T - Prisoners

#### **Interpretation: the affirmative cannot specify prison “workers”**

#### **Prisoners aren’t included under workers definition – Hurst 20**

https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/

I**n 1938, the FLSA was adopted to protect employees by establishing “minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.”**[[9]](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn9) **The FLSA defines an employees as “any individual employed by an employer,”**[**[10]**](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn10) **while also providing exceptions for persons not considered employees, such as family farm workers, volunteers for public agencies, and volunteers for purely humanitarian purposes**.[[11]](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn11) Notably, the exceptions defined in the FLSA do not specify that prisoners are not considered employees. However, **court precedents have established that prisoners are not considered “employees” under the intended meaning in the FLSA**.[[12]](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn12) An important case from the **Fourth District Court of Appeals in Maryland, Harker v. State Use Industries, highlights this reasoning.**[**[13]**](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn13) **In Harker, Maryland state prisoners sued the entity responsible for the prison labor industries alleging that the FLSA was violated because they were not being compensated at the rate of the federal minimum wage**.[[14]](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn14) **The court rejected the prisoners’ argument by distinguishing the custodial relationship of prisoners from the employee-employer relationship covered in the FLSA.**[**[15]**](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn15) Moreover, the court noted that the **FLSA was intended to maintain a “standard of living” for workers and not wards of the state whom are provided “standard of living” care by the state while incarcerated**.[[16]](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn16) Finally, **the court concluded that “if the FLSA’s coverage is to extend within prison walls, Congress must says so, not the courts**.”[[17]](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn17) **Other court cases have relied on similar reasoning to reject extending FLSA coverage to prisoners.**[**[18]**](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn18) **Additionally, courts have also rejected inmates’ employment discrimination claims on the same basis.**[**[19]**](https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/#_ftn19)

#### **Vote neg –**

#### **1] Precision –**

#### **A] stasis point – the topic is the only reasonable focal point for debate – anything else destroys the possibility of debate because we will be two ships passing**

#### **B] internal link turn – violating semantics justifies the aff talking about whatever with zero neg prep or prediction which is the most unfair and uneducational**

#### **C] Jurisdiction – you can’t vote for them because the ballot and the tournament invitation say to vote for the better debater in the context of the resolution**

#### **D] grammar first – all args assume grammatical correctness to evaluate them**

#### **E] objectivity – only semantics are objective whereas pragmatics are subjective which means intervention**

#### **2] Limits – extempted**

#### **3] TVA – extempted**

#### **Fairness – extempted**

#### **Education – extempted**

#### **No RVI – extempted**

#### **DTD – extempted**

#### **CI – extempted**

#### **T First – extempted**

Abolition K

#### The affirmative’s call for criminal justice reform perpetuates and reinforces the systemic violence of the carceral state.

**Rodríguez 19** — Dylan Rodríguez, Professor of Ethnic Studies and Chair of the Academic Senate at the University of California-Riverside, holds a Ph.D. in Ethnic Studies from the University of California-Berkeley, 2019 (“Abolition as Praxis of Human Being: A Foreword,” *Harvard Law Review*, Volume 132, April 10th, Available Online at <https://harvardlawreview.org/wp->content/uploads/2019/04/1575-1612\_Online.pdf, Accessed 03-23-2020, p. 1576-1577)

Contemporary reformist approaches to addressing the apparent overreach and scandalous excesses of the carceral state — characterized by calls to end “police brutality” and “mass incarceration” — fail to recognize that **the very logics** of the overlapping criminal justice and policing regimes **systemically perpetuate racial, sexual, gender, colonial, and class violence through carceral power**. Thus, in addition to being **ineffective** at achieving their generally stated goals of alleviating vulnerable peoples’ subjection to legitimated state violence, reformist approaches ultimately **reinforce a violent system** that is **fundamentally asymmetrical** [end page 1576] in its production and organization of **normalized misery**, **social surveillance**, **vulnerability to state terror**, and **incarceration**.6

It is within this irreconcilable reformist contradiction that an abolitionist historical mandate provides **a useful and necessary departure from the liberal assumption** that either the carceral state or carceral power is an **inevitable** and **permanent** feature of the social formation. This historical mandate animates abolition as a creative, imaginative, and speculative collective labor: while liberal-to-progressive reformism attempts to **protect and sustain the institutional and cultural-political coherence** of an **existing system** by **adjusting** and/or **refurbishing** it, abolitionism addresses **the historical roots of that system** in relations of oppressive, continuous, and asymmetrical violence and raises the **radical question** of whether those relations must be **uprooted** and **transformed** (rather than **reformed** or **“fixed”**) for the sake of particular peoples’ **existence and survival** as such.7

**—— Footnotes ——**

6. Professor Ruth Wilson Gilmore offers a helpful differentiation between “reformist” logics and abolitionist strategies that make tactical use of reform. See Ruth Wilson Gilmore, Foreword to DAN BERGER, THE STRUGGLE WITHIN: PRISONS, POLITICAL PRISONERS, AND MASS MOVEMENTS IN THE UNITED STATES, at vii, vii–viii (2014).

