

Roundtable on the Future of Justice Policy

Examining Justice Reform and the Social Contract in the United States: Implications for Justice Policy and Practice

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Suppressing Education to Silence Resistance: An American Tradition in Black Lives

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Introduction

For the past 20 years, I have been identified as a practitioner in the prisoner reentry space. That is, as I have discovered over time, precisely what I'm not. If I am a practitioner, it is in the work of teaching Black women to transgress. Teaching to transgress is the title and thesis of bell hooks' book, *Teaching to Transgress: Education as the Practice of Freedom*. She introduces an engaged pedagogy that encourages students to convert ideas into action. Education should be experienced as the process of reflecting on the world to work to change it. It is a derivation of Paulo Freire's concept of praxis in that it goes beyond making a connection between the classroom and the world. hooks includes the awareness that in that process, one is also changing, evolving. Self-actualization is too often a process of privilege and access to social capital that allows learners at any age to focus solely on education and to draw out of the experience every drop of benefit it has to offer. My community—the community of Black women, in particular—who have been on the receiving end of what the criminal justice system (CJS) has to offer, has not typically experienced education in that way. This truth is fundamental to understanding the concept of education as a tool of resistance. As stated by hooks:

The classroom, with all its limitations, remains a location of possibility. In that field of possibility, we have the opportunity to labor for freedom, to demand of ourselves and our comrades, an openness of mind and heart that allows us to face reality even as we collectively imagine ways to move beyond boundaries, to transgress. This is education as the practice of freedom (p. 207).

Since 2001, I have been part of the College & Community Fellowship (CCF). CCF is an education-based support community for formerly incarcerated women. This organization, and by extension, the broader community to which it is intimately connected, has identified and built upon a unique location of social capital and collective justice work. Our work is at the intersection of resistance to mass criminalization, Black womanist theory, and devotion to advancing access to higher education. This work has organically produced an active education-based community in which people find support and knowledge that allows them to:

1. drastically reduce susceptibility to the policies and practices of the state that fuel mass criminalization and punishments;
2. wholly commit to a learning process that combines academic, practical, political, and activist education; and
3. use the education, social capital, and world view that they develop to practice continuous self-actualization, pass the gift of knowledge on to others, advocate for social justice, and resist injustice.

Educating people in this way, addresses the symptom of mass criminalization, and the elements thereof, from a Square One position. At College and Community Fellowship, we introduce women to education at the college level. Throughout this essay, I refer to education more broadly as a process rather than focus on education at any particular level. The elements of knowledge that are important here are its appropriateness for this student, its delivery in community, and its meaningful purpose in furthering the student's sense of self and their essential place in the world. I believe that the underlying causes of mass incarceration are not about crime but social systems that don't provide a safety net to those who need it. Society should provide education. Education is a human right. Centering the work of getting to Square One within the boundaries of criminal justice policy simply won't get us to Square One. As a Black feminist, otherwise known as a womanist, I center structural racism at the root of America's neglectful treatment of Black communities. Changing criminal justice policy won't change structural racism. Black people will get more of whatever the system is dishing out as punishment. The CJS is symbolic of structural racism. Being a prisoner is tantamount to being a slave of the state. Providing access to every level of education, including college, attacks the disparate outcomes of an unjust, unwieldy system at the root level. The alternatives involve some form of changing tens of thousands of consequential policies and practices, some of which vary from state to state, that will often be met with entrenched longing for the good old days of law and order. Even when a moment in time permits changes in these laws and policies, they remain subject to reversal at any time.

I am primarily concerned with education's service as a tool of resistance, mainly how it has been used as a tool of resistance consistently for Black people who are resisting state oppression in the United States. Concerning the CJS, education-based support communities can offer:

1. diversion from CJS;
2. non-punitive, asset-based alternatives to confinement;
3. motivating activities for people in custody; or
4. programs that undo the stagnation, stigma, and isolation of confinement when one returns to a world unprepared to face 44,000 statutes, arbitrary biases, and technological overload that can lock them out of opportunity.

