## 1NC Round 2

### 1

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

Roberts 19 (Dorothy E. Roberts -- George A. Weiss University Professor of Law and Sociology + University of Pennsylvania; Raymond Pace and Sadie Tanner Mossell Alexander Professor of Civil Rights + University of Pennsylvania Law School; Professor of Africana Studies and Professor of Sociology + University of Pennsylvania School of Arts & Sciences, “The Supreme Court 2018 Term”, “Foreword: Abolition Constitutionalism”, Number I, Volum 133, November 2019, pgs. 12-40)

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

#### There is no reform of making prison conditions better – the Prison-Industrial Complex itself is the product of liberal reforms — any strategy that accepts institutionalized state violence can only perpetuate it.

Rodríguez 19 — Dylan Rodríguez, Professor of Ethnic Studies and Chair of the Academic Senate at the University of California-Riverside, holds a Ph.D. in Ethnic Studies from the University of California-Berkeley, 2019 (“Abolition as Praxis of Human Being: A Foreword,” *Harvard Law Review*, Volume 132, April 10th, Available Online at <https://harvardlawreview.org/wp->content/uploads/2019/04/1575-1612\_Online.pdf, Accessed 03-23-2020, p. 1600-1602)

As an alternative, the ongoing present tense of normalized and legally sanctioned carceral torture (violence against the physiological, psychic, and cultural integrity of incarcerated people) can be apprehended [end page 1600] as the cumulative fulfillment of the terror enabled by the Thirteenth Amendment’s judicial rearticulation and distension of the racial chattel relation. As numerous abolitionist scholars have noted, the rise of the contemporary prison industrial complex is a direct outcome of the liberal-progressive “prison reform” successes of the 1970s.86 The political convergence between liberals, progressives, and “law-and-order” conservatives/reactionaries, located within the accelerating political and geographical displacements of globalization, generated a host of material transformations and institutional shifts that reorganized the scale and reach of the state’s carceral capacities — prisons and jails — in direct, intensified relation to hegemonic political, cultural, and economic institutions, including public policy and legislative bodies, electoral and lobbying apparatuses, the medical and architectural/construction industries, corporate news media, and various other institutional forms.87

Thus, the reform of the prison resulted in its 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 administration (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.88 Following the historical trajectory of Professor Angela Y. Davis’s 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,”89 it is crucial to recognize that the post- [end page 1601] 1970s emergence of 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 reactionaries and conservatives. The contemporary carceral regime’s roots and sustenance are fundamentally located in the American liberal-progressive impulse toward reforming institutionalized state violence rather than abolishing it. Professor Paul Butler, a former prosecutor, thus reached a protoabolitionist conclusion in 2016, suggesting that “attempts to reform the system might actually hinder the more substantial transformation American criminal justice needs.”90

#### Their focus on prison labor, proven by HRW ’19 allowing prison labours to publicize their conditions, as a part of the prison industrial complex is a diversionary tactic that normalizes broader forms of population control utilized by neoliberal governments. This is not a semantic point – this mindset informs of how they view non-prison labor and replicates class based racism.

Ertel 15 - JACOB ERTEL Jacob Ertel is a graduate of Oberlin College (Oberlin), where he studied Political Economy. Ertel was an organizer for Students for a Free Palestine (SFP), an affiliate of Students for Justice in Palestine (SJP), on the Oberlin campus. AUGUST 10, 2015 https://www.counterpunch.org/2015/08/10/do-we-need-to-rethink-the-prison-industrial-complex/

