# Reprobation as Shared Inquiry: Teaching the Liberal Arts in Prison

Joshua A. Miller and Daniel Harold Levine

BIO: Joshua A. Miller is a Professional Lecturer in Philosophy at George Washington University and the editor of the journal *The Good Society*. Daniel H. Levine is a consultant at the Centre for Conflict Resolution (Cape Town) and a Research Fellow at the Center for International and Security Studies at Maryland. They are both volunteer teachers and organizers with the Jessup Correctional Institution Prison Scholars Program

ABSTRACT: Respect for victims requires that we have social systems for punishing and condemning (reproving) serious crimes. But, the conditions of social marginalization and political subordination of the communities from which an overwhelming number of prisoners in the United States come place serious barriers in the face of effective reprobation. Mass incarceration makes this problem worse by disrupting and disrespecting entire communities. While humanities education in the prisons is far from a total solution, it is one way to make reprobation meaningful, so long as the prison classroom is a place where the educators’ values are also put at risk.

It comes easily and effortlessly to hate the bad because they are bad. It is an uncommon mark of piety to love the same people because they are human beings, so that at one and the same time you disapprove of their guilt while approving of their nature. Indeed, you have more right to hate their guilt precisely because it mars their nature, which you love. Therefore if you take action against the crime in order to liberate the human being, you bind yourself to him in a fellowship of humanity rather than injustice.[[1]](#footnote-1)

## Introduction

In this paper we set out to address three questions. First, what is reprobation in punishment? Second, why does it fail? And third, how does education (specifically education in the humanities and liberals arts) help the reprobative mission of punishment?

One common question about supplying college-level courses in jails and prisons is why criminals ought to receive for free the education that others must usually incur serious debts to enjoy. Educating prisoners may seem to reward criminal activity rather than to punish it. In reality, we will argue, prison education is important to any system of punishment that could make moral sense in our deeply divided and oppressive society. And we cannot abandon systems of response to genuine harms, on pain of degrading the victims of such crimes.

Defenses of prison education commonly focus on the prevention of recidivism.[[2]](#footnote-2) We welcome the beneficial impact of prison education on recidivism rates, but we would like to focus on a different justification, in part to resist the instrumentalization of education, particularly humanities education, and in part because we think seeing our students as needing to be set on the right path so they sin no more is entirely too simplistic a goal. It is our conviction that education is itself part of a good life for the individual and that the educative relationship is partly constitutive of a good world of social relations. In addition, the impact on recidivism only speaks to one justification of the criminal justice system. We follow Braithwaite and Pettit, Bennett, and others in holding that crime-prevention cannot be the overriding goal of a legal and justice system.[[3]](#footnote-3)

In this essay, we will argue for three claims. First, respect for victims of violence and other harms requires that we have social systems for punishing and condemning (reproving) serious harms. But, second, the conditions of social marginalization and political subordination of the communities from which an overwhelming number of prisoners in the United States come place serious barriers in the face of effective reprobation. And third, while humanities education in the prisons is far from a total solution, it is one way to make reprobation meaningful.

## The Need for Reprobation

Ideally, social systems - the criminal justice system included - should work to create or restore social relationships characterized by relatively equal power and respect. The reason for society to address crime at all is that failure to do so allows the criminal to put herself in a position of arbitrary power over her victims, and social silence about this disrespects and degrades the victim, adding insult to injury.[[4]](#footnote-4)

This paper focuses on crimes where, at least intuitively, serious immorality as well as formal illegality is at stake, particularly violent crimes.[[5]](#footnote-5) We teach volunteer college classes in a prison near Baltimore, Maryland. Many of our students have committed crimes that harmed their community and violated their own sense of morality. Over-criminalization and over-incarceration are serious problems in the US, but it is important to think about questions of how to interact with prisoners who do deserve some punishment or condemnation.

We cannot simply give violence a moral “pass.” To do so would only increase the marginalization and domination of the communities from which many offenders come. Punitive approaches to crime, after all, are not exclusively supported by affluent people, or by whites –many calls for “tough on crime” approaches come from within poor and/or Black communities.[[6]](#footnote-6) And failures to effectively control, or to reprove, crime in those communities would evidence disrespect for the ways in which violence disproportionately harms members of already vulnerable and disenfranchised communities.[[7]](#footnote-7) One of the main reasons why incarceration looks like such an inadequate response to real harms–even as it is considered just in its quality *as a punishment*–is that these carceral periods sideline victims’ interests in favor of bureaucratic institutions and the interests of those who derive income and profit from the criminal justice system.[[8]](#footnote-8)

Because of the need to restore respect to the victims of crimes, Braithwaite and Pettit argue that reprobation - the effective disapproval of the community - needs to be part of what the criminal justice system as a whole accomplishes.[[9]](#footnote-9) The system needs to not just deter crime nor (so far as possible) make victims materially whole, but morally condemn the criminal act. We hope to show how reprobation is compatible with a respectful relationship to those who have committed crimes, so that we do not have to give in to the implicit trade-off between degrading offenders and degrading victims that runs through many discussions of punishment. Understanding the reprobative function properly will also show a role for prison teaching.

## Reprobation, Re/integration, and Reciprocity

Reprobation is not just the expression of disapproval, even “official” disapproval. If the proper aim of criminal justice systems is to restore a *relationship* of mutual respect and equality between the offenders, victims, and other members of society, both offender and victims must be re/integrated into society. Reintegration involves making the offender and the victim members of the community in good standing again.[[10]](#footnote-10)

For the victim, this means making her whole, as far as possible - perhaps by returning stolen property, or providing counseling to get over the trauma of the crime. It also gives the system some legitimate preventative function, since people need to trust that they will not be victimized. Bennett has argued it must also require symbolic or actual amends made by the perpetrator to the victim, to signal[[11]](#footnote-11) a desire to restore the relational norms that crime violates.[[12]](#footnote-12)

Reintegrating *offenders* requires finding them a non-transgressive role within the community and preparing them to fill that role.[[13]](#footnote-13) This is important not only because it helps make potential crime victims safer from violation, but because it recognizes that even individuals who have broken laws retain their identities as citizens and need to be treated as such. A system in which the punishment for all crimes was death or exile might have zero recidivism, but it would be unacceptable.

