# Abolition K

## Explanation/ Notes on Alt

The alt is an abolitionist ethic. That means that we have to examine and expose the racial underpinnings of the criminal justice system and open ourselves up to envisioning a world beyond prison. It cannot be a question of how to “fix” the system because that would imply that it is broken, when the perverse reality is that the criminal justice system is doing exactly what it is was designed to do; the system was founded upon structures of antiblackness, and it continues to drive racialized oppression, specifically the criminalization, policing, and killing of black and brown folk. Mcleod says that this historical understanding, and the opening up ourselves to horizons of alternatives to the carceral state are a pre-requisite to justice because we must overcome the carceral logic that dominates our own discourse and mentalities as individual subjects because without understanding the racial underpinnings of the criminal justice system we will keep enacting policies that don’t change anything structurally or that are excessively punitive. Plus, we say that even if actual abolition fails we just have to win that our abolitionist orientation is more ethical because the link wall proves that the current system is both obsolete and a failure anyway. However, it is also a good idea to look into what the world materially would look like absent prison ie social programs that would be created instead, community practices, etc.

## Generic 1NC

**The aff is a superficial tweak to the criminal justice system that preserves its legitimacy and coopts the movement toward structural change.**

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The emerging “criminal justice reform” consensus is **superficial and deceptive**. It is superficial because most proposed “reforms” would still leave the United States as the greatest incarcerator in the world. It is deceptive because those who want largely to preserve the current punishment bureaucracy—by making **just enough tweaks to protect its perceived legitimacy**—must **obfuscate** the difference between changes that will transform the system and **tweaks that will curb only its most grotesque flourishes**. Nearly every prominent national politician and the vast majority of state and local officials talking and tweeting about “criminal justice reform” are, with varying levels of awareness and sophistication, furthering this deception. These “reform”-advancing punishment bureaucrats are **co-opting a movement** toward profound change by convincing the public that the “law enforcement” system as we know it can operate in an objective, effective, and fair way based on “the rule of law.” These punishment bureaucrats are dangerous because, in order to preserve the human caging apparatus that they control, they must disguise at the deepest level its core functions. As a result, they **focus public conversation on the margins of the problem without confronting the structural issues at its heart**. Theirs is the language that drinks blood. In this Essay, I examine “criminal justice reform” by focusing on the concepts of “law enforcement” and the “rule of law.” Both are invoked as central features of the American criminal system. For many prominent people advocating “reform,” the punishment bureaucracy as we know it is the inevitable result of “law enforcement” responding to people “breaking the law.” To them, the human caging bureaucracy is consistent with, and even required by, the “rule of law.” This world view—that the punishment bureaucracy is an attempt to promote social well-being and human flourishing under a dispassionate system of laws—shapes their ideas about how to “fix” the system. But few ideas have caused more harm in our criminal system than the belief that America is governed by a neutral “rule of law.” The content of our criminal laws—discussed in Part V—and how those laws are carried out—addressed in Part VI—are **choices that reflect power**. The common understanding of the “rule of law” and the widely accepted use of the term “law enforcement” to describe the process by which those in power accomplish unprecedented human caging are both delusions critical to justifying the punishment bureaucracy. This is why it is important to understand how they distort the truth. I apply these arguments in Part VII, explaining why the current “criminal justice reform” discourse is so **dangerous**. I focus on several prominent national punishment bureaucrats and a new local wave of supposedly “progressive prosecutors.” Finally, in Part VIII, I discuss the new generation of directly impacted people, organizers, lawyers, faith leaders, and academics on the libertarian left and right who understand the punishment bureaucracy as a tool of power in service of white supremacy and profit. I explain why this growing movement must **reject the “criminal justice reform” discourse** of punishment bureaucrats and speak clearly about why the legal system looks the way that it does. I urge those interested in changing the punishment bureaucracy to **ground every discussion that they have and every proposed reform that they evaluate** in a set of guiding principles rooted in this movement’s vision. I sketch some of those principles for their consideration below.