As a rhetorical tool, the notion of the PIC has been central in galvanizing public interest in the country’s astounding incarceration boom—and the 2.2 million people enveloped by it, over 60 percent of who are people of color—since the 1980s. In self-referentially positioning itself in relation to the more widely known ‘military-industrial complex,’ moreover, the PIC effectively calls attention to the state’s capacity to reproduce itself through a range of disciplinary institutions crucial to capitalism’s functioning. Though the PIC is useful in its ability to accessibly demonstrate the conjoined interests of capital and the state, some have argued that the term glosses over key historical, theoretical, and material conditions that can negatively affect our ability to understand the prison system and ultimately act against it. French sociologist Loïc Wacquant is among the most brazen of the term’s critics. Though Wacquant obnoxiously dismisses the PIC as an “activist myth,” various elements of his critique should merit our attention, if for no other reason than their provocatively counterintuitive framing. First and perhaps most surprisingly, Wacquant explains that only a miniscule percentage of incarcerated people actually work for private firms. In 2009, for example, only 0.3 percent of inmates nation-wide were employed by such companies. Even if this trend were to develop exponentially in the coming years, it would still fail to account for the fundamental features of the prison system, as no single economic sector relies principally or even significantly on prison labor, however disturbing this dynamic may be. Prisons likewise do not actually constitute a significant boon to the United States’ economy; in fact, inmates are generally employed at a net loss to the government (though their activity is heavily subsidized and regulated), and US corrections-based spending at local, municipal, and federal levels constitutes only a small fraction of the GDP. None of this is to discount the disturbing reality of private prisons. And the private prison industry is growing: Corrections Corporation of America’s profits alone have increased by 500 percent in the past twenty years, and the three largest private prison corporations have spent over $45 million combined in lobbying efforts, giving some credence to Critical Resistance’s explication of the PIC. Yet despite increasing profit margins and appalling moral bankruptcy, private prisons are hardly the norm, and they likely won’t be anytime soon. One must also wonder whether the specific demonization of the private prison industry implicitly naturalizes the much larger and much more encompassing public prison nexus in the United States, one which has grown 790 percent since 1980 and which is not immune from the grave abuses (sexualized violence, correctional officer misconduct, food rationing, etc.) frequently cited as byproducts of the private prison industry. Such an analysis can tend towards a conspiratorial view of history that, regardless of whether or not it ultimately rings true, misses the central dynamic undergirding state involvement vis-à-vis both institutions of social welfare and institutions of imprisonment, detention, and poverty under neoliberalism. Wacquant identifies such a dynamic in Punishing the Poor as a “paradox of neoliberal rationality” in which “the state stridently reasserts its responsibility, potency, and efficiency in the narrow register of crime management at the very moment when it proclaims and organizes its own impotence on the economic front, thereby revitalizing the twin historical-cum-scholarly myths of the efficient police and the free market.” This trend is illustrated by dramatically changing state expenses—for instance, by 1995 US corrections budget appropriations exceeded funding for public housing by a factor of three, resembling the inverse relationship of 1980 funding allocations. In other words, explains Wacquant, the prison system has over time become the United States’ largest public housing initiative for the poor. This reframing of the PIC thus positions the state in a slightly different light, portraying the heightened capacity for incarceration within a frankly more grotesque functionality. If, as opposed to the traditional PIC framing in which labor done in both private and public prisons is conceived as a major economic boon, Black labor (which alone disproportionally constitutes roughly 36 percent of the prison population) is even more ineluctably characterized as surplus labor under post-Fordism, then the state can simply endow itself with the power to hyper-criminalize without pretext in order to deal with those who both serve no use to the economy and frustrate the largely white middle class whose labor does provide such a benefit. The heightening of aggressive, ‘zero-tolerance’ policing functions associated with gentrification is case in point, as those who are shut out of the deteriorating welfare system and forced to turn to informal economies become even more vulnerable to warehousing or police brutality, thus aiding in the production of ‘renewed’ urban space for the gentrifying middle-class. These critiques of the contemporary framing of the ‘prison-industrial complex’ are not simply a practice in detached pseudo-intellectualization; they are important because they frame the role of Black labor to the US economy in a fundamentally different way, one that can be instructive for current struggles and movements. Rather than assuming that the hyper-exploited production process occurring in prisons is central to the growth of the economy and the private corporations that contribute to it, for example, perhaps it is worthwhile to consider prison labor’s actual relative lack of productivity as symptomatic of a post-Fordist economy that deals with its “relatively redundant population of laborers…of greater extant than suffices for the average needs of the self-expansion of capital” (in the words of Marx) through mass warehousing. Contrary to the popular slogan then, ontologically speaking, Black lives cannot matter under neoliberalism because they have been cast as inessential to the quotidian functioning of the economy. Any critique of the current iteration of the PIC, however, must seriously reckon with the not at all insignificant rise of privatized detention centers. Private prison companies are responsible for 62 percent of the beds used by the Department of Homeland Security’s Immigrations and Customs Enforcement branch, and private firms such as the Corrections Corporation of America and GEO Group operate nine out of ten of the country’s largest immigration detention centers. Both of these companies have lobbied the Department of Homeland Security on immigration policy, and thus constitute a formidable force in shaping the fate of undocumented migrants largely driven to cross the border due to free trade agreements and the drug war. For this reason, the PIC as depicted by Critical Resistance may more accurately describe a ‘security-industrial’ or ‘detention-industrial’ complex. One might incorrectly read this imputation as implying that the recent success of Columbia Prison Divest’s campaign is ultimately inessential or futile. One might also infer that a call to reframe the prison-industrial complex may necessarily entail solely Keynesian or social democratic solutions, as opposed to the explicitly abolitionist stance put forth by radical groups such as Critical Resistance. On the contrary, such a reframing affirms the importance of (for now) symbolic initiatives such as divestment from the private prison industry, and is in fact entirely compatible with the notion of abolition and the prescriptions for restorative and transformative justice platforms often associated with radical adherents to the traditional usage of the PIC. For one, if for no other purpose, the PIC is useful in its function as effective political propaganda that has and should continue to pique a widespread interest in, at the very least, prison expansion. The primary short-term goal of any abolitionist movement must be to call attention to injustice, and there is no reason why the PIC should be abandoned, even if its empirical grounding may be questioned and readjusted. Likewise, the movement to divest from the private prison industry carries not merely symbolic import, but the potential to unify a range of (unfortunately) often-disparate divestment movements. For instance, Group4Securicor (more commonly referred to as G4S), which was targeted by Columbia’s private prison divestment campaign, operates in 125 countries and manages prisons and detention centers in Israel and the occupied West Bank, often in contravention of the Fourth Geneva Convention. One can thus read a refreshingly global and intersectional element into the prison divestment movement, one that makes use of the traditional and incomplete formulation of the PIC. While the success of private prison divestment at Columbia should certainly be seen as a tremendous victory for all divestment movements, reframing the prison-industrial complex as suggested above could prove useful in the seemingly perennial and fraught struggle to build a unified Left in the United States. Such potential exists because this reframing of the prison system cuts across multiple dimensions of neoliberalism to explicitly address the rise of incarceration rates and prison expansion within the context of economic deregulation and the state’s reneging on social protections since the 1980s. It prompts us not to be satisfied when Obama mentions the ‘school-to-prison pipeline’ once every seven years, to strive beyond incomplete iterations of abolition that might inadvertently limit themselves to ultimately reformist paradigms, and above all to form stronger connections between the prison abolition movement and the labor movement, between the immigration movement and the Boycott, Divestment, and Sanctions (BDS) movement.