Reprobation and reintegration are, on this view, important to each other. Simply expressing moral repugnance is not enough—the “effective'' part of the definition is not decorative. The goal of reprobation is to bring the offender himself to the recognition that what he did was not just illegal but wrong. To pursue the aim of reprobation, it is not enough for a judge to thunder condemnation from the bench; the system must be set up in such a way as to help bring offenders to the recognition that what they did was wrong, so that they will act rightly in the future in part by internalizing society's moral norms. The point is not just to condemn the crime but to get the offender to join in that condemnation, thereby bringing him into the moral community rather than casting him out of it. Not every lawbreaker will come to agree that what he did was wrong, even in a perfect system, but securing that agreement on reasonable grounds should be an *aim* of the system.

## Marginalization and Integration

Reprobation is a relatively straightforward concept in a community where the problem is literally *re*integration. But individuals in the prison system, especially Blacks, other racial minorities, and the poor, have never been adequately integrated into the political and social community in the first place, and so are in need of “integration” as much as “reintegration.”

When an individual who is well-integrated into a basically just society break its laws, we can think of this as an anomaly to be set right. There was a point in the past when he saw the values and rules of society as legitimate and relevant to his life, then something went wrong with his perspective and he broke a law. What reprobation needs is essentially to return him to his *status quo ante*, where it wasreasonable for him to accept society's laws. In addition, since this is a reasonable goal for society, it is reasonable for him to accept this return to his initial state. When reprobation fails it is only because of the sad fact that not everyone is reasonable. On this view, criminal justice ought to involve a shared inquiry into general norms and the facts surrounding an alleged violation, and only intransigence, incapacity, or an honest uncertainty about the facts could prevent agreement.[[14]](#footnote-14)

That is a distorted image of the situation of many incarcerated individuals. Integration into a society is more than being part of it in any way whatsoever (chattel slaves are “integrated” in that sense). In particular, the kind of integration required for reprobation to be meaningful is a situation in which the individual is integrated into the value-practices of that society.

In this respect, we find Korsgaard's discussion of how reciprocity grounds both a notion of respect and the social creation of value a congenial way to understand what “integration” means, and also one that shows how far our society fails at it.[[15]](#footnote-15) On her view—a development of the Kantian “Kingdom of Ends”—what it is to be respected by others is to have relationships with them that are characterized by reciprocity: a mutual willingness to respect the other by engaging with her values and entering into joint projects with her.

Respect and reciprocity are necessary for the reprobative function, since one cannot characterize someone's actions as *wrong* (rather than, e.g., dangerous) unless one recognizes him or her as a person with full moral standing. Korsgaard's account provides a way of translating the concept of recognition into concrete social practices. In particular, she highlights the way that punishment practices are special, marginal, cases of social practice—ones that do not make sense if detached from other social practices of “holding responsible.”

Holding someone responsible, especially when we are talking about criminal justice, carries connotations of retribution, reprobation, and criticism. But this is not the core concept of responsibility. To hold people responsible for transgressions, we need to also engage in other practices with them that treat them as responsible agents. Holding someone morally responsible for their actions involves being “prepared to accept promises, offer confidences, exchange vows, cooperate on a project, enter a social contract, have a conversation, make love, be friends, or get married.”[[16]](#footnote-16)

Similarly, as Allen points out, even when we are talking about responsibility for failings specifically, the point of holding others to account for their transgressions is that this is a way of being involved with others.[[17]](#footnote-17) Mutual practices of accountability for failings are not adversarial, but rather ways that friends and kin (and, we would add, co-citizens) make lives together in the light of shared values. The criticisms that friends make of each other are taken to heart because of the friendship, and a facility with apt criticism may be something we seek out and value in friends. But the value of that friendly criticism is in its mutuality and reciprocity, and equally accurate criticisms coming from people with whom we do not have broader relationships are much less likely to be welcomed.

As a society, we formally include everyone in our moral and legal structures; but our actions speak louder than our words. A disproportionate number of prisoners come from the ranks of the poor, the mentally ill, racial minorities, and other marginalized groups. For instance, Wheelock and Uggen calculate that, for the past thirty years, between 40 and 60 percent of prison inmates were below the federal poverty line at the time of their most recent arrest.[[18]](#footnote-18) Ditton estimated that, at midyear 1998, approximately 16 percent of inmates in US state prisons and 7 percent of inmates in federal prisons had a mental illness, defined as self-reporting a mental illness or having had an overnight stay in a mental hospital.[[19]](#footnote-19) Among state prison inmates, if the criterion is expanded to include individuals who had taken medication for mental problems, been in counseling, or received any other mental health services, the share rose to 30 percent. And it is well known that the US incarcerates Blacks and Latinos at disproportionate rates.[[20]](#footnote-20)

The poor and many members of racial minorities are not people with whom the relatively advantaged generally seem willing to form relationships of mutual respect and accountability. To pick one element off Korsgaard's list, only 15 percent of new US marriages in 2010 were interracial - this is a significant improvement from the 6.7 percent of interracial marriages in 1980, but still a fairly small number.[[21]](#footnote-21) Marriage also divides along educational and status lines; in 2011, 71 percent of college graduates who got married chose to marry someone else with a college degree.[[22]](#footnote-22) This does not seem to be a divide in mores; individuals of lower socioeconomic status report a desire to get married, but tend to say that they believe economic stability is a prerequisite to getting married, and that stability is in increasingly short supply.[[23]](#footnote-23) Similarly, many whites do not even have interracial friendships. A recent Reuters/Ipsos poll found that 40 percent of white Americans had no non-white friends.[[24]](#footnote-24) This is probably an *overestimate* of the number of whites with interracial friendships - when people are asked to name friends of another race rather than simply say whether they have any, reported interracial friendships drop dramatically.[[25]](#footnote-25)

Even our willingness to live with each other is on a slow decline. In 1980, 77 percent of lower-income households lived in census tracts where lower-income households were not a majority, and 91 percent of higher-income households were outside of majority-higher-income tracts. In 2010, those numbers had declined to 72 percent and 82 percent, respectively. Racial segregation is even sharper, with 42 percent of Blacks living in majority-Black tracts.[[26]](#footnote-26) As anyone who lives in an urban area knows, census tracts are still large areas that can mask micro-level socioeconomic separation; social worlds can be divided block to block.

