



Transing Critical Criminology: A Critical Unsettling and Transformative Anti-Carceral Feminist Reframing

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Abstract

Feminist interventions in criminology have interrogated forcefully theories of crime and punishment that otherwise render women and girls invisible. Yet, feminist attention to women's and girls' justice-involvement emerges in the same moment in which the carceral state has shapeshifted in gender-sensitized directions, raising pressing questions about how feminist ideals are used to underwrite carceral expansion and what analytical frameworks are best equipped to resist it. Inspired by theoretical innovations within *trans* frameworks, including transgender, transnational, and transformative intersectional feminist perspectives (Dill and Zambrana 2009; Tudor 2017), this article argues that critical criminology needs to be *transed* (Balaguera 2018; Tudor 2017) to move closer to its transformative potential. Trans frameworks offer powerful insights to challenge dominant criminological frameworks and to explore feminism's own complicated relationship to carceral expansion. In this article, I discuss ways that transing critical criminology may help to unsettle binary accounts of gender, harm, justice and punishment, and to reframe abolitionist praxis in innovative anti-carceral feminist directions.

Introduction

In their 2013 article in this journal, Chesney-Lind and Morash (2013) issued a bold call for a transformative reformulation of the field of criminology—a shift that would place gender and social justice at the center of its analysis and direct critical criminological attention to the disruptive economic changes and corollary inequalities wrought by globalization. A core feature of Chesney-Lind and Morash's (2013) article was centered on problematizing the gaps and paradigmatic blind spots of criminology dating back to the field's founding. By highlighting the ways in which early theorizations of crime, deviancy and victimization failed to take seriously questions of gender and its intersecting class, racial and sexual dimensions, Chesney-Lind and Morash (2013: 300) offered a vision of social justice grounded in feminist insights, suggesting that “feminism and feminist theory offers all of criminology incredible intellectual vitality and a recommitment to *go beyond* the collecting

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and disseminating of knowledge to seeking a just, equitable, and healthy world for all” (emphasis added). Feminist theoretical insights challenge ideologies that exacerbate gendered inequality and interrogate dominant theories about crime and punishment that render invisible women’s and girls’ justice-involvement (Oparah 2012). Yet, even though patriarchy *still* matters (Chesney-Lind and Morash 2013) and a myopic focus on “male norms” in research on penalty is “no longer be defensible” (Hannah-Moffat 2010: 200), interweaving feminist insights into critical criminology is not without challenges.

Inspired by Chesney-Lind and Morash’s unflinching commitment to integrate feminist theories and methods into criminology, this article takes up their project, yet attempts to rework it in a few ways. The transformative potential of criminology still demands unpacking concepts such as “crime,” “justice” and “victimization,” and asking how class, gender, race, and other social locations figure into scholarly analyses about them and to what effect (Chesney-Lind and Morash 2013). Yet, different versions of feminism exist, as Chesney-Lind and Morash (2013) also pointed out in their original article. Moreover, research and activism advanced in the name of feminism is not inherently radical, nor is there a singular version of feminism within criminology or outside the field (Mohanty 2013; Renzetti 2018). As political theorist Michelle Ferguson (2017: 56–57) reminds us, feminists have *always* engaged in fierce debates over definitions of feminism and feminists’ main political investments. Indeed, feminism as a concept is contested and movements advanced in its name reflect divergent agendas and visions of justice that do not necessarily cohere.

While an exploration of the dominant concepts animating mainstream criminology invites critical feminist intervention (Chesney-Lind and Morash 2013), the opportunity to reflect on the transformative reformulation of critical criminology provides the occasion to spotlight *trans* frameworks, including transgender, transnational and transformative feminist perspectives (Dill and Zambrana 2009; Tudor 2017: 26) developed in response to myriad crises of our moment, including the carceral crisis (Brown and Schept 2017). *Trans* frameworks index a rich body of interdisciplinary feminist, queer and trans scholarship, and helps to explore the socioeconomic root causes of the carceral state and its unwieldy growth in corporate, humanitarian, and sociotechnical directions (Bassichis et al. 2011; Davis 1998; Mohanty 2013; Stanley et al. 2012; Sudbury 2010; Wang 2018). *Trans* frameworks, like transnational feminist perspectives, further unsettle categorical assumptions (about classifications such as “crime,” “offender,” “victim” and “women”) and draw attention to relations of power imbued within them (Tudor 2017: 26).¹

Drawing on anti-carceral feminist, queer, and trans frameworks, and following the lead of scholars in carceral, critical prison, migration and transgender studies, my suggestion is that critical criminology needs to be *transed* (Balaguera 2018; Tudor 2017). Just as transing gender includes a movement away from culturally contained gender categories—a move where the crossing of gender also signals “going beyond” constructed binary gender categories that contain it (Stryker 2017: 1; Tudor 2017: 117)—transing critical criminology entails another boundary crossing of sorts—in this instance, a conceptual crossing geared toward opening up space for the cultivation of theories and frameworks to address carceral developments, including its expansion in feminist directions (Bernstein 2010, 2012; Whalley and Hackett 2017).

¹ Complicating categories in order to transform criminology has also been taken up by critical carceral studies scholars Michelle Brown and Judah Schept (2017). I see an engagement with *trans* frameworks as a companion to Brown and Schept’s incisive efforts to map the critical carceral and critical criminology terrain.