Education-based support for people who live under the watchful eye of the CJS can help them improve their own lives, increase prospects for their families, and make significant contributions to society. These contributions are not limited to self-transformation. Educated people who have been convicted of crimes and carried out their sentences often become the kinds of citizens that dare to learn to transgress. Joining struggles for justice marks the type of citizenship that upholds the spirit of resistance the settlers had when they declared independence from England. An educated and watchful citizenry keeps America on the path toward becoming a more perfect union.

Why Autoethnography?

Autoethnography is the method closest to the informal traditions of teaching and learning that took place across the four generations of my family. As important as education was at our house, my generation was the first to graduate from college on both the maternal and paternal sides. But literacy was paramount. Though the official origins of autoethnography are not centered in any particular cultural tradition, its foundations are in postmodern

questioning of traditional research. Knowing that I don't have to follow the rigid expectations of traditional scholarship appeals to me, though I find the brilliance of writers who have that ability enviable.

Autoethnography, in its application here, represents much more than my point of view. It is an accumulation of what I have learned from dozens of other people who have also experienced criminal conviction, incarceration, and matching collateral damage. Friends who have spent as many as 35 years behind bars have been my teachers, my text, my data. And I owe them that respect. I could do a literature review and verify everything that I've learned from them and credit those scholarly sources, but I respect my comrades enough to consider them the experts on their own lives.

I genuinely believe that there are many ways of knowing and that, on occasion, it is appropriate to elevate the experiences of subjects beyond anecdote and consider them a primary source. The number of first-hand interactions, the diversity represented in those interactions, and my journals combined with 20 years longevity makes autoethnography the right choice here.

My practice in writing this autoethnography about what I have experienced to be a retractable connection between American CJS, structural racism, access to higher education, and resistance to oppression has shown me that autoethnography can be challenging. The self-reflective yet outward-facing gaze shines a bright light on the need to consistently check oneself for a level of objectivity that will stand up to the scrutiny of scholars who might place autoethnography on a scale between folly and egocentricity.

Working through these challenges has made the process multi-iterative. New data have consistently informed the analysis. From the time I was first asked to write about education concerning justice and the goals of the Square One Project, the world around me seems to have intentionally bombarded me with fresher, more compelling, and at times horrific and paralyzing data. But we have arrived, and this is my story of education justice.

What Does Education Have to Do with Justice?

CJS does not exist in a vacuum. It affects other systems. Other systems change it. Education is one of those systems.

Crime is the lowest it's been in 30 years while spending on policing and corrections is the highest it's been in history. Poverty rates have barely dropped, and the poverty rate for Blacks in America remains twice that of whites. Yet, the Prison Policy Initiative reports that America spends \$182 billion each year on policing, prosecution, and corrections. Where are the levers outside of criminal justice where that level of investment can change lives and communities?

Our solutions needn't all be rooted in the CJS. Going back to Square One means admitting that many of the resources that are invested in our CJS would be better spent on an adequate safety net, a living wage, universal health care, the best public education system in the world, and free public higher education for all, including people who are incarcerated. I do not advocate for continued use of confinement as the primary response to crime; however, as long as we have any people in custody, they should not be denied access to education.

An educated population is needed to address all unjust systems. As Martin Luther King Jr. said, “Injustice anywhere is a threat to justice everywhere,” and injustice in one system feeds into others. Communities realize that the government is not investing in them. When the police come into communities with broken windows (sweating the small stuff) and stop and frisk (walking while Black), our response is, “Hmmp. The government is much more willing to spend money to lock up these kids than they are to educate them.” In some states, the government spends twice as much on criminal justice as they spend on education (Prison Policy Initiative). Knowledge is vital because it is indeed a tool of resistance. Ignorance protects the government, not the people. Whenever a government seeks to control populations, they start with misinformation—an anti-education device.

The days of talking about how education improves reentry outcomes, reduces violence in prisons, helps people get jobs when they’re released, and turns them into taxpayers, are in my past. I have written that repeatedly. It all happens to be true. Those are outcomes, but they shouldn’t be motives. Education is a human right. Offering it is a moral choice; it is the compassionate choice. The expansion of knowledge is reason enough to provide instruction. Resisting injustice requires some knowledge. Since the CJS is unfair, we should offer education so that people can combat the “lawlessness of the law itself.”