Residential segregation is not “separate but equal.” In the areas where the economically disadvantaged and racial minorities are concentrated, the expectations of non-violence and security many of us who live in more affluent areas take for granted are significantly eroded. For instance, Baltimore City had a gun homicide rate of 29.7 per 100,000 in 2011, compared to its metro area at 10.3.[[27]](#footnote-27) Gun homicides are significantly associated with the portion of a city below the poverty line, with inequality,[[28]](#footnote-28) and with the percentage of a population that is Black.[[29]](#footnote-29) These statistics are for criminal homicides, but a non-negligible amount of violence directed at Blacks and the poor comes from police and security guards as well.[[30]](#footnote-30) Many of our students come from a world that is strikingly separated from our own, standing across lines of race, class, and violence.

Fundamentally, separation and oppression breed mistrust (especially mistrust of the political system) and hopelessness, which are fatal to mutual relationships of reciprocity. As one participant in a study of formerly incarcerated men in Baltimore put it, “The rich are gonna do whatever they can do to stay rich and to keep you poor. [During campaigning policy makers will] get on to stuff. But once they get elected... ehhh... that goes way down on the list. You know how it goes.”[[31]](#footnote-31) The “objective” quality of the norms that the dominant culture is promoting falls by the wayside; marginalized individuals may engage in behavior that they themselves can understand is counterproductive or self-destructive (not just violence against their peers, but also poor health behaviors, like smoking) as acts of conscious or unconscious resistance, especially when more effective kinds of resistance are blocked.[[32]](#footnote-32) This normative opposition renders reprobation meaningless.

The particular types of punishment used in our society exacerbate the background injustices. Imprisoning the poor and members of racial minorities (in disproportionate numbers) further excludes already marginalized individuals. It also disrupts and disrespects the social bonds that they participate in as parents, siblings, community members, and co-religionists, sending the broader message that their entire community unworthy of respect. Those in prison are politically disenfranchised, often permanently or for years after their release, not only locking them personally out of the political process but further diminishing the political clout of their communities. Individuals with criminal records, and often their families, are discriminated against socially and in employment and many social support programs. The cumulative impact of incarceration is to add another layer of social exclusion to an existing system of domination, one which harms a group of people well beyond the actual offender. It is unsurprising that many offenders reject the moral voice of the criminal justice system when it attempts to reprove them and bring them to acknowledge that they have committed injustices.

In such a context, attempts at reprobation within the criminal justice system serve as an element of systematic abasement rather than calls to rectitude. As Victor Tadros points out, the state which seeks to do the punishing is partially responsible for the conditions of the punishable act.[[33]](#footnote-33) But when we focus on the reprobative function in punishing, we must go further: even acknowledging the partial responsibility that resides with the violent offender, it is morally unreasonable to expect an offender to be moved by condemnations coming from agents of a system that routinely subjects him to injustice it is unwilling to recognize as such. To try to put this in more straightforward language: the system as it stands says to many of those who break its laws, “agents of social authority routinely dismiss, degrade, and harm you with impunity; but when you do something harmful, your obligation is to acknowledge your moral inferiority to them and to the very value systems that regard harming you as a non-crime.” It is not difficult to see why many of our students—mostly Black, mostly from poor neighborhoods, mostly arrested when they were young men—see the police and the prison system as just another “violent street organization,” the term of jargonistic disparagement used by law enforcement to describe gangs.

We cannot, therefore, separate the aim of reprobation from broader social reform that would better integrate members of the communities from which many incarcerated individuals are drawn.[[34]](#footnote-34) Individuals who are members of marginalized groups are unlikely to recognize as authoritative the voice of sectors of society that stand apart from them except when it comes time to condemn, and that separation also blocks engagement with reasonable challenges to the quality of the norms the criminal justice system appeals to in condemnation.

## Revolution or Reform?

Even if it is true that failure to reprove is a genuine harm to victims, why not focus on the deep structural violence inflicted by society as it is and ignore the relatively minor violence inflicted by those who we incarcerate? If the problem is that reprobation inevitably fails in a context where large numbers of the people subjected to the criminal justice system are economically and racially marginalized, then we have good reason to adopt an abolitionist project to end racist and economic marginalization first and abolish the criminal justice system along the way.[[35]](#footnote-35) After all, the prison system is part of the structure that perpetuates that injustice. But we believe that this rhetorical commitment to abolition and resistance to reform is radically disempowering.

We believe that meliorism and reform (specifically restoring contact between inside and outside scholars) plays a necessary role in advance of and as a precursor to abolition. We draw on Joy James here to contrast the negative, “emancipative” sense of abolition from the positive “freedom” that a fuller sense of abolition can entail.[[36]](#footnote-36) As James puts it, that positive sense of freedom requires “practices shared in community.” But James claims these practices can only be shared “by the subordinate captives,” while we have argued that this free community must include both (former) subordinate captives and (former) dominating captors. For James, then, this kind of freedom is zero-sum: this freedom is withheld by the society of captors, and so it must be taken from the captors through an enforced separation.

We acknowledge that there are good reasons for James’ skepticism of the notion of a shared community of captives and captors: there are too many opportunities for old hierarchies to be re-asserted, even in the mobilization where captors take control of the integrationist project in “advocacy abolitionism” led by non-prisoners. We believe, however, that this kind of segregation is impossible, both theoretically and practically.

In the Korsgaardian terms we used earlier, abolitionist values are not metaphysically freestanding objects. Because values are produced as a result of the reciprocal intersubjectivity that shared projects engender, if we are literally separated and our only shared projects are projects of domination and oppression, we cannot say anything about our values and how they relate. But practical reciprocal contact, as in shared inquiry, generates intersubjective ground for discussing values which are reciprocal and thus ground reprobation, which then *also* becomes reciprocal. The captors, then, do not hold freedom so much as withhold it, and in so doing we deprive both ourselves and our captives of it.