**[insert specific link]**

**That rhetorical move to reify the legitimacy of the criminal justice system perpetuates racial and white supremacist state violence that produces American globality.**

**Rodríguez, 7** – Professor and Chair of Ethnic Studies @ UC Riverside

Dr. Dylan Rodríguez, “American Globality and the US Prison Regime: State Violence and White Supremacy from Abu Ghraib to Stockton to Bagong Diwa,” Kritika Kultura 9 (2007): pg. 22-48

The intent of this initial foray into a theoretical project that admittedly exceeds the strictures of a self-contained journal article is primarily suggestive: on the one hand, I wish to examine how the institutional matrix and technological module of the US prison regime (a concept I will develop in the next section of the essay) is a programmatic (that is, strategic and structural rather than conspiratorial or fleeting) condensation of specific formations of **racial** **and white supremacist state violence** and is produced by the twinned, simultaneous logics of social ordering/disruption (e.g. the prison as both and at once the exemplar of effective “criminal justice” law-and-order and culprit in the mass-based familial and community disruption of criminalized populations). On the other hand, I am interested in considering how the visceral and institutionally abstracted logic of bodily domination that materially forms and reproduces the regime of the American prison is **fundamental**, not ancillary, to US state-mediated, state-influenced, and state-sanctioned methods of legitimated “local” **state violence across the global horizon**. To put a finer edge on this latter point, it is worth noting that given the plethora of scholarly and activist engagements with US global dominance that has emerged in recent times, and the subsequent theoretical nuance and critical care provided to treatments of (for example) US corporate capital, military/warmaking capacity, and mass culture, relatively little attention has been devoted to the constitutive role of the US prison in articulating the techniques, meanings, and pragmatic forms of state-building within post-1990s social formations, including those of the US’s ostensible peer states, as well as places wherein militarized occupation, postcolonial subjection, and proto-colonial relations overdetermine the ruling order. In place of considering the US prison as a dynamic, internally complex mobilization of state power and punitive social ordering, such engagements tend to treat the prison as if it were, for the most part, a self-evident outcome or **exterior symptom of domination rather than a central, interior facet** of how domination is itself conceptualized and produced. In this meditation I am concerned with the integral role of the US prison regime in the material/cultural production of “American globality.” In using this phrase I am suggesting a process and module of state power that works, moves, and deploys in ways distinct from (though fundamentally in concert with) American (global) “hegemony,” and inaugurates a geography of biopolitical power more focused than common scholarly cartographies of American “empire.” For my purposes, American globality refers to the postmodern production of US state and state-sanctioned technologies of **human and ecological domination**—most frequently formed through overlapping and interacting regimes of profound bodily violence, including **genocidal** and protogenocidal **violence, warmaking, racist and white supremacist state violence, and mass-scaled imprisonment**— and the capacity of these forms of domination to be mobilized across political geographies all over the world, including by governments and states that are nominally autonomous of the United States. American globality is simultaneously a vernacular of institutional power, an active and accessible iteration of violent human domination as the cohering of sociality (and civil society) writ large, and a grammar of pragmatic immediacy (in fact, urgency) that orders and influences statecraft across various geographies of jurisdiction and influence. It is in this sense of globality as (common) vernacular, (dynamic, present tense) iteration, and (disciplining) grammar that the current formation of global order is constituted (obviously) by the direct interventions of the US state and (not as obviously) by the lexicon (as in the principles governing the organization of a vocabulary) of US statecraft. American globality infers how the US state conceptualizes its own power, as well as how these conceptualizations of power and American state formation become immediately useful to—and frequently, structurally and politically overbearing on—other state formations and hegemonies. The prison regime, in other words, is indisputably organic to the lexicon of the US state, and is thus **productive of American globality**, not a by-product or reified outcome of it. In the remainder of this essay, I raise the possibility that the US conceptualization of the prison as a peculiar mobilization of power and domination is, in the historical present, central to how states, governments, and social orderings all over the world are formulating their own responses to the political, ecological, and social crises of neoliberalism, warfare, and global white supremacy. Pg. 22-25

**The alternative is to endorse an abolitionist ethic oriented toward substitutive approaches to address social problems. The alternative must be prioritized to make broader imaginative horizons available—even if it fails, radical transformation is the best starting point.**

**McLeod 15** – Associate Professor, Georgetown University Law Center

Allegra M., “Prison Abolition and Grounded Justice.” 62 UCLA L. Rev. 1156-1239 (2015). https://scholarship.law.georgetown.edu/facpub/1490

