## Abolish Prisons CP

#### CP text: A just government ought to abolish prisons.

#### The CJS is irredeemable and intrinsically anti-black -- only abolition can challenge racialized criminalization

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The United States stands out from all nations on Earth for its reliance on caging human beings.52 In the last forty years, the U.S. incarcerated population exploded from about 500,000 to more than two million.53 The U.S. federal and state governments lock up more people and at higher rates than do any other governments in the world, and they do so today more than they did at any other period in U.S. history.54 Most people sentenced to prison in the United States today are from politically marginalized groups — poor, black, and brown.55 Not only are black people five times as likely to be incarcerated as white people,56 but also the lifetime probability of incarceration for black boys born in 2001 is estimated to be thirty-two percent compared to six percent for white boys.57 The female incarceration rate has grown twice as quickly as the male incarceration rate over the past few decades, and black women are twice as likely as white women to be behind bars.58 This astounding amount of human confinement should not be seen as an unfortunate consequence of crime prevention policies or as an isolated blemish on America’s otherwise fair system of criminal justice.59 Rather, prisons are part of a larger system of carceral punishment that legitimizes state violence against the nation’s most disempowered people to maintain a racial capitalist order60 for the benefit of a wealthy white elite.61 The prison industrial complex emerged in the second half of the twentieth century from the merger of social welfare programs and crime control policies.62 As Professor Elizabeth Hinton documents in From the War on Poverty to the War on Crime, Democrats and Republicans in the 1960s and 1970s paired federal assistance to urban neighborhoods of color with surveillance, militarized policing, harsh sentencing laws, and prison expansion, based on shared assumptions of innate black criminality.63 Thus, “[t]he roots of mass incarceration had been firmly established by a bipartisan consensus of national policymakers in the two decades prior to Reagan’s War on Drugs in the 1980s.”64 The astronomical expansion of prisons in the last forty years occurred during a process of government restructuring that transferred services from the welfare state to the private realm of market, family, and individual. The United States set the global trend in cutting social programs while promoting free-market conditions conducive to capital accumulation, resulting in one of the slowest growth rates of spending on basic social needs.65 Beginning with “Reaganomics” — the Reagan Administration’s economic policy based on tax cuts, business deregulation, and reductions in federal spending — and extending to the Clinton Administration’s restructuring of welfare, the United States underwent a period of intensified privatization.66 Government policymakers coupled this neoliberal dismantling of the social safety net with intensified carceral intervention in poor communities of color.67 The consolidation of corporate power in recent decades depended not only on increased market-based privatization but also on increased punitive control of marginalized people who are excluded from the market economy because of racism.68 In sum, beginning in the 1960s, U.S. policymakers have supported elites by intensifying carceral measures in order to address the social problems and quell the unrest generated by racial capitalism.69 As Professor Dan Berger explains: “[C]arceral expansion is a form of political as well as economic repression aimed at managing worklessness among the Black and Brown (and increasingly white) working class for whom global capitalism has limited need.”70 Thus, the relationship between racial capitalism and carceral punishment extends far beyond extracting profits from prison labor and private prisons, which does not characterize most of the prison industrial complex’s operation.71 Rather, prisons are the state’s response to social crises produced by racial capitalism, such as unemployment and unhealthy segregated housing, and to the rebellions waged by marginalized people who suffer most from these conditions.72 The physical expansion of prisons is facilitated by criminalizing subordinated people so that caging them seems ordinary and natural. Indeed, Critical Resistance co-founder Provost Julia Chinyere Oparah identifies as a key “logic of incarceration”73 the “racialization of crime” so that crime is associated with dangerous and violent “black, indigenous, immigrant, or other minority populations.”74 Longstanding stereotypes of black criminality are marshalled to turn everyday black life into criminal activities.75 For example, order-maintenance policing relies on an association between the identification of lawless people and racist notions of criminality to legitimize routine police harassment and arrest of black people.76 Likewise, during the “crack epidemic” of the Reagan era, the longstanding devaluation of black motherhood was crucial to converting the “public health problem of drug use during pregnancy into a crime, addressed by [arresting and imprisoning] black women rather than providing them with needed health care.”77 Not only does the prison industrial complex serve as the state’s solution to economic and social problems, but carceral approaches to these problems are also ever more common beyond prisons. I described this carceral expansion in a recent issue of this law review: All institutions in the United States increasingly address social inequality by punishing the communities that are most marginalized by it. Systems that ostensibly exist to serve people’s needs — health care, education, and public housing, as well as public assistance and child welfare — have become behavior modification programs that regulate the people who rely on them, and these systems resort to a variety of punitive measures to enforce compliance.78 Public welfare programs are increasingly entangled with criminal law enforcement.79 People who receive Medicaid or Temporary Assistance to Needy Families are subjected to intense surveillance by government agents as a condition of obtaining aid — and if they refuse aid, they are further subjected to child protective services investigations.80 Homelessness, public school misbehavior, and health problems are all criminalized by calling police officers as the first responders to deal with problems that arise in these contexts.81 The prison, foster care, and welfare systems operate together to form a cohesive punitive apparatus that punishes black mothers in particular.82 At the same time, repressive fetal protection laws and abortion restrictions coalesce to criminalize pregnancy itself;83 immigration law makes entering the United States without documentation a crime;84 and militarized border security results in deportation, family separation, and detention in prisons and squalid concentration camps.85 As carceral logics take over ever-expanding aspects of our society, so does the cruelty that government agents visit on people who are the most vulnerable to state surveillance and confinement. Torture has been accepted as a technique of racialized carceral control.86 The nation’s public schools, prisons, detention centers, and hospitals serving poor people of color are marked not only by stark inequalities but also by dehumanizing bodily neglect and abuse committed by police officers and guards.87 Further, as Rodríguez explains, “incarceration as a logic and method of dominance is not reducible to the particular institutional form of jails, prisons, detention centers, and other such brick-and-mortar incarcerating facilities.”88 Although prison abolitionists work to end prisons, their ultimate aspiration is to end carceral society — a society that is governed by a logic of incarceration. B. Abolition Praxis: Past, Present, Future Prison abolition theory has past, present, and future aspects, each of which animates activism simultaneously.89 Prison abolitionists look back to history to trace the roots of today’s carceral state to the racial order established by slavery and look forward to imagine a society without carceral punishment.90 Both are critical motivations for abolishing the prison industrial complex. The case for abolition that is grounded in history and politics provides a compelling framework for understanding the need to eradicate the entire carceral punishment system as well as for identifying strategies to accomplish that goal. Indeed, we can see the extreme cruelty and degradation that characterize today’s penitentiaries, police forces, and executions as the inevitable result of a racially