One way to understand James’ “community of captives” is as a reciprocal norm enforced against captor societies through shared norms of non-interference, isonomy, or home-rule. Nothing we say here can or should be understood as an argument against this kind of Black nationalism, which seeks to abolish prisons and police as a part of a negotiation over a broader cessation of relations with oppressors. But notice that even the enforcement of separations requires shared inquiry into the terms of that separation and reciprocal reprobation regarding transgressions of those separatist norms.

As a practical matter, then, we suspect that communities of captives who have not negotiated shared norms and values (even norms of non-interference) with their former captors are not free in James’ sense, but fugitive: the society of captors lies in wait of recapture, hoping to reassert familiar patterns of domination and subordination. Put another way: if it is to be sustainable, then the community of captives alone must abolish captor society as a part of its creation. So without the shared inquiry and reciprocally binding norms that would create that community, captives cannot be free, and indeed, neither can captors. Thus for a community of captives to be constituted as a free community at all, it must include their no-longer-captors as well.

Communities of captives formulated *within* the already existing institutions suffer under even greater constraint. For example, Maryland prisons like JCI are remarkably indifferent to, or even benignly neglectful of, the world-building efforts of prisoners through self-organized and self-administered programs and clubs. Thus the prison scholars program itself becomes a community constituted against one set of captors, even as it includes the outside scholars—faculty—who might be understood as a second set. But as we see in states like California, if such groups are explicitly politicized as non-integrative communities then they can be branded violent street organizations (gangs), after which their members will suffer arbitrary interference and even community-destructive efforts like solitary confinement. The ease of such destruction and the facility of such recuperation into projects of subordination sketches a practical limit for the community of captives alone.

This is why action to abolish the prison-industrial complex must be grounded in empowered communities of shared value. Such communities require small successes before they can take on greater challenges.[[37]](#footnote-37) As Angela Davis puts it: “[Prisons] cannot… be eliminated unless new institutions and resources are made available to those communities that provide, in large part, the human beings that make up the prison population.”[[38]](#footnote-38) Abolition thus requires a series of radical reforms. Of course, Davis does not clarify who will supply these new institutions or resources, or how they will be won, and there is good reason to worry that some reforms will only justify and intensify the institutional power of the prison. Resisting that intensification must be the first concern of any reformer.

## Reprobation Before the Revolution

That said, just because it is unreasonable (and arguably meaningless) to expect offenders to take responsibility for their actions *to representatives of an unjust system* does not mean that individuals who have committed crimes must be held blameless.[[39]](#footnote-39) Instead, we can say that the currently constituted authorities lack the standing to reprove.[[40]](#footnote-40) Racial and economic oppression is also perpetuated through patterns of non-enforcement and zones of lawlessness, by rendering some people vulnerable to extrajudicial harms.[[41]](#footnote-41) The necessary condition for shared norms is that they be truly shared and mutually and reciprocally enforced, not ignored.

Bennett’s discussion of symbolic public reprobation is thus helpful: it is not enough merely to punish without social sanction, so some kind of restitution on the part of the wrong-doer is required for what he calls the “apology ritual.”[[42]](#footnote-42) But it is too much to expect that that ritual will be heartfelt. So the proper balance is in symbolic restitution and acts that *would* accompany the mental states of guilt and an authentic desire to put things right, even if the mental state of sincerity is not in evidence. Bennett concludes that anything more is beyond the state’s legitimate power. Our claim is that mutual reprobation and shared inquiry into what ought to be shared norms should nonetheless to be the goal of punishment, and that prison education is an important step in that direction.

The reference to *shared* (reciprocal) inquiry indicates that proper reprobation— not the simulacrum that we have in our current society—is important to demonstrating respect for the *offender*. A failure of reprobation degrades the offender because we are giving up on the possibility of forming a community of value (a “Kingdom of Ends”) with him. If our system leaves an offender rejecting the idea that he has done wrong, and us smug in our certitude that he has, no reciprocal practice is created, and no value shared. Conversely, if we do not even try to engage in some shared inquiry into the truth of the matter with him, then we are rejecting him from our community entirely.

Thinking we have done right by granting those who have done violence to others a moral pass makes it easier to keep our value-world closed against outsiders. We reject reprobation at the expense of reciprocity. Giving up reprobation lets us tell ourselves three lies. First, that we are not part of the dominant value-system in society that marginalizes people. Second, that we can absolve ourselves of responsibility for hearing challenges to it through merely symbolic preference for keeping it out of the lives of the poor and marginalized. And third, that marginalized people do not have their own value systems that can be transgressed and that can conflict with ours; that the dominant values are, in the end, the true values.

The failure to accord respect involved in either abandoning reprobation or accepting the debased reprobation of mass incarceration in our current society is primarily a failure to admit that the lawbreaker, like any us, has acted for human reasons. To avoid this failure, we cannot simply insist that society loudly denounce the wrongful act; we must insist that society listen to the voice of the person we aim to reprove. In so doing, we must also listen to the lawbreaker’s account of our failures and recognize the lawbreaker’s own values.

Thus, giving up on reprobation—either by treating lawbreakers as broken machines or by relegating them to a realm of subject beyond holding-responsible—lets us hide the injustices of the system we represent from ourselves by hiding our complicity behind protestations of distance from it. But these protestations are revealed as disingenuous if we proclaim ourselves to be against the system (and hence with no need to inquire into its judgments, either on our own behalf or that of our students), while leaving the prison to go back to our tidy upper-middle-class homes.[[43]](#footnote-43)

## Reprobation, Teaching, and Contestation

While neither of us would be sorry to see prisons eliminated, we cannot accomplish that directly and see no path to such abolition. But prison teaching can both help reprobation better serve its valuable symbolic and reintegrative function, and chip away at the larger social problems that have created the mass incarceration crisis. We aim for educative practices that are “non-reformist reforms,” focusing on what John Dewey called “ends-in-view” rather than “end-states.”[[44]](#footnote-44) That is, while prison teaching does seek to mitigate bad effects of a system, under the assumption that the system will continue for the time being, it can simultaneously try to create conditions that undermine the long-term persistence of the problematic system. In particular, education holds the possibility to undermine the “criteria of rationality” of the current system.