Abolition promises to reorient both criminal law and politics in important and distinct respects. There are five primary ways in which an abolitionist ethic is distinguishable from a more moderate reformist orientation. First, an abolitionist ethic **identifies more completely** the dehumanization, violence, and racial degra- dation of incarceration and punitive policing in the basic structure and dynamics of penal practices in the United States. Rather than understanding these features as more superficial flaws that might be repaired while holding constant the role of criminal law administration relative to other social regulatory projects, a critical abolitionist ethic centers on how caging or confining human beings in a hierarchically structured, depersonalizing environment developed through historical practices of overt racial subordination **tends inherently** **toward violence and degradation**. In this, an abolitionist ethic more accurately identifies the **wrong en- tailed** in holding people in cages or policing them with the threat of imprisonment, as well as more fully recognizes the **transformative work** that would be required to meaningfully alter these dynamics and practices. Second, an abolitionist ethic, in virtue of its structural critique of penal practices, is oriented toward **displacing criminal law as a primary regulatory framework** **and replacing it with other social regulatory forms,** **rather than** only or primarily **moderating** criminal punishment or limiting its scope or focus. Displacing criminal regulation and replacing it with other regulatory forms entails a **primary orientation** **toward proliferating substitutive approaches to address social problems, root causes, and interpersonal harm through institutions, forms of empowerment, and regulatory approaches** **separate and apart from the criminal law**. By contrast, a more moderate reformist framework typically aims at reduc- ing the costs and impositions of incarceration by granting people convicted of less serious offenses options for supervised, monitored release (typically backed by the threat of imprisonment for noncompliance with the more lenient terms).254 Abolition's critical project opens the space, in other words, for a positive project of proliferating social and regulatory alternatives to take the place of criminal law enforcement, and in this regard, abolition, as opposed to more moderate reform, **enacts its profound skepticism** of the legitimacy of prison-backed criminal regu- latory interventions through its **ongoing transformative efforts**. Third, abolition in its radical call for change appropriately captures the in- tensity that ought to be directed to transforming the regulation of myriad social problems through punitive policing and incarceration. More modest reform, in tolerating with relative comfort imprisonment and punitive policing, does not register the need for change with as much urgency. The following figure projects the time that would be required to return incarceration levels in the United States to where they were in 1980, assuming a rate ofdecline in incarceration equivalent to that which occurred in 2012. The product of a perfect storm for prison re- formists-fiscal crises in numerous states, relatively low rates of reported crime, and a growing political commitment in both more conservative and liberal states to reduce the harshness and cost of criminal sentencing approaches-2012 marked a considerable decline in rates of imprisonment.255 A reformist trajectory would likely under the best of circumstances yield de- creases in incarceration roughly consistent with this course. Whereas expanding diversionary noncarceral criminal supervisory mechanisms may be expected to ac- celerate rates and avenues of decarceration, reform would in time, of course, face challenges during periods when, for one reason or another, public opinion tended in a more punitive direction than it did in 2012. Even under these most **optimal conditions**, however, with consistent, marked incarceration-reductive reforms such as those in 2012, it would take almost one hundred years to return to 1980 levels of imprisonment. Yet, already, in 2013, this downward trend reversed course as incarceration increased slightly at the state and federal levels. 256 Although a significant achievement, the commitment by the bi-partisan #Cut50 prison reform coalition to reduce incarceration levels by half in the Unit- ed States over ten years, would still leave the United States an outlier in the ex-panse and harshness of its criminal processes.257 This bi-partisan coalition primarily is able to achieve consensus on reducing incarceration primarily for nonviolent, nonserious, nonfelony convictions.258 And even if bi-partisan reform efforts were able actually to reduce the number of nonviolent offenders in prison and jail by half, the United States would still have by far the highest incarceration rate in the OECD.259 But abolition makes a **bolder critical demand**, which requires more **thoroughgoing transformation**, recognizing the importance of a **substitutive regula- tory logic**, rather than a shift from imprisonment to prison-backed noncarceral alternatives. And **even if abolition fails** in its call for more marked change in criminal law enforcement, it renders moderate reform a more palatable option, potentially advancing a more moderate reformist program by **articulat-ing a critical and radically transformative project** in the same legal and policy space. Fourth, an abolitionist ethic in its critical dimensions and moral resonance—by exposing the dehumanization and illegitimate brutality of the core prison-backed projects of the criminal process—stands to produce greater discomfort and shame in carrying out criminal punishment. Even in those instances where imposing punishment remains perhaps necessary, as the lesser of two evils, when someone has committed and continues to pose a great threat of violence to oth-ers, an abolitionist ethic does not allow us to remain complacent in the rationalization of criminal law enforcement’s violence and neglect. In this, an abolitionist ethic does not necessarily deny that in some instances there may be people so vio-lent that they cannot be permitted to live among others. (These individuals are referred to in abolitionist writings as “the dangerous few” in order to underscore how very rare they are relative to the vast population of the incarcerated (and how much rarer they might be if we chose to live in ways less productive of such vio- lence)).260 But the associated discomfort and shame with which an abolitionist critique critique imbues such punishment promises to reshape the experience of punish- ing even these dangerous few by rendering criminal politics and jurisprudence more conflicted and ambivalent, and thereby improved, both **at the highest level of abstraction and in the most concrete doctrinal and statutory details**. This con- flict, shame, discomfort, and ambivalence, in significant measure produced by an abolitionist critique of the ideology that rationalizes prison-backed punishment, simultaneously promises to make **available broader imaginative horizons** within which we are able to govern ourselves.

