# 1NC Glenbrooks R6

## Offs

### T

#### Interpretation: the affirmative may not defend the United States federal government recognizing a right to strike.

#### Just governments respect liberties

Dorn 12 James A. Dorn, Cato Journal, "The Scope of Government in a Free Society", Fall 2012, https://www.cato.org/sites/cato.org/files/serials/files/cato-journal/2012/12/v32n3-10.pdf

If laws are just, liberty and property are secure. The most certain test of justice is negative—that is, justice occurs when injustice (the violation of natural rights to life, liberty, and property) is prevented. The emphasis here is on what Hayek (1967) called “just rules of conduct,” not on the fairness of outcomes. No one has stated the negative concept of justice better than the 19th century French classical liberal Frederic Bastiat ([1850] 1964: 65): When law and force confine a man within the bounds of justice, they do not impose anything on him but a mere negation. They impose on him only the obligation to refrain from injuring others. They do not infringe on his personality, or his liberty or his property. They merely safeguard the personality, the liberty, and the property of others. They stand on the defensive; they defend the equal rights of all. They fulfill a mission whose harmlessness is evident, whose utility is palpable, and whose legitimacy is uncontested. In short, the purpose of a just government is not to do good with other people’s money, but to prevent injustice by protecting property and securing liberty.

#### US HR violations don’t secure liberties

Amnesty International, 4-14-2021, "Everything you need to know about human rights in United States of America," No Publication, https://www.amnesty.org/en/countries/americas/united-states-of-america/report-united-states-of-america/

UNITED STATES OF AMERICA 2020 The Trump administration’s broadly dismal human rights record, both at home and abroad, deteriorated further during 2020. The USA experienced massive demonstrations across the country with the backdrop of the COVID-19 pandemic, contested 2020 general elections and a widespread racist backlash against the Black Lives Matter movement. In response to thousands of public demonstrations against institutional racism and police violence, law enforcement authorities routinely used excessive force against protesters and human rights defenders and failed to constrain violent counter-protests against primarily peaceful assemblies. The administration also sought to undermine international human rights protections for women; lesbian, gay, bisexual, transgender and intersex (LGBTI) people; and victims of war crimes, among others. It also exploited the COVID-19 pandemic to target migrants and asylum-seekers for further abuses. Joe Biden was declared the winner of the November presidential election. Background Despite confirmation by the Electoral College that Joe Biden had won the November presidential election, President Trump continued to challenge the result, making repeated unsubstantiated claims of electoral irregularities. These continued allegations sparked a number of pro-Trump protests and raised concerns about the peaceful transfer of power in January. Discrimination The COVID-19 pandemic exacerbated long-standing inequalities in the USA. Inadequate and uneven government responses to the pandemic had a disproportionate and discriminatory impact on many people based on their race, socioeconomic situations and other characteristics. Systemic disparities dictated who served as frontline workers and who had employment and economic security and access to housing and health care.1 Incarcerated people were particularly at risk due to insanitary conditions in prisons and detention where they were unable to adequately physically distance and had inadequate access to hygienic supplies as facilities became hotspots for infection. Additionally, racially discriminatory political speech and violence risked increasing the number of hate crimes. Right to health Workers in health care, law enforcement, transportation and other “essential” sectors faced enormous challenges as the US government failed to adequately protect them during the pandemic. Shortages in personal protective equipment (PPE) meant that health and other essential workers often had to perform their jobs without adequate protection and in unsafe environments. In April, the National Nurses Union held a physically distanced protest in front of the White House against the lack of PPE for health workers. From March to December 2020, more than 2,900 health care workers died amidst the COVID-19 pandemic. The US Centres for Disease Control and Prevention (CDC) acknowledged that available figures were likely underestimates. Some health and other essential workers in the public and private sectors also faced reprisals, including harassment, disciplinary procedures and unfair dismissal, if they spoke out about the inadequate protective measures. Excessive use of force At least 1,000 people were reportedly killed by police using firearms. The limited public data available suggests that Black people are disproportionately impacted by police use of lethal force. The US government’s programme to track how many such deaths occur annually was not fully implemented. No state laws governing the use of lethal force by police – where such laws exist – comply with international law and standards regarding the use of lethal force by law enforcement officials.2 Freedom of assembly Law enforcement across the USA committed widespread and egregious human rights violations against people protesting about the unlawful killings of Black people and calling for police reform. Amnesty International documented 125 separate incidents of unlawful police violence against protesters in 40 states and Washington, D.C., between 26 May and 5 June alone.3 Thousands more protests took place in the remainder of the year. Violations were committed by law enforcement personnel at the municipal, county, state and federal levels, including by National Guard troops who were deployed by the federal government in some cities. The violence included beatings with batons or other devices, the misuse of tear gas and pepper spray, and the inappropriate and indiscriminate firing of “less lethal” projectiles. In numerous incidents, human rights defenders – including protest organizers, media representatives, legal observers and street medics – were specifically targeted with chemical irritants and kinetic impact projectiles, arrested and detained, seemingly on account of their work documenting and remedying law enforcement agencies’ human rights abuses. Right to life and security of the person The government’s ongoing failure to protect individuals from persistent gun violence continued to violate their human rights, including the right to life, security of the person and freedom from discrimination, among others. Unfettered access to firearms, a lack of comprehensive gun safety laws (including effective regulation of firearm acquisition, possession and use) and a failure to invest in adequate gun violence prevention and intervention programmes continued to perpetuate this violence. In 2018, the most recent year for which data was available, some 39,740 individuals died from gunshot injuries while tens of thousands more are estimated to have sustained gunshot injuries and survived. In the midst of the COVID-19 pandemic, with increased gun sales and shootings, the USA failed in its obligation to prevent deaths from gun violence, which could have been done through a range of urgent measures, including de-listing gun stores as essential businesses. As of 2020, expansive “Stand Your Ground” and “Castle Doctrine” laws, both of which provide for private individuals to use lethal force in self-defence against others when in their homes or feeling threatened, existed in 34 US states. These laws appeared to escalate gun violence and the risk of avoidable deaths or serious injuries, resulting in violations of the right to life. As protesters against the killing of Black people took to the streets in cities across the USA, there were instances where armed civilians in states where the open carrying of firearms is permitted engaged protesters, causing at least four deaths.