Prison teaching can thus perform a useful role in the context of a society that cannot give up on reprobation even as the society threatens to render it meaningless.[[45]](#footnote-45)

There can be no doubt that the liberal arts are under pressure from governments who want more. Not just more scientists and engineers, but a more clearly identifiable link between resources expended on education and economic outcomes. This pressure is felt in prisons with an emphasis on job skills and remedial education. A philosophy or history course is a luxury for a system overburdened by the “mass” of mass incarceration, and under the constant budget pressures of neoliberalism.

The liberal arts were initially envisioned literally as the techniques for free men and thus at least potentially they can become techniques for freedom. There are roughly three ways of understanding this: First, the “moral imagination” thesis articulated by Arendt, Goodin, Levine, and Nussbaum by which study of the humanities prepares us for democratic deliberation by enabling us, as Nussbaum's excellent title puts it, to be “Finely Aware and Richly Responsible” to the particularities of moral decisions and perspectives.[[46]](#footnote-46) Second, the “instrumentalist” thesis advanced most recently by Arum and Roska that argues that the study of the humanities teaches important employment skills like critical thinking, analytic reasoning, problem solving, and written communication that cannot be gained in other coursework.[[47]](#footnote-47) And third, the “traditionalist” thesis that the study of the past is an important corrective to contemporary cultural pathologies (including instrumentalism!) advanced by Arendt as well as by a panoply of conservative and communitarian theorists like Oakeshott, Bloom, and Sandel.[[48]](#footnote-48)

We agree with the traditionalists that it is important to devote a certain hermeneutic intensity to some set of texts and problems together, though we disagree that this must involve something like the Western Canon or Great Books. This is particularly valuable in an educational context because too often the teacher-student relationship inculcates the same hierarchical authority that pervades the rest of a prisoner's life; Foucault's observations on the institutional inheritances between penitentiaries and schools are just one example.[[49]](#footnote-49)

What then does an education in the liberal arts offer our students in prison? For one, it offers an escape from dullness and the lack of progress and growth that characterizes prison life.[[50]](#footnote-50) This escape is not simply escapism, and in many ways it is precisely the alien character of the cultures, questions, and texts of the humanities and liberal arts that makes it so effective. Shorris argues that one major factor in poverty is the stultifying character of one’s problems and environment; Shorris offers the analogy of Native American hunting practices, where hunters would encircle their prey and then move in, creating anxiety and fear that aids the hunter.[[51]](#footnote-51) Poverty and prison both offer similar “surrounds” whereby individuals are beset by so many forces (“hunger, isolation, illness, landlords, police, abuse, neighbors, drugs, criminals, and racism”) that they do not know where to turn. On Shorris's view, the humanities give them (and us) the crucial pause they need to avoid confusion and find an escape route: his Clemente course in the humanities inspired Bard College’s Prison Initiative, which inspired us.

The liberal arts are not just a set of texts to be read and summarized, of course; at base, they are techniques. The “pause” Shorris describes, which offers us a moment to think before acting, is one of these techniques. Another of these techniques is the art of reading both texts and situations closely, developing a sensitivity to the nuances of literary texts and the silent voices in historical texts. A third technique that comprises the liberal arts is the art of classroom dialogue. The directed dialogue of the humanities classroom can play a *part* in solving the problems inherent in reprobation by allowing reprobative dialogue to play its intended role.

To the extent that the skills and models of interaction developed in the liberal arts classroom are valuable, students can then transmit these to other marginalized and oppressed individuals. Dysfunctional and destructive intra-group relationships are unfortunately common within prisons and among marginalized groups more generally. At least to some extent, the humanities classroom in the prison serves as a space where prisoners experiment with less-destructive relational techniques. For instance, we are told by inmates that our volunteer classes are considered a kind of neutral territory by violent organizations in the prison— individuals who would expose themselves to danger by being seen together at, say, meals, are able to interact with each other in classes without conflict.[[52]](#footnote-52) Thus, practical models of productive interaction between rivals may be one valuable “export” from the classroom.

Prison classrooms become political spaces at the heart of an institution where politics is disallowed. What we mean by political is specifically a space where norms are contested and where values that ought to be shared *become* shared through collective production. The classroom becomes a space of shared inquiry, not by starting with the crime, but by starting with a broad set of questions about the nature of the good life and the human experience. Yet this creates the needed reciprocity for reprobation to function.

Central to the particular habits of mind and character that a liberal arts education seeks to impart are issues about the nature of value, and the proper ways to relate to other human beings in society. Students who have successfully engaged with philosophical texts should come away with a better understanding of how the authors have grappled critically with issues of value and norms (keeping in mind that aesthetic beauty and epistemological truth are values as much as moral good is). Ideally, this will also help them build their skills at engaging critically with the values and norms to which others adhere themselves. The point of, e.g., reading C.L.R. James' discussion of the relative roles of racism and economic exploitation in the San Domingo revolution is to be able to reflect on and discuss the relative importance of race and class to current struggles for liberation.

This sort of critical engagement with socially accepted values is an important part of what is needed to reform reprobation. This engagement can be reprobative and critical. To work effectively in this context, we believe it must be both. To do this, we aim to use the prison classroom itself as a space where the values of students and instructors are brought into contact and contestation that can allow new relationships to emerge, and simultaneously to use the prison classroom to equip students to contest social values in the wider world.

As teachers in a prison, we cannot escape the fact that we are representatives of the dominant, oppressive system, and of its “criteria of rationality.” But we can leverage our complicity, both directly and indirectly. Directly, we can put the hegemonic moral and social norms into play in the prison classroom, opening them to contestation rather than mere refusal. Indirectly, just as our students can bring thoughts about value to the broader communities in which they take part, we can use what we have learned in prison to challenge the views of other elites.

We should be realistic about the potential impact of prison education. The benefits of any one class, or one program, are going to be small. But the utopian vision of a society in which the whole encounter between currently-dominant and currently-subordinated social groups is transformed is likely to be made up of a multitude of small, piecemeal encounters like this. We do not know how to spark a revolution that will overthrow mass incarceration all at once and transfigure our society, but we believe that it can be made to fade away through a proliferation of non-carceral practices.