# Link Debate

## Conservative Proposals

**Conservative reforms guarantee net widening and exacerbate racial disparities.**

Carl **Takei 17**, ACLU National Prison Project staff attorney, “ From Mass Incarceration to Mass Control, and Back Again: How Bipartisan Criminal Justice Reform May Lead to a for-Profit Nightmare,” 20 U. Pa. J.L. & Soc., HeinOnline

There are three chief problems with allowing any of these conservative, anti-government, individual-focused worldviews to drive how decarceration proceeds: (1) they fail to address the racial disparities in the criminal justice system; (2) they fail to address the underlying social problems that trap people in a cycle of criminal justice involvement; and (3) they exhibit a preference for replacing government programs with private entities, in both the criminal justice system and other contexts. Reducing the total number of people incarcerated **will not automatically** reduce the racial disparities in who gets arrested, prosecuted, and sentenced to prison. Indeed, recent experience suggests that a decarceration strategy **that does not explicitly address these disparities may actually make them worse**. Minnesota has one of the lowest incarceration rates in the country, but has some of the greatest racial disparities in incarceration, probably because of wealth disparities between Black and white Minnesotans.2 7 6 Similarly, when New York City announced that NYPD would shift away from arrests and toward issuing summonses for marijuana possession, arrest rates fell across the city but summonses were issued far more frequently in Black and Latino neighborhoods than in white neighborhoods-a situation that Vice News described thusly: "Weed Is Basically Legal in New York City Now, but Only If You're White."2 77 Accordingly, adopting a conservative, raceblind decarceration strategy means that the burdens of the criminal justice system will continue to fall overwhelmingly and disproportionately on impoverished communities of color. Rather than becoming truly liberated, these communities will continue to be subjected to what Michelle Alexander describes as a racialized caste system or system of social control albeit in a different form than today. Some would argue that having large numbers of people under supervision in communities of color is better than having large numbers of people removed from these communities through incarceration. But as Black Lives Matter activists have so effectively argued since the 2014 shooting of Michael Brown, the racially disparate application of police violence and other forms of social control is itself a serious societal harm that impedes the full participation of Black people in civic life.27 8 Moreover, as discussed supra, supervision all too often serves as a path **back into incarceration**. Similarly, failing to address the underlying social problems and community underinvestment that trap people in a cycle of criminal justice involvement will prevent these individuals from being able to escape future involvement in that system. As Marie Gottschalk has written, "The terms reentry, rehabilitation, and 'second chance' are gross misnomers ... **many former offenders never got a first chance, let alone a second one**." 2 7 9 Decarceration that prioritizes cost-cutting and rugged individualism will fail to address the structural causes of crime, such as poverty, lack of quality formal education, lack of living-wage job opportunities, lack of wealth, social exclusion, unaddressed mental health issues, and drug addiction. 2 8 0 Thus, in a conservative-driven decarceration, the criminal justice system will continue to serve as society's main response to the unmet needs of these populations. And many conservatives believe that components of the criminal justice system can operate fairly and efficiently if delegated to private entities. This pro-privatization bias is where the nightmare begins.

## Criminal Justice Reform

**Claims that American criminal justice can be “reformed” sustain that very system and its attendant relations of dominance, violence, and systemic vulnerability.**

**Rodrfguez 19** – Professor of Ethnic Studies and Chair of the Academic Senate, University of California, Riverside

Dylan, Abolition as Praxis of Human Being: A Foreword, 132 Harv. L. Rev. 1575. HeinOnline.