We who believe in freedom, which is America’s promise, are in a struggle for justice. Upon completion of a judgment, citizens are entitled to think that they have full rights to life, liberty, and the pursuit of happiness. They are responsible for obeying the law and for paying taxes, and they have the right to change unjust systems through lawful forms of resistance. To do that effectively they need some level of education. All citizens crave the moment when they experience the realization of the benefits of full citizenship. One of the rights of being assisted is the right to resist injustice and to protest that injustice. I suppose if there was ever a time to want to have that right, that time is now. Being a citizen means something. I experienced that feeling when my parole officer signed my early release papers in the summer of 2008 so that I could vote in the presidential election. I was supposed to be on parole until March 17th, 2009. Education equips a committed but righteously rebellious citizenry that loves America enough to resist the injustice that prevents it from living up to its promise.

Structural racism bleeds into all of our social systems and feeds its prey to the CJS to finally complete their erasure. The tricks that are being played with federal reforms that have no impact but are reported as earth-shattering news will not undo the rollbacks that the U.S. Department of Justice is implementing through executive actions and internal memoranda. There is no question that racial disparity is a fact in the CJS. Michelle Alexander made it plain in *The New Jim Crow* when she told us that America had developed a new caste system in which criminal conviction became a surrogate for race-based discrimination.

A sustained dialogue is needed about race and how white supremacy is, in fact, the fundamental value that drives how this country spends its resources on ALL systems designed for the public good. Who benefits and who does not? Who is left to die in a pandemic? Whose life has been so devalued that an officer of the law, accompanied by four colleagues, is comfortable looking directly into a camera while kneeling on a suspect’s throat as he suffocates to death? While an officer has his hand in his pocket and a smirk on his face. While Mr. Floyd, accused of trying to pass a fake \$20 bill, addresses the police officer as “Sir,” and begins every sentence after that with the word “please.” What kind of education does it take to get someone to understand what those few words say about 400 years of history? A short scene and 400 years of terror come to life, sparking a movement driven by all kinds of people. At the forefront are young college-educated people of color, many of whom have been directly affected by mass criminalization. Resistance comes to life because the people have been educated, informed, that the structural racism is real.

The damage caused by the trans-Atlantic slave trade did not die with the last enslaved person. The responsibility did not die with the last person who owned a slave. The trauma lives on. That trauma once belonged to Black people, but now it is becoming part of the consciousness of America as our awareness grows through education. Yet our history is under the threat of erasure if we limit our response to complaints about policing and changing policies that live under the control of government officials whose thinking is embedded in criminogenic thinking. The underlying problems that are actually driving people into the CJS have little to do with crime, as Elizabeth Hinton has proved in her book *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* about the relationship between poverty and crime. She demonstrates that inadequate responses to poverty and failure to imbue communities with the political power that comes with economic equity and racial equality is a more significant driver of incarceration than crime.

Here in America and abroad, from Columbia University and Kent State to Soweto and Tiananmen Square, college and university students have protested. Curricula laden with a white male perspective, war, genocide, ethnic cleansing, South African apartheid, militarization, mass incarceration, environment, anti-Semitism, structural racism, and economic inequity have all caused campuses to be sites of both subjugation and opposition. Home to feminist theory, critical race theory, and intersectionality, and prone to model the abuse of power and privilege, educational institutions have had their share of accusations levied against them.

However, unlike resistance aimed at mass criminalization, resistance in educational institutions is not aimed at the elimination of education institutions. Instead, the practice of resistance in the Academy has come to be viewed as an integral part of the value of access to education.

Higher education is indeed a tool for economic mobility, but more importantly, it teaches to transgress. It instills a belief that students have the right to identify and resist violations of human and civil rights. It is the one intervention that may, indeed, create the type of sustained resistance that can accomplish the goal of defunding the police, defunding prosecution, funding public defense, providing adequate supports to communities, and abolishing the use of cages to deal with social problems.