## Conclusion: Education and the Free Play of Values

As educators who entered prison teaching because of would-be subversive ideas about the nature of education and incarceration, we find it a bit odd to be in the position of defending some elements of the criminal justice system as it stands. But we hope we have established that reprobation is an important goal for any social system of response to violence and other degradation. Even though in our society that system is a deeply imperfect one of racist laws, militarized police, and mass prisons, part of the deprivation of that system is that effective and reciprocal reprobation is not possible.

Second, we have argued that the imperfections in our system undermine reprobation itself. The problem is not just that our system is right to reprove violent acts, but does other things badly. Reprobation is not just about whether we are right to say that some act is wrong—it is about forming the right kind of *relationship* between the reprover and the reproved, one that brings the reproved to share in practice-bound moral judgments with the reprover. The vicious ways in which our society marginalizes the populations from which most people who are incarcerated come makes a mockery of this goal.

Finally, we have shown how prison education, properly understood, holds out hope for realistic improvement. By fostering a space where the values we educators bring with us from the dominant society can be put into play with the values and perspectives of people who are incarcerated, we provide one way in which the moral encounter between those who commit violent crimes and those who purport to speak out against violence can become more genuine. A radical and reciprocal prison classroom that takes the task of democratic education seriously does not so much reform the system as it constitutes a tiny portion of its abolition.

In a recent interview, Axel Honneth asserted that the “whole idea of a university” is to “represent a space where free thinking is possible.”[[53]](#footnote-53) This idea is critical to the value of prison education, even while it transplants values that now seem quaint even in the university into much more hostile soil: what a university ideally provides is a space where thinkers can interact without the pressures of conforming to accepted ideas or the direct subordination of the interplay of conversation to instrumental goals.

## This free intellectual play is central to the goal of creating new practices that instantiate new values. As members of the relatively privileged social group, prison educators can create spaces in which dominant ways of thinking about and living social values can encounter the social and value practices of marginalized groups, can be put at risk, and can change. Free thinking—because it allows for new patterns of intellectual interaction to occur—creates new forms of such interaction in which prisoners and other members of marginalized populations are no longer marginalized. And like novel skills and practices, the new ideas generated from this encounter can be “exported.” When prisoners and other members of marginalized groups face the challenge of “no alternative” and status quo bias, they can now respond with concrete ideas of how things might be done differently.