How have recent reformist discourses addressing "mass incarcera- tion" produced a narrative that **obscures rather than clarifies** the origins, casualties, and structuring logics of carceral power? What are the policy implications of the reformist diagnosis of the mass incarceration crisis as a largely unintended - and ultimately fixable - outcome of systemic unfairness, poorly conceived and/or maladministered laws, class/ racial/gender/religious/citizenship bias, and/or jurisprudential dysfunction? How does "mass incarceration reform," as conceived by liberal-to-progressive think tanks, pundits, activists, elected officials, academics, and state agents, rely on a reinvigoration, refinement, and expansion of policing and criminal prosecution? The ascendance of the phrase "mass incarceration" merits our critical attention, as it has become a lingua franca of academic, activist, non- profit, journalistic, public policy, popular-cultural, and state discourses. As a result, a relatively coherent narrative telos is attaining increasingly wide political-ideological traction. First, there is an uneven though spreading lamentation that a contemporary, half-century statecraft of gendered racial terror has intensified a national institutional-cultural capacity and will to crimi- nalize, police, prosecute, incarcerate, and culturally denigrate targeted bodies, places, and populations. While never quite affirming that the terms of this liberal confession suggest an acknowledgment of the actual presence of infrastructures and juridical protocols of domestic war (against "drugs," "gangs," undocumented migrants/"illegal aliens," queer people, "terrorists," and so forth), the rhetoric of mass incarceration of- fers a vague articulation of righteous objection to the possibility that both law and law enforcement have been manipulated by the powerful to sustain relations of dominance over the structurally vulnerable, the historically disfranchised, and the racially oppressed. In the echo of this lamentation, an ensemble of alarmed accounts and wrenching testimonials by journalists, activists, social scientists, legal advocates, survivors, and other witnesses ratifies the notion that otherwise noble law-and-order state projects (including but not limited to wars on drugs, gangs, and so forth) have exceeded their operational objectives and leaked into institutionalized practices of human dysselec- tion. In this ensemble of accounts and testimonials, it is not difficult to identify a generalized underlying assertion that such juridically sanc- tioned, culturally normalized state violence is a betrayal of American values as well as a violation of the mystified egalitarian ethos that con- stitutes the U.S. national formation.54 Legal scholar and former President of the John Jay College of Criminal Justice Professor Jeremy Travis resonates this durable reformist bildungsroman in a 2015 address to the National Forum on Criminal Justice: [T]he unifying theme that we must keep in mind is this: we live in an era of mass incarceration because we have chosen, through policy choices, to dra- matically expand the use of prison as a response to crime. There is a corol- lary to this finding: [i]f our democracy got us here, it is our democracy that must get us out of here.55 Here, it is the tyranny of the (white/multiculturalist) "we" that animates the subject of patriotic outrage, asserting a universalized American ac- countability that so easily bypasses the long historical facts of particular peoples' alienation from the nation-building project. Next, there are spreading, dense accounts of degradation and suffer- ing that traverse individualized tragedy to collectively, communally voiced, insurgent outrage (it becomes clear, however, that many of these accounts actually preceded the growing, increasingly generalized acknowledgement of the crisis). This outrage is borne out of the most privileged publics - which is to say, the publics structured in the social- historical entitlements of white supremacy and its postapartheid, multi- culturalist variations - and their recent confrontation with revelations of a national scandal; "mass incarceration" was unfolding, flourishing, and metastasizing under their oblivious noses. Other publics, that is, those long subjected to the acute institutional mobilizations of domestic war (communal racial profiling, geography-specific police infiltration and occupation, gendered cultural attacks on poor and working-poor Black, Native, and Latinx women, criminalization of queer sexuality), openly wonder what reality their privileged counterparts were inhabit- ing for all those years and debate whether and how to coalesce with their entitled, liberal-progressive outrage. A protracted skirmish ensues, as organized political blocs, local-to- large-scale cultural institutions, and grass roots to emergent virtual/ social media collectives attempt to make sense - that is, to definitively narrate- this turmoil. Entering the fray (at the same time that they are formed by it) are multiple blocs of organic and professional intellec- tuals - of the racial state, nonprofit/foundation regimes, and liberal cultural industry, including thinktank- and corporate-commissioned ac- ademics, writers, and artists - who collectively strive to restore a paradigmatic liberal faith in the virtues and possibilities of righteous national reform against this state-sanctioned climate of atrocity. Symp- tomatically, the likes of Van Jones, Kim Kardashian, and Jared Kushner join in the skirmish, side by side.56 From an April 2o16 New York Times op-ed: "Reform is imperative, not just for its economic or budgetary benefits, but for individuals who deserve a second chance and the fam- ilies and communities who stand beside them.”57 In response to the catch-phrased problem of mass incarceration, a growing, outraged rhetoric of liberal humanist alarm reaches for shared moral grievance: The New Yorker asserted in 2012 that "[t]he scale and the brutality of our prisons are the moral scandal of American life,'59 and the Open Society Foundations announced a $50 million grant to the American Civil Liberties Union in 2014 by proclaiming, "America's bloated prisons are an appalling and expensive failure, the politics of fear overwhelming common sense and human decency.”60 "Morality," "common sense," and "decency" are rhetorical signals of a hegemonic effort to renarrate generations of police terror and carceral displacement as unintended, atrocious consequences of a tragically "mis-led" War on Drugs culminating in 2.3 million people held captive by the state.61 The reason for such frantic renarration is somewhat simple, in part: carceral domestic war cannot be "reformed"; it can only be elimi- nated (abolished); **to do otherwise is to sustain it under revised execu- tive/policy directives, policing tactics, jurisprudential approaches, and cultural discourses**. But if this domestic war is refrained as a discrete, mistaken excess owing to criminological error, electoral opportunism, and moral failure - "mass incarceration" - it can be redressed and reformed within the existing systems of law, policy, and liberal justice. If there is such a massive problem, the story goes, it can be fixed. If we bring rational heart to mind in another adventure of humanist re- form, if we follow the stories into the tragedy and insist over and over again that such harrowing details are not the intended outcome of this state, this nation-building epoch, this policy-formed marshaling of cul- tural and domestic military force, then solutions are imminent. The threads of a racial modernity are to again be pulled taut around the jagged, always-disarticulating edges of the civil underside, where state- craft unfolds on the intimate geography of the flesh. The story continues, open to optimistic revision **as reform reproduces fundamental relations of dominance, violence, and systemic vulnerability**.