There has been a connection between the need to be educated and the desired freedom from oppression. The United States has frequently met requests for education, particularly requests from Black people, with harsh laws that limit or deny education. Southern landowners viewed education as part of the abolitionists' strategy. Between 1821 and 1840, North Carolina, South Carolina, Virginia, Georgia, and Louisiana, all passed laws making it illegal to teach an enslaved person to read and write. After the American Revolution, abolitionist sentiments widened. The South, which was utterly dependent upon the free labor of slaves, passed laws to prevent slaves from receiving information about abolition. Most of the laws, like this one from Georgia,¹ forbade people who could read and write to teach slaves to read and write:

Section 11: "And be it further enacted, that if any slave, negro, or free person of colour or any white person shall teach any other slave, negro or free person of colour, to read or write either written or printed characters, the said free person of colour, or slave, shall be punished by fine and whipping, or fine

¹ Georgia, "Acts of the General Assembly of the State of Georgia, Passed in Milledgeville at an Annual Session in November and December 1829," in *Acts and Resolutions of the General Assembly of the State of Georgia 1871*-(Milledgeville: Camak & Ragland, 1830), 171, <https://catalog.hathitrust.org/Record/100143502>.

or whipping at the discretion of the court; and if a white persons so offending, he, she or they shall be punished with fine, not exceeding five hundred dollars, and imprisonment, in the common jail at the discretion of the court before whom said offender is tried.”

This law was seen as particularly unusual because not only did it punish free Black people who would teach slaves to read, it also punished white people as well. They passed the laws to ensure that slaves could not communicate across plantations.

The fear of abolition grew as the education of freed Blacks and escaped slaves increased. The more Black people could read and write, the more they could carry the message to enslaved Blacks and identify genuine abolitionists. Slave catchers and slave thieves would often use phony written messages to convince slaves to travel with them and this made literate Black people precious. It was a treacherous time and slaves would wait for days to find a Black person who could read to interpret a message. It was integral to their lives and their freedom. Fear that more slaves would learn to understand words about liberty caused slaveholders to enact these laws. To be educated was to have the ability to resist one’s enslavement.

One the harshest of laws was passed in Louisiana. Slave owners and lawmakers were so determined to hold onto their right to own slaves that they created a law forbidding any person to write, print, or publish anything that would make slaves discontent or that would urge free Black people to encourage insubordination among slaves. They were serious about slaves not running away or resisting servanthood; they were even more frightened of mass slave insurrections. So afraid were they, that the law carried the death penalty.

“That whosoever shall write, print, publish or distribute, anything having a tendency to produce discontent among the free coloured population of the state, or insubordination among the slaves therein, shall on conviction thereof, before any court of competent jurisdiction, be sentenced to imprisonment at hard labour for life or suffer death, at the discretion of the court.”

Anti-slavery sentiment in America is as old as American slavery. It started with Quakers and Puritans and then continued in the age of philosophical Enlightenment. In the North, slaves who had been participating in religious gatherings were taught to read and write by Methodists. They went as far as sending slaves to Princeton to be educated so that they might join Methodist missionaries on trips to Africa. New England’s educated enslaved people wrote a petition dated January 13, 1777, saying that they had waited long enough. They called owners to task, writing, “Every principle which impelled America to break with England pleads stronger than a thousand arguments in favor of your humble petitioners. A life of slavery was far worse than Nonexistence.”

When a school was built on behalf of Black people in Virginia in 1894, Frederick Douglass said, “The founding of this and similar schools on the soil of Virginia – a State formerly the breeder, buyer and seller of slaves; a State so averse in the past to the education of colored people, as to make it a crime to teach a negro to read, -- is one of the best fruits of the agitation of half a century, and a firm foundation of hope for the future.”

In the 1960s and all throughout the civil rights era, education played a significant role. Top leaders of the civil rights movement had been educated at Morehouse and Howard. The Student Non-Violent Coordinating Committee (SNCC) membership came from college campuses across the country. All of the top leaders of organizations like the Southern Christian Leadership Conference and the NAACP were highly educated.

Education was part of the collective experience of Black leadership, and it was seen as a tool to fight oppression and to resist erasure by our government. Central to the civil rights movement was the upheaval around school busing. White adults not wanting Black children to attend their schools lined the streets and called Black children ugly names and spat on them. Education was indeed a site of resistance, having much to do with structural racism during the civil rights movement.