#### Obviously their own aff about abusing prisoners means it’s unjust too

#### Violation: they did

#### Prefer –

#### 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

#### 2] Limits – there are almost 200 national governments in the world which is an unmanageable burden, especially for a 3 week camp. Only imposing restrictions via the word just can ensure debates are limited and full of clash

#### 3] TVA – use ideal theory instead. That’s better – a] promotes in-depth philosophical clash over labor law that’s constitutive to LD b] solves your offense because you can indicate you would solve these problems in an ideal world too – no reason you need the US in particular

#### F, E, dtd, no rvi, ci

### T

#### Interpretation: the affirmative cannot specify incarcerated people as the recipients of the right to strike

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

Natalie Hurst, Associate Member,*University of Cincinnati Law Review*, November 24, 2020, <https://uclawreview.org/2020/11/24/prisoners-are-not-for-sale-incarcerated-workers-deserve-employee-status/> //LHP PS

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)

#### The thirteenth amendment literally excludes them as workers.

#### Outweighs –

#### A] they misread history

#### B] it’s their own actor

#### C] The US being bad determining definitions would supercharge the violation on the other shell

#### Violation: They did

#### Vote neg –

#### 1] Precision – that was on the other shell

#### 2] Limits – workers is a limit that sets a stable basis for neg prep – absent it the aff could specify anything, like employees, domestic laborers, and volunteers.

### NC

#### Truth testing –

#### A] juri

#### B] ground

#### C] collapses

#### In order for the resolution to be true, the aff must prove that it is conceptually coherent to have an unconditional right to strike. To clarify, that when the state guarantees X, it cannot structurally falter from that obligation. If not, you negate. Prefer:

#### 1 - text – Unconditional means no conditions which means that the state cannot falter from it. Free Dictionary:

<https://legal-dictionary.thefreedictionary.com/Unconditional> //LHP AV

**UNCONDITIONAL**. **That which is without condition**; **that which must be performed without regard to what has happened or may happen**.

#### Text is a side constraint to other interps of the res since it establishes what it means which controls fairness and education.

#### 2 - Conceptual necessity – If the state cannot conceptually be obligated to guarantee a right to strike, then the principle itself is incoherent – it presupposes some binding force. Means (a) you’d still negate even if the burden is false since it proves the resolution false (b) it’s a prereq to debating the res since my burden evaluates what it means to affirm or negate.