#### There’s no single explanation for the rise of mass incarceration besides carceral logic itself

Wang 18 — Jackie Wang, Radcliffe Fellow and Ph.D. Candidate in the Department of African and African American Studies at Harvard University, interviewed by M. Buna, freelance writer, 2018 (“Carceral Capitalism: A Conversation with Jackie Wang,” *LA Review of Books*, May 13th, Available Online at https://lareviewofbooks.org/article/carceral-capitalism-conversation-jackie-wang/, Accessed 06-28-2020)

*Do you envision Carceral Capitalism becoming part of the ever-expanding curriculum for teaching about prisons, policing, and prison abolition — ranging from foundational texts such as Angela Davis’s Are Prisons Obsolete? to the latest posts on Mariame Kaba’s Prison Culture blog — which aims to show that there is actually no master narrative when it comes to the carceral state?*

I agree with the claim that, when it comes to the carceral state, there is no master narrative. Academia forces scholars to brand their arguments in order to sell books and land a job. Now there is a lot of intellectual jousting about what caused mass incarceration. Was it a backlash to prisoner organization or to black power and the urban riots of the ’60s and ’70s? Was it the need for a new method of racial management in the wake of the collapse of Jim Crow? Was it postwar moral panics around sex? Was it the buildup of state infrastructure during the Cold War? Was it prosecutors or the War on Drugs? Was it a way to socially manage surplus populations created by de-industrialization? Was it the three-strikes laws and determinate sentencing regimes? Was it private prisons, law-and-order politicians, wrongheaded criminologists, or a compromise Democrats made to maintain the loyalty of their white constituents? I don’t think racialized mass incarceration can be reduced to any single factor. That’s why I had to be interdisciplinary in my approach to unpacking issues related to the carceral state — to attack a set of problems on multiple levels of analysis (law, discourse, political economy, autobiography, culture, aesthetics, political theory, biopolitics, et cetera). I don’t claim to be offering a master narrative in my book. With that said, I do hope people will read and engage with the book, whether it’s in radical reading groups or in the classroom or outside a structured learning environment. I hope that Carceral Capitalism will spark conversations and organizing efforts.

#### The Alternative is to BURN DOWN institutions of governance and reform—fantasies of civil participation fail to resist the violence executed by the state and accommodate its continuation through a belief that the system can be corrected. Abolition as an insurgent politics is a refusal to negotiate and seek recognition from the state in order to lead to change.