subordinating system.91 1. Slavery Origins. — Many prison abolitionists have found the roots of today’s criminal punishment system in the institution of chattel slavery.92 Even before I thought of myself as a prison abolitionist, my analysis of current criminal justice issues consistently led me to a discussion of slavery. Whether interrogating racism in the prosecution of black women for pregnancy-related crimes,93 the disproportionately high placement of black children in foster care,94 the high rates of incarceration in black neighborhoods,95 police torture of black suspects,96 or gang-loitering policing,97 I found it essential to understand these practices as originating in the enslavement of black people. That analysis helped me to see how these practices emanated from a carceral system that continues to perpetuate black people’s subjugated status and, ultimately, to conclude the carceral system cannot be fixed — it must be abolished.98 The pillars of the U.S. criminal punishment system — police, prisons, and capital punishment — all have roots in racialized chattel slavery.99 After Emancipation, criminal control functioned as a means of legally restricting the freedoms of black people and preserving whites’ dominant status.100 Through these institutions, law enforcement continued to implement the logic of slavery — which regarded black people as inherently enslaveable with no claim to legal rights101 — to keep them in their place in the racial capitalist hierarchy.102 (a) Police. — The first police forces in the United States were slave patrols.103 Beginning in the early 1700s, southern white men formed armed groups that entered slaveholding properties and roamed public roads to ensure that enslaved people did not escape or rebel against their enslavers.104 Slave patrols monitored enslaved people to prevent them from engaging in forbidden activities such as “harboring weapons or fugitives, conducting meetings, or learning to read or write.”105 They also used the threat of violence to intimidate enslaved workers into obedience to enslavers.106 Enslaved people who were caught planning resistance, running away, or defying the slave codes enacted to restrict them were subjected to violent punishments such as beatings, whippings, mutilation, and forced sale away from their families.107 Modern police forces are descendants of armed urban patrols like the Charleston City Guard and Watch, which was established as early as 1783 to constantly monitor and inspect both enslaved and free black residents to “minimize Negro fraternizing and, more especially, to prevent the growth of an organized colored community.”108 Enslaved people who worked on plantations and farms were under the “immediate control and discipline of their respective owners,” who were often aided by hired overseers.109 The overseers’ job was to enforce enslaved workers’ total subjugation to enslavers by violently reprimanding perceived disobedience and failures to meet productivity quotas.110 The violence overseers inflicted on enslaved workers reflected a fundamental aspect of carceral punishment that survives today: the purpose of punishing black people was to reinforce their subjugation to white domination. Hence, enslaved people were punished for committing offenses defined as insubordination to enslavers, but were also punished regardless of their culpability for an offense. The celebrated abolitionist Frederick Douglass, who escaped slavery in Maryland in 1838, 111 emphasizes this point in his portrayal of the overseers he encountered while in captivity. His description of Austin Gore, an overseer who served Colonel Edward Lloyd on a plantation where Douglass spent two years of his childhood, is especially illuminating.112 Gore was an ideal overseer because he “was one of those who could torture the slightest look, word, or gesture, on the part of the slave, into impudence, and would treat it accordingly.”113 Douglass elaborates: There must be no answering back to him; no explanation was allowed a slave, showing himself to have been wrongfully accused. Mr. Gore acted fully up to the maxim laid down by slaveholders, — “It is better that a dozen slaves suffer under the lash, than that the overseer should be convicted, in the presence of the slaves, of having been at fault.” No matter how innocent a slave might be — it availed him nothing, when accused by Mr. Gore of any misdemeanor. To be accused was to be convicted, and to be convicted was to be punished; the one always following the other with immutable certainty.114 An enslaved man named Demby learned the price of refusing to submit to Gore’s rule.115 When Demby plunged into a creek to escape being beaten, Gore shot him dead with a musket.116 Although slave law occasionally permitted the application of criminal homicide to convict slaveholders who killed their slaves, it exonerated those who killed slaves who resisted the slaveholders’ lawful authority.117 A “hostile attitude” or resistance to corporal punishment on the part of enslaved people like Demby provided legal justification for killing them.118 The status of enslaved Africans as the property of their white enslavers meant that, from the enslavers’ perspective, black people were a perpetual threat to white people’s property — a threat seen as so great it necessitated employing armed forces to maintain order among the enslaved.119 In the aftermath of Emancipation, when slaveholders’ human property was no longer protected by slave law, “a new set of innovations and regulation[s] had to emerge, again under the rubric of policing.”120 Like overseers and slave patrols, Jim Crow police and private citizens who abetted them used terror primarily to enforce racial subjugation, not to apprehend people culpable for crimes.121 Take, for example, coercive interrogation techniques, now known as “the third degree,” that have become a staple of modern policing.122 The first stage of lynching, typically carried out with the participation or sanction of the police, was often “extract[ing] a confession by whipping or burning the accused.”123 Prior to Miranda v. Arizona, 124 which barred the admissibility of presumptively coerced confessions, southern police routinely used torture to force blacks to confess to crimes.125 For example, in Brown v. Mississippi, 126 three black tenant farmers were convicted for murdering a white planter; the sole evidence before the jury consisted of their confessions.127 Those confessions were obtained through police torture, including the repeated hanging and whipping of one of the defendants until he confessed to a dictated statement.128 The other two defendants’ confessions were similarly coerced and tailored.129 When overturning the convictions, the Supreme Court observed that “the signs of the rope on [one defendant’s] neck were plainly visible during the so-called trial.”130 Even after the civil rights movement, “[p]olice torture of suspects continues to be a tolerated means of confirming the presumed criminality of blacks.”131 For example, from the 1970s to the 1990s, white police officers in Chicago engaged in systematic torture of black residents.132 Under the command of Lieutenant Jon Burge, police coerced dozens of confessions from suspects by beating them, burning them with radiators and cigarettes, putting guns in their mouths, placing plastic bags over their heads, and delivering electric shocks to their ears, noses, fingers, and genitals.133 Burge’s reign of torture was known and condoned by police officers, the State’s Attorney’s office, judges, and doctors at Cook County Hospital.134 Racialized terror that bridged slave patrols, lynchings, and police whippings remained a feature of policing in the post– Civil Rights Era criminal punishment system.135 Police also serve as an arm of the racial capitalist state by controlling black and other marginalized communities through everyday physical intimidation and by funneling those they arrest into jails, prisons, and detention centers.136 Numerous studies conducted throughout the nation demonstrate that police engage in rampant racial profiling.137 The increasing militarization of police forces accentuates their role as an occupying force in communities of color and on Indian reservations.138 Police harassment and violence against residents in poor, nonwhite neighborhoods is routine.139 Police “brutality” is a misnomer because it suggests police violence is exceptional. Mariame Kaba, the founding director of Project NIA,140 explains she “retired the term ‘police brutality’” because “[i]t is meaningless, as violence is inherent to policing.”141 Similarly, Professor Micol Seigel calls policing “violence work.”142 Police normally treat residents in communities of color in an aggressive fashion — shouting commands, handcuffing even children, throwing people to the ground, and tasing, beating, and