#### 3 - Real world – the aff would be an incoherent policy if it was impossible, its effectiveness wouldn’t matter. That’s why policy makers don’t debate over outrageous policies like making everyone live forever – they may seem good in the abstract, but are impossible to apply. Key to fairness and education since it’s the basis for prep and a coherent understanding of the res.

#### Now negate, the constitutive feature of the law is that the sovereign creates it, but the sovereign lives outside of the law and has complete control over the it. The sovereign is the only authority over the law, creating a state of exception; the state cannot undermine the sovereign in the state of exception. Thus, any principle that mandates the state to act is impossible.

Agamben 04 [Agamben, Giorgio. “Homo Sacer – Sovereign Power and Bare Life”. Translated by Daniel Heller-Rozan. Published 2004. Bracketed for gendered language] AA

The paradox of sovereignty consists in the fact **the sovereign is**, at the same time, **outside and** **inside the juridical order. If the sovereign is** truly **the one to** **whom the** juridical **order grants the** **power** **of proclaiming a state of exception** and**, therefore**, of suspending the order's own validity, then "**the sovereign stands outside** the juridical order and, nevertheless, belongs to it, **since it is up** **to him [them] to decide if the constitution is to be** **suspended** in toto" (Schmitt, Politische Theologie, p. 13). The specification that the ¶ sovereign is "at the same time outside and inside the juridical order" (emphasis added) is not insignicant: **the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law**. This means that the paradox can also be formulated this way: "**the law is outside itself**," or: "1, the sovereign, who am outside the law, declare that there is nothing outside the law [che non c'e un ori gge]." ¶ The topology implicit in the paradox is worth reflecting upon, since the degree to which sovereignty marks the limit (in the dou­ ble sense of end and principle) of the juridical order will become clear only once the structure of the paradox is grasped. Schmitt presents this structure the structure of the exception (Ausnahme): ¶ The exception is that which cannot be subsumed; it defies general codification, but it simultaneously reveals a specically juridical formal element: the decision in absolute purity. The exception appears in its absolute form when it is a question of creating a situation in which juridical rules can be valid. **Every** general **rule demands** **a regular**, everyday **frame** oflife **to which it can be factually applied** and which is submitted to its regulations. The rule requires a homogeneous me­ dium. This factual regularity is not merely an "external presupposi­ tion" that the jurist can ignore; it belongs, rather, to the rule's imma­ nent validity. There is no rule that is applicable to c**haos. Order must be established for juridical order** to m e sense. A regular situation must be created, and **sovereign is he who definitely decides if this** **situation** **is** actually **effective**. l law is "situational law." The sovereign creates and guarantees the situation as a whole in irs totality. **He** **has the monopoly over** **the** nal **decision**. Therein consists **the** essence of **State sovereignty**, which **must** therefore **be** properly juridically de ned not as the monopoly to sanction or to rule but as **the monopoly to decide**, **where** the word "**monopoly" is** **used in a general sense** that is still to be developed. The decision reveals the essence of State authority most clearly. Here the decision must be distinguished from the juridical regulation, and (to formulate it paradoxically) authority proves itself not to need law to create law. .. . The exception is more interesting than the regular case. The latter proves nothing; the excep­ tion proves everything. **The exception does not only confirm the rule; the rule as such lives o the exception alone**. A Protestant theologian who demonstrated the viral intensity of which theological reflection was still capable in the nineteenth century said: "The exception explains the general and itself. And when one really wants to study the general, one need only look around for a real exception. It brings everything to light more clearly than the general itself After a while, one becomes disgusted with the endless talk about the general-there are exceptions. If they cannot be explained, then neither can the general be explained. Usually the difficulty is not noticed, since the general is thought about not with passion but only with comfortable superficiality. The exception, on the other hand, thinks the general with intense passion." (Politische Theologie, pp. 19-22) ¶ It is not by chance that in defining the exception Schmitt refers to the work of a theologian (who is none other than S0ren Kierke­ gaard). Giambattista Vico had, to be sure, armed the superiority ¶ of the exception, which he called "the ultimate configuration of facts," over positive law in a way which was not so dissimilar: '' esteemed jurist is, therefore, not someone who, with the help of a good memory, masters positive law [or the general complex of laws], but rather someone who, with sharp judgment, knows how to look into cases and see the ultimate circumstances off acts that merit equitable consideration and exceptions from general rules" (De antiquissima, chap. 2). Yet nowhere in the realm of the juridical sciences can one nd a theory that grants such a high position to the exception. For what is at issue in the sovereign exception is, according to Schmitt, the very condition of possibility of juridical rule and, along