**Mainstream criminal-justice reform invigorates the logic of carcerality through meaningless tinkering.**

**Rodrfguez 19** – Professor of Ethnic Studies and Chair of the Academic Senate, University of California, Riverside

Dylan, Abolition as Praxis of Human Being: A Foreword, 132 Harv. L. Rev. 1575. HeinOnline.

The reform of mass incarceration, in this instance, actually endorses an expansion of carceral policing logics beyond the discrete institutional- spatial sites of prisons, jails, detention centers, and juvenile facilities. This expanded regime of control, containment, and policing of particu- lar profiled beings (bodies, spaces, communities) is to be implemented through weaponized, high-efficiency state surveillance and the ramping up of ostensibly extracarceral state violence, resonating histories of bor- der rangers, frontier war, slave patrols, and punitive industrial- and agricultural-labor discipline. Thus, while the reform of mass incarcera- tion declares an anticarceral intention, its reconstructionist vision pro- liferates an **invigorated logic and refurbished technology** of carcerality in the reproduction of gendered racist state violence. Abolitionist and Black radical feminist scholar, activist, and grassroots organizer Mariame Kaba crystallizes this critical framing: What a strange moment we're in . . . Prison "reform" is in vogue. As someone who has devoted years of her life to the work of first re- forming and then later abolishing prisons, one might think that I would be excited about recent developments. In fact, my natural skepticism is now at its peak mainly because I am a student of history. **The prison itself was born out of a reform movement** and since its inception in the U.S. in the late 18th century, we have been **tinkering towards imperfection**. **With every successive call for "reform," the prison has remained stubbornly brutal, vi-olent and inhumane**. Further supporting Kaba's informed skepticism, the discourse of "mass incarceration" in the early twenty-first century has, with some exceptions, been constituted and deformed by the overlapping ideologi- cal fields of white, multiculturalist, and/or civil rights liberalism: that is, the term tends to enable forms of critical analysis that pivot on notions of unfairness, systemic bias, racial disparity, and institutional dysfunc- tion. This generalized position, in turn, endorses and mobilizes around vigorous reforms of the state's incarceration and criminalization **infra- structure**, largely by way of internal auditing, aggressive **legal and policy shifts**, and **rearrangements of carceral capacities and protocols**. Such a reformist approach **fails to critically address incarceration in and of it- self**, as a **systemic logic** and methodology of social formation that **sustain the gendered racist power relations of chattel slavery, colonial conquest, and white-supremacist nation-building**.