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1. Augustine, *Political Writings*, E.M. Atkins and R.J. Dodaro, eds. (New York: Cambridge University Press, 2001), 72-3. [↑](#footnote-ref-1)
2. See, e.g. Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, and Jeremy N.V. Miles, “Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs that Provide Education to Incarcerated Adults,” RAND Corporation (2013), http://www.rand.org/content/dam/rand/pubs/research\_reports/RR200/RR266/RAND\_RR266.pdf. [↑](#footnote-ref-2)
3. John Braithwaite and Philip Pettit, *Not Just Deserts: A Republican Theory of Criminal Justice* (New York: Oxford University Press,1990); Christopher Bennett, *The Apology Ritual: A Philosophical Theory of Punishment* (New York: Cambridge University Press, 2008). We cannot provide the full argument here, but in brief the problem is that making prevention the central goal of the system potentially allows both punishment of the innocent and massively disproportionate punishment of the guilty, both in the name of deterrence by example. [↑](#footnote-ref-3)
4. Like the literature on prison abolition, we trust that most of our readers are familiar with the main texts of expressivism in punishment by Joel Feinberg and R.A. Duff, but here we engage with contemporary and avowedly “mixed” punishment theorists such as John Braithwaite and Philip Pettit, Christopher Bennett, or Thom Brooks. [↑](#footnote-ref-4)
5. When we use “crime” or its cognates without modification, it is this sort of crime we mean. [↑](#footnote-ref-5)
6. We focus here on Black prisoners and communities because these are the vast majorities of prisoners we encounter in the Baltimore area. We recognize that Latinos are similarly disproportionately incarcerated, and so some of our analysis is salient, but we believe that a full analysis of the Latino experience would pick out significant differences of theoretical weight in light of the role of immigration-related captivity and point up fruitful lessons for cross-race and disenfranchised activism that we do not have the space to detail here. See, for instance, Julie Dowling and Jonathan Xavier Inda, eds. *Governing Immigration Through Crime: A Reader* (Stanford, California: Stanford Social Sciences, 2013). [↑](#footnote-ref-6)
7. James Forman Jr., “Racial Critiques of Mass Incarceration: Beyond the New Jim Crow,” *New York University Law Review* 87, no. 21 (2012): 45–52. [↑](#footnote-ref-7)
8. Niles Christie, “Conflicts as Property,” *British Journal of Criminology* 17 no. 1 (1977): 1-15. [↑](#footnote-ref-8)
9. Braithwaite and Pettit, *Not Just Deserts,* 88-90. [↑](#footnote-ref-9)
10. Ibid.,144-148. [↑](#footnote-ref-10)
11. At least since Immanuel Kant and Joel Feinberg, proponents of expressive theories of punishment have argued that this “signal” is an important function of punishment, but the signal was understood as the responsibility of the community or state. More modern expressivists like R.A. Duff and Christopher Bennett argue that the perpetrator must play a role in that “signaling” as well. [↑](#footnote-ref-11)
12. Bennett, *The Apology Ritual*. [↑](#footnote-ref-12)
13. Thom Brooks, *Punishment* (New York: Routledge, 2013), 146. [↑](#footnote-ref-13)
14. Bennett, *The Apology Ritual,* 75-83. [↑](#footnote-ref-14)
15. Christine M. Korsgaard, *Creating the Kingdom of Ends* (New York: Cambridge University Press, 1996), 188-224. [↑](#footnote-ref-15)
16. Ibid.,189. [↑](#footnote-ref-16)
17. Anita Allen, *Why Privacy Isn’t Everything: Feminist Reflections on Personal Accountability* (Lanham: Rowman & Littlefield, 2003), 53-54. [↑](#footnote-ref-17)
18. Darren Wheelock and Christopher Uggen. “Punishment, Crime, and Poverty,” in *The Colors of Poverty: Why Racial and Ethnic Disparities Exist,* eds. Ann Chih Lin and Christopher Uggen (New York: Russell Sage Foundation 2008), 269-270. [↑](#footnote-ref-18)
19. Paula M. Ditton, “Mental Health and Treatment of Inmates and Probationers” (Bureau of Justice Statistics, 1999), <http://www.bjs.gov/content/pub/pdf/mhtip.pdf>. [↑](#footnote-ref-19)
20. Pew Research Center, “King’s Dream Remains an Elusive Goal; Many Americans See Racial Disparities” (Pew Research Center Social and Demographic Trends Project, 2013), 31, http://www.pewsocialtrends.org/files/2013/08/final\_full\_report\_racial\_disparities.pdf. [↑](#footnote-ref-20)
21. Wendy Wang, “The Rise of Intermarriage: Rates, Characteristics Vary by Race and Gender” (Pew Research Center, 2012), 1, http://www.pewsocialtrends.org/files/2012/02/SDT-Intermarriage-II.pdf. [↑](#footnote-ref-21)
22. Philip Cohen, “College Graduates Marry Other College Graduates Most of the Time,” *The Atlantic*, April 4., 2013, http://www.theatlantic.com/sexes/archive/2013/04/college-graduates-marry-other-college-graduates-most-of-the-time/274654/. [↑](#footnote-ref-22)
23. Paul Taylor, Kim Parker, Wendy Wang, Richard Morin, Juliana Menasce Horowitz, D’Vera Cohn, and Gretchen Livingston, “The Decline of Marriage and Rise of New Families” (Pew Research Center, 2010), 23, http://www.pewsocialtrends.org/files/2010/11/pew-social-trends-2010-families.pdf. [↑](#footnote-ref-23)
24. Lindsay Dunsmuir, “Many Americans Have No Friends of Another Race: Poll,” *Reuters*, August 8, 2013, http://www.reuters.com/article/2013/08/08/us-usa-poll-race-idUSBRE97704320130808. [↑](#footnote-ref-24)
25. Thomas W. Smith, “Measuring Inter-Racial Friendships,” *Social Science Research* 31 no. 4 (2012): 576–93. [↑](#footnote-ref-25)
26. Richard Fry and Paul Taylor, “The Rise of Residential Segregation by Income” (Pew Research Center, August 2012), 1, 14, 16, http://www.pewsocialtrends.org/files/2012/08/Rise-of-Residential-Income-Segregation-2012.2.pdf. [↑](#footnote-ref-26)
27. Baltimore’s numbers reflect a general tendency for gun homicide to be concentrated in cities, particularly city cores. [↑](#footnote-ref-27)
28. Inequality is not associated with non-homicide gun violence; inequality is associated with gun violence at the metro level, but not at the state level. [↑](#footnote-ref-28)
29. Richard Florida, “The Geography of U.S. Gun Violence,” *The Atlantic Cities,* December 14, 2012, http://www.theatlanticcities.com/neighborhoods/2012/12/geography-us-gun-violence/4171/. [↑](#footnote-ref-29)
30. Arlene Eisen, “Operation Ghetto Storm: 2012 Annual Report on the Extrajudicial Killing of Blacks by Police, Security Guards, and Vigilantes” (Malcolm X Grassroots Movement, 2013), http://mxgm.org/wp-content/uploads/2013/04/Operation-Ghetto-Storm.pdf. [↑](#footnote-ref-30)
31. Quoted in Suzanne M. Dolwick Grieb, Rachel M. Joseph, Anton Pridget, Horace Smith, Richard Harris, and Jonathan Ellen, “Understanding Housing and Health Through the Lens of Transitional Housing Members in a High-Incarceration Baltimore City Neighborhood: The GROUP Ministries Photovoice Project to Promote Community Redevelopment” *Health & Place* 21 (2013): 20-28, 24. [↑](#footnote-ref-31)
32. Tommie Shebly. “Justice, Deviance, and the Black Ghetto,” *Philosophy & Public Affairs* 35 no. 2 (2007): 126-60; Roni Factor, Ichiro Kawachi, and David R. Williams, “Understanding High-Risk Behavior Among Non-Dominant Minorities: A Social Resistance Framework,” *Social Science and Medicine* 73 (2011): 1292-1301. [↑](#footnote-ref-32)
33. Victor Tadros, “Poverty and Criminal Responsibility,” *Journal of Value Inquiry*, 43 no. 3 (2009):391–413. [↑](#footnote-ref-33)
34. As Tadros puts it, “The wrong is in entering into a practice of responsibility with the other person while