**Abraham’18** (Katherine Kelly Abraham Burn it Down: Abolition, Insurgent Political Praxis, and the Destruction of Decency,” Abolition: A Journal of Insurgent Politics 1, no. 2 April 2018)//JP

This journal calls for abolition, a call implicitly asserting that contemporary sociopolitical and economic institutions are inherently unfixable and beyond resuscitation, reform, or rescue. The fantasy of radically changing political structures from within is simply not a viable political option for those concerned with the ultimate destruction of the mechanisms of carnage that shape modern life and its attendant regimes of governance, such as: the global war machine, the prison industrial complex, transnational resource extraction, and the national sacrifice areas (Ortiz 1992) generated in the wake of these lethal socioeconomic configurations and expressions of empire.[[i]](https://abolitionjournal.org/burn-it-down/" \l "_edn1) Rather than drawing from these regimes of death for social and legal recognition, power, and welfare—what we broadly refer to as the “state”—consider what it would mean to the modern ordering of life to utterly destroy the state, to refuse its seductions and ruses of power, to incinerate it until nothing remains but ash?Our imperative to “burn it down” draws from a rich tradition of scholarship that positions the state as a technique, practice, and effect of modern governance and its optimization, rationalization, and normalization. Following Timothy Mitchell, we define the state as a “network of institutional mechanisms through which a certain social and political order is maintained” (Mitchell 2006, 175). In the words of Michel Foucault, the state functions as “a schema of intelligibility for a whole set of already established institutions, a whole set of given realities” (Foucault 2004, 286). As a schematic and reality, we perceive the state as providing a legible matrix for the parameters of self-management and self-conduct: for social and political order. As Achille Mbembe insists, the adoption of state or sovereign power is “a twofold process of self-institution and self-limitation” (Mbembe 2003, 13). Attendant to the important critiques made by Fanon, we argue that this twofold process remains shaped by Euro-American colonial mores at the “objective as well as subjective level” of experience and perception (Fanon 2008, xv). That is to say, we understand state power as generative of inherently colonial relations of rule: relations that produce contemporary sociopolitical, juridical, and affective orientations, sensibilities, and subjectivities.[[ii]](https://abolitionjournal.org/burn-it-down/" \l "_edn2) As Glen Sean Coulthard argues, “colonial relations of power are no longer reproduced primarily through overtly coercive means, but rather through the asymmetrical exchange of mediated forms of state recognition and accommodation” (Coulthard 2014, 15). We add that the state accomplishes this mediation vis-à-vis the internalized politics of decency: an argument to which we shortly return. The project of this piece is not to think about how to make life more livable under current regimes of power or to ponder building something new or altered in the state’s place. Rather, we imagine alternative worlds based in the total abolition of these regimes because of their astonishingly responsive capabilities, which render profound social transformation impossible. The state successfully incorporates its margins and continually extends its representation in order to further its grasp on the body politic (for instance, the inclusion of women in combat roles or the Supreme Court ruling on same sex marriage). Simultaneously, and without coincidence, the state manipulates its boundaries through violent forms of capital accumulation and proxy wars, marks borders with fences and deportations, and uses its streets as a costly theater for subjects that deviate from its aims. However, the fundamentally lethal interests of state power have not changed since the European invasion of the Americas. Instead, global technologies of communication and visibility have forced the state to pivot, creating the illusion of a more transparent, democratic, and equal society. Nonetheless, the state relies on fantasies of “individual” participation (civil rights, voting, recognition, and protest) as much as it relies on its authoritarian power to revoke those fantasies without notice or recourse. As the violences executed by the state continue to shape everyday life in this country, we believe that it is by no means extreme to posit that one solution to these ills is to destroy—to burn down—contemporary institutions of governance, policing, and comfort, to cooperatively dismantle the workings of the state. For us, a radical project of abolition and insurgent political praxis refuses to negotiate with the state, or seek recognition from any of its bureaucratic apparatuses, in order to secure the small-scale concessions that only colonize and quell resistance. Political projects of compromise with the state have proven insufficient—especially in addressing everyday violence, such as police brutality, that continues to erupt unchecked in the face of mainstream “social justice” organizing. Ultimately, this organizing and activism treats the state as a central means of stopping the very political violence that insures its core function, operation, and maintenance.