kicking them.143 For young men of color, the risk of being killed by the police is shockingly high and police use of force is among the leading causes of death.144 Black women, women of color, and queer women are especially vulnerable to gendered forms of sexual violence at the hands of police.145 These violent tactics are not in response to violent crime. Indeed, police officers actually spend a small fraction of time stopping violent offenders.146 Most of the time, officers are engaged in patrolling ordinary people who are simply going about their everyday activities, generating high-volume arrests for petty infractions.147 Like the Black Codes and the slave codes before them, order maintenance policies give police wide discretion to control black people’s presence on public streets.148 Law enforcement continues to enforce the logic of slave patrols, to view black people as a threat to the security of propertied whites, and to contain the possibility of black rebellion.149 To Professor Fred Moten, police officers killed Michael Brown and Eric Garner because these black men represented “insurgent black life,” which “constituted a threat to the order that [police] represent[] and . . . [are] sworn to protect.”150 There are numerous examples of state officials dispatching police to silence black protest, including the assassination of Black Panther Party leader Fred Hampton by the Chicago Police Department and the military-style assault on protesters in Ferguson, Missouri, after the killing of Michael Brown.151 The recent spate of “BBQ Beckys” — white residents who call 911 on black men, women, and children engaged in harmless public activities like barbequing in a park or selling bottled water on a sidewalk152 — spotlights the role of police to keep black people in their place for the benefit of white citizens.153 Abolitionists also include state surveillance — another descendant of the slave patrol154 — as a major component of carceral punishment.155 Today’s computerized predictive policing is a high-tech version of vague loitering and vagrancy laws, which historically gave “‘license to police officers to arrest people purely on the basis of race-based suspicion’ [by] categorically identifying black people as lawless apart from their criminal conduct.”156 I previously described the situation in this law review as follows: Law enforcement agencies nationwide collect and store vast amounts of data about past crimes, analyze these data using mathematical algorithms to predict future criminal activity, and incorporate these forecasts in their strategies for policing individuals, groups, and neighborhoods. Judges use big-data predictive analytics to inform their decisions about pretrial detention, bail, sentencing, and parole. Automated risk assessments help to determine whether or not defendants go to prison, the type of facility to which they are assigned, how long they are incarcerated, and the conditions of their release.157 Some proponents of artificial intelligence claim these technologies help people make more objective decisions that are not tainted by human biases.158 However, predictive algorithms have been revealed to “disproportionately identify African Americans as likely to commit crimes in the future.”159 This is because “[c]rime data collection reflects discriminatory policing. . . . [P]olice routinely bias data collection against black residents by patrolling their neighborhoods with far greater intensity than white neighborhoods.”160 Risk assessment models that import institutionally biased data become a “self-fulfilling feedback loop” where the prediction ensures future detection.161 The rise of computerized risk assessments in the carceral punishment system reinforces the detachment of punishment from culpability and furthers the criminalization of whole communities. Computerized predictions identify people for government agencies to regulate from the moment of birth, without any regard to their actual responsibility for causing social harm: police gang databases have included toddlers.162 Thus, the state uses artificial intelligence and predictive technologies to reproduce existing inequalities while creating new modes of carceral control and foreclosing imagination of a more democratic future.163 (b) Prisons. — During the slavery era, prison populations were composed almost exclusively of white people.164 When slavery was abolished, the demographics of prisons shifted dramatically.165 Southern law enforcement began to charge formerly enslaved African Americans with crimes and incarcerate them in growing numbers.166 Imprisonment and the convict leasing system maintained black people’s status as a disenfranchised and involuntary labor force for whites.167 In its 1871 decision Ruffin v. Commonwealth, 168 the Virginia Supreme Court of Appeals affirmed the similar status of slave and prisoner when it ruled that an incarcerated convict was “for the time being the slave of the State. He is civiliter mortuus; and his estate, if he has any, is administered like that of a dead man.”169 Likewise, black people convicted of petty offenses were “sold as punishment for crime” at public auctions as if they were still enslaved.170 A key assertion of prison abolition theory is that criminalization of black people following Emancipation served to maintain the racial capitalist system that had been built on slavery.171 In an interview published in 2005, Professor Angela Y. Davis explained her ideas on the link between slavery and prison abolition: Now I am trying to think about the ways that the prison reproduces forms of racism based on the traces of slavery that can still be discovered within the contemporary criminal justice system. There is, I believe, a clear relationship between the rise of the prison-industrial-complex in the era of global capitalism and the persistence of structures in the punishment system that originated with slavery.172 In other words, the criminalization and imprisonment of black people following the Civil War are a critical link in the historical chain that ties the prison industrial complex to slavery. Criminal punishment was a chief way the southern states nullified the Reconstruction Amendments, reinstated the white power regime, and made free blacks vulnerable to labor exploitation and disenfranchisement. Following the formal abolition of slavery, southern states targeted black men, women, and children for imprisonment by passing criminal laws known as Black Codes, modeled after the slave codes, which prohibited their freedom of movement, contract, and family life.173 Between 1865 and 1866, legislatures “enacted harsh vagrancy laws, apprenticeship laws, criminal penalties for breach of contract, and extreme punishments for blacks, all in an effort to control black labor.”174 Black people who were out of work or simply present in public without adequate reason were routinely arrested for vagrancy, giving white officials license to jail them.175 Blacks were also arrested and given long sentences for petty offenses that whites engaged in without consequence. Writing in 1893, journalist and activist Ida B. Wells gave the example of twelve black men who were imprisoned in South Carolina “on no other finding but a misdemeanor commonly atoned for by a fine of a few dollars, and which thousands of the state’s inhabitants [white] are constantly committing with impunity — the carrying of concealed weapons.”176 As the Court’s Timbs v. Indiana177 decision last Term discussed, Black Codes also employed economic sanctions to consign blacks to a form of debt slavery that coerced them into onerous involuntary labor.178 In the decades after Reconstruction, fines kept many formerly enslaved people in forced servitude to white landowners.179 Activist Mary Church Terrell warned in 1907 that the peonage system kept black people perpetually enslaved. “[T]here are scores, hundreds perhaps, of coloured men in the South to-day who are vainly trying to repay fines and sentences imposed upon them five, six, or even ten years ago,” she wrote.180 By compelling emancipated blacks to work for whites in payment of debts on threat of incarceration, the law substituted the unconstitutional system of chattel slavery with a legal system of peonage.181 Also adjoined to these forms of legally enforced servitude was the practice of systematically forcing black prisoners to toil on chain gangs and leasing black convicts as labor to planters and companies. By making free black people criminals, white authorities could compel them to work against their will in a system that not only constituted “slavery by another name,”182 but also was so violent that it was “worse than slavery.”183 Between 1865 and 1880, every former Confederate state except Virginia established a system of leasing large numbers of black prisoners to railroads, coal mines, and