**Criminal justice reform is carceral devolution. The aff shores up the carceral state’s legitimacy and extends the geographic reach of penality by blurring the spatial borders between the prison and the communities outside its gates.**

Brett **Story 19**, University of Toronto human geography PhD, “Neighborhood Watch: Reform and Real Estate in Gentrifying Brooklyn,” Prison Land: Mapping Carceral Power across Neoliberal America, 73-76

Byrd places the dominant reentry movement squarely in line with the neoliberal project of **statecraft**, insofar as it “**expands the punishment system**, **shores up its legitimacy**, and **renders the system more flexible** and **cost effective**” (2013, 67). Likewise, a **powerful consequence** of alternative interventions such as the BYC and the BAVP is to **blur the borders** between the space of the **prison** and that of the **city**. Despite representing themselves as **critics** of mass incarceration, their **effect** is to **extend the power** and **influence** of the neoliberal carceral state, its **rationalities** as well as its **technologies**, into communities and neighborhoods **outside the prison gates**. It is well established that the massive buildup of the U.S. prison population known as mass incarceration did not develop as a result of rising crime rates or new trends in the so-called criminality of individual offenders. Rather, it has its roots in changing dynamics in the economy, state formation, and racialization processes, and it at least partly constitutes an expression of **shifting state strategy** in the management of racialized urban poverty (Simon 1993; Beckett and Western 2001; Gilmore 2007). The fact that it is **urban**, **poor communities of color** that bear the **majority consequences** of reentry programs and other **state interventions** positioned as **alternatives** to or **ameliorations** of incarceration must therefore be similarly analyzed within the **broader framework** of neoliberal state-building and urban restructuring. Miller’s definition of **carceral devolution** can be applied to Brownsville’s alternatives to and interventions against incarceration: “A **reformist shift in criminal justice** and social welfare **policy** and practice where the state’s capacities to rehabilitate prisoners have been **offloaded** onto community based actors and organizations” (2013, 34). The offload is only a partial one, and indeed, the notion of carceral devolution aligns with other terms scholars have deployed to describe how the carceral state is **restructuring itself** in the face of its own **legitimacy crisis**. James Kilgore (2014a), for example, delineates what he calls “**non-alternative alternatives**” to incarceration, a category that, for him, encompasses such community-based initiatives as drug courts, day reporting centers, and electronic monitoring schemes. He considers these non-alternative alternatives to be a form of “**repackaging**” mass incarceration and suggests that, **however well-intentioned** they might be and **however much** they purport to **change existing penal practices**, they ultimately serve to **perpetuate the culture of punishment**. Such programs constitute “nonalternatives” because, as he puts it, they “typically involve heavy monitoring of a person’s behavior including frequent drug testing, limitations on movement and association, [and] a whole range of involuntary but supposedly therapeutic programs of dubious value and very little margin of error to avoid reincarceration” (Kilgore 2014a). Given **where** these programs tend to be located and **who** they are targeted at, their **aggregate effect** is often to **reinforce**, rather than **mitigate**, **punitive state intervention** in the lives of poor black and brown urban residents. Their effect may also be to **ameliorate investment anxieties** and **calm would-be property buyers** whose fears of crime and racialized poverty serve as some of the **final remaining challenges** to full-bore gentrification and the exploitation of real-estate profits in Brooklyn’s central core. While much of Detroit’s downtown real-estate conquest is underwritten by an individual billionaire, his private security forces in tandem with local police, and neocolonial narratives of vacated land free for the plunder, the discourse accompanying very similar efforts in Brooklyn can be seen as accommodating, even appropriating, growing criticism of the NYPD and the criminal-justice system more broadly. At stake in both instances is the **reproduction** and **proliferation of carceral state power** in the lives and neighborhoods of, in particular, poor and working-class communities of color. Simply **relocating** new forms of state intervention out of the prison and into the community, then, **does not in itself mark a transformation** of the carceral system, its **dominant logics**, its **harms**, and its **productions of disposable