with it, the very meaning of State authority. **Through the state of exception, the sovereign** "creates and **guarantees the situation**" **that the law needs for its own validity**. But **what is this "situation**," what is its structure, **such that it consists in nothing other than the suspension of the rule**? ¶ X The Vichian opposition between positive law (ius theticum) and exception well expresses the particular status of the exception. The exception is an element in law that transcends positive law in the form of its suspension. The exception is to positive law what negative theology is to positive theology. While the latter a rms and predicates determinate qualities of God, negative (or mystical) theology, with its "neither . . . nor . . . ," negates and suspends the attribution to God of any predicate whatsoever. Yet negative theology is not outside theology and can actually be shown to function as the principle grounding the possibility in general of anything like a theology. Only because it has been negatively presupposed as what subsists outside any possible predicate can divinity become the subject of a predication. Analogously, only because its validity is suspended in the state of exception can positive law define the normal case as the realm of its own validity. ¶ r.2. The exception is a kind of exclusion. **What is excluded from the general rule is an individual case**. But the most proper characteristic of the exception is that what is excluded in it is not, on account of being excluded, absolutely without relation to the rule. On the contrary, **what is excluded in the exception** **maintains itself** ¶ **in relation to the rule in the form of the rule's suspension**. The rule applies to the exception in no nger app ing, in withdrawing om it. **The state of exception** **is** thus **not the chaos that** **precedes order but rather the situation that results from its suspension**. In this sense, the exception is truly, according to its etymological root, taken outsi (ex-capere), and not simply excluded. ¶ It has o en been observed that the juridico-political order has the structure ofan inclusion of what is simultaneously pushed outside. Gilles Deleuze and Felix Guattari were thus able to write, "Sovereignty only rules over what it is capable of interiorizing" (Deleuze and Guattari, Mil p teaux, p. 5); and, concerning the "great confinement" described by Foucault in his Madness and Civilition, Maurice Blanchot spoke of society's attempt to "confine the outside" (en rmer le dehors), that is, to constitute it in an "interiority of expectation or of exception." Confronted with an excess, the system interiorizes what exceeds it through an interdiction and in this way "designates itself as exterior to itself" (L ntretien in ni, p. 292) . The exception that defines the structure of sovereignty is, however, even more complex. **Here what is outside is included not simply by means of an interdiction or an internment**, **but** rather **by means of the suspension of the juridical order's** **validity-by letting the juridical order**, that is, **withdraw from the exception** and aban­ don it. The exception does not subtract itself from the rule; rather, the rule, **suspending itself, gives rise to the** **exception** and, maintaining itself in relation to the exception, rst constitutes itself as a rule. The particular "force" of law consists in this capacity of law to maintain itself in relation to an exteriority. We shall give the name relation of exception to the extreme form of relation by which something is included solely through its exclusion. ¶ **The situation created in the exception has the peculiar characteristic that it cannot be defined** either as a situation of fact or as a situation of right, but instead institutes a paradoxical threshold of indistinction between the two. It is not a fact, since **it is only created through the suspension of the rule**. But for the same reason, it is not even a juridical case in point, even if it opens the possibility ¶ of the force of law. **This is the ultimate meaning** of the paradox that Schmitt formulates when he writes **that the sovereign[s] decision "proves itself not to need law to create law."** What is at issue in the sovereign exception is **not so much the control or neutralization of** an **excess as the creation and definition of the very space in which the juridico-political order can have validity.** In this sense, **the sovereign exception is the** fundamental **localization** (Ortung), **which does not limit itself to distinguishing what is inside from** what is **outside but** instead **traces a threshold** (the state of exception) **between the two, on** the basis of which outside and inside, **the normal situation and chaos**, enter into those complex topological relations that make the validity of the juridical order possible. ¶ The "ordering of space" that is, according to Schmitt, constitu­ tive of the sovereign nomos is therefore not only a "taking of land" (Landesnahme)-the determination of a juridical and a territorial ordering (of an Ordnung and an Ortung)-but above all a "taking of the outside," an exception (Ausnahme). ¶

#### Implications:

#### 1] You negate since the state can never limit its own authority since under a state of exception, the sovereign has complete control. The fed can always undermine a ban by creating exceptions

#### 2] Turns case – investing in the idea of the state being constrained by the law is an illusion of sovereignty and invests us more into the violence of the state – its cruelly optimistic to think the state functions any other way – the plan’s recognition of the right to strike defuses radical potential and legitimizes violence.