other industries that were rebuilding infrastructures devastated by the Civil War.184 Private lessees had complete custody and control of prisoners and were motivated to maximize their profits by extracting as much labor as possible with little incentive to preserve prisoners’ welfare or lives.185 The result was rampant punishment, torture, and killing of prisoners with complete impunity.186 State exploitation of prison labor reinforced a gendered and sexualized form of white domination of black women.187 Black women were not protected by Victorian norms of femininity, which shielded most white women from the degradation of carceral violence and forced labor.188 To the contrary, black women were far more likely than white women to be arrested for violating racialized gender standards by engaging in behavior deemed to be masculine, like public quarreling.189 The wildly disparate treatment of white women and black women arrested for similar crimes is mind-boggling: for example, “[b]etween 1908 and 1938, only four white women were ever sentenced to the chain gang in Georgia, compared with almost two thousand Black women.”190 Recent investigations by Professors Sarah Haley and Talitha LeFlouria provide critical documentation of the previously unacknowledged extent of black women’s involvement in convict leasing, chain gangs, and forced domestic labor, dramatically expanding our understanding of antiblack violence and carceral control during the Jim Crow era.191 Haley frames the common practice of chain-gang overseers whipping black female convict laborers as “sexualized gender- and racespecific rituals of violence mark[ing] the convict camp as a pornographic site” and producing a spectacle of gendered racial terror.192 Newspapers also routinely vilified black women accused of crimes.193 Black women resisted in multiple ways, including as organized club women, blues lyricists, and incarcerated petitioners and saboteurs.194 Violence against enslaved and incarcerated black women was essential to preserving the racial capitalist state.195 This state, in turn, constructed an ideology of black female depravity and deviance,196 which undergirds black women’s higher rates of incarceration to this day.197 I have emphasized how during the slavery and Jim Crow eras, state agents meted out punishment to black people without regard to their guilt or innocence. Criminalizing black people entailed both defining crimes so as to make black people’s harmless, everyday activities legally punishable and punishing black people regardless of their culpability for crimes. Thus, for more than a century, vague vagrancy and antiloitering ordinances have given police officers license to arrest black people for standing in public streets — with no attention to whether or not their presence caused any harm to anyone.198 The purpose of carceral punishment was to maintain a racial capitalist order rather than to redress social harms — not to give black people what they deserved, but to keep them in their place. Today, the state still aims to control populations rather than judge individual guilt or innocence, to “manage socialinequalities” rather than remedy them.199 A large body of social scienceliterature explains criminal punishment as a form of social control of marginalized people.200 Professor Issa Kohler-Hausmann, for example, argues that New York City criminal courts that handle misdemeanors “have largely abandoned the adjudicative model of criminal law administration — concerned with deciding guilt and punishment in specific cases” — and instead follow a “managerial model — concerned with managing people through engagement with the criminal justice system over time.”201 By marking people for involvement in “misdemeanorland,” forcing them to engage in burdensome procedural hassles, and requiring them to engage in disciplinary activities,202 this gargantuan branch of the criminal punishment system exerts social control over the city’s black communities, with no real regard for residents’ culpability for crime. The explosion in imprisonment of African Americans at the end of the twentieth century represents the continuation of trends that originated even before the century’s start. In describing the rise of convict leasing, W.E.B. Du Bois notes a fundamental feature of post-slavery carceral punishment: the disconnect between the rise of prisons and crime rates. “The whole criminal system came to be used as a method of keeping Negroes at work and intimidating them,” Du Bois writes in Black Reconstruction. 203 “Consequently there began to be a demand of jails and penitentiaries beyond the natural demand due to the rise in crime.”204 In a complement to Du Bois’s observations about the economic motivations for incarcerating black people, Professor Alex Lichtenstein argues that social and political forces also produce higher incarceration rates: Stable incarceration rates appear in periods of white racial hegemony and a stable racial order, such as that secured by slavery in the first half of the 19th century or Jim Crow during the first half of the 20th. Correspondingly, sudden rises in incarceration, especially of minorities, tend to appear one generation after this racial hegemony has been cracked, as in the first and second Reconstructions of emancipation and civil rights.205 Thus, the skyrocketing prison population in the second half of the twentieth century cannot be explained solely as a response to increases in crime.206 Prison expansion instead reflects a response to the needs of rising neoliberal racial capitalism that addresses growing socioeconomic inequality with punitive measures.207 The disconnect between social harm and carceral punishment is evident not only in state regulation of marginalized people but also in the immunity granted to state agents who commit social harms.208 For reasons both legal and political, police,209 prosecutors,210 and corporate executives211 generally avoid criminal liability even for inflicting serious harm. As I have explored previously, “[c]urrent legal doctrine condones police violence and makes individual acts of abuse — even homicides — appear isolated, aberrational, and acceptable rather than part of a systematic pattern of official violence.”212 Prosecutors who have used unconstitutional methods for obtaining wrongful convictions have not been criminally prosecuted themselves.213 Few corporate executives have been charged with crimes for actions that caused billions of dollars in losses during the financial crisis of 2008. 214 Moreover, government officials responsible for devastating environmental harms, such as lead-poisoned water in Flint, Michigan, typically escape criminal prosecution.215 In sum, criminal law treats prisons as essential to prevent or redress crimes committed by economically and racially marginalized people but unnecessary to address even greater social harms inflicted by the wealthy and powerful. The criminal punishment system extends its subordinating impact beyond prison walls by imposing collateral penalties that deny critical rights and resources to formerly incarcerated people.216 Felon disenfranchisement laws, for example, restrict incarcerated people’s ability to vote during their sentences and after they are released,217 and significantly dilute black political power.218 The stigma of conviction, imposition of fines and fees, and exclusion from public benefits inflict a nearly insurmountable burden on people caught in the carceral web.219 The association between slavery and prison makes these deprivations seem natural — despite the injustice of punishing people beyond the sentence they served and in a way that bears no relation to the crimes they committed. Just as it seemed unremarkable that enslaved people could not vote because they were not citizens, so today many people think: “Of course prisoners aren’t supposed to vote. They aren’t really citizens any more.”220 Thus, the inherent denial of citizenship rights to enslaved people is mirrored in the unquestioned denial of those rights to incarcerated people. (c) Death Penalty. — Capital punishment, like police and prisons, has its roots in slavery and the preservation of white supremacy.221 State executions have persisted in the United States because they function similarly to the extreme punishments inflicted on enslaved people and the state-sanctioned lynchings that replaced these punishments after Emancipation.222 As Davis points out, “the institution of slavery served as a receptacle for those forms of punishment considered to be too uncivilized to be inflicted on white citizens within a democratic society.”223 Historically, race-based criminal codes imposed the death penalty on enslaved individuals for many more offenses than they did for whites.224 Blacks were “commonly hanged” for “rape, slave revolt, attempted murder, burglary, and