## Case

### Adv

#### Prison strikes rarely achieves significant reforms, no matter how big or long the strike is – be doubtful how the aff is any different

Christie Thompson is a staff writer. Her work has been published by outlets including The New York Times, The Washington Post, NPR, ProPublica, and The Atlantic, 9/1/2016 – [“Do Prison Strikes Work?”, https://www.themarshallproject.org/2016/09/21/do-prison-strikes-work]//bread

On Sept. 9, prisoners across the country stopped showing up for their work assignments to protest [what they call](https://iwoc.noblogs.org/post/2016/04/01/announcement-of-nationally-coordinated-prisoner-workstoppage-for-sept-9-2016/) slave-like conditions for incarcerated workers. Inmates make pennies an hour keeping the prison running — such as cleaning and cooking — or providing [cheap manufacturing for private businesses](http://www.motherjones.com/politics/2008/07/what-do-prisoners-make-victorias-secret). Inmates involved in the protest are calling for higher wages, better working conditions and less severe punishment while on the job. The work stoppage was organized by inmates in multiple states and labor activists with the Industrial Workers of the World to coincide with the [45th anniversary of the Attica riot](https://www.themarshallproject.org/2016/09/09/revisiting-the-ghosts-of-attica?ref=hp-3-111#.yAfs2yVfq), which was preceded by a strike in the prison’s metal shop. Prisoners and labor organizers on the outside hoped it would be the largest prison strike in history. It’s hard to quantify exactly how many prisoners in how many states have participated, as prison officials and organizers give conflicting accounts of its scope. Activists claim inmates in [at least 11 states](https://theintercept.com/2016/09/16/the-largest-prison-strike-in-u-s-history-enters-its-second-week/) are taking part. This strike is the latest in a long history of prisoners trying to use what little leverage they have — whether work stoppages or hunger strikes — to demand change from administrators. Some have been more successful than others. Here’s a look at five other prison strikes and what came of them: Post-WWII Labor Strikes University of Michigan professor Heather Ann Thompson’s [history of labor movements in prison](http://labor.dukejournals.org/content/8/3/15) details how a series of work stoppages and sit-down protests took off in prisons across the U.S. in 1947. In little over a decade, hundreds of prisoners in Connecticut, New Jersey, New York, Wisconsin, Louisiana, Ohio, and Georgia stopped working to protest long hours, trifling pay, and grueling work environments. Prisoners in Georgia and Louisiana went even further and slit their heel tendons so they could not be forced to work. While the work stoppages did not lead to immediate changes, they inspired another era of prison protest in the ‘60’s and ‘70’s, which included the Attica work stoppage and eventual riot. Those movements achieved slight pay raises and improved safety precautions in some states and led to the **creation of prisoner-led unions.** 2010 Georgia Labor Strike In 2010, state prisoners across Georgia launched what many then called the largest prison work strike in U.S. history — though official numbers are difficult to confirm. At the protest’s height, organizers said thousands of inmates participated across at least six state prisons. Georgia inmates were paid nothing for their work, as dictated by state law, and [were asking](https://prisonlaw.wordpress.com/2010/12/13/georgia-prisoners-strike-for-better-conditions/) for better conditions and more access to programming. Not only were Georgia inmates not showing up to their job assignments — they refused to leave their cells at all until their demands were met. The strike lasted six days, and garnered coverage in news outlets like [The New York Times](http://www.nytimes.com/2010/12/12/us/12prison.html?_r=0). It ended when prisoners decided to leave their cells to [go to the law library](http://www.ajc.com/news/news/local/prisoners-protest-over-for-now/nQnxt/) and try to sue for improvements instead. (It’s unclear what became of those efforts). Prisoners in Georgia are still not paid for their labor. 2011-2013 Pelican Bay Hunger Strike [In 2011](http://saq.dukejournals.org/content/113/3/579.abstract), 400 prisoners in California’s supermax prison started refusing their meals. Their numbers grew to 7,000 as they were joined by prisoners all over the state. The inmates had a [list of five demands](https://prisonerhungerstrikesolidarity.wordpress.com/education/the-prisoners-demands-2/), including limits on solitary confinement and changes to how the prison determines gang membership. Their fast ended after three weeks when prison officials agreed to reconsider some of their solitary confinement policies. Inmates returned to hunger-striking later in 2011 and again in 2013 saying the changes were too small and too slow.