#### 3] any other conception of the state leads to regress – there will always need to be another rule for a rule that the sovereign would need to abide by, which means the sovereign has to function outside of the law to be able to act

#### 4] Specifically true with prisons – Guantanamo bay is literally the quintessential state of exception

## Case

#### The 1AC sees criminal justice as reformable, redeemable, or forgivable, which prevents understanding carcerality as the structuring principle of society. Criminal justice reform gets coopted by liberal feel-good narratives that strengthen the prison regime even if they seem like gains in a vacuum.

Rodríguez**, 10**—Professor and Chair of the Department of Ethnic Studies at UC Riverside (Dylan, “The Disorientation of the Teaching Act: Abolition as Pedagogical Position,” The Radical Teacher, No. 88 (Summer 2010), pp. 7-19, dml)

The global U.S. prison regime has no precedent or peer and has become a primary condition of schooling, education, and pedagogy in every possible site. Aside from its sheer accumulation of captive bodies (more than 2.5 million, if one includes children, military captives, undocumented migrants, and the mentally ill/disordered),1 the prison has become central to the (re)production and (re)invention of a robust and historically dynamic white supremacist state: at its farthest institutional reaches, the prison has developed a capacity to organize and disrupt the most taken-for-granted features of everyday social life, including “family,” “community,” “school,” and individual social identities. Students, teachers, and administrators of all kinds have come to conceptualize “freedom,” “safety,” and “peace” as a relatively direct outcome of state-conducted domestic war (wars on crime, drugs, gangs, immigrants, terror, etc.), legitimated police violence, and large-scale, punitive imprisonment. In what follows, I attempt to offer the outlines of a critical analysis and schematic social theory that might be useful to two overlapping, urgent tasks of the radical teacher: 1) to better understand how the prison, along with the relations of power and normalized state violence that the prison inhabits/produces, form the everyday condition of possibility for the teaching act; and 2) to engage a historically situated abolitionist praxis that is, in this moment, primarily pedagogical.

A working conception of the “prison regime” offers a useful tool of critical social analysis as well as a theoretical framework for contextualizing critical, radical, and perhaps abolitionist pedagogies. In subtle distinction from the criminological, social scientific, and common sense understandings of “criminal justice,” “prisons/ jails,” and the “correctional system,” the notion of a prison regime focuses on three interrelated technologies and processes that are dynamically produced at the site of imprisonment: first, the prison regime encompasses the material arrangements of institutional power that create informal (and often nominally illegal) routines and protocols of militarized physiological domination over human beings held captive by the state. This domination privileges a historical anti-black state violence that is particularly traceable to the latter stages of continental racial chattel slavery and its immediate epochal aftermath in “post-emancipation” white supremacy and juridical racial segregation/apartheid—a privileging that is directly reflected in the actual demography of the imprisoned population, composed of a Black majority. The institutional elaborations of this white supremacist and anti-black carceral state create an overarching system of physiological domination that subsumes differently racialized subjects (including whites) into institutional routines (strip searching and regular bodily invasion, legally sanctioned torture, ad hoc assassination, routinized medical neglect) that revise while sustaining the everyday practices of genocidal racial slavery. While there are multiple variations on this regime of physiological dominance—including (Latino/a, Muslim, and Arab) immigrant detention, extra-territorial military prisons, and asylums—it is crucial to recognize that the genealogy of the prison’s systemic violence is anchored in the normalized Black genocide of U.S. and New World nation-building.2

Second, the concept of the prison regime understands the place of state-ordained human capture as a modality of social (dis)organization that produces numerous forms of interpersonal and systemic (race, class, gender, sexual) violence within and beyond the physical sites of imprisonment. Here, the multiple and vast social effects of imprisonment (from affective disruptions of community and extended familial ties to long-term economic/geographic displacement) are understood as fundamental and systemic dimensions of the policing and imprisonment apparatus, rather than secondary or unintended consequences of it.3

Third, the prison regime encompasses the multiple knowledges and meanings that are created around the institutional site and cultural symbol of “the prison,” including those that circulate in popular culture and among the administrative bureaucracies and curriculum of schools.