The Black Panther Party's Ten-Point Program included education as a demand, reading, "We want education for our people that exposes the true nature of this decadent American society. We want education that teaches us our true history and our role in the present-day society." The emphasis is not merely on academic education. Mostly leaders of the party were demanding truth. That the history of Black people in America be properly taught to Black children, and that America take responsibility for its role in the brutal practice of chattel slavery and Native American genocide. Black Panthers were consistent in teaching the children in their local communities basic reading, writing, and arithmetic. They were demanding justice through the public school system, the right that Black children were entitled to. That education, combining academic knowledge with the care that the Black Panthers gave communities through things like the breakfast programs and the political activist culture, was the recipe for resisting the continued oppression of Black people. This is the type of education power structures do not want oppressed groups to acquire.²

A similar request came out of the Attica riots. In 1971, one of the demands that came from incarcerated people at Attica was access to more education. "We demand an end to political persecution, racial persecution, and the denial of prisoners' rights to subscribe to political papers, books, or any other educational and current media chronicles that are forwarded through the U.S. Mail."³ They understood that education was the power. That training not only provided information, it taught critical thinking skills and gave people confidence. Learning together in community became an act of solidarity. Communities who were in solidarity with one another could resist together. Education and resistance have always been linked. And the CJS has frequently been the site of resistance and education coming together.

Nothing could be closer to our system of mass incarceration than slavery. Let us not forget that as a cause of the 13th amendment, a prisoner is considered to be a slave of the state. Education of slaves led to the resistance of slaves. The states then began to enact laws against the education of slaves. Education was important to Black people during the civil rights movement; it was a tool of organizing, it gave them the language of negotiation at very high levels, enabled them to get law degrees, and led to the existence of a Martin Luther King, a John Lewis, a Thurgood Marshall. White schools resisted integration. Black schools were left without adequate resources. It took more than one Supreme Court case to legalize equal public education for Black children. And today we know for a fact that schools in poor Black neighborhoods are still separate and unequal. Monique Morris's book *Pushout* describes the ways in which Black girls, in particular, are being pushed out of schools because of behaviors that are overtly cultural. They are being pushed out for their attitudes, their clothing, their hair, and the loudness of their voices. Many of the resources in policing budgets around the country place police officers in schools. Because we will not invest in finding out what the underlying problems are in these communities, that makes schools dangerous places for children.

² EBSCO Publishing : eBook Comprehensive Academic Collection (EBSCOhost) - printed on 8/2/2020 9:50 AM via COLUMBIA UNIVERSITY - MAIN

AN: 273351 ; Manning Marable, Leith Mullings.; Let Nobody Turn Us Around : An African American Anthology

³ Attica Liberation Faction, "The Attica Liberation Faction Manifesto of Demands," *Race & Class* 53, no. 2 (1971): 28–35, <https://doi.org/10.1177/0306396811414338>.

And we cannot forget 1994. The 1994 crime bill removed Pell Grant eligibility from incarcerated students. Referring to the demise of higher education programs in prisons in the 2003 book *Are Prisons Obsolete?*, Angela Davis reminds us that that “if the publication of Malcolm X’s autobiography marks a pivotal moment in the development of prison literature and a moment of vast promise for prisoners who try to make education a major dimension of their time behind bars, contemporary prison practices are systematically dashing those hopes.”

A generation of adults have no memory of when the nightly news showed Black people, including children and the elderly, dragged away from lunch counters, sprayed with fire hoses, and chased by dogs, and they need to know the names of those who are on the ground doing the work of foot soldiers today. Little credit goes to hundreds of people around the country who dedicate their lives to this work. And we are doing very little by way of investments to produce future generations who have the capacity to do this work and who are willing to make sacrifices to do this work. Instead, what we are creating is celebrity activism. Since there is never any study of the black lives that leave prison and lead, it can’t be quantified. But of the hundreds of people I know who have been in prison, I don’t know of any who aren’t somehow engaged in fighting injustice. They tend to do more with a little education than the average person who doesn’t have a criminal record. A few leaders I am aware of include:

1. Norris Henderson, who founded Voice of the Experienced (VOTE), a grassroots group that has led campaigns to restore rights to food assistance and higher education admission to people with felony convictions. In 2018, VOTE helped 40,000 Louisianans regain the right to vote. On April 20, 2020, Louisiana’s Amendment 2 was ratified by the U.S. Supreme Court. The court ruled that unanimous jury verdicts are required in state criminal trials for serious offenses, handing a victory to incarcerated people, including petitioner Evangelisto Ramos, who was convicted of murder in Louisiana on a 10-2 vote. Ramos argued that the law had racist roots meant to diminish the votes of minority jurors.⁴
2. Eddie Ellis, a survivor of the 1971 Attica prison riot, who was incarcerated for more than 23 years. He led a multiyear campaign to eliminate *ex-con*, *convict*, *felon*, and *ex-felon* from the lexicon. Eddie died in 2014. In 2016, the New York Times editorial, “Labels Like ‘Felon’ Are an Unfair Life Sentence” cited his campaign. The U.S. Department of Justice stopped using dehumanizing language based on guidelines issued by the DOJ’s Office of Justice Programs. William Barr reversed the order.
3. Susan Burton, who founded A New Way of Life (ANWOL) in 1998 to provide housing and support for formerly incarcerated women reentering the community in Los Angeles. Women come to ANWOL for housing and to find wraparound services, a supportive community, and opportunities to advocate for their own best interests. Started with one house in 1998, there are now seven houses in the Los Angeles area and 50 women across the country who have been trained to do similar work through the Safe Housing Network.
4. Kenneth Glasgow, who launched The Ordinary People’s Society, Dothan Alabama, in 1999. TOPS provides food, shelter and clothing to those who have been cast aside by society and is dedicated to ensuring that people in local jails pre-conviction can register and vote while awaiting release or trial.

⁴ <https://www.nytimes.com/2020/04/20/us/politics/supreme-court-unanimous-verdicts.html>

5. DeAnna Hoskins, who is the President and CEO of JustLeadershipUSA. JLUSA has trained 1,000 leaders in 48 states. The campaign to close New York City's Rikers Island was successful in 2017.
6. Dorsey Nunn, who co-founded All of Us or None and led the nation's first "Ban the Box" campaign to eliminate routine employment discrimination against people with criminal convictions. According to the National Employment Law Center, as of September 2018, 33 states and more than 150 cities and counties nationwide have implemented Ban the Box. Companies like Target, Koch Industries, and J.P. Morgan Chase acknowledge that punishment is not a deterrent of crime and does not help build strong communities.
7. Desmond Meade, who began knocking on doors in Orlando, Florida in 2018. When the door opened, he asked residents to vote on his behalf. The state stripped his right to vote because he had a felony conviction. 1.4 million Floridians now have the right to vote. Desmond is currently organizing to register and turn out the vote.
8. Daryl Atkinson, who is an attorney focusing on the collateral consequences of incarceration, graduated in the top third of his law school class after being incarcerated. He founded Forward Justice in Durham, NC, after completing a Second Chance Fellowship at the US Department of Justice. He is currently filing motions on behalf of 51,000 voters in North Carolina.

It is disconcerting to witness this invisibility. But even more disconcerting is how the breadth of today's fascination with criminal justice seems to trivialize the reform movement. As America's attention span gets shorter, perhaps what we seek now is a flash version of criminal justice reform. We want lots of wins very quickly, as though every one of the 2.2 million people in prison is somehow going to get their own Kim Kardashian or Jared Kushner to whisk them out of prison and onto TV. We want true stories of criminal legal reform, and with each new pardon, a piece of flash reality. Kim Kardashian sees an incarcerated woman's story on Twitter. Flash. Kim feels compassion. Flash. Kim begs President Trump for Alice's freedom. Flash. Alice is released. Flash. Alice models Kim's clothing line. Flash. Alice stars in a Super Bowl commercial. Flash.

This episode in history commands that we put the margin at the center. America is boiling over with resistance to systems of policing, prosecution, adjudication, and punishment. A more diverse group than ever before has been ignited to resist. And now, the history of access to education in American prisons begs to be compared to ways in which education has historically been denied as a means to suppress resistance to the state's power over Black people and to limit their freedom, autonomous organizing, and self-actualization.