But the protests did have a significant impact. After the initial strike, the chair of the California Assembly’s Public Safety Committee held a hearing on conditions at Pelican Bay. In 2012, the nonprofit Center for Constitutional Rights [filed a class-action lawsuit](https://ccrjustice.org/home/what-we-do/our-cases/ashker-v-brown) against the state over its use of prolonged isolation. Todd Ashker, [one of the strike’s organizers](http://nymag.com/news/features/solitary-secure-housing-units-2014-2/), was the lead plaintiff. The suit was settled in September 2015, addressing many of the strikers’ concerns about how people end up in solitary and how long they remain there. 2013 Guantanamo Hunger Strike Detainees at the U.S. military prison in Cuba [began hunger-striking in March 2013](http://media.miamiherald.com/static/media/projects/gitmo_chart/) to fight against their indefinite detention and alleged mistreatment. At the strike’s peak in July that year, 106 men were refusing to eat and 45 were being force-fed through nasal tubes. The strike — for its duration, size, and the graphic nature of force-feeding — outraged the public and policymakers and [increased pressure](http://www.nytimes.com/2013/05/01/opinion/president-obama-and-the-hunger-strike-at-guantanamo.html?_r=0) on President Obama to fulfill his promise of closing the controversial prison. Since the strike, Obama has lowered the number of men held at Guantanamo [from over 2,000 to 61](http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article97896012.html), but has yet to close the prison entirely. 2015-2016 Immigration Detention Center Hunger Strikes Since 2015, hunger strikes have begun at various immigration detention centers — prison-like facilities where immigrants are held while their deportation case is decided — throughout the U.S. [Roughly 200 detainees](http://www.cbs5az.com/story/29312788/200-detainees-stage-hunger-strike-at-eloy-detention-center) at Eloy Detention Center in Arizona stopped eating in June 2015, in part to pressure an investigation into [recent deaths at the facility](http://www.cbs5az.com/story/29312788/200-detainees-stage-hunger-strike-at-eloy-detention-center). [That fall](http://www.motherjones.com/politics/2015/11/why-are-hundreds-detained-immigrants-going-hunger-strike), immigrants in detention in California, Alabama, Louisiana, and Texas also stopped eating to object to their indefinite detention and poor conditions. More recently, 22 mothers being held with their children in a family detention center in Pennsylvania went on a [hunger strike this August](http://www.huffingtonpost.com/entry/mothers-immigrant-detention-hunger-strike_us_57b3698be4b04ff883990132). Their strike accompanied a series of [handwritten letters](http://grassrootsleadership.org/blog/2015/10/breaking-least-27-women-hunger-strike-hutto-detention-center-hutto27) they sent to immigration officials asking to be released from indefinite detention. The strike has continued off-and-on since then, with even their [children threatening to refuse to attend classes](http://www.democracynow.org/2016/9/8/headlines/children_held_at_berks_threaten_school_strike_amid_parents_hunger_strike) in solidarity with their mothers. It’s too soon to tell what the impact of their protests might be.

#### Even Norway’s prisons are immoral and counterproductive — and if that’s possible in the U.S., so is abolition.

McLeod 19 — Allegra M. McLeod, Professor of Law at Georgetown University Law Center, former Arthur Liman Public Interest Fellow and Staff Attorney at the Immigration Justice Project holds a Ph.D. in Modern Thought and Literature from Stanford University and a J.D. from Yale University 2019 (“Envisioning Abolition Democracy,” *Harvard Law Review*, Volume 132, April 10th, Available Online at <https://harvardlawreview.org/wp-content/uploads/2019/04/1613-1649_Online.pdf>, Accessed 06-10-2020, p. 1642)

While some of what is most abhorrent in prison-based punishment is associated with horrific conditions in prisons and jails,182 the problems with this conception of justice would still abound even if the conditions could be improved to the point where they were analogous to the most pristine Scandinavian prisons.183 Punishment, even in sanitized prisons, would still not respond to the needs of survivors or the public, and would still treat the perpetrators as disposable even if the place where they were deposited was relatively comfortable. It is also disingenuous to suggest that U.S. prisons could become more like those of Norway or Finland without the sorts of broader changes to the U.S. political economy urged by abolitionists — and if such changes were achieved, it is not clear why a more democratic and welfarist expansion and redistribution of resources would be best allocated to beautifying prisons rather than radically reducing reliance upon them.

#### By taking the prison itself for granted, the aff’s reformist discourse precludes emancipatory alternatives to the carceral system.

Davis 3 — Angela Y. Davis, Professor of the History of Consciousness at the University of California-Santa Cruz, Founder of the Committees of Correspondence for Democracy and Socialism, holds a Ph.D. in Philosophy from Humboldt University (Germany), 2003 (“Introduction: Prison Reform or Prison Abolition?,” *Are Prisons Obsolete?*, Published by Open Media, ISBN 1583225811, p. 20-21)

Over the last few years the previous absence of critical positions on prison expansion in the political arena has given way to proposals for prison reform. While public discourse has become more flexible, the emphasis is almost inevitably on generating the changes that will produce a better prison system. In other words, the increased flexibility that has allowed for critical discussion of the problems associated with the expansion of prisons also restricts this discussion to the question of prison reform.