Given this conception of the prison regime as a far-reaching and invasive arrangement of social power, state violence, and human domination, we might better be able to understand the significance of everyday routines of school-based discipline that imply the possibility of imprisonment as the punitive bureaucratic outcome of misbehavior, truancy, and academic failure. What, then, is the condition of “teaching” in the context of a prison regime that is so relentless in its innovation and intrusiveness?

We might depart from another critical premise: that the prison 4 (jail, detention center, etc.) cannot be conceptualized as a place that is wholly separate or alienated from the normalized intercourses of civil society or “the free world.” Speaking more precisely to the concerns raised by this issue of Radical Teacher, the massive carceral-cultural form of the prison has naturalized a systemic disorientation of the teaching act, so that teaching is no longer separable from the work of policing, juridical discipline, and state-crafted punishment.

Thus, I do not think the crucial question in our historical moment is whether or not our teaching ultimately supports or adequately challenges the material arrangements and cultural significations of the prison regime - just as I believe the central question under the rule of apartheid is not whether a curriculum condones or opposes the spatial arrangements of white supremacy and intensified racist state violence. Rather, the primary question is whether and how the act of teaching can effectively and radically displace the normalized misery, everyday suffering, and mundane state violence that are reproduced and/or passively condoned by both hegemonic and critical/counterhegemonic pedagogies.

I am arguing that our historical conditions urgently dictate that a strategic distinction must be drawn between liberal, social justice, critical, and even "radical" pedagogies that are capable of even remotely justifying, defending, or tolerating a proto-genocidal prison regime that is without precedent or peer, on the one hand, and those attempts at abolitionist pedagogy that - in an urgent embracing of the historical necessity of innovation, improvisation, and radical rearticulation - are attempting to generate new epistemic and intellectual approaches to meaning, knowledge, learning, and practice for the sake of life, liberation, and new social possibilities. I am concerned with addressing a pedagogical tendency that artificially separates the teacher- student relation and "the school" from "the prison."

Such strategic distinctions are useful for delineating the ways that multiple pedagogical epistemes5 (including otherwise critical and radical ones) operate from the a priori notion that prisons and policing serve necessary, peace-and-safety making, and "good" social functions that are somehow separable or recuperable from their historical primacy to socioeconomic/class repression, American apartheid,6 racial slavery,7 indigenous land displacement and cultural genocide,8 and white supremacist colonization.9 In other words, what might happen to the disoriented teaching act if it were re-oriented against the assumptive necessity, integrity, and taken-for-grantedness of prisons, policing, and the normalized state violence they reproduce?

Schooling Regime

The structural symbiosis between schools and the racist policing/prison state is evident in the administrative, public policy, and pedagogical innovations of the War on Drugs, “Zero Tolerance,” “No Child Left Behind,” and the school-based militarizations of the “school to prison (and military) pipeline.”10 Angela Y. Davis has suggested that “when children attend schools that place a greater value on discipline and security than on knowledge and intellectual development, they are attending prep schools for prison.”11 These punitive iterations of an increasingly carceral schooling industrial complex, however, represent a symptomatic reflection of how the racist state—and white supremacist social formation generally—are producing new categories of social identities (and redefining older ones) that can only be “taught” within a direct relationship to the regulatory mechanisms and imminent (state) violence of the prison industrial complex and the U.S. prison regime. (Even while some are relatively privileged by the institutional logics of relative de-criminalization, their bodily mobility and academic progression are contingent on the state’s capacity to separate and “protect” them from the criminalized.)

There are, at first, categories of social subjects that are apprehended and naturalized by the school-as-state—gifted and talented, undocumented, gang affiliated, exceptional, at-risk, average—who are then, by ontological necessity, hierarchically separated through the protocols of pseudo-standardized intelligence quotient, socioeconomic class, race, gender, citizenship, sexuality, neighborhood geography, etc. This seemingly compulsory, school-sited reproduction of the deadly circuits of privilege and alienation is anything but new, and has always been central to the routines of the U.S. schooling regime, particularly in its colonialist and post-emancipationist articulations.12 The idea of the U.S. prison apparatus as a regime, in this context, brings attention to how prisons are not places outside and apart from our everyday lives, but instead shape and deform our identities, communities, and modes of social interaction.

I have written elsewhere that the prison regime is an apparatus of power/violence that cannot be reduced to a minor “institution” of the state, but has in fact become an apparatus that possesses and constitutes the state, often as if autonomous of its authority.13 Here, I am interested in how this regime overlaps with and mutually nourishes the multiple “schooling regimes” that make up the U.S. educational system. The U.S. prison, in other words, has become a model and prototype for power relations more generally, in which 1) institutional authority is intertwined with the policing and surveillance capacities (legitimated violence) of the state, 2) the broadly cultural and peculiarly juridical racial/gender criminalization of particular social subjects becomes a primary framework for organizing institutional access, and 3) the practice of systemic bodily immobilization (incarceration) permeates the normal routines of the “free world.” To trace the movements of the prison’s modeling of power relations to the site of the school is to understand that policing/surveillance, criminalization, and immobilization are as much schooling practices as they are imprisonment practices. The teacher is generally being asked to train the foot soldiers, middle managers, administrators, workers, intellectuals, and potential captives of the school/prison confluence, whether the classroom is populated by criminalized Black and Brown youth or white Ph.D. candidates. Two thoughts are worth considering: the teaching act is constituted by the technologies of the prison regime, and the school is inseparable from the prison industrial complex.

The “prison industrial complex,” in contrast to the prison regime, names the emergence over the last three decades of multiple symbiotic institutional relationships that dynamically link private business (such as architectural firms, construction companies, and uniform manufacturers) and government/state apparatuses (including police, corrections, and elected officials) in projects of multiply-scaled human immobilization and imprisonment. The national abolitionist organization Critical Resistance elaborates that the prison industrial complex is a “system situated at the intersection of governmental and private interests that uses prisons as a solution to social, political, and economic problems.”14 In fact, as many abolitionist scholars have noted, the rise of the prison industrial complex is in part a direct outcome of the liberal-progressive “prison reform” successes of the 1970s. The political convergence between liberals, progressives, and “law and order” conservatives/reactionaries, located within the accelerating political and geographical displacements of globalization,15 generated a host of material transformations and institutional shifts that facilitated— in fact, necessitated—the large-scale reorganization of the prison into a host of new and/or qualitatively intensified structural relationships with numerous political and economic apparatuses, including public policy and legislative bodies, electoral and lobbying apparatuses, the medical and architectural/construction industries, and various other hegemonic institutional forms. Concretely, the reform of the prison required its own expansion and bureaucratic multiplication: for example, the reform of prison overcrowding came to involve an astronomical growth in new prison construction (rather than decarceration and release), the reformist outrage against preventable deaths and severe physiological suffering from (communicable, congenital, and mental) illnesses yielded the piecemeal incorporation of medical facilities and staff into prison protocols (as opposed to addressing the fact that massive incarceration inherently creates and circulates sickness), and reformist recognition of carceral state violence against emotionally disordered, mentally ill, and disabled captives led to the creation of new prisons and pharmaceutical regimens for the “criminally insane,” and so on. Following the historical trajectory of Angela Y. Davis’ concise and accurate assessment that “during the (American) revolutionary period, the penitentiary was generally viewed as a progressive reform, linked to the larger campaign for the rights of citizens,”16 it is crucial to recognize that the prison industrial complex is one of the most significant “reformist” achievements in U.S. history and is not simply the perverse social project of self-identified reactionaries and conservatives. Its roots and sustenance are fundamentally located in the American liberal-progressive impulse toward reforming institutionalized state violence rather than abolishing it.

The absolute banality of the prison regime’s presence in the administrative protocols, curricula, and educational routines of the school is almost omnipresent: aside from the most obvious appearances of the racist policing state on campuses everywhere, it is generally the fundamental epistemological (hence pedagogical) assumption of the school that 1) social order (peace) requires a normalized, culturally legitimated proliferation of state violence (policing, juridical punishment, war); 2) the survival of civil society (schools, citizenship, and individual “freedom”) depends on the capacity of the state to isolate or extinguish the criminal/dangerous; and 3) the U.S. nationbuilding project is endemically decent or (at least) democratic in spirit, and its apparent corruptions, contradictions, and systemic brutalities (including and especially the racial, gender, and class-based violence of the prison industrial complex) are ultimately reformable, redeemable, or (if all else fails) forgivable.