7. To consider abolitionist praxis in the context of particular peoples’ systemic, historical exposure to institutionalized forms of dehumanization, degradation, and social oppression is to significantly rethink the premises of the United Nations’ (UN) canonized conception of “genocide,” particularly in regard to the notion that peoplehood as such (including self-defined nations, tribes, ethnic groups, and so forth) ought to be defined by cultural as well as collective physical integrity. For useful points of critical rearticulation and revision of the UN’s 1948 Convention on the Prevention and Punishment of the Crime of Genocide, Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277, see WARD CHURCHILL, A LITTLE MATTER OF GENOCIDE: HOLOCAUST AND DENIAL IN THE AMERICAS, 1492 TO THE PRESENT 363–92 (1997); and CIVIL RIGHTS CONG., WE CHARGE GENOCIDE (William L. Patterson ed., Int’l Publishers 1970) (1951).

#### The alternative is an abolitionist praxis of creative destruction that refuses existing systems of oppression and actively imagines radical new forms of collective power.

**Rodríguez 19** — Dylan Rodríguez, Professor of Ethnic Studies and Chair of the Academic Senate at the University of California-Riverside, holds a Ph.D. in Ethnic Studies from the University of California-Berkeley, 2019 (“Abolition as Praxis of Human Being: A Foreword,” *Harvard Law Review*, Volume 132, April 10th, Available Online at <https://harvardlawreview.org/wp->content/uploads/2019/04/1575-1612\_Online.pdf, Accessed 03-23-2020, p. 1610-1612)

Consider abolition as an art form, the kind of creative truth that mixes the stuff of history into memory, survival, breath, and stubborn, vexed, and often-nourishing community that constantly escapes the guarantees of any organizing plan. In some ways, this is not the time to insist on the renewed urgency of a radical abolitionist struggle, because such a time preceded all of this, and its messengers have already presented themselves to us in the poetry, letters, manifestos, collect phone calls, and never-quite-private conspiratorial conversations we share with each other sometimes, but really, all the damn time. More than just a synonym or rhetorical cipher for revolutionary change or radical social transformation, abolition is an artful disruption of the presumed [end page 1610] futurity. Certainly, it is as Professor Ruth Wilson Gilmore says: “Abolition is a theory of change, it’s a theory of social life. It’s about making things.”116

Abolition, in such terms, is **a fundamentally creative force**, even and especially in those rare historical moments when a definitive destruction of oppressive structures and power relations appears possible, practical, and capable of catalyzing a (potentially) radically different social form. Within the last sesquicentennial, such periods of creative destruction and creativity from destruction have flourished through multiple genealogies of radical confrontation with the global Civilization form, resulting in the downfall of multiple apartheid orders, expulsion of colonial occupations, redistribution of life-sustaining wealth and resources, and periodic liberation of chattel-captive populations. It is imperative to apprehend such moments of victory as **contradictory**, **imperfect**, and **flawed**; put another way, the signature historical moments of “successful” abolitionist struggle produce utterly human historical outcomes in the most antihumanist, counter-Civilizational sense of “human” (contradictory, imperfect, flawed). Yet, it is equally imperative to critically study, teach, theorize, and narrate such historical moments as **revelations of radical possibility** that obliterate the cultural tendency to reify (which is to say, presume permanency and ahistorical existence of) existing systems of state violence, geographic displacement and capture, economic evisceration, and institutionalized dehumanization.117 Such a **creative destruction**, and creativity of thought-in-destruction, is a primary pedagogical purpose of abolitionist praxis.118

This historicized redefinition of incarceration exceeds conventional criminological notions of spatially and temporally discrete/compartmentalized, juridically sanctioned state captivity and conceptualizes steel and concrete places of containment for the “duly convicted” as centers of institutional gravity that materially reproduce, experiment with, and culturally signify a paradigm of social power that permeates social relations generally.

A genealogy of twentieth- and twenty-first-century radical thought among incarcerated and formerly incarcerated people in and beyond the United States has constructed a durable, rigorous, and dynamic critical theorization of the carceral state and social form. From George Jackson [end page 1611] and Assata Shakur to Raúl Salínas, Angela Y. Davis, Leonard Peltier, and Marilyn Buck,119 these thinkers articulate a complex urgency imperative to abolitionist praxis that pivots on its creative, collective, and transformative challenge to historical conditions of gendered, racial-colonial dominance that fundamentally relies on criminalization and systemic human immobilization to produce and reproduce a Civilizational order. Following this body of thought, abolition is a **generative**, **imaginative**, and **productive** concept precisely because it entails **a radical reconfiguration of relations of power**, **community**, **collective identity**, and **sociality** that does not rely on carcerality and its constitutive, oppressive forms of state and cultural violence.

Abolitionist praxis addresses carcerality as a logic of power that generates multiple, overlapping, and differently scaled carceral regimes (reservations, plantations, segregated cities/towns, prisons, military bases, and so forth). Thus, eliminating carceral-state violence via prisons, jails, police, detention centers, and military bases is **but one aspect** of a **broader rethinking — and remaking** — of collective, insurgent “power” that simultaneously asserts a liberated autonomy from and posits a radical challenge to long historical relations of gendered, racial-colonial dominance. This recognition of carcerality as **an institutional logic and methodology** informs abolition as a praxis of creativity — abolitionism articulates a **fundamental critique of existing systems of oppression** while attempting to **actively imagine** as it practices forms of collective power that are liberated from hegemonic paradigms, including but not limited to forms of power constituted by the logic of **carcerality**, **patriarchy**, **coloniality**, **racial chattel**, **racial capitalism**,120 and **heteronormativity**.

The following contributions must be cherished, discussed, and debated precisely because they originate from this creative imperative.

**CASE:**