As important as some reforms may be—the elimination of sexual abuse and medical neglect in women's prison, for example—frameworks that rely exclusively on reforms help to produce the stultifying idea that nothing lies beyond the prison. Debates about strategies of decarceration, which should be the focal point of our conversations on the prison crisis, tend to be marginalized when reform takes the center stage. The most immediate question today is how to prevent the further expansion of prison populations and how to bring as many imprisoned women and men as possible back into what prisoners call “the free world.” How can we move to decriminalize drug use and the trade in sexual services? How can we take seriously strategies of restorative rather than exclusively punitive justice? Effective alternatives involve both transformation of the techniques for addressing [end page 20] "crime" and of the social and economic conditions that track so many children from poor communities, and especially communities of color, into the juvenile system and then on to prison. The most difficult and urgent challenge today is that of creatively exploring new terrains of justice, where the prison no longer serves as our major anchor.

### Solvency

#### Vote Neg on presumption: allowing prisoners to strike doesn’t mean that there will be radical reforms in wages and

#### No solvency: Alt causes: the prison industrial complex includes broken, racist court systems; corrupt policing; prison wages and conditions are minuscule solving for racial injustice and structural violence, at best they get solving like 5% of structural violence, and even then, prio structural violence

#### Anything short of abolition can’t “solve” mass incarceration.

Dubler and Lloyd 20 — Joshua Dubler, Assistant Professor of Religion at the University of Rochester, holds a Ph.D. in Religion from Princeton University, and Vincent W. Lloyd, Associate Professor of Theology and Religious Studies and Director of the Africana Studies Program at Villanova University, holds a Ph.D. in Rhetoric from the University of California-Berkeley, 2020 (“Why Not Prison Abolition?,” ﻿*Break Every Yoke: Religion, Justice, and the Abolition of Prisons*, Published by Oxford University Press, ISBN 9780190949174, p. ebook)

﻿What would it take to truly “end mass incarceration”? As a thought experiment, let us consider three radical policy proposals—proposals specifically tailored to mass incarceration’s political, racial, and economic dimensions. First, to scale down the War on Drugs, we might release every person in state and federal custody who is incarcerated solely on the basis of a nonviolent drug offense. Second, to stop incarcerating people simply because they’re poor, we might release every pretrial defendant who is sitting in jail solely because he or she has been unable to make bail. Third, to end the New Jim Crow, we might release the 36.2% of state and federal prisoners who are Black.25 Between state and federal prisons and county jails, this means releasing 367,000 nonviolent drug offenders, half a million pretrial defendants, and the remaining 75% of the 549,100 Black men and women in state and federal prison that we haven’t already accounted for under provisions one and two. By committing to these three measures, the United States could reduce its prison population by over 50%, to a tick over one million people. Were it legislatively feasible, and were it enacted in every state and at the federal level, an outcome of this scale would be an outsize achievement politically, and a monumental good. What it would not do, however, is end mass incarceration. Even at half its current size, the US incarceration rate would remain three times that of France, four times that of Germany, and similar degrees in excess of where it was for the first three-quarters of the twentieth century.26 Here is what an actual piece of state or federal legislation touted as “ending mass incarceration” would be likely to do: reduce mandatory minimums for nonviolent drug offenses; decriminalize marijuana; limit cash bail; provide block grants for local law enforcement for trainings and tech; and otherwise offer a slew of other modest provisions to reshape (rather than shrink) the carceral state.27 Some systemic injustices would be rectified, others may well be exacerbated.28 Tens of thousands of people would be helped, and victory would be declared. What will not take place in any real sense is the end of mass incarceration. Given how far down this insane path we have ventured, no reform agenda is capable of that.29

### FW

#### 7. Framework — the role of this debate should be about the development of movements to challenge institutional racism—whether or not the aff’s reform is good or bad is secondary to how reforms comes in to be

Alexander 10, Associate Professor of Law [2010, Michelle Alexander, is an associate professor of law at Ohio State University, a civil rights advocate and a writer. “New Jim Crow : Mass Incarceration in the Age of Colorblindness” ProQuest ebrary, pp. 221-224]