arson.”225 Moreover, condemned slaves were subjected to extra cruelty through what Professor Stuart Banner calls “super-capital punishment” — burning them alive at the stake.226 Executions were also made especially degrading by displaying slaves’ severed heads on poles in front of the courthouse, or allowing their corpses to decompose in public view.227 After Emancipation, white southerners began ritualistically kidnapping and killing black people to publicly reinforce white supremacy.228 In 1893, Ida B. Wells observed that “the Convict Lease System and Lynch Law are twin infamies which flourish hand in hand in many of the United States.”229 Public torture proclaimed white dominion overblack people, repudiated blacks’ citizenship status,230 and “literally reinstat[ed] black bodies as the property of whites that could be chopped to pieces for their entertainment.”231 Many lynchings were of black men accused of breaching racialized sexual boundaries by raping or disrespecting white women.232 However, the majority of terroristic murders between 1890 and 1920 were intended to facilitate white theft of black people’s property.233 As Frederick Douglass observed in 1893, displaying insolence was sufficient excuse for lethal victimization: The crime of insolence for which the Negro was formerly killed and for which his killing was justified, is as easily pleaded in excuse now, as it was in the old time and what is worse, it is sufficient to make the charge of insolence to provoke the knife or bullet. This done, it is only necessary to say in the newspapers, that this dead Negro was impudent and about to raise an insurrection and kill all the white people, or that a white woman was insulted by a Negro, to lull the conscience of the north into indifference and reconcile its people to such murder. No proof of guilt is required. It is enough to accuse, to condemn and punish the accused with death. 234 Here, Douglass links his childhood observations of overseers’ punishment of enslaved blacks to the lynchings of emancipated blacks occurring after the Civil War. The same logic of slavery that called for punishment of black insubordination to enforce white supremacy, regardless of culpability for a crime, was revived in lynching and persists in the modern prison industrial complex. The hundreds of “public torture lynchings” that were a feature of southern society until almost 1940235 call into question the dominant narrative that as civilizations have evolved, punishments have become more humane.236 Instead, southern whites sent a message through medieval forms of punishment: [A]rchaic forms of execution involving torture, burning, and mutilation . . . show[ed] that “regular justice” was “too dignified” for black offenders. The public torture of blacks accused of offending the racial order demonstrated whites’ unlimited power and blacks’ utter worthlessness. This nation’s rights, liberties, and justice were meant for white people only; blacks meant nothing before the law.237 Lynchings were the terrorist counterpart to state-supported debt peonage, convict leasing, disenfranchisement, and segregation laws that kept blacks subject to white domination.238 Lynching black people was not an exception to the law; it was part of the administration of justice and the larger system of legally sanctioned racial control.239 In the mid-twentieth century, the practice of lynching black people was replaced by the practice of subjecting them to the death penalty.240 These legally sanctioned hangings, which deliberately resembled lynchings of the past,241 purported to punish black men for raping white women.242 New methods of execution were also implemented: in the 1950s in Mississippi, crowds of white onlookers gathered at southern courthouses to witness the electrocutions of black men in portable electric chairs that traveled from town to town.243 After one such killing in Mississippi in 1951, the crowd on the lawn outside the courthouse “burst into cheers, then crushed forward in an effort to glimpse the corpse as it was removed from the building.”244 There was a smooth transition from lynching to state execution because “[a] culture that carried out so much public unofficial capital punishment could hardly grow squeamish about the official variety.”245 Capital punishment continues to function as it did in the slavery and Jim Crow eras to reinforce the subordinated status of black people.246 Today, states primarily use lethal injection in an attempt to make capital punishment “more palatable,”247 on the logic that this method bears less resemblance to lynching than electrocution or hanging.248 The fact that lethal injection carries its own risks of inflicting pain249 has not undermined its constitutional status: last Term, in Bucklew v. Precythe, 250 a divided Court was unmoved by evidence that Missouri’s lethal injection protocol would inflict cruel and unusual punishment on a prisoner, reasoning that “the Eighth Amendment does not guarantee . . . a painless death.”251 Although Bucklew was white, the Court’s decision upheld lethal state violence that is disproportionately imposed on black men accused of killing white people.252 Like the torture rituals of lynching, the death penalty survives in modern America as an uncivilized form of punishment because it continues to represent white domination over black people. 2. Not a Malfunction. — A first step to demonstrating the political illegitimacy of today’s carceral punishment system is finding its origins in the institution of slavery. A second step is understanding that prisons, police, and the death penalty function to subordinate black people and maintain a racial capitalist regime. Efforts to fix the criminal punishment system to make it fairer or more inclusive are inadequate or even harmful because the system’s repressive outcomes don’t result from any systemic malfunction.253 Rather, the prison industrial complex works effectively to contain and control black communities as a result of its structural design. Therefore, reforms that correct problems perceived as aberrational flaws in the system only help to legitimize and strengthen its operation. Indeed, reforming prisons results in more prisons.254 3. A Society Without Prisons. — An essential component of prison abolitionist theory is the principle that eliminating current carceral practices must occur alongside creating a radically different society that has no need for them.255 Prison abolitionists frequently define their work as consisting of two simultaneous activities, one destructive and the other creative. “It’s the complete and utter dismantling of prisons, policing, and surveillance as they currently exist within our culture,” Kaba explains.256 “And it’s also the building up of new ways of . . . relating with each other.”257 This duality is essential to abolition both because prisons will only cease to exist when social, economic, and political conditions eliminate the need for them and because installing radical democracy is crucial to preventing another white backlash and reincarnation of slavery-like institutions in response to the abolition of current ones.258 Moreover, the success of nonpunitive approaches developed by abolitionists for addressing human needs and social problems can be a compelling reason to abandon current dehumanizing and ineffective practices.259 Above all, it is their vision of a world without prisons that gives abolitionists their lodestar. Abolitionists are working toward a society where prisons are inconceivable — a world where its inhabitants “would laugh off the outrageous idea of putting people into cages, thinking such actions as morally perverse and fatally counterproductive.”260 Because the current carceral system is rooted in the logic of slavery, abolitionists must look to a radically different logic of human relations to guide their activism.261 That guiding philosophy cannot be invented theoretically, but must emerge from the practice of collectively building communities that have no need for prisons. Citing Du Bois’s critique of the post-Emancipation period in Black Reconstruction, Davis attributes the rise of prisons to the failure to institute a revolutionary “abolition democracy” that incorporated freed African Americans into the social order.262 Slavery could not be truly and comprehensively abolished without economic redistribution, equal educational access, and voting rights. In Davis’s words, “DuBois . . . argues that a host of democratic institutions are needed to fully achieve abolition — thus abolition democracy.”263 Understanding that prisons are not primarily designed to protect people from crime, but rather to address human needs and social problems with punitive measures, opens the possibility that we can eradicate prisons by addressing these needs and problems in radically different ways.264

