears to be a transformation in policing and incarceration that parallels the transformation in the exercise of military violence”, with both fields experiencing aggressive expansion and growing privatization. Sophie Harkat, human rights advocate and wife of Mohamed Harkat, also spoke at ICOPA XII, and her presentations dealt with the Canadian regime of indefinite detention and secret trials. She emphasized the blatant incongruity between such procedures, the rule of law and principles of human rights. Sophie also spoke about the capacity of preventative detention to extend beyond its direct targets, subjecting families and broader communities to forms of carceral control (see Larsen et al., 2008).

In the discussions about these practices at the conference, one of the issues that arose was the risk of responding to such “exceptional” forms of detention by holding up traditional “criminal justice” frameworks as preferable alternatives or lesser evils. This is a complex challenge. People subjected to forms of preventative detention without charge or trial are justified in their pursuit of due process, transparency and a semblance of justice. Movements in support of such prisoners have been important and effective opponents of the runaway growth of the carceral state. This being said, efforts to abolish exceptional and preventative forms of imprisonment by inscribing them within the penal system may not further the long-term goals of penal abolitionism. For example, the Canadian movement to oppose security certificates often calls for the detainees to be either released or charged under criminal anti-terrorism laws. We have advanced this position ourselves in the past (see Larsen & Piché, 2007), but we note that it does have the potential to uncritically hold up the penal system as a just and preferable alternative (see Sudbury, 2008).

An example of this potential can be seen in recent and ongoing changes to the American carceral regime at Guantanamo Bay. One of US President Obama’s first

official acts was to issue an Executive Order in January 2009 on the “Review and disposition of individuals detained at the Guantanamo Bay Naval Base and closure of detention facilities” (White House, 2009a). At the time, this was hailed as an important turning point away from the previous Bush administration’s policy of extraordinary detention, representing a renewed commitment to due process. Since the signing of the order, some detainees have been slated for release without charge but remain imprisoned due to the lack of any country’s willingness to accept them (Ehret, 2009). Other detainees are being transferred to the United States to face criminal charges, prompting a heated debate about new structures – both legal and physical – for the long-term incarceration of alleged terrorist prisoners. Some, including President Obama, maintain that American “supermax” prisons are a viable alternative to the military facility. In a May 2009 speech on national security, President Obama stated that there may be some detainees at Guantanamo “who cannot be prosecuted for past crimes, in some cases because evidence may be tainted, but who nonetheless pose a threat to the security of the United States”, and that “I am not going to release individuals who endanger the American people” (White House, 2009b). The shift towards a post-Guantanamo policy is still ongoing, but it appears to be the case that the movement to close the facility will result in the further entrenchment of its underlying preventative logic throughout other legal systems, with no net reduction in the scope of the carceral. In the short term, this may take the form of a retrofit of the Thomas Correctional Center in Illinois to confine a supermax population of “enemy combatant” detainees – hardly a victory for penal abolitionism and potentially another example of “reform” leading to “wider, stronger, and different nets” (Cohen, 1985, p. 38).

### *Immigration detention*

Both security certificates and control orders target “non-citizens” for preventative imprisonment, but these mechanisms only represent the tip of a massive and growing immigration detention iceberg. The proliferation of immigration detention camps and institutions is a second major trend that we argue is shaping the expansion of the carceral. The politics of insecurity are a driving force here as well, as noted by Bigo (2002), Bauman (2004) and Pratt (2005a). Bigo (2002, p. 67) argues that migration has historically been viewed by states as a threat to the “homogeneity of the people” and to its capacity to exercise control over its territory. Consequently, migration is seen through a lens of insecurity, whereby officials are able to score political points by drawing distinctions between citizens and foreigners, and offering to protect the former from the latter, often through the enactment of states of exception (Agamben, 1998; Razack, 2008). Bauman draws a direct line between the contemporary state of pervasive uncertainty and the fear and scapegoating of immigrants. He suggests that refugees, asylum seekers and immigrants are increasingly viewed – and deliberately framed – as the waste byproducts or “collateral damage” of globalization under conditions of late modernity, where the erosion of international barriers to capital has been accompanied by the creation of new barriers for people. Both Bauman and Bigo argue that, in uncertain times, migrants are easily targeted as threatening “others” and are increasingly relegated to “global frontier-lands” (Bauman, 2004, p. 80). These include massive refugee camps where individuals are subjected to control, detention and deportation. Razack (2008) makes a similar argument, relating the trend to the global project of empire to problematize how we “are invited to defend country and civilization and to join in the creation of a world that requires camps” (p. 21).