at the same time blocking the attribution of responsibility to himself” (401). [↑](#footnote-ref-34)
35. Angela Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003); Angela Davis, *Abolition Democracy: Beyond Empire, Prisons, and Torture* (New York: Seven Stories Press, 2005). [↑](#footnote-ref-35)
36. Joy James, “Introduction: Democracy and Captivity,” in *The New Abolitionists: (Neo)Slave Narratives and Contemporary Prison Writings,* ed. Joy James (New York: State University of New York Press, 2005). “Advocacy abolitionism and its narratives by nonprisoners—like state narratives—grant only 'emancipation.' Neither advocacy abolitionism nor state abolitionism can control or create 'freedom' for the captive. […]Freedom is taken and created. It exists as a right against the captor and/or enslaver and *a practice shared in community* by the subordinate captives” (xxii). [↑](#footnote-ref-36)
37. “Many times people say that our Ten Point Program is reformist; but they ignore the fact that revolution is a process.... The people see things as moving from A to B to C; they do not see things as moving from A to Z.” Huey Newton in 1971, quoted in Joshua Bloom and Waldo E. Martin, Jr., *Black Against Empire: The History and Politics of the Black Panther Party* (Berkley: University of California Press, 2013), 370. [↑](#footnote-ref-37)
38. Davis, *Abolition Democracy.* The rest of the quote is also instructive: “In thinking specifically about the abolition of prisons using the approach of abolition democracy, we would propose the creation of using an array of social institutions that would begin to solve the social problems that set people on the track to prison, thereby helping to render the prison obsolete. There is a direct connection with slavery: when slavery was abolished black people were set free, but they lacked access to the material resources that would enable them to fashion new, free lives. Prisons have thrived over the last century precisely because of the absence of those resources and the persistence of some of the deep structures of slavery. They cannot, therefore, be eliminated unless new institutions and resources are made available to those communities that provide, in large part, the human beings that make up the prison population” (96-97). [↑](#footnote-ref-38)
39. Tadros, “Poverty and Criminal Responsibility.” [↑](#footnote-ref-39)
40. As R. A. Duff puts it: “if I constantly (and unrepentantly) lie to you, I cannot complain when you lie to me: this need not be because my lying to you justifies or excuses your lie to me—we could think that duties of honesty are not thus conditional on reciprocity, and insist that we have the standing to condemn you; the point is, rather, that my own prior dishonest behavior towards you morally estops me from complaining about your dishonest conduct towards me” (251). R. A. Duff, “’I Might Be Guilty, But You Can’t Try Me’: Estoppel and Other Bars to Trial” *Ohio State Journal of Criminal Law* 1 no. 1 (2003): 245-59. [↑](#footnote-ref-40)
41. Elizabeth Anderson, “Outlaws,” *The Good Society* 23 no.1 (2014): 103-113. [↑](#footnote-ref-41)
42. Bennett, *The Apology Ritual,* 152-173. Bennett is here responding to R.A. Duff and other punishment expressivists: we take his account to be a cogent response to the claim that crimes and other conflicts are the “property” of victim and perpetrator. Crimes are “public wrongs” in the sense that “it is the business of the public to condemn [them]” (143). Citizens’ failure to condemn and collectively sanction such public wrongs would be acquiescence to the harms done. Of course, this cuts both ways, as failure to condemn to contemporary racism, economic injustice, and systematic extrajudicial violence of incarceration is *itself* an acquiescence to the harms done. [↑](#footnote-ref-42)
43. On the performance of radicalism by prison teachers, see Atif Rafay, “An ‘Impossible Profession?’ The Radical University in Prison,” *Radical Teacher* 95 (Winter 2012): 10-21, 17. And Rob Scott, “Distinguishing Radical Teaching from Merely Having Intense Experiences While Teaching in Prison”, *Radical Teacher* 95 (2013): 22-32. [↑](#footnote-ref-43)
44. André Gorz, *Strategy for Labor: A Radical Proposal,* trans. Martin A. Nicolaus and Victoria Ortiz (Boston: Beacon, 1967), 7. See also John Dewey, *Democracy and Education* (New York: Free Press, 1997): 146; Erin McKenna, *The Task of Utopia: A Pragmatist and Feminist Perspective* (Lanham: Rowman & Littlefield,2001): 96-98). [↑](#footnote-ref-44)
45. Crucially, we would like to distinguish our view from that of Jean Hampton: we do not hold, as she does, that education and punishment are linked because the pains of punishment are educative. (“Wrong occasions punishment not because pain deserves pain, but because evil deserves correction.”Jean Hampton, “The Moral Education Theory of Punishment,” *Philosophy & Public Affairs* 13, no. 3 (1984): 208-238, 238. ) We hold that punishment without education (understood as shared inquiry) fails to count as punishment: it is merely pain. And since our current prisons lack the right kinds of education…. [↑](#footnote-ref-45)
46. Hanna Arendt, *Lectures on Kant’s Political Philosophy,* ed. Ronald Beiner (Chicago: University of Chicago Press, 1982); Robert E. Goodin, “Democratic Deliberation Within,” *Philosophy & Public Affairs* 29 no, 1 (2000): 81-109; Peter Levine, *Reforming the Humanities: Literature and Ethics from Dante Through Modern Times* (New York: Palgrave Macmillan, 2009); Martha Nussbaum, “‘Finely Aware and Richly Responsible’: Moral Attention and the Moral Task of Literature,” *Journal of Philosophy* 82 no. 10 (1985): 516-29; Martha Nussbaum, *Not for Profit: Why Democracy Needs the Humanities* (Princeton: Princeton UP, 2010). [↑](#footnote-ref-46)
47. Richard Arum and Josipa Roska, *Academically Adrift: Limited Learning on College Campuses* (Chicago: University of Chicago Press, 2011). [↑](#footnote-ref-47)
48. See Hannah Arendt, *Between Past and Future: Eight Exercises in Political Thought* (New York: Penguin, 1961); Michael Oakeshott, *The Voice of Liberal Learning,* ed. Timothy Fuller (Indianapolis: Liberty Fund, 2001);Allan Bloom, *The Closing of the American Mind* (New York: Simon & Schuster, 1987); Michael Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge UP, 1998). [↑](#footnote-ref-48)
49. Michel Foucault, *Discipline and Punish: The Birth of the Prison,* 2nd Vintage Books Ed,trans. Alan Sheridan (New York: Vintage, 1995). [↑](#footnote-ref-49)
50. Drew Leder, Douglas Scott Arey, Kenneth Bond-El, Dalphonso Brooks, Craig Cobb-Bey, Anthony Davenport, Jeffery Ebb, Sr., Vincent Greco, Eric Grimes, Donald Gross, Tyrone Herrell, Edward Hershman, Warren “Ren” Hynson, Michael Jeffrey-Bey, Marvin Jenkins, Arlando “Tray” Jones, Kevin Jones-Bey, Fortunato Mendes, Wesley Moore, Shaka F. Muhammed, Christopher Murray, Shakkir Talib Mujahid, Lakhem Ra-sebek, Michael Razzio Simmons, Clarence Somerville, Michael Thomas, Gregg Dallas Wakefield, Mike Whittlesey, Jacobi Williams, and Zaeed Zakaria, “The Enlightened Prison,” *Studies in Law, Politics, and Society.* (Forthcoming, manuscript dated May 2011 on file with authors), 6-9. [↑](#footnote-ref-50)
51. Earl Shorris, *Riches for the Poor: The Clemente Course in the Humanities* (New York: W.W. Norton, 2000), 48. [↑](#footnote-ref-51)
52. Of course, the classes are not unique in this. We are told that participants in the “Alternatives to Violence” program active at the prison enjoy a similar suspension of hostility norms. [↑](#footnote-ref-52)
53. Jensen Suther, “On Becoming Things: An Interview with Axel Honneth.” *Platypus Review* 59 (2013): <http://platypus1917.org/2013/09/01/on-becoming-things-an-interview-with-axel-honneth/>. [↑](#footnote-ref-53)