Trans, as other scholars highlight, is heuristic (Balaguera 2018: 648). In this article, I use trans heuristically, too, to spotlight feminist, queer and trans insights inclusive of limitless gender and sexual expressions and which offer dynamic frameworks to understand “criminalizing webs” and shapeshifting forms of punishment that include but extend beyond the state (Balaguera 2018; Bernstein 2012; Lamble 2011; Richie et al. 2017a, b; Spade 2013; Stanley et al. 2012). The deconstructive analytic work that *transing* invites also encourages analytic lines of flight that “go beyond” (Tudor 2017: 26) binary frameworks to describe crime and punishment, and to envision models of justice based on abolition and accountability (Berger et al. 2019: 2; Carlton 2018; Carlton and Russell 2018; Russo 2018: 103; Richie 2012: 104). The fact that individuals and communities, who have endured the savage effects of carceral control and entrapment, have advanced some of the most innovative anti-carceral strategies to resist it underscores the transformative purchase of trans (Bassichis et al. 2011; Davis 1998; Incite! 2003; Ritchie 2017a, b; Stanley et al. 2012). Yet, transing critical criminology also telegraphs possibility, first, in considering how pain and violence wrought by carceral violence may be transformed in building a more just world (Bassichis et al. 2011; Berger et al. 2019; Brown and Schept 2017; Chesney Lind and Morash 2011; Russo 2018; Sudbury 2010). Second, transing critical criminology builds upon the “interdisciplinary vitality” (Brisman 2012: 58) that already exists within critical criminology, but extends it further still by cultivating intellectual affinities based on mutual priorities and a commitment to social justice struggles across borders (Tudor 2017: 26–27).

In the sections that follow, I offer a brief sketch of a few recurring questions taken up by feminists about the possibilities and limits of particular feminist lines of inquiry. Nested within each section, I draw on insights from anti-carceral, intersectional, queer and transgender feminist scholarship to explore some of the categorical limitations of criminology (Brown and Schept 2017: 12) and to further highlight feminists’ negotiation and critique of allying justice movements too closely with carceral interventions. I conclude with a discussion of anti-carceral feminism and argue that transing critical criminology helps to move beyond limited binaries and to deepen scholarly engagement with abolition and related frameworks for justice, including anti-carceral feminist reframings.

Neoliberal Feminism with a Vengeance²

The field of criminology, Chesney-Lind and Morash (2011: xi) observe, is shaped by “twin intellectual deficits”: the exclusion of gender as a central category of analysis and a lack of commitment to challenging systems that perpetuate social injustice and interlocking oppressions. Their observations remain salient. In 2019, a moment when criminal justice reform has gleaned widespread attention and support in the United States (US), evidenced, for instance, by the bipartisan embrace of the First Step Act in an otherwise politically divisive political landscape, men are still assumed to be “normative subjects” in policy circles and within the field of criminology, more broadly (Oparah 2012: 241). A vital contribution of feminist theory within and beyond criminology is an emphasis on reflexivity and a commitment to interrogating paradigms and theoretical frameworks that shape

² This subtitle is a riff off of feminist criminologists’ observation that liberal feminist emancipation theories occurred alongside policy and procedural changes in the criminal justice system, the result of which was an uptick in arrests and justice involvement for women and black men—what Chesney-Lind (2006) and others (e.g., Dragiewicz 2011; Renzetti 2018: 77) refer to as “equality with a vengeance.”

knowledge claims (Haraway 1988). A reflexive feminist inquiry may prompt us to ask: Why are women and girls still an afterthought in mainstream media and policy discussions despite the fact that women constitute “the fastest-growing segment of the prison population” (Sufirin 2017: 8)? When women and girls’ particular pathways to jail, prison and carceral supervision are misunderstood and when their experiences of incarceration and adjacent systems are ignored or erased, the importance of feminist interventions in the “malestream” criminology research space comes into sharp focus (Oparah 2012: 241).

Consider research on prisons: Men are still widely presumed to be the default group that experiences imprisonment (Owen et al. 2017). “Feminist pathways research” performs a critical intervention by disrupting the narrative that men are the singular paradigmatic carceral subjects. Drawing much needed scholarly attention to women and girls’ complex paths to justice-involvement and specific experiences of imprisonment (Sharpe 2016: 10), this work demonstrates that girls and women’s experiences are shaped by oppression and violence within the family, at home, in schools and at work, and that women “do their time differently than men” (Barbarett 2014: 240; Owen et al. 2017: 5, 9). Feminist pathways research has made invaluable inroads in nudging critical criminology in more gender inclusive directions. Yet, drawing on insights from feminist scholars writing outside of criminology, I am reminded of the fault lines and risks that accompany feminist efforts to shine a spotlight on girls’ and women’s differential experiences, particularly if such efforts do little to change in any meaningful way the systems that contribute to their marginalization.

Referred to, by shorthand, as the “add women and stir” approach (Banet-Weiser 2018: 12; Harding 1991; Runyan and Peterson 2018: 103), feminist scholarly critiques of incorporating “women and girls” into a field of research or disciplinary subfield—in this case, critical criminology—proves limited if such efforts fail to interrogate the structures that perpetuate gender inequality—global capitalism, for instance—or challenge the institutional logics and processes that privilege particular expressions of gender and sexuality while punishing others (Banet-Weiser 2018: 12; Oparah 2012: 24; Stryker 2007: 68; Westbrook 2016). Though critiques of liberal feminist approaches have been debated rigorously since the 1970s within and outside of feminist criminology circles (Renzetti 2018), more recently, feminist scholars have argued that late-twentieth century liberal versions of feminism have been revived through neoliberal ideology and attendant policies that have accompanied its ascent in all facets of economic, political, and social life. Within a neoliberal feminist framework, individual empowerment and market participation are situated as key to producing “individuated feminist subjects” and achieving gender equality more broadly (Banet-Weiser 2018: 4–5; Carty and Mohanty 2015: 91; Rottenberg 2017: 331). At the same time, neoliberal actors are eager and all too willing to incorporate market friendly versions of feminism that demand little in the way of system-level change (Moghadan 2018: 41). What links the mid-twentieth century liberal feminist “add women and stir model” to early twenty-first century neoliberal feminism is that both frameworks are ill-equipped to challenge structures that perpetuate gender inequalities. It is important to stress that feminist criminologists have drawn clear and searing attention to income inequality, homophobia, patriarchy, and racism—the very structural forces that shape girls’ and women’s experiences of punishment and injustices resulting from it (Chesney-Lind 2006; Chesney-Lind and Chagnon 2015; Dragiewicz 2011). Yet, just as liberal second wave feminist calls for equality under the law gave us “equality with a vengeance.” (Chesney-Lind 2006; Dragiewicz 2011), so, too, has more attention to girls and women dovetailed with the carceral integration of neoliberal discourses about gender empowerment—what might be described as a neoliberal feminism with a vengeance—which has reconfigured, rather than blunted, carceral growth (Bumiller 2009; Haney 2010a).

The penal institutional embrace of “gender responsive” principles and “gender specific programming” in recent decades exemplifies how well-intentioned feminist aims to focus attention and resources on justice-involved girls and women can backfire and end up supporting carceral expansion under the guise of gender-responsiveness. As scholars Hannah-Moffat (2010) and Sharpe (2016) both observe, carceral administrators’ attunement to girls’ and women’s differential experiences of incarceration sets the stage for interventions like the promotion of individual’s self-esteem and therapeutic transformation (see also Whalley and Hackett 2017). Advanced in the name of gender equality, such individualized “penal empowerment projects” (Haney 2010b: 75) often rely on stereotypical and normative readings of gender—a striking blind spot especially in light of decades worth of feminist scholarship within and outside of criminology that have challenged forcefully biologically essentialist readings of gender (Hannah-Moffat 2010: 198; Sharpe 2016: 4; Sufirin 2017: 11). Of additional note, the institutionalization of neoliberal interpretations of feminism obfuscate the economic and sociopolitical factors that shape girls’ and women’s criminalization and experiences of incarceration (Sharpe 2016; Whalley and Hackett 2017: 10–11).

For example, economic and political marginalization informs women’s engagement in survival strategies—selling drugs and sex, for instance—which can lead to women’s carceral entrapment for poverty and noncriminal and “public order” offenses, as well as for “surviving” sexual and gender violence (Chesney-Lind and Chagnon 2015: 111; Ritchie 2017a, b: 45; Whalley and Hackett 2017: 7). As neoliberal policies have razed the social safety net and gutted available medical services, jails, prisons and problem-solving courts are among the few places with access to services (Brisman 2016; Gruber et al. 2016; Whalley and Hackett 2017: 9). Carolyn Sufirin provides a deft, yet mournful, account of this in her 2017 book, *Jailcare*. At the San Francisco County Jail where her research is based, jail functioned as a safety net for the pregnant women that she interviewed (Sufirin 2017: 15). The overlap extends beyond jail, too, and is a durable feature of state surveillance techniques where care and control exist along a continuum (Newell et al. 2017: 23). In my research on state and non-state responses to sex trafficking in the US, the logic of care is leveraged to criminalize girls and women deemed “at risk” of sex trafficking, and some are arrested “to help them.” An arrest, in turn, functions as a catalyst for referrals and placement in diversion programs, specialized courts and mandated, trauma-informed services—a process I refer to as “carceral protection” (Musto 2016; see also Connor 2016; Gruber et al. 2016).

Whether we are talking about “jailcare” (Sufirin 2017), “carceral protection” (Musto 2016) or a burgeoning penal welfare system (Gruber et al. 2016) comprised of problem-solving courts, diversion programs and other seemingly progressive “alternative” arrangements, what these combined works illuminate is that girls’ and women’s carceral entrapment functions as a “conduit” (Gottshalk 2016: 46) to gain access to resources otherwise unavailable. And in a cruel twist, as carceral restructuring obliterates the safety net, carceral actors have gotten in the business of care, albeit a forced version of it—one that create new kinds of “enforced intimacies” (Sufirin 2017: 185) that further muddle the lines between care and control, and protection and punishment (Musto 2016). The tagline to this trend may read something like: medical care, rehab, therapy and treatment available by force, courtesy of a gender-sensitized carceral triage system. Focusing on girls’ and women’s individual experiences of enforced carceral “care,” without also challenging the commonsense logic and policies that undergird its adoption, risks turning individuals’ experiences into “raw material” that advances research agendas but does little to improve in any

meaningful way girls' and women's circumstances within and beyond penal institutions (Silvey 2010: 194; Sudbury 2002: 57).

That is why centering individual girls' and women's experiences within critical criminology or any field, for that matter, will ultimately prove limited if such work does not also actively seek to map and disrupt parallel developments, in this case, gender-responsive and gender-specific programming that de facto endorse the carceral status quo. This is especially timely in a moment where criminal justice reform—and feminism—has gleaned broader public appeal and where feminist insights already have and may yet still be appropriated to expand the terms of punishment in new gender-sensitized, rehabilitative and trauma-informed directions (Carlton 2018; Hannah-Moffat 2010: 198; Sharpe 2016: 4; Whalley and Hackett 2017: 9–10).

A transformative critical criminological practice committed to reflexivity prompts us to ask: How does the circulation of particular feminist discourses make girls and women legible to carceral administrators? What is gained and lost when heightened attention to girls and women leads to a carceral rollout of gender responsive programming that views their justice-involvement as the result of addiction, family dysfunction, and trauma without also considering the effects of colonization, poverty, racism, and transphobia? How do we challenge the entwinement of care and carcerality such that services and resources exist apart from carceral entrapment? Another straightforward yet critically important question emerges too: Which “women” are included in the critical criminology imaginary in the first instance?

Intersectionality, Transnational Feminisms and Moving Beyond Binaries

A central question taken up by feminist scholars from varied disciplinary locations concerns whose experiences are privileged and centered in formulating theoretical frameworks. For instance, if researchers assume that all people placed in a women's prison identify as women or assume that women who are imprisoned are always placed at facilities described by criminal justice authorities as a “women's prison,” this perpetuates the fiction of a two-and-only-two binary gender system (Westbrook 2016) and demonstrates further how feminist projects on crime and punishment may reproduce, even if inadvertently, a trans exclusionary vision of feminism (Oparah 2012). The result of this is not only a dismissal of how transgender and gender non-conforming (TGNC) individuals experience imprisonment—an area where more critical criminology research is needed (Buist and Lenning 2016; see also Ball 2019; Henne and Troshynski 2019)—but also a missed opportunity to explore how penal institutions make use of normative binary gender to control individuals under carceral supervision (Oparah 2012: 242). Such efforts correspond with broader gender and sexual policing regimes in which flawed perceptions about trans and queer folk's sexual depravity contributes to the violence and criminalization they endure within and outside of prison (Stanley et al. 2012).

Thanks to the critically important work of queer and trans scholars and activists, we know that TGNC people face heightened risk of sexual assault while incarcerated and endure myriad other forms of abuse and degradation while in state custody, including but not limited to denial of medical care, harassment, and solitary confinement (NCTE 2018: 6; Stanley et al. 2012). When people are placed in carceral facilities that do not align with their gender identities, carceral administrators' attempts to prevent sexual violence can

further result in a backward form of gender-responsiveness whereby TGNC individuals are segregated “for their own protection” (Berger et al. 2019: 5; NCTE 2018: 13–14).

Consideration of gender that includes a focus on *all* women’s and girls’ experiences would draw much needed attention to the horrific degree of discrimination and violence TGNC folk face before, during, and following incarceration, and would pay careful attention to how carceral actors negotiate and draw selectively on notions of vulnerability in developing “protective” and seemingly gender sensitized penal schemes (Meiners 2016: 33). Yet, gender alone without equal attention to other social locations is incomplete. Enter intersectionality. Intersectionality, among the more influential approaches to shape academic feminist thinking and activist organizing in the last three decades, provides an analytical framework to account for the ways in which class, gender, race, and sexuality, as well as other social identities, interact in shaping systems of oppression (Boukli and Renz 2019; Henne and Troshynski 2019). By moving beyond a “single-axis” approach to accounting for subordination and marginalization (Spade 2013: 1031), an intersectional approach provides a lens for understanding how ableist, capitalist, heteronormative, heteropatriarchal, transphobic and white supremacist ideas produce structural inequalities and shape power and privilege (Russo 2018: 4–5).

The success of intersectionality arguably has as much to do with the theory’s illumination of otherwise subjugated knowledges as its incisive elucidation of the flawed gendered and racial logics that anchor and reproduce structural inequality and marginalization (Dill and Zambrana 2009; Russo 2018: 5; Salem 2016). According to legal scholar Kimberlé Crenshaw, whose work on intersectionality (1991) is cited widely, intersectionality helps to make sense of the structures that “make certain identities the consequence of and vehicle for vulnerability” (Crenshaw 2016). By articulating the structural dimensions of vulnerability, intersectionality’s conceptual, methodological, and pedagogical power turns on its ability to “capture perspectives” (Falcón 2012: 101) otherwise erased and “correct” scholarly assumptions—including feminist ones—that presume similarity between and across women’s experiences (Mahler et al. 2015: 102).

The importance of intersectional thinking advanced by black feminist scholars and activists on the racialized dimensions of criminalization and punishment cannot be overstated. Indeed, critical criminologists owe an immeasurable intellectual debt to women of color feminists whose stalwart efforts to challenge carceral expansion and the state violence it engenders forms the “backbone” of activist and scholarly work on penal abolition (Critical Resistance and Incite! 2013; Davis 2003; Incite! 2006; Richie 2012; Ritchie 2017a, b; Sudbury 2010). Decades of anti-racist and feminist activist and scholarly work have documented, in rigorous and fine-grained detail, the racial and gendered dimensions of criminalization and punishment (especially incarceration), and the brutal effects of state sponsored violence on communities of color, in general, and on black men, women, and youth in particular.

An intersectional analysis directs our attention to the fact that in the US, girls, women, low-income individuals and communities of color face harsher penalties, steeper consequences, and more devastating economic effects as a result of involvement in the criminal justice system (Richie 2012; Ritchie 2017a, b; Sudbury 2010). An intersectional analysis further invites us to consider why transgender people of color, in general, and black transgender women, in particular, face higher rates of incarceration relative to the general public and endure some of the harshest forms of criminalization, harassment and violence at the hands of police while in state custody and outside of it (Balaguera 2018; James et al. 2016: 184–190; NCTE 2018: 5). A full account of policing and punishment would not be complete without attending to the ways in which “binary and hierarchical notions of

gender” are weaponized to police gender and punish people who “fail” to perform racialized gender ideals (Ritchie 2017a, b: 128), and an intersectional lens captures trends and experiences of punishment that are often unaccounted for in criminology research, with some notable exceptions (Buist and Lenning 2016; see also Henne and Troshynski 2019).

Yet, despite intersectionality’s undeniable influence, feminists have begun to explore its limits and complicate its application beyond its black feminist and Third World liberation epistemological roots (Falcón and Nash 2015; Salem 2018).³ At the same time, feminists have put intersectionality in conversation with other feminist theories, such as transnational feminist theory. Broadly, transnational feminist theorizing challenges the nation state as the privileged unit of analysis in research and works to “unsettle the binary of the west versus the rest” (Falcón and Nash 2015; Mahler et al. 2015). Transnational feminist scholarship also charts the uneven effects of neoliberal globalization on different bodies (Mohanty 2003; Nagar and Swarr 2010: 3) and explores the economic precarity and political instability it has produced. As heightened movement across borders has contributed to migrants’ criminalization, transnational feminist and queer scholars’ work draws much needed critical attention to the ways in which state policies criminalizing immigration are tied intimately to gendered and racial ideologies, and this work illuminates the granular, everyday ways people experience punishment and social control within and beyond the boundaries of the state (Balaguera 2018; Mai 2018; Ritchie 2017a, b; Sudbury 2010).

For example, in a nuanced ethnographic study of transgender migrants’ transit between Central America, Mexico, and the US, Martha Balaguera (2018) examines how *chicas trans* are targeted by state authorities throughout their cross-border migration circuit, cycling in and out of various jails, prisons, and detention centers. Yet, as Balaguera’s research further illuminates, *chicas trans* endure other forms of control too—a “confinement in motion”—where, in addition to being held in state-run detention centers, migrants enter shelter spaces with administrative rules and unrelenting gender and sexual policing regimes that foreclose their ability to sustain their lives (2018: 655). Balaguera’s work makes the persuasive call for scholars to “think beyond” binaries. In this instance, “thinking beyond” entails analyzing migration beyond militarized borders and examining forms of punishment that exist outside of detention centers, jails and prisons—insights that challenge the commonsense idea that state penal authority always outweighs everyday forms of policing by non-state authorities. “Thinking beyond” further repudiates the idea that immigration policy—like citizenship—is ever just a domestic issue or a single nation affair (Balaguera 2018: 655).⁴

“Thinking beyond” also means reflecting on the links and political affinities that may exist by engaging theoretical frameworks—intersectionality and transnationalism, for instance—while taking care to not collapse them (Falcón and Nash 2015). Feminist scholar Jennifer Nash notes that intersectional and transnational feminist perspectives share an “anti-subordination” approach to theory and politics (Falcón and Nash 2015: 8). For her part, scholar Sylvanna Falcón suggests engaging intersectionality and transnationalism

³ A detailed discussion of the limits of intersectionality is beyond the scope of this article. A number of scholars have explored feminist debates that surround it, however. See Nash (2017) for a thorough distillation of the “intersectionality wars”; see also Puar (2012), for a discussion of the theoretical limits of intersectionality and the need to augment it with assemblage theory, and Carlton and Russell (2018), for an important discussion about the challenges of incorporating intersectionality into anti-violence advocacy work.

⁴ “Thinking beyond” also means complicating the ways in which the domestic and transnational overlap—a point Balaguera gestures toward when suggesting that *chicas trans*’s experiences are “uniquely intersectional, yet not singular” (2018: 643). Bringing *chicas trans*’s experiences into intersectional focus does not reduce their experiences to a single identity nor limit their experiences of “confinement in motion” to a single nation-state or a single nation’s repertoire of immigration policies.

as “politically complementary” rather than as binary opposites (Falcón and Nash 2015: 9). Their reflections, along with other feminist, queer, and trans scholarship that complicates binaries, offer critical criminologists powerful analytical insights, first, in challenging the attachment of a singular meaning to the category “woman”—or any gender identity, for that matter—and in contesting the idea that patriarchal oppression is shared similarly across class, economic, ethnic, national, racial and sexual borders. Second, these works demonstrate the generative potential of traversing divergent theories and analytical frameworks—a move that focuses scholarly attention to insights that may not otherwise be obvious. For instance, non-state forms of punishment and confinement exist alongside—and yet exist distinctly apart from—detention centers, jails and prisons (Balaguera 2018). Just as “chicas trans’ experiences of confinement expose the workings of a carceral regime of sovereignty *beyond* the walls of the prison” (Balaguera 2018: 643 (emphasis added)), so, too, do their experiences underscore the limits of theoretical frameworks that privilege certain kinds of punishment while ignoring others. A transformative and critical criminological practice committed to “transing” challenges the seemingly distinct lines separating punitive (state) detention and humanitarian (non-state) shelter (Balaguera 2018; Mai 2018) and offers an analytical bridge to link criminological inquiry to feminist, queer, and trans theories on crime, punishment, and justice.

Carceral Feminism

In a moment in which entrenched patriarchal beliefs and misogyny have surfaced, due in part to the election of Donald J. Trump as President of the United States and following the October 2017 sexual assault charges lodged against Hollywood producer Harvey Weinstein that sparked a revamped #MeToo movement, transing critical criminology invites us to consider not only which “women” are tacitly privileged in our public and scholarly imagination, but also what version of feminism might move critical criminology closer to its transformative potential. Take, for instance, the actress and celebrity, Alyssa Milano, who is often credited with sparking the global social media movement when she tweeted “me too” about her experiences of assault. The movement has contributed to an unprecedented public reckoning about the scale and pervasiveness of gender-based and sexual violence globally. Individual disclosures have led to worker strikes and public firings of powerful men. For many, #MeToo offers a glimmer of hope that sweeping social change and justice for survivors of violence may yet be possible (Zarkov and Davis 2018). Yet, as other commentators point out, it was Tarana Burke, a black woman and longtime anti-violence advocate, who coined the term a decade earlier and generated the conceptual and creative scaffolding for the movement (Harris 2018). Black girls and women have been largely “invisible” from the #MeToo movement—“their stories all too often overshadowed by high profile celebrities” (Tillet and Scheherazade 2019). The erasure of black women’s scholarly and activist contributions is part of a much longer history of whitewashing within feminism and raises a recurring, yet still pressing, question for feminists: Whose stories are “intelligible as feminist” (and intelligible to feminists) in the #MeToo movement and beyond (Ferguson 2017: 57; Zarkov and Davis 2018)?

As feminist scholar Sarah Benet-Weiser describes in her book, *Empowered: Popular Feminism and Popular Misogyny* (2018), in the past few years, we have seen the rise of popular feminism and various mutations of it, including but not limited to celebrity feminism, corporate feminism, and dominant feminism. The growth of popular feminism,

Banet-Weiser (2018: 13) argues, draws attention away from other versions of feminism less visible in an “economy of visibility.” When celebrities, corporate actors, and a diffuse networked public of consumer-citizens embrace feminism as a brand, identity, and marketing trend, but fail to engage with decades worth of feminist research and debate, we see another feminist complexity playing out—in this case, acceptance of a popular version of feminism unaware of political struggles predating its growth or of feminist research to understand assault, harassment, intimate partner violence, rape and sex trafficking, including work documenting rigorously the punitive effects of criminal justice responses on girls and women of color (Richie 2012; Ritchie 2017a, b).

At issue is not an interest in promoting a “pure” or unified feminism—along the lines of Agnew’s (2011) “unified criminology”—or an academic call out of those who embrace #MeToo but remain unaware of or uninterested in engaging with academic feminist research that precludes its emergence (Ferguson 2017). Instead, my concern is that mainstream discussions assuming that justice for survivors of violence is facilitated through the passage of more laws and bolstering criminal justice responses are remedies that run counter to selected feminist, queer, and trans activist and scholarly insights documenting how criminal justice responses to gendered and sexual violence are all too commonly tied to criminalization, punishment and violence by the state, especially for women and girls of color (Chesney-Lind and Chagnon 2015; Critical Resistance and Incite! 2013; Richie 2012; Ritchie 2017a, b; Russo 2018; Sudbury 2010). We know, for instance that the binary separation of victims from criminals eclipses the fact that far too many girls and women “start off as victims [but] are often punished as criminals” (Chesney-Lind and Chagnon 2015: 110; see also Russo 2018). Moreover, innocence and guilt are racially coded and laws and anti-violence responses shaped by dominant cultural perceptions of class, gender, race and sexuality. So, although protection for survivors of violence remains shamefully inadequate, white, heterosexual cisgender girls and women have gleaned some protection under the law otherwise denied to black girls and women, people of color, immigrants, and trans and gender non-conforming people (Haley 2016; Russo 2018).

These issues predate the #MeToo movement. The movement, however, has played a role in raising public awareness about the criminalization of survivors of violence and brings to the surface feminist concerns about aligning anti-violence efforts too closely with carceral agendas—a trend and theoretical vantage point referred to as “carceral feminism.” Carceral feminism—an ideological orientation and practical approach to addressing intimate partner violence, sexual assault, sex trafficking and other forms of gender and sexual violence—aims to redress harms that victim-survivors endure through an expansion of the criminal legal system and the carceral state more broadly (Bernstein 2010, 2012).⁵ Sociologist Elizabeth Bernstein coined the term “carceral feminism,” which is based on her ethnographic research focused on anti-sex trafficking activities in the United States. Examining how and why some feminists came to align their anti-sex trafficking activism with expanded criminal justice responses—a move that has, in turn, contributed to the heightened policing and criminalization of people

⁵ It is important to stress that feminist arguments critiquing law enforcement responses to gender and sexual violence are not new (Bumiller 2009; Critical Resistance and Incite! 2013) and certainly did not start with the #MeToo movement. Yet, the movement has helped to backlight the inveterate tension between transformative feminist ideals and criminal justice interventions to ameliorate gender and sexual violence—tensions reflected in the passionate pleas of feminist commentators, like Alex Press (2018), who unambiguously instruct #MeToo supporters to “avoid carceral feminism... and resist harnessing movement energy and power into a criminal justice system “incompatible with liberation.”

suspected of facilitating sex traffickers, especially black men and adult sex workers—Bernstein's (2010, 2012) work has been instrumental in advancing feminist understanding about how laudable ideals, like gender justice, get enmeshed with carceral politics and in illustrating how a neoliberal vision of gender equality with a criminal justice-focused bent is framed as a commonsensical response to gender and sexual violence (see also Hannah-Moffat 2010: 201).

Like intersectionality, carceral feminist critiques have traveled beyond its animating subject matter (Lewis 2013; Salem 2018). Indeed, scholarly interest in carceral feminism is evidenced not only by its capacious application beyond the paradigmatic case study of sex trafficking, but across disciplines and beyond academia. For instance, writer Victoria Law (2014) has interrogated the carceral feminist impulse to focus on “police and prisons” to address gendered violence. Other scholars have challenged the ways in which anti-violence work has evolved to support criminal justice outcomes (Whalley and Hackett 2017). Whalley and Hackett (2017: 457), for example, find that many mainstream anti-rape organizations “align with the victimology of the criminal within the criminal legal system” and, in so doing, hew to a carceral “dominant feminism” model of anti-violence intervention that “maintains implicit preference for white, middle-class, heterosexual cis-women populations.”

For some scholars, carceral feminism is unambiguously at odds with a transformative feminist praxis grounded in abolitionist principles (Whalley and Hackett 2017). As sociologist Nancy Whittier (2016: 792–793) argues, carceral feminism is fundamentally in tension with intersectionality; whereas carceral feminism deemphasizes “structural and economic transformation” in favor of a law and order agenda, intersectionality emphasizes structural location and understands that addressing survivors’ structural vulnerabilities is central to facilitating effective anti-violence responses. Yet, even when anti-violence advocates maintain commitments to intersectional, structural understandings of gendered violence, some may nonetheless find their efforts forestalled when collaborating with legislators and mainstream anti-violence proponents, who stand firm in framing gendered violence as a *crime*—a legal rather than a social or community problem that requires more criminal justice interventions (Whittier 2016: 812). Not only does this help to explain why feminists committed to anti-carceral interventions view funding and collaboration with the state as antithetical to a transformative framework of justice (Musto 2016; Whalley and Hackett 2017: 468), it gestures toward the ways in which intersectional and transformative frameworks may be coopted by and folded into carceral agendas.

From a more practical standpoint, carceral feminism is seen as an ineffective anti-violence strategy. Criminalizing gender and sexual violence does not prevent it from happening in the future and it exacerbates vulnerabilities within communities already impacted disproportionately by policing, surveillance, and other forms of justice-involvement (Bassichis et al. 2011; Whalley and Hackett 2017: 467). Another limitation: Carcerally-orchestrated anti-violence strategies contribute to “a false dichotomy,” where the harms an individual endures as a result of a particular situation—whether assault, human trafficking, intimate partner violence, rape, etc.—are seen apart from harms that are the direct result of state activities, including states’ inaction in addressing discrimination and structural

inequalities that contribute to people's experiences of exploitation, harm and interpersonal violence (Boukli and Renz 2019: 3).

What feminist critiques of carceral justice underscore is that lines between protection and punishment are blurred, especially for low-income girls and women of color who have survived violence but who may nonetheless find themselves arrested, incarcerated and placed under carceral supervision (Chesney-Lind and Chagnon 2015; Musto 2016; Richie 2012). Global anti-trafficking activities, for example, utilize law enforcement strategies and rely on carceral strategies of punishment. In the United States, adults and youth viewed by authorities as victims of sex trafficking may nonetheless experience arrest, detention, and protracted court supervision (Gruber et al. 2016; Musto 2016). In Bangladesh and India, women identified as trafficking victims endure locked shelter detention or "protective homes"—interventions similarly framed as rehabilitative (Bose 2016; Ramachandran 2015). Subjecting survivors of gender and sexual violence to punitive carceral interventions in the name of "protecting them" is egregious enough. Yet, what is additionally harmful is the silence that surrounds injurious interventions masquerading as anti-violence strategies—a silence that becomes more acutely suppressive when carceral authorities collaborate with non-governmental and non-state humanitarian actors (Musto 2016). State anti-trafficking efforts are supported and extended via carceral feminist and sexual humanitarian actors whose NGO-ized interventions erode distinctions between state and non-state intervention (Bernal and Grewal 2014: 6; Bernstein 2010, 2012; Mai 2018; Musto 2016).

Because carceral interventions are not recognized as injurious or seen as a contributor to survivor's victimization, state as well as non-state actors engaged in this work are seldom subject to legal proceedings, public scrutiny, or social sanction—if and when their interventions harm rather than help. The harm done by non-state actors, whose work supports carceral and militarized interventions in the name of gender justice, is all too familiar to those impacted most directly by it. Take, for example, the clarion call of sex workers and rights organizers the world over asking to be "saved from the saviors" (Ahmed 2014). Serving as both an indictment of anti-trafficking "rescues" gone bad, this slogan reminds us that humanitarian interventions—like the carceral anti-prostitution raids with which they are entangled commonly—are punitive in ways that include but exceed police and penal power (Coyle and Schept 2017: 399). This is where transing comes in and why it is important to unsettle the binary (and empirically misleading) separation of victims and offenders, to question what (and whom) is situated as the main aggravating source of harm (Whalley and Hackett 2017), and to move beyond framing gender and sexual violence as a crime that invariably demands more criminal justice interventions.

Anti-Carceral Feminist Reframing

Feminist, queer, and trans activists and scholars have been at the vanguard not only in describing carceral growth but in reflecting on the ways that seemingly transformative ideas—including feminist ones—may extend the reach of the carceral state and, in so doing, contribute to the harms and punishment survivors of violence face. The "intellectual vitality" (Chesney-Lind and Morash 2013: 300) of feminism is captured by feminist, queer, and trans scholars' interrogation of feminism's problematic support of carceral expansion (Bernstein 2010, 2012) and efforts to develop more liberatory models of justice (Whalley and Hackett 2017: 467–468).

Critical carceral studies scholars Brown and Schept (2017: 5, 16) argue that challenging “dominant narratives about the carceral state...broadens and sharpens abolitionist analytical vantages.” In a similar vein, feminist critiques of carceral politics (e.g., Bernstein 2012) have given rise to anti-carceral feminism—the flipside to carceral feminism—which demonstrates how feminists’ opposition to carceral frameworks have produced reformulations to go beyond them (Carlton 2018). Anti-carceral feminism is a burgeoning interdisciplinary field comprised of activists and scholars allied in their commitment to intersectional feminism and decarceration. As Bree Carlton (2018) explains, anti-carceral feminism includes some of the same strategies as those advanced by abolitionist groups, such as abolishing prisons and putting an end to policing and surveillance. There are other overlaps, too. Like abolitionists, anti-carceral feminists frame violence as a collective problem that requires community-based solutions (Whalley and Hackett 2017: 467). And just as abolitionist groups reject government funding and resist turning movement work into professionalized endeavors, so does an anti-carceral feminist stance oppose collaborating with law enforcement and resist carceral scope creep as it veers in gender-responsive, NGO-ized, reform-oriented directions (Haney 2013: 126; Musto 2016; Whalley and Hackett 2017: 468).

Yet, anti-carceral feminist insights stretch the boundaries of abolition in a few distinct ways. First, because criminalization is tied intimately to “intersecting systems of gender, race and class oppression” (Carlton and Russell 2018: 105), activists and scholars committed to anti-carceral feminist principles combine decarceration efforts with organizing against structural inequality. The grassroots organization, *Survived and Punished* (2019), exemplifies this more holistic approach in arguing that ending the “criminalization of survival” requires decarceration strategies like releasing people from prison, jail, and immigration detention, and working to disrupt the heteropatriarchal violence, structural racism, and transphobia that gives rise to the criminalization of survivors (*Survived and Punished* 2019; Whalley and Hackett 2017: 468–469).

Second, anti-carceral feminism rejects false binaries between “good” victims and underserving criminals (*Survived and Punished* 2019) and understands that the boundaries between state and non-state actors are often blurred. Interest in the “crimes of the powerful,” including militarized border enforcement, penal violence and racialized police brutality, has increased among critical criminologists (e.g., Barak 2015), as should be the case! What is also needed, however, is a reformulated framework to talk about the activities of non-state actors—the powerful adjacent—whose work supports carceral agendas. I am referring, here, to celebrities, corporations, humanitarian and faith-based organizations, and non-profit and non-governmental actors, noted above, whose work may support, if not directly expand, criminalization, state-organized policing, surveillance, and confinement. Transing critical criminology invites us to pay attention to evolving penal and non-state arrangements, to track the fluid overlap between state and non-state actors (Bernal and Grewal 2014: 6), and to widen the lens with which we document criminalization, punishment and confinement, such that it makes visible the constellation of non-penal actors who knowingly and unintentionally collude with carceral actors and projects. By transing the field and putting intersectional, queer and transgender scholarly insights in conversation with critical criminology, we have the chance to generate more effective strategies to resist official state punishment, along with non-penal policing and non-state mechanisms of social control for which no meaningful relief currently exists.

Third, an anti-carceral feminist praxis, informed by intersectional, queer, and trans insights, works to build accountable communities (Richie 2012; *Survived and Punished* 2019; Whalley and Hackett 2017: 12) and does so, in part, by bringing penal abolitionists together with activists working on allied social movements to address state violence

(Bassichis et al. 2011: 23–25; Berger et al. 2019: 2; Carlton and Russell 2018: 105). Just as transing critical criminology complicates dominant frameworks in order to transform them (Brown and Schept 2017: 12), so, too, does an anti-carceral feminist praxis based on collaboration build affinities across disciplines, borders and social movements (Davis 2016 as cited in Whalley and Hackett 2017: 14; Tudor 2017). Finally, an anti-carceral framework informed by anti-carceral, intersectional, queer and trans feminist insights invites us to imagine the unthinkable (Spade 2011)—to envision communities of healing and use our current moment of perpetual crises to lay the groundwork for collective transformation (Bassichis et al. 2011: 23).

Conclusion

In this article, I have used *trans* as a conceptual point of departure to reflect on the transformative potential of critical criminology. Through a brief exploration of recurring feminist questions and debates—and an examination of feminist, queer, and trans activist and scholarly work to disentangle feminist projects from carceral attachments (Bernstein 2010: 57; Bumiller 2009; Whittier 2016: 792)—I have endeavored to demonstrate that trans frameworks offer powerful tools in questioning binary frameworks that circulate within criminology in order to move beyond them. The analytical and political work needed to “move beyond” demands paying attention to how class, gender, nationality, race, and other social locations inform scholarly understanding about crime and punishment. Yet, “going beyond” entails other conceptual and imaginative crossings, too, including asking different kinds of questions, reading against the grain of commonsense thinking, and reflecting on the stories we tell when we talk about carceral violence in all its state and non-state archipelagic expressions (Gottshalk 2016: 1; Hemmings 2011). The transformative promise of critical criminology lies at its conceptual boundaries, and transing critical criminology holds the potential to move the field closer to its “cutting edge” potential (DeKeseredy and Dragiewicz 2018: 165).

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