#### The prison has extended outside of its walls – the Prison Reentry Industry (PRI) is built on setting up oppressed populations for failure. Material improvements to post-release quality of life are crucial to break cycles of structural violence

Ortiz and Jackey, 19 Jennifer M., and Hayley. “The System Is Not Broken, It Is Intentional: The Prisoner Reentry Industry as Deliberate Structural Violence.” The Prison Journal, vol. 99, no. 4, Sept. 2019, pp. 484–503, doi:10.1177/0032885519852090.

The PRI operates using mechanisms that ensure the formerly incarcerated remain ensnared in a cycle of failure. Traditional criminological studies point to high recidivism rates as proof that reentry in the United States is failing to rehabilitate offenders (Travis, 2005). We disagree. The PRI is not a broken system but, rather, it is an intentional form of structural violence—employment exclusion, housing discrimination, reentry service fees, and parole reporting requirements that interfere with gainful employment or in which clients’ needs are not sufficiently addressed—that perpetuate the oppression of the most marginalized groups in our society. One need only look at the current state of reentry to understand this argument. Although federal and state governments have enacted reentry legislation such as the Second Chance Act and Kentucky’s Senate Bill 120, which established a reentry division of the Kentucky Department of Corrections, these bills are ceremonial and do not translate to meaningful change at the ground level. Our data indicate that formerly incarcerated individuals enter prisoner reentry programs hoping for a better future, only to discover that the PRI is an illusion. Reentry programming in prison is either nonexistent or requires one to meet strict eligibility standards. The incarcerated are denied access to services based on meaningless standards such as sentence length instead of receiving services based on their immediate needs. Existing programs are severely underfunded and dependent on volunteers. Once released from prison, the formerly incarcerated must contend with burdensome supervision requirements and exorbitant reentry fees that hinder employment and create motives for absconding. Thus, recidivism rates do not indicate that the PRI is failing but rather that it is working as designed to ensure the continued marginalization of “undesirable populations”. “Reentering prisoners are treated especially severely in part because of their association with an oppressed group in a historical and social context of racial hierarchy” (Martin, 2013, p. 502). As the United States experiences carceral devolution (Miller, 2014), a new peculiar institution (Wacquant, 2000) is emerging to maintain an oppressed class of poor persons of color. The PRI system is structured to give the illusion of rehabilitation but operates using mechanisms that ensure the formerly incarcerated are unable to succeed. Ironically, an overarching rugged individualism narrative dominates our societal views of the formerly incarcerated. If the formerly incarcerated recidivate or relapse, many argue it is because they made bad individual choices. “By activating the individualistic logic of personal responsibility, post-custodial bureaucracies put the onus of failed reintegration on former convicts” (Wacquant, 2010, p. 617) while ignoring the myriad of structural barriers to reentry. The reality remains that the reentry industry has made reentry nearly impossible. Individuals cannot focus on the underlying causes of their initial deviance because their focus is on oppressive supervision conditions, fees, and debt. The system does not rehabilitate offenders; it replicates and perpetuates inequality and poverty. Perhaps even more troubling is that many criminologists support this system by promoting and lauding meaningless legislation, “evidence-based” programming, and positivist research while simultaneously ignoring the plight and suffering at the ground level. The desire of orthodox scholars to remain “objective” and “neutral” when conducting research contributes to the production of nominal reentry research. Criminologists are infatuated with developing experimental and program evaluation research that is devoid of critical analyses of structural violence (Hallett, 2012) and which largely ignores the role of race (Olusanya & Cancino, 2012). Because we are obliged to the justice system for grant funding and because we are indoctrinated into the “publish or perish” mind-set, many academics develop and promote reentry research that reinforces and replicates the system instead of assessing its inherent structural violence. Given the racist and oppressive history of our country, good reentry scholarship “can never be written from a distance of detachment or with an attitude of objectivity” (Crenshaw et al., 1995, p. xiiv). We must enter the trenches and reveal the human suffering caused by the PRI. “The sudden policy and scholarly infatuation with reentry . . . must not hide the fact that such [reentry] programs are an integral component of prison fare” (Wacquant, 2010, p. 616). Reentry has become but a mere extension of a racist justice system that utilizes law enforcement, the courts, and other state actors to control the most “undesirable” among us. In true capitalist form, countless institutions and corporations profit from the PRI while creating a system that ensures a steady supply of clientele. The PRI manufactures the “raw materials” necessary to perpetuate the reentry system (Clear, 2010). Consequently, “most released convicts experience not reentry but ongoing circulation between the prison and their dispossessed neighborhoods” (Wacquant, 2010, p. 605). Thus, we should not conceptualize reentry as a binary but as a carceral mesh reminiscent of the prison-ghetto symbiosis (Wacquant, 2001). PRI is a system structured to reinforce the prison’s control over marginalized group much the same way that mass incarceration reinforced the oppressive conditions in the ghetto (Wacquant, 2001). On its surface, the efforts of PRI actors appear well-intentioned. However, in practice—and as illustrated in our respondents’ interviews—the PRI saddles the formerly incarcerated with obligations and debts that guarantee they are incapable of reintegrating into society. Hence, the true cost of freedom for the formerly incarcerated is a never-ending cycle of debts, threats, and increased likelihood of reincarceration. If the PRI were determined to rehabilitate individuals, it would shift its focus to improving the quality of life experienced by the formerly incarcerated. “The mission of those working for the PRI should be to work themselves out of a job by reducing the number of people returning to prison . . . and linking the formerly incarcerated to legitimate resources” (Thompkins, 2010, p. 603). In practice, however, the PRI uses surveillance and financial debts to ensure the formerly incarcerated remain a permanent underclass in our society. The reality remains that although the formerly incarcerated are living beyond the prison walls, they are not truly free.