The list could go on, of course, but the point has been made. The central question for racial justice advocates is this: are we serious about ending this system of control, or not? If we are, there is a tremendous amount of work to be done. The notion that all of these reforms can be accomplished piecemeal— one at a time, through disconnected advocacy strategies— seems deeply misguided. All of the needed reforms have less to do with failed policies than a deeply flawed public consensus, one that is indifferent, at best, to the experience of poor people of color. As Martin Luther King Jr. explained back in 1965, when describing why it was far more important to engage in mass mobilizations than file lawsuits, “We’re trying to win the right to vote and we have to focus the attention of the world on that. We can’t do that making legal cases. We have to make the case in the court of public opinion.” 21 King certainly appreciated the contributions of civil rights lawyers (he relied on them to get him out of jail), but he opposed the tendency of civil rights lawyers to identify a handful of individuals who could make great plaintiffs in a court of law, then file isolated cases. He believed what was necessary was to mobilize thousands to make their case in the court of public opinion. In his view, it was a flawed public consensus— not merely flawed policy— that was at the root of racial oppression. Today, no less than fifty years ago, a flawed public consensus lies at the core of the prevailing caste system. When people think about crime, especially drug crime, they do not think about suburban housewives violating laws regulating prescription drugs or white frat boys using ecstasy. Drug crime in this country is understood to be black and brown, and it is because drug crime is racially defined in the public consciousness that the electorate has not cared much what happens to drug criminals— at least not the way they would have cared if the criminals were understood to be white. It is this failure to care, really care across color lines, that lies at the core of this system of control and every racial caste system that has existed in the United States or anywhere else in the world. Those who believe that advocacy challenging mass incarceration can be successful without overturning the public consensus that gave rise to it are engaging in fanciful thinking, a form of denial. Isolated victories can be won— even a string of victories— but in the absence of a fundamental shift in public consciousness, the system as a whole will remain intact. To the extent that major changes are achieved without a complete shift, the system will rebound. The caste system will reemerge in a new form, just as convict leasing replaced slavery, or it will be reborn, just as mass incarceration replaced Jim Crow. Sociologists Michael Omi and Howard Winant make a similar point in their book Racial Formation in the United States. They attribute the cyclical nature of racial progress to the “unstable equilibrium” that characterizes the United States’ racial order. 22 Under “normal” conditions, they argue, state institutions are able to normalize the organization and enforcement of the prevailing racial order, and the system functions relatively automatically. Challenges to the racial order during these periods are easily marginalized or suppressed, and the prevailing system of racial meanings, identity, and ideology seems “natural.” These conditions clearly prevailed during slavery and Jim Crow. When the equilibrium is disrupted, however, as in Reconstruction and the Civil Rights Movement, the state initially resists, then attempts to absorb the challenge through a series of reforms “that are, if not entirely symbolic, at least not critical to the operation of the racial order.” In the ab-sence of a truly egalitarian racial consensus, these predictable cycles inevitably give rise to new, extraordinarily comprehensive systems of racialized social control. One example of the way in which a well established racial order easily absorbs legal challenges is the infamous aftermath of the Brown v. Board of Education decision. After the Supreme Court declared separate schools inherently unequal in 1954, segregation persisted unabated. One commentator notes: “The statistics from the Southern states are truly amazing. For ten years, 1954– 1964, virtually nothing happened.” 23 Not a single black child attended an integrated public grade school in South Carolina, Alabama, or Mississippi as of the 1962– 1963 school year. Across the South as a whole, a mere 1 percent of black school children were attending school with whites in 1964— a full decade after Brown was decided. 24 Brown did not end Jim Crow; a mass movement had to emerge first—one that aimed to create a new public consensus opposed to the evils of Jim Crow. This does not mean Brown v. Board was meaningless, as some commentators have claimed. 25 Brown gave critical legitimacy to the demands of civil rights activists who risked their lives to end Jim Crow, and it helped to inspire the movement (as well as a fierce backlash). 26 But standing alone, Brown accomplished for African Americans little more than Abraham Lincoln’s Emancipation Proclamation. A civil war had to be waged to end slavery; a mass movement was necessary to bring a formal end to Jim Crow. Those who imagine that far less is required to dismantle mass incarceration and build a new, egalitarian racial consensus reflecting a compassionate rather than punitive impulse toward poor people of color fail to appreciate the distance between Martin Luther King Jr.’s dream and the ongoing racial nightmare for those locked up and locked out of American society. The foregoing should not be read as a call for movement building to the exclusion of reform work. To the contrary, reform work is the work of movement building, provided that it is done consciously as movement-building work. If all the reforms mentioned above were actually adopted, a radical transformation in our society would have taken place. The relevant question is not whether to engage in reform work, but how. There is no shortage of worthy reform efforts and goals. Differences of opinion are inevitable about which reforms are most important and in what order of priority they should be pursued. These debates are worthwhile, but it is critical to keep in mind that the question of how we do reform work is even more important than the specific reforms we seek. If the way we pursue reforms does not contribute to the building of a movement to dismantle the system of mass incarceration, and if our advocacy does not upset the prevailing public consensus that supports the new caste system, none of the reforms, even if won, will successfully disrupt the nation’s racial equilibrium. Challenges to the system will be easily absorbed or deflected, and the accommodations made will serve primarily to legitimate the system, not undermine it. We run the risk of winning isolated battles but losing the larger war.