In the United States, the “current population of [immigration] detainees represents the fastest-growing segment of the federal prison population” (Hallett, 2009, p. 121). Crackdowns on refugees and asylum-seekers have also expanded the immigration incarceration systems in Australia and Canada (Pratt, 2005a). The policing of the European Schengen zone has resulted in the emergence of new carceral spaces designed to facilitate the control and deportation of undesirable foreigners (Bigo, 2005). Predictably, the “outcasts of modernity” have become fodder for the ever-expanding prison-industrial-complex and the key players in the private carceral-security industry in the United States have become heavily involved in the detention of “close to a million undocumented immigrants” (Business of Detention, 2009). Incarceration and immigration have come to be intertwined and “non-citizens” are increasingly relegated to carceral spaces, not in response to alleged harms done, but because of their legal “non-status”.

As with preventative detention, one of the key issues here is the proliferation of carceral spaces that are peripheral to the penal system that remains the primary target of abolitionist efforts. Further, the expanding archipelago of immigration detention camps operates according to a nondisciplinary logic that strips away the pretense of “corrections”, leaving nothing “but the walls, the barbed wire, the controlled gates, the armed guards” (Bauman, 2004, p. 78). Immigration detention is based on incapacitation and exclusion (Hallett, 2009). Its purpose is not to discipline the carceral body, but to separate it from the political community and purge it from the sovereign territory. This rationale has definite parallels with the penal system, as discussed in Young’s (1999) work on exclusive societies. Nonetheless, it warrants careful attention as a distinct facet of carceral expansion. We suggest that the organization of future ICOPAs should involve renewed efforts to form connections and solidarity between the penal abolitionist movement and groups working to advance immigrant rights, and oppose what Pratt (2005a) refers to as the assemblage of immigration penalty. The transnational rallying cry “no one is illegal” is, after all, a decidedly abolitionist statement.

### *Colonization through imprisonment and the politics of disposability*

It is impossible to fully appreciate the expansion of mechanisms of preventative detention, the politics of insecurity, the assemblages of immigration penalty or the expansion of the carceral more generally without recognizing the persistence of institutionalized racism and colonial systems of control (Saleh-Hanna, 2008). Indeed, as Hallett (2009, p. 123) notes, many contemporary carceral practices “cannot be understood outside the context of race, that historical criterion of dispossession so much the source of exploitative profits of the past”. The consequences of the disproportionate targeting of racialized communities by the war on drugs are well documented, and the wars on immigrants and terror have supplemented existing trends (Giroux, 2004; Hallett, 2009).

Racism, the role of the penal system in colonialism (and vice-versa), the legacy of institutionalized slavery and the oppression of Native peoples have been important themes at previous ICOPAs. For example, the theme of 1991’s ICOPA V, held in Bloomington, Indiana, United States, was “Aboriginal Roots and Radical Empowerment”, and many panels at ICOPA VIII, held in 1997 in Auckland, New Zealand, focused on the imprisonment of Maori peoples. Despite such efforts, these topics sometimes disappear into the background at ICOPAs (Finateri & Saleh-Hanna, 2000), revealing what Sudbury (2008, p. xxi) has described as an “unstated Western bias” in

politics, advocacy and academia which can lead to the exclusion of voices from the global South. Finateri and Saleh-Hanna (2000, p. 266) also note that efforts to engage directly with the “negative effects of oppression” faced by Native peoples at ICOPA meetings have been localized, and have yet to develop into a broader engagement with the ongoing relationship between colonization and incarceration.

ICOPA IX, held in Toronto in 2000, saw a number of interventions intended to highlight the lack of African and African American representation in the conference-movement, and to place focus on issues of racism more generally (Saleh-Hanna, 2008, p. 468). After some tense debate, it was decided to turn the organization of the following conference to a group of Nigerian representatives, resulting in the first African venue for ICOPA and effectively extending the scope of the conference-movement. This meeting, the Tenth ICOPA, represents an important moment in the history of the conference-movement. In a special issue of the *Journal of Prisoners on Prisons*, Saleh-Hanna (2005) describes an intense conference that dealt with, among other things, methods of resistance through expression, the colonial history of imprisonment in Africa and the stories of Nigerian prisoners. ICOPA X also included an entire day dedicated to the discussion of alternatives to penal institutions, with an emphasis on traditional, nonpunitive models of justice (ibid.). As with ICOPAs where traditional Aboriginal justice approaches have been highlighted, these discussions are particularly important as they provide us with examples of recently prisonless societies.

Reflecting on the ICOPA X proceedings and on her experiences in Nigeria more generally, Saleh-Hanna (2008) critiques the use of the concept of “post-coloniality”. She argues that the disappearance of officially recognized forms of colonial government from Africa has not been matched by the disappearance of Western institutions with colonial origins. The persistence of the colonial prison is particularly illustrative of the way in which “coloniality continues, transformed from direct rule by external colonial powers to oppression by an externally supported government structured by colonial principles of violence, militarization, and disregard for human rights” (Sudbury, 2008, p. xxiv). This perspective is supported by Dayan’s (2007) exploration of the legal history of the US Eighth Amendment against cruel and unusual punishment. She demonstrates how the forms of institutionalized mistreatment and degradation – including torture – that characterize the current American experiment in mass incarceration have their origins in the laws and jurisprudence that governed the treatment of black slaves (see also Davis & Mendieta, 2005). Such laws attempted to balance some prohibitions on permissible punishment with the rights of slave owners to control their property, and in so doing, Dayan (2007, p. 87) argues, they injected the legal language of punishment with the twisted logic of slavery. Outlawing only punishment that is both cruel and unusual leaves the powerful with a great degree of latitude in terms of the infliction of systematic and normalized brutality upon slaves or prisoners.

Saleh-Hanna (2005, p. 10) suggests that a useful general definition of colonialism “relates to an assessment of power and the unequal distribution of power occurring when one group endeavors to impose its command upon an ‘inferior’ group”. This resembles Razack’s (2008, p., 8) definition of race thinking, a concept introduced by Hannah Arendt to describe “a structure of thought that divides up the world between the deserving and the undeserving according to descent”. She argues that when “race thinking unites with bureaucracy [and is] systematized and attached to a project of accumulation, it loses its standing as a prejudice and becomes instead an organizing

principle” (ibid., p. 9). It also explains the various ways in which Muslims have come to be excluded from Western political communities, including through their incarceration in camps. The current Canadian security certificate cases, Razack argues, cannot be understood outside the context of race thinking that transforms the detainees – all Muslim men – into dangerous jihadists, incapable of reason and therefore undeserving of protection under the law, and, ultimately, subject to “pre-emptive punishment” (ibid., p. 29). Giroux (2006) also considers the role that the racialized concepts of superiority–inferiority and deserving–undeserving play in contemporary systems of exclusion. Tying together the notion of an emergent security state founded on cultural homogeneity with a critique of the biopolitics of marginalization and disposability, he suggests that the United States is currently engaged in a silent war against populations of color. A central feature of this war is the systematic operation of a dialectic of exclusion – spatial, economic and political – and cultural invisibility that silences the voices of its targets, while consigning them to the dumping grounds of the neoliberal order.

Race thinking, penal colonialism and the biopolitics of disposability are central features of contemporary carceral trends, and key factors linking current practices to historical forms of exclusion and domination. Accordingly, these issues should remain central to the abolitionist movement and to ICOPA. In proposing a conceptual shift towards carceral abolition, we highlight the proliferation of spaces and practices of confinement that are not components of the traditional penal system. However, our intention is not to suggest that these trends – preventative detention, the politics of insecurity and the proliferation of camps – are in any way representative of a wholesale rupture or departure from the forms of penalty that abolitionists have traditionally fought against. Continuities and linkages abound, and the disproportionate infliction of imprisonment as well as other forms of control according to distinctions of gender, race, ethnicity or group membership is perhaps the key bridge linking the critique of the juridico-political spaces of the prison and the camp.

### **Moving forward: on the future of ICOPA**

It has been over 25 years since the First International Conference on Prison Abolition. These meetings have been an important forum where penal abolitionist thought and action have been renewed. Abolitionists are often in the position of having to reiterate the basic premises and core arguments of our politics to audiences that have accepted the naturalness and inevitability of the carceral. ICOPA provides a space where conversations can move beyond attempts to convince, and explore alternative ways of conceptualizing and responding to conflict. We suggest that, in future ICOPA meetings, discussions must include sharing strategies and lessons learned, along with the development of new tactics to address the persistence of colonial systems of control (Saleh-Hanna, 2008), along with the normalization and proliferation of carceral controls in fields outside the penal system (Larsen, 2008).

The abolitionist movement, broadly conceived, is flexible and has adapted to shifting trends in the deprivation of liberty (Mathiesen, 2008). The conceptual shift towards a strategy of carceral abolition is already well underway, both in the literature and at the grassroots. Moving forward requires an acknowledgement of new trends in confinement and to the linkages between them. More than ever, it also requires the appreciation of the relationships between local struggles and practices, and global patterns. “Thinking globally” is reflected in recent efforts to give a name to the macro-level trends that

form the target of the abolitionist movement. Sudbury (2005), for example, speaks of a “global lockdown”. Bauman (2004, p. 63) critiques the “progressive criminalization of the globe and globalization of crime”. Razack (2008, p. 22), drawing on Agamben (1998), grounds her study of race thinking in an “awareness of the world as a camp”. Hallet (2009, p. 115) speaks about the “supranational carceral state”. Larsen (2008, p. 2), drawing on the discussions that took place at ICOPA XII, argues that we are presently in the context of the “universal carceral”, characterized by the “wholesale growth of the mentality of exclusion and its associated practices of surveillance, confinement and control” and the “proliferation and normalization of detention as a disposal or management tactic”.

These efforts to frame practices of confinement at a macro level open-up spaces for dialog between abolitionism and other broad critiques of social and political trends. Returning to Foucault’s (1977) framing of the carceral as involving the diffusion of the penitentiary technique and of panoptic systems of surveillance, we note that the rise of the supranational carceral state is taking place alongside the emergence of the surveillance society. The two trends are inextricably linked by architectures of observation, exclusion and control, along with the juridico-political spaces of the prison and the camp blur not only with each other, but, through surveillant assemblages, with a variety of public and private settings (Ericson, 2007; Larsen & Piché, 2009a). Mathiesen (2008, p. 59) makes the important observation that abolitionists must engage with the “complex functionally interrelated systems” that support prisons and penal politics. A movement against prisons that does not address broader panoptic processes is inherently limited in its abolitionist potential.

The hosting of ICOPA XII in London, UK provided ample illustration of this point. International participants arrived, negotiated layers of security screening at the airport and traveled to the conference venue in the heart of the CCTV capital of the world, under the watchful eyes of a ubiquitous modern police force. We spent the days discussing the urgent need to abolish prisons and to foster relations which promote social justice, and in the evenings, many of us reconvened at the local pub to continue the conversation. Our short walk from the conference venue to the pub was caught by dozens of exterior cameras, and several interior cameras captured our evening deliberations. It has long been a staple of abolitionist theory that meeting the long-term objectives of the movement requires the destabilization of the taken-for-granted belief that prisons are normal and inevitable features of modern society (Mathiesen, 2008). We would suggest that accomplishing this will require the concurrent fostering of “a normative critique that calls into question the moral and ideological bases, as well as the differential material effects, of various surveillance practices and systems” (Hier & Greenberg, 2009, p. 5).

Given the global and multi-faceted nature of the carceral, the need for a sustained international forum for abolitionist dialog, organization and mobilization seems greater than ever. The June 2010 ICOPA took place in Belfast, Northern Ireland, a city with a history that has been – and continues to be – shaped by organized violence, carceral controls and resistance. ICOPA XIII provided the venue for an expanded dialog about the universalization of the carceral. As more and more human beings either find themselves contained within prison walls or have their freedoms restricted by diffused controls that pervade daily life, penal abolitionists must unite and consolidate our efforts with other connected social justice movements struggling against domination and injustice to purge our world of the “current carceral binge” (Gaucher, 2008, p. 6).

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