## ROB

Our interpretation --- the ballot’s sole purpose is to answer the resolutional question: Is the outcome of the enactment of a topical plan better than the status quo or a competitive policy option?

This is best:

1) Grammar: the resolution is decidedly policy-oriented ---

1. “Resolved” before a colon reflects a legislative forum

Army Officer School ‘04

(5-12, “# 12, Punctuation – The Colon and Semicolon”, <http://usawocc.army.mil/IMI/wg12.htm>)

The colon introduces the following: a. A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b. A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c. A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d. A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e. After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f. The details following an announcement For sale: (colon) large lakeside cabin with dock g. A *formal* resolution, after the word "resolved:" Resolved: (colon) That this council petition the mayor.

Grammar is the biggest impact --- allowing other frameworks justifies arbitrarily changing the question of the debate to an infinite number of alternatives, destroying predictable limits and ensuring the Neg always wins. Grammar is the only predictable basis for determining meaning; it’s the foundation for how words interact. Ignoring it justifies changing the focus of the debate, mooting the resolution altogether.

2) Plan focus:

Critical frameworks change the role of the ballot from a yes/no question about the desirability of the plan to something else. This undermines the singular logical purpose of debate: the search for the best policy. It results in illogical outcomes where good ideas are rejected for the wrong reasons.

This is the biggest educational impact --- learning is useless if it’s not connected to the real world

Strait and Wallace ‘07

(L. Paul, USC and Brett, George Mason U., The Scope of Negative Fiat and the Logic of Decision Making, Policy Cures? Health Assistance to Africa, Debaters Research Guide, p. A2)

More to the point, debate certainly helps teach a lot of skills, yet we believe that the way policy debate participation encourages you to think is the **most valuable educational benefit**, because how someone makes decisions **determines** how they will employ the rest of their abilities, including the research and communication skills that debate builds. Plenty of debate theory articles have explained either the value of debate, or the way in which alternate actor strategies are detrimental to real-world education, but none so far have attempted to tie these concepts together. We will now explain how decision-making skill development is the **foremost value** of policy debate and how this benefit is the decision-rule to resolving all theoretical discussions about negative fiat. Why debate? Some do it for scholarships, some do it for social purposes, and many just believe it is fun. These are certainly all relevant considerations when making the decision to join the debate team, but as debate theorists they aren’t the focus of our concern. Our concern is finding a framework for debate that educates the largest quantity of students with the highest quality of skills, while at the same time preserving competitive equity. The ability to make decisions deriving from discussions, argumentation or debate, is **the key skill**. It is the **one thing** every single one of us will do every day of our lives besides breathing. Decision-making transcends boundaries between categories of learning learning like “policy education” and “kritik education,” it makes irrelevant considerations of whether we will eventually be policymakers, and it transcends questions of what substantive content a debate round should contain. The implication for this analysis is that the critical thinking and argumentative skills offered by real-world decision-making are **comparatively greater** than any educational disadvantage weighed against them. It is the skills we learn, not the content of our arguments, that can best improve all of our lives. While policy comparison skills are going to be learned through debate in one way or another, those skills are **useless** if they are not **grounded in the** kind of **logic** actually used to make decisions. The academic studies and research supporting this position are numerous. Richard Fulkerson (1996) explains that “argumentation… is the chief cognitive activity by which a democracy, a field of study, a corporation, or a committee functions. . . And it is vitally important that high school and college students learn both to argue well and to critique the arguments of others” (p. 16). Stuart Yeh (1998) comes to the conclusion that debate allows even cultural minority students to “identify an issue, consider different views, form and defend a viewpoint, and consider and respond to counterarguments…The ability to write effective arguments influences grades, academic success, and preparation for college and employment” (p. 49). Certainly, these are all reasons why debate and argumentation themselves are valuable, so why is real world decision-making critical to argumentative thinking? Although people might occasionally think about problems from the position of an ideal decisionmaker (c.f. Ulrich, 1981, quoted in Korcok, 2001), in debate we should be concerned with what type of argumentative thinking is the most relevant to real-world intelligence and the decisions that people make every day in their lives, not **academic trivialities**. It is precisely because it is rooted in real-world logic that argumentative thinking has value. Deanna Kuhn’s research in “Thinking as Argument” explains this by stating that “no other kind of thinking matters more-or contributes more to the quality and fulfillment of people’s lives, both individually and collectively” (p. 156).

**The aff is a refusal to engage in traditional politics, abdicating social responsibility and causing extinction**

**Boggs, 97** (Carl, National University, Los Angeles, Theory and Society, “The great retreat: Decline of the public sphere in late twentieth-century America”, December, Volume 26, Number 6, <http://www.springerlink.com.proxy.library.emory.edu/content/m7254768m63h16r0/fulltext.pdf>)

The decline of the public sphere in late twentieth-century America poses a series of great dilemmas and challenges. Many ideological currents scrutinized here – localism, metaphysics, spontaneism, post-modernism, Deep Ecology – intersect with and reinforce each other. While these currents have deep origins in popular movements of the 1960s and 1970s, they remain very much alive in the 1990s. Despite their different outlooks and trajectories, they all share one thing in common: a depoliticized expression of struggles to combat and overcome alienation. The false sense of empowerment that comes with such mesmerizing impulses is accompanied by a loss of public engagement, an erosion of citizenship and a depleted capacity of individuals in large groups to work for social change. As this ideological quagmire worsens, urgent problems that are destroying the fabric of American society will go unsolved – perhaps even unrecognized – only to fester more ominously in the future. And such problems (ecological crisis, poverty, urban decay, spread of infectious diseases, technological displacement of workers) cannot be understood outside the larger social and global context of internationalized markets, finance, and communications. Paradoxically, the widespread retreat from politics, often inspired by localist sentiment, comes at a time when agendas that ignore or sidestep these global realities will, more than ever, be reduced to impotence. In his commentary on the state of citizenship today, Wolin refers to the increasing sublimation and dilution of politics, as larger numbers of people turn away from public concerns toward private ones. By diluting the life of common involvements, we negate the very idea of politics as a source of public ideals and visions. 74 In the meantime, **the fate of the world hangs in the balance**. The unyielding truth is that, even as the ethos of anti-politics becomes more compelling and even fashionable in the United States, it is the vagaries of political power that will continue to decide the fate of human societies. This last point demands further elaboration. The shrinkage of politics hardly means that corporate colonization will be less of a reality, that social hierarchies will somehow disappear, or that gigantic state and military structures will lose their hold over people’s lives. Far from it: the space abdicated by a broad citizenry, well-informed and ready to participate at many levels, can in fact be filled by authoritarian and reactionary elites – an already familiar dynamic in many lesser-developed countries. The fragmentation and chaos of a Hobbesian world, not very far removed from the rampant individualism, social Darwinism, and civic violence that have been so much a part of the American landscape, could be the prelude to a powerful Leviathan designed to impose order in the face of disunity and atomized retreat. In this way the eclipse of politics might set the stage for a reassertion of politics in more virulent guise – or it might help further rationalize the existing power structure. In either case, the state would likely become what Hobbes anticipated: the embodiment of those universal, collective interests that had vanished from civil society. 75

**This failure to engage the political process turns the affirmative into spectators who are powerless to produce real change.**

**Rorty 98** – professor emeritus of comparative literature and philosophy, by courtesy, at Stanford University (Richard, “ACHIEVING OUR COUNTRY: Leftist Thought in Twentieth-Century America”, 1998, Pg. 7-9)

Such people find pride in American citizenship impossi­ble, and vigorous participation in electoral politics pointless. They associate American patriotism with an endorsement of atrocities: the importation of African slaves, the slaughter of Native Americans, the rape of ancient forests, and the Viet­nam War. Many of them think of national pride as appropri­ate only for chauvinists: for the sort of American who re­joices that America can still orchestrate something like the Gulf War, can still bring deadly force to bear whenever and wherever it chooses. When young intellectuals watch John Wayne war movies after reading Heidegger, Foucault, Stephenson, or Silko, they often become convinced that they live in a violent, inhuman, corrupt country. They begin to think of themselves as a saving remnant-as the happy few who have the insight to see through nationalist rhetoric to the ghastly reality of contemporary America. But this insight does not move them to formulate a legislative program, to join a political movement, or to share in a national hope. The contrast between national hope and national self­-mockery and self-disgust becomes vivid when one compares novels like Snow Crash and Almanac of the Dead with socialist novels of the first half of the century-books like The Jungle, An American Tragedy, and The Grapes of Wrath. The latter were written in the belief that the tone of the Gettysburg Address was absolutely right, but that our country would have to transform itself in order to fulfill Lincoln's hopes. Transfor­mation would be needed because the rise of industrial capi­talism had made the individualist rhetoric of America's first century obsolete. The authors of these novels thought that this rhetoric should be replaced by one in which America is destined to become the first cooperative commonwealth, the first class­less society. This America would be one in which income and wealth are equitably distributed, and in which the govern­ment ensures equality of opportunity as well as individual liberty. This new, quasi-communitarian rhetoric was at the heart of the Progressive Movement and the New Deal. It set the tone for the American Left during the first six decades of the twentieth century. Walt Whitman and John Dewey, as we shall see, did a great deal to shape this rhetoric. The difference between early twentieth-century leftist in­tellectuals and the majority of their contemporary counter­parts is the difference between agents and spectators. In the early decades of this century, when an intellectual stepped back from his or her country's history and looked at it through skeptical eyes, the chances were that he or she was about to propose a new political initiative. Henry Adams was, of course, the great exception-the great abstainer from ·politics. But William James thought that Adams' diagnosis of the First Gilded Age as a symptom of irreversible moral and political decline was merely perverse. James's pragmatist theory of truth was in part a reaction against the sort of de­tached spectators hip which Adams affected. For James, disgust with American hypocrisy and self­-deception was pointless unless accompanied by an effort to give America reason to be proud of itself in the future. The kind of proto- Heideggerian cultural pessimism which Adams cultivated seemed, to James, decadent and cowardly. "Democracy," James wrote, "is a kind of religion, and we are bound not to admit its failure. Faiths and utopias are the no­blest exercise of human reason, and no one with a spark of reason in him will sit down fatalistically before the croaker's picture. "2

## Case

#### Reform makes revolution more likely. Rejecting it condescendingly asserts the possibility of radical change is better than the certainty of real improvement.

**Delgado ’87 -** Delgado, Richard [teaches civil rights and critical race theory at University of Alabama School of Law. He has written and co-authored numerous articles and books], “The Ethereal Scholar:  Does Critical Legal Studies Have What Minorities Want?”, Harvard Civil Rights - Civil Liberties Law Review, 1987

Critical scholars reject the idea of piecemeal reform. Incremental change, they argue, merely postpones the wholesale reformation that must occur to create a decent society.38 Even worse, an unfair social system survives by using piecemeal reform to disguise and legitimize oppression. 39 Those who control the system weaken resistance by pointing to the occasional concession to, or periodic court victory of, a black plaintiff or worker as evidence that the system is fair and just.40 In fact, Crits believe that teaching the common law or using the case method in law school is a disguised means of preaching incrementalism and thereby maintaining the current power structure.41 To avoid this, CLS scholars urge law professors to abandon the case method, give up the effort to find rationality and order in the case law, and teach in an unabashedly political fashion. 42

**The** CLS **critique of piecemeal reform is** familiar, **imperialistic and wrong.** **Minorities know from bitter experience that occasional court victories do not mean the Promised Land is at hand.**43 **The critique** is imperialistic in that it **tells minorities and other oppressed peoples how they should interpret events affecting them.**44 **A court order directing a housing authority to disburse funds for heating** in subsidized housing **may postpone the revolution, or it may not. In the meantime, the order keeps a number of poor families warm.** This may mean more to them than it does to a comfortable academic working in a warm office. **It smacks of paternalism to assert that the possibility of revolution later outweighs the certainty of heat now**, unless there is evidence for that possibility**.** The Crits do not offer such evidence.

Indeed, some **incremental changes may bring revolutionary changes closer**, not push them further away**.** Not all **small reforms** induce complacency; some may **whet the appetite for further combat.** The welfare family may hold a tenants' union meeting in their heated living room. CLS scholars' **critique of piecemeal reform** often **misses these possibilities, and neglects the question of whether total change, when it comes, will be what we want.**

PRISON STRIKES HAVE HAPPENED, BUT PRISONS CONTINUE TO EXIST, AND THE ABOLITION MOVEMENT HAS NOT PROGRESSED. 15 states from August 29-September 9 in 2018. Other strikes in 2013 and 2012. Many strikes have occurred and have not only not caused abolition but have led to retaliation and further abuse from prisons. Strikes are not a reliable way to help the issue.