

Penal Abolitionism

Manifesto for the abolition of penitentiaries and other prisons

(from a German perspective)¹

1. Abolitionism is the radical rejection of institutions deemed inhuman

An abolitionist stance finds its expression in the demand to do away with institutions, which turn human beings into enslaved, despicable, worthless creatures. Examples were and are, the demand to abolish slavery, torture, or the death penalty. The more or less complete elimination of the institutions mentioned has encouraged us to include one more institution in this abolitionist program. The present manifesto concentrates on the deprivation of liberty as a punishment. However, it also calls punishments as such into question².

2. Penitentiaries should be abolished

The placement of people in prisons as a punishment is both unnecessary and inhuman. The demand to abolish prisons can therefore be heard increasingly also in the German-speaking world³. Among the most important reasons for this demand are the following:

- the placement in penitentiaries violates elementary human rights. It entails forced labour, forced celibacy, forced poverty et cetera;
- in addition penitentiaries are counterproductive, in that they contribute to labeling the imprisoned persons as dangerous, useless, not trustworthy et cetera;
- imprisonment has undesirable side effects (co-punishment of others, especially children and partners)
- deprivation of liberty also aggravates the living conditions, into which prisoners are released (e.g. difficulty to find employment, accomodation; general social declassation).
- the existence of penitentiaries nurtures the illusion that through imprisonment criminality can be reduced and the solution of social problems can be achieved.

3. Their reduction should be initiated right now

The abolition of penitentiaries is a long-term project, but their reduction should be started right now. The following types of prison sentences and forms of imprisonment can serve as a starting point:

- imprisonment for failure to pay a fine should be abolished as soon as possible and without a substitute punishment; fines can be enforced exclusively by means of private law;
- imprisonment as a punishment should be outlawed for juveniles; it can be replaced by measures of youth welfare;
- life-time imprisonment should be recognized as an inhuman measure and abolished (and replaced by determinate sentences);

- closed prison regimes should, as a rule, be replaced by open ones;
- conditions in the remaining types of closed prison institutions should be made to „approximate as closely as possible the positive aspects of life in the community“ (European Prison Rules Nr. 5), e.g. residential buildings rather than cell blocks.

4. Other types of incarceration should also be avoided

Deprivation of liberty should be avoided as much as possible also for other goals than for punishment. Arguments as those against penitentiaries are usually also valid against other forms of deprivation of liberty. In particular, we should avoid that penitentiaries continue to exist under other names („forensic institutions“, „security internment“, „administrative detention“ et cetera). We should specifically demand

- the abolition of immigration detention;
- the avoidance of pre-trial detention as much as possible (in favour of social pledges et cetera);
- the introduction of a legal presumption of non-dangerousness to avoid „precrime“⁴ imprisonment.

5. Alternatives for dealing with „crime“ are available

The concept of „crime“ covers highly different types of socially unwanted behavior. The reaction to them has to take account of these differences and should not overlook, that we are dealing with, both legislatively and judicially, with selective processes of criminalization⁵. In some cases, a regulation completely outside the criminal law is called for (e.g. for the complete field of drug offences, for shoplifting and for fare evasion). But even in cases, in which a prison sentence is still deemed necessary, there should always be the possibility to suspend it in favour of more meaningful alternatives, e.g.:

- job placement services instead of punishment
- job training instead of punishment
- assisted living instead of punishment
- probation supervision instead of punishment
- therapy instead of punishment
- insurance instead of punishment
- reconciliation instead of punishment
- reparation instead of punishment.

6. Punishment is not necessary, incarceration even less so

Prisons are not necessary to deal with the needs of victims and/or offenders. Eventually, alternatives to criminal justice like restorative justice, transformative justice et cetera should be developed⁶.

¹ This is an English translation of a manifesto published 2019 in German on the Wepage www.strafvollzugsarchiv.de.

Our model was the manifesto published by *Livio Ferrari/Massimo Pavarini*: No Prison Manifesto (<http://noprison.eu>; in seven languages). The present manifesto is based on an article entitled „No Penitentiaries“, published by *Johannes Feest und Sebastian Scheerer* in the collection No Prison, edited by Massimo Pavarini/Livio Ferrari, Capel Devi 2018, It was refined by several discussions with likeminded friends. Final editing: Johannes Feest.

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² For the international development of abolitionism see Michael Coyle/David Scott (eds.) International Handbook of Penal Abolitionism. Routledge, Taylor, Francis 2020

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³ *Johannes Feest*: Ist Freiheitsentzug als Sanktionsmaßnahme im 21. Jahrhundert noch zeitgemäß? Vortrag anlässlich der 300-Jahrfeier der JVA Waldheim. In: Sächsisches Staatsministerium der Justiz (Hrsg.) Vollzug für das 21. Jahrhundert. Baden-Baden: Nomos 2019, 33.
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See <https://de.wikipedia.org/wiki/Precrime>

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⁵ *Thomas Galli*: Plädoyer für eine Neuordnung des Strafrechts mit sanfter Vernunft. Vortrag auf dem Strafverteidigertag 2018.
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