

## The Instrumentalization of Criminal Law in Autocratic Legalism

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### Abstract

*This manuscript examines the complex and often fraught relationship between crime governance, criminal justice systems, and democratic governance. Drawing on theoretical frameworks from Foucault to social contract theory, comparative penology, and empirical studies of mass incarceration, it argues that the administration of criminal justice is not merely a technical or legal matter but a fundamental test of democratic vitality. The manuscript explores how mass incarceration functions as a form of anti-democratic socialization, how comparative analysis reveals divergent trajectories of punitiveness tied to political culture and welfare state structures, how police accountability deficits threaten democratic legitimacy, how transitional justice mechanisms navigate the fraught terrain between truth and accountability, and how contemporary reform movements seek to re-democratize criminal justice. It concludes that the failures of criminal justice, from unchecked prosecutorial power to racially disparate enforcement to the normalization of carceral logics in everyday governance, are not merely policy failures but constitute democratic failures. Reimagining justice along genuinely democratic lines requires confronting punitive populism, expanding participatory mechanisms, reining in carceral power, and embracing the messy, contested, and essential work of building institutions that are accountable, equitable, and worthy of public trust.*

**Keywords:** Democracy, Criminal Justice, Mass Incarceration, Police Accountability, Punitiveness, Transitional Justice, Social Democracy, Comparative Criminology

### 1. Introduction:

#### 1.1. Democracy on Trial

It is a paradox of modern governance that the institutions ostensibly designed to protect democratic societies from crime and disorder have themselves become potent sources of democratic erosion. Police departments that routinely evade accountability, prosecutors whose unchecked discretion shapes life and liberty behind closed doors, prisons that systematically strip rights and suppress dissent, and sentencing policies that disproportionately fall upon racial and economic minorities, these are not anomalous failures of an otherwise healthy system. They are structural features of contemporary criminal justice in many democracies, and they pose a fundamental challenge to democratic governance itself.

The relationship between crime, justice, and democracy is neither straightforward nor unidirectional. Democratization can, under

certain conditions, be accompanied by waves of violent crime and punitive backlashes [1]. Conversely, robust criminal justice systems can serve as bulwarks of democratic order, upholding the rule of law and protecting citizens from predation. Yet the weight of evidence across multiple national contexts suggests that contemporary criminal justice systems, particularly in the United States but increasingly elsewhere, have become sites where democratic values are systematically undermined. As David Sklansky has argued, "the failures of the criminal justice system and the dangers democracy faces today are strongly linked" [2]. Anyone who cares about democracy, he insists, needs to care about criminal justice.

This manuscript advances three interconnected arguments. First, criminal justice systems in contemporary democracies are characterized by systemic features, mass incarceration,

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prosecutorial discretion without accountability, police militarization, and carceral socialization, that actively corrode democratic citizenship and political participation [3,4]. Second, these features are not inevitable but are the products of specific political choices, comparative institutional configurations, and cultural dynamics that shape how societies respond to crime and disorder [5,6]. Third, reimagining criminal justice along genuinely democratic lines is not only possible but necessary, requiring reforms that range from expanding lay participation and restorative justice to confronting the structural inequalities that render some citizens "criminal" and others above the law.

## **1.2. Theoretical Foundations: Power, Punishment, and the Social Contract**

Any serious engagement with crime, justice, and democracy must begin with the question of power. Michel Foucault's genealogical analysis of punishment remains indispensable for understanding how modern criminal justice systems operate not merely as instruments of state repression but as technologies for producing docile bodies, administering populations, and extending disciplinary power throughout the social body [7]. Foucault rejected the notion that power flows solely from the state downward, arguing instead that power operates as a network of relations circulating between and among institutions, groups, and individuals [8]. In the criminal justice context, this insight is crucial: policing, prosecution, and punishment are not simply tools wielded by a sovereign state against a recalcitrant population but are diffuse practices embedded in everyday interactions, social relations, and institutional routines.

Foucault's analysis of the transition from sovereign punishment, the spectacular violence of the scaffold, to disciplinary surveillance, the "meticulous surveillance of the soul", captures a transformation that remains ongoing [7]. The modern prison, the police station, the courtroom, and the probation office are sites where knowledge and power converge to classify, categorize, and manage individuals. In this framework, law is not merely a bloody mechanism of force but a discourse, a system of categories that creates the very reality it purports to describe [8]. Discourses that come from and are used by courts, tribunals, and other legal institutions shape how we understand criminality, victimhood, and justice itself.

Yet Foucault's analysis leaves open a crucial question: what is the relationship between these disciplinary technologies and democratic governance? If power operates everywhere and through everyone, does the concept of democratic accountability retain any purchase? Contemporary democratic theory suggests that it does, but only if we take seriously the ways in which criminal justice institutions must be subject to public deliberation, transparency, and meaningful mechanisms of citizen control [9]. The tension is not between Foucault and democracy but between the carceral logics that Foucault identified and the democratic values that criminal justice systems are supposed to serve.

The classical social contract tradition offers a complementary framework. From Hobbes to Locke to Rousseau, political theorists

have understood criminal law as the paradigmatic expression of sovereign power: only the state may legitimately punish, and the state's monopoly on violence is justified by its capacity to secure citizens from the violence of others. In this tradition, the criminal justice system is the guarantor of the social contract, the institution that makes civilized life possible. Yet the social contract tradition also embeds protections against state overreach: due process, proportionality, the presumption of innocence, and the right to participate in the legal system that governs one's life. The crime control model, which prioritizes efficiency, deterrence, and the suppression of crime, and the due process model, which prioritizes procedural fairness, protection of the innocent, and limits on state power, represent competing visions of how criminal justice should operate in a democratic society [10]. The transformation of justice administration in democratizing countries is, in this view, a transition from a crime control to a due process orientation [11]. In authoritarian states, criminal justice systems rely on a larger law enforcement-punishment apparatus for order maintenance, whereas in liberal democracies, justice is sought as the defense of civil liberties through due process of law.

But this binary is too simple. As comparative research has shown, even established democracies exhibit dramatic variation in how they balance these competing values. The "humanity, fairness and effectiveness with which a government manages its criminal justice system is a key index of the state of a democracy" [5]. Yet the constraints on realizing democratic values in criminal justice are considerable, shaped by political culture, institutional design, public opinion, and the ever-present reality of crime and insecurity.

## **1.3. Mass Incarceration as Anti-Democratic Socialization**

Perhaps no feature of contemporary criminal justice better illustrates the democratic deficit than mass incarceration. The United States incarcerates approximately 1.8 million people, a rate that far exceeds that of any other democratic nation and rivals only the Soviet Union and Rwanda in its scale [12,13]. The burden is starkly racialized: Black men are imprisoned at three times their share of the national population, and one in five Black prisoners is serving a life sentence [14]. What explains this extraordinary commitment to punishment? One influential account suggests that mass incarceration is an example of "democracy at work", the public panicked about crime, demanded punitive redress, and the criminal justice system responded [13]. Yet this explanation has been vigorously contested. The most influential alternative account holds that white elites used mass incarceration to secure the racial order in the aftermath of the Civil Rights Movement, crafting a "law and order" agenda that pandered to racial anxieties and ushered in the punitive turn [15,16]. Public opinion data complicate this narrative: both white and Black publics became more punitive after the 1960s, and Black politicians voted punitively at the height of concerns about crime [17,18]. Crime had a profound effect on Black politics, suggesting that the origins of mass incarceration cannot be reduced simply to white backlash.

Whatever its origins, the consequences of mass incarceration for democratic citizenship are profound and multidimensional. The

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carceral system is, as Danieli Evans has argued, a site of "anti-democratic socialization" [3]. Encounters with the carceral system are powerful experiences that impact people's sense of citizenship and trust in government. Large bodies of social science research demonstrate that eligible voters who have carceral contact are significantly less likely to vote or to participate in politics [19,20]. This suppression extends beyond those formally disenfranchised: even fleeting encounters with law enforcement or vicarious interactions with the carceral system can depress political participation among legally eligible voters. The carceral system's impact on political participation thus operates through both de jure suppression, formal legal restrictions on voting, and de facto suppression through socialization [3]. By systematically socializing people in a manner incompatible with democratic citizenship, the state can effectively strip citizens of much of the instrumental and intrinsic value conferred by the right to vote.

The mechanisms of this carceral socialization are multiple. Pretrial incarceration, imposed in rushed hearings, with wide discretion for judges and few procedural safeguards, has been shown to depress voting by Black and Hispanic defendants by as much as 7 percentage points [4]. These racial disparities result from inexperienced judges operating under time pressure, relying on racial stereotypes to make rapid judgments. Unlike judge experience, judge race does not matter: minority judges are as likely to impose detention and reduce turnout. This "shadow carceral state", coercive institutions lacking even the limited safeguards of the formal carceral system, undermines democratic participation and exacerbates racial inequality [21].

Beyond formal voting, carceral contact reshapes broader patterns of civic engagement. Formerly incarcerated individuals, 93 percent of whom are eligible to vote, often remain disengaged from politics even after regaining formal voting rights [19]. Families of those incarcerated experience vicarious demobilization, as the stigma and surveillance associated with carceral contact extend outward from the individual to their social networks. Community-based civil society organizations can buffer these negative effects, but they cannot fully counteract the anti-democratic socialization that the carceral system produces.

Jeffrey Bellin's concept of prisons as "laboratories of antidemocracy" captures an additional dimension of this problem [22,23]. Mass incarceration represents a failure of democracy, but the repressive policies of American prisons represent an even graver threat as laboratories that perfect tactics to suppress access to information, protest, and bodily autonomy, techniques that are then exported to the body politic [23]. From solitary confinement used to break political prisoners to surveillance technologies tested on incarcerated populations to the normalization of coercive control, the carceral system generates techniques of governance that migrate from prisons to the broader society. In this sense, the prison is not an exception to democratic governance but its dark mirror.

#### **1.4. Comparative Perspectives: Punishment, Politics, and Political Culture**

One of the most striking findings in comparative penology is the dramatic variation in punitive severity among democracies. While the United States incarcerates over 600 people per 100,000 population, many European democracies maintain rates below 100. This variation cannot be explained simply by differences in crime rates. Rather, as Tapio Lappi-Seppälä has shown, penal severity is "closely associated with public sentiments (fears, levels of trust, and punitiveness), the extent of welfare provision, differences in income equality, political structure, and legal cultures" (Lappi-Seppälä 219) [6]. Countries with strong welfare states, high levels of social trust, low income inequality, and professionalized rather than politicized criminal justice systems tend to be less punitive [24,25].

The Netherlands exemplifies this pattern. The Dutch do not believe in long prison sentences except under special circumstances, and they strongly believe in humane conditions during incarceration with the aim of rehabilitation [24]. This approach reflects not naivety about crime but a distinctive political culture in which punishment is understood as a measure of last resort, finely calibrated to the gravity of the offense and the prospects for reintegration. By contrast, the punitive turn in the United States and, to a lesser extent, the United Kingdom reflects a different political logic: one in which politicians compete to appear "tough on crime," moral panics drive legislative overreaction, and the voices of those most impacted by crime and policing are systematically excluded from policy debates [5,26].

The role of political structure in shaping penal outcomes is crucial. Coalition governments, which require compromise across multiple parties, tend to produce more moderate penal policies than majoritarian systems in which a single party can impose its agenda. The structure of political competition also matters: where crime is a salient electoral issue and politicians compete on penal severity, punitive dynamics are amplified [5]. Conversely, where criminal justice policy is insulated from electoral pressures, delegated to expert commissions, professional bodies, or consensus-based decision-making, more moderate and evidence-based policies tend to emerge [12].

Political culture operates at multiple levels. At the mass level, public attitudes toward crime and punishment are shaped by media representations, political rhetoric, and lived experiences of insecurity. But these attitudes are not fixed; they can be mobilized or moderated depending on political leadership and institutional design. At the elite level, the orientations of prosecutors, judges, and police administrators matter enormously for how policies are implemented on the ground. Professional cultures that emphasize due process, rehabilitation, and restraint produce different outcomes than those that prioritize efficiency, deterrence, and punishment [27].

The comparative literature also reveals a surprising degree of ambivalence in public attitudes. As research on European

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countries has shown, public punitiveness is only tenuously linked to actual crime rates, and publics in many countries are divided and ambivalent about punishment [26]. This ambivalence suggests opportunities for democratic deliberation and reform: the public is not irredeemably punitive, but its punitiveness can be activated or suppressed depending on political context.

### **1.5. Policing, Legitimacy, and Democratic Accountability**

Nowhere is the tension between criminal justice and democratic governance more acute than in policing. Police departments in democracies are charged with a paradoxical mandate: they must enforce the law while being subject to it; they must use force while being accountable for its use; they must protect communities while not dominating them. Achieving this balance is difficult under the best of circumstances, and the weight of evidence suggests that many democratic police forces are failing.

In the United States, police departments have become increasingly militarized, with access to military-grade equipment, training in counterinsurgency tactics, and cultures that emphasize warrior mentalities rather than guardianship [28]. This militarization undermines local democracy by encroaching upon the decision-making powers of city officials in ways that resemble militaries in fragile [29]. The consequences for human rights are severe: militarized policing is associated with increased use of lethal force, racial profiling, and suppression of protest [30]. The United States is entering largely uncharted waters as the militarization of law enforcement continues apace.

But the problem is not solely American. In many democracies, police forces suffer from what the Institute for Public Policy Research has called an "accountability deficit" [31]. In England and Wales, at the local level there is no real democratic accountability: police authorities are weak, unaccountable, and remote, while elected local government has no effective say over local policing priorities. At the national level, fragmented governance means that no actor in the system has the power to effectively incentivize performance improvement or drive through change and reform. Similar dynamics are observable in countries ranging from Uganda, where police serve the dual role of providing security to citizens while quelling dissent on behalf of the regime, to Brazil, where the militarization of policing under Jair Bolsonaro weakened the impartiality of the police and eroded public trust in law enforcement institutions (Arias 2024) [32].

What would democratic policing look like? The Policing Project has championed the concept of "front-end accountability": the idea that the public must have a voice in setting transparent, ethical, and effective policing policies and practices before the police or government act [33]. This contrasts with the dominant model of "back-end accountability," which kicks in only after something has gone wrong. Front-end accountability requires three components: transparency about police policies and practices; robust, direct engagement between police and community members; and formal structures, such as police commissions or inspectors general, to facilitate public input and oversee police leadership [33].

Procedural justice theory has been influential in police reform discussions. Tom Tyler's work suggests that when citizens perceive law enforcement as procedurally just, fair, transparent, respectful, and neutral, they are more likely to comply voluntarily with the law and to view the legal system as legitimate [34]. Procedural justice is the strongest predictor of police legitimacy across a wide range of international contexts. Yet critics have noted that procedural justice can become a psychological technique for gaining compliance without addressing substantive injustices in the law or in enforcement priorities [32]. Policing that is procedurally fair but substantively oppressive remains oppressive.

More radical critics have called for reimagining policing altogether. Drawing on W. E. B. DuBois's concept of "abolition democracy," scholars and activists have argued for building up radical community-powered institutions to supplant oppressive social structures inherited from chattel slavery [35]. This project does not simply call for firing all police but for creating new non-police institutions empowered to supersede the police monopoly on violence reduction. From epidemiologists to community activists to incarcerated individuals, democratic-abolitionist institutions dependent on the non-involvement of the police have taken root in violence-prone communities. With institutional support, non-police anti-violence workers can make police obsolete. Whether such an approach is feasible at scale remains an open question, but it forces a reckoning with the fundamental incompatibility between police power and democratic accountability.

### **1.6. Reforming Criminal Justice, Rebuilding Democracy**

The failures of criminal justice are not the sole reason democratic politics have become plagued by polarization and distrust, but as Sklansky emphasizes, "policing, prosecution, and punishment played a large role in creating those politics" [2]. Reforming criminal justice is thus essential for repairing democracy. What might such reform entail?

First, expanding lay participation in criminal justice. The jury is, in many ways, the most democratic institution in the criminal legal system. It brings the democratic voice into the criminal justice process and serves as a bulwark against overzealous state power [36]. Yet in many jurisdictions, the jury trial has all but disappeared. In the United States, juries now decide just 1 to 2 percent of criminal and civil cases that come before the courts. In England and Wales, proposals to curtail jury trials threaten to eliminate the one stage in the criminal justice process that does not discriminate and the only civic duty that applies equally to all [37]. Jury service is transformational for members of the public, increasing trust in the fairness of the system and fostering civic engagement. Expanding lay participation, through meaningful jury service, citizen sentencing panels, and restorative justice circles, could help re-democratize criminal justice.

Second, reforming prosecutorial power. Prosecutors in many democracies wield enormous discretion with minimal accountability. In the United States, the democratic election of local prosecutors is unique, but this electoral mechanism has

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often produced more punitiveness rather than more accountability [12]. Recent reforms have included the election of progressive prosecutors who decline to prosecute low-level offenses, but these efforts have faced backlash and political opposition [38]. Elsewhere, reforms have sought to rein in prosecutorial power through more robust oversight, transparency requirements, and opportunities for private prosecution [39]. In South Korea, recent reforms have re-calibrated the distribution of coercive powers, ensuring that the chief prosecutor can no longer unilaterally decide to prosecute opposition party leaders or shield allies from accountability [40].

Third, confronting sentencing excess. The United States' reliance on long prison sentences, including life without parole for nonviolent offenses, is a global outlier. A democratic restraint on incarceration would involve having juries establish the maximum term that an individual defendant deserves, confining judicial sentencing discretion within that upper bound [41]. More modestly, reforms that reduce mandatory minimums, expand judicial discretion, and provide meaningful opportunities for sentence review and release could significantly reduce the prison population without compromising public safety. The bipartisan support for such reforms in recent years suggests that even in polarized times, criminal justice reform can attract cross-partisan backing [42].

Fourth, ending felon disenfranchisement. Currently, an estimated 4.6 million Americans are disenfranchised due to a felony conviction, a legacy of laws adopted after Reconstruction to suppress the Black male vote [43]. The intersection of mass incarceration and felon disenfranchisement laws deprives a large portion of the population, disproportionately Black and Latino, of the franchise, often permanently. Recent reforms in states like Florida, which restored voting rights to most people with felony convictions, have been met with new obstacles and technical requirements that continue to suppress participation. Ending felon disenfranchisement would not only restore voting rights to millions but would also begin to repair the democratic damage wrought by mass incarceration.

Fifth, investing in restorative and transformative justice. Restorative justice seeks to address and repair crime's harm through a deliberative process that fosters mutual understanding and acceptance of responsibility, involving victims, offenders, their families, and community members (Llewellyn 2024). Restorative justice is not only a tool for resolving disputes but also an exercise in democracy in action. It provides opportunities for lay participation and collective civic action to address individual crimes and broader issues in a community (Jamaica Gleaner 2025). While restorative justice cannot replace the criminal justice system entirely, it can complement it, offering pathways for healing and accountability that do not rely on the carceral state.

### **1.7. Transitional Justice: Confronting Past Crimes, Building Democratic Futures**

For countries emerging from authoritarian rule or civil war, the relationship between criminal justice and democracy

takes a distinctive form. Transitional justice mechanisms, truth commissions, prosecutions, reparations, and institutional reforms, are designed to address past atrocities while building the foundations for democratic governance. The South African Truth and Reconciliation Commission (TRC) remains the most influential model, widely admired for its public hearings, moral courage, and commitment to exposing the atrocities of apartheid (Daily Dispatch 2026). The TRC prioritized truth-seeking and conditional amnesty as preconditions for reconciliation, while keeping the door open for criminal accountability (ISS 2025).

Yet the South African experience also reveals the limits of transitional justice. The TRC created a much-critiqued moral equivalency between perpetrators from all political affiliations, as well as a stark victim-perpetrator binary that precluded meaningful discussion of structural violence or colonial legacies [44]. The commission's focus on gross human rights violations left little room for recognition of complicity or implication in its many forms. Michael Rothberg's concept of "the implicated subject" captures the difficulty of addressing such positions within mechanisms like the TRC. Moreover, the TRC's promise that truth would lead to accountability was only partially fulfilled, as political leadership subordinated the rule of law to political expediency (Daily Dispatch 2026). Thirty years into South Africa's democracy, the struggle for justice for apartheid-era crimes continues.

Comparative research on transitional justice in Latin America suggests that robust processes, combining truth commissions with prosecution of autocratic-era atrocities, prevent criminal violence in new democracies (Albarracin 2026). In Latin America, transitions to democracy have often involved engagement with major human rights violations committed by former military dictatorships, and the question of how to deal with past crimes is crucial for developing and consolidating new democratic norms and institutions (Inter-American Human Rights System 2024). Countries that pursued accountability, such as Argentina, have seen stronger democratic consolidation and lower levels of post-transition violence than those that pursued amnesty, such as Brazil.

Transitional justice is not only for countries transitioning from authoritarian rule. Even established democracies must confront their own histories of state violence and injustice. The United States has never engaged in a systematic reckoning with its history of racial violence, from slavery to Jim Crow to mass incarceration. The absence of such reckoning has allowed carceral logics to persist unchallenged and has deprived the country of the truth-telling that might have paved the way for genuine reform.

### **1.8. Obstacles to Democratic Justice**

The path to democratic criminal justice is obstructed by powerful forces. Punitive populism, the dynamic in which politicians compete to appear tough on crime, driving ever-harsher policies, remains a potent political force in many democracies [45]. Even as crime rates have fallen dramatically in the United States and other countries, public fear of crime remains high, and politicians continue to exploit that fear for electoral gain. The media play a

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crucial role in amplifying moral panics and focusing attention on rare but horrific crimes, driving legislative overreaction regardless of evidence.

The structure of political competition matters. In the United States, the federal system means that criminal justice policy is made at multiple levels, local, state, and federal, by politicians and voters rather than agencies insulated from political pressure and informed by expert analysis [12]. The public perennially demands tough-on-crime policies, legislators oblige by enacting ever-harsher laws, and elected prosecutors enforce those laws. Reforms won in recent years through politics, election of progressive prosecutors, bail reform, decriminalization of marijuana, and modest sentencing law changes, have barely moved the needle. The U.S. Supreme Court has compounded the problem by ruling for decades that the Constitution puts few restraints on the policies that have filled American prisons and jails [14].

Autocratic legalism, the use of legal mechanisms and criminal prosecutions to suppress dissent and entrench power, poses a distinct threat. In Serbia, which began to democratize in 2000 but began to backslide already in 2012, the autocratic inclinations of the political regime have grown substantively in the last decade, with criminal justice institutions instrumentalized against political opponents [46]. In Hungary and Poland, populist governments have weakened judicial independence, politicized prosecutorial offices, and used criminal law to target civil society organizations and opposition figures. Even in established democracies, the line between legitimate criminal prosecution and political persecution can blur, as recent debates over the prosecution of former President Donald Trump in the United States have demonstrated (NBC News 2025).

White-collar and corporate crime represents a different kind of threat to democratic justice. Public and scholarly attention remains fixated on violent street crime, although corporate and white-collar crime and state and economic violence directly and indirectly hurt far more people [47]. The failure to prosecute elite wrongdoing, whether the financial crimes that precipitated the 2008 global financial crisis, wage theft and labor violations that undermine working conditions, or environmental crimes that poison communities, has increased the fragility of democracy in America. When concentrations of wealth and political power place the super-rich effectively above the law, as the global financial crisis revealed, the democratic principle of legal equality is fatally undermined [1]. The United States has decriminalized or turned a blind eye to elite-level corporate crime even as it has doubled down on pursuing people accused of street and drug crimes.

## **2. Conclusion:**

### **2.1. The Democratic Imperative**

This manuscript has argued that criminal justice and democracy are inextricably linked. The humanity, fairness, and effectiveness with which a government manages its criminal justice system is a key index of the state of a democracy. Conversely, when criminal justice systems become sites of racialized mass incarceration,

unaccountable police power, and punitive populism, they corrode the foundations of democratic governance.

The evidence amassed here suggests that the challenges are profound but not insurmountable. Mass incarceration's effects on democratic participation can be mitigated through reforms that expand voting rights, reduce carceral contact, and support the civic reintegration of formerly incarcerated individuals. Comparative analysis reveals that less punitive societies are possible: strong welfare states, high levels of social trust, and professionalized criminal justice institutions are associated with more humane and effective responses to crime. Police accountability can be enhanced through front-end democratic mechanisms, civilian oversight, and a shift from warrior to guardian cultures. Transitional justice offers lessons for how societies can confront past atrocities while building democratic futures.

But deeper change requires more than technical reform. It requires confronting the structural inequalities, of race, class, and power, that shape who is criminalized and who is protected. It requires challenging the punitive populism that has distorted democratic politics for decades. It requires building institutions that are accountable to the communities they serve and that are worthy of public trust. And it requires recognizing, as Sklansky has argued, that complex, divided societies do not have the luxury of simple ideas about criminal justice. The failures of the criminal justice system and the dangers democracy faces today are strongly linked. Anyone who cares about democracy needs to care about criminal justice.

The stakes could hardly be higher. Mass incarceration represents a failure of democracy, but the repressive policies of American prisons represent an even graver threat as laboratories of antidemocracy that export these policies to the body politic. The carceral system's anti-democratic socialization extends far beyond formal disenfranchisement, shaping the political identities and participation of millions of citizens and their families. The accountability deficit in policing undermines the legitimacy of law enforcement and erodes public trust in democratic institutions. And the normalization of carceral logics, surveillance, coercion, exclusion, in everyday governance threatens to transform the very meaning of citizenship.

Reimagining criminal justice along genuinely democratic lines is not a utopian dream. It is a practical necessity, requiring reforms that expand lay participation, rein in prosecutorial power, confront sentencing excess, end felon disenfranchisement, invest in restorative justice, and hold police accountable. These reforms are not only compatible with public safety; they are essential for achieving it. For as long as criminal justice systems operate in ways that are fundamentally incompatible with democratic citizenship, they will produce not safety but alienation, not justice but injustice, not democracy but its shadow.

The work of democratic criminal justice is never finished. It requires constant vigilance, contestation, and reform. But it is

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work worth doing, not only for those directly impacted by crime and punishment but for anyone who believes that democracy must mean more than elections and rights on paper. Democracy requires institutions that treat all citizens as equals, that protect the vulnerable from predation, and that operate with transparency, accountability, and restraint. Criminal justice institutions that fail these tests are not just failing to control crime; they are failing democracy itself. Repairing them is among the most urgent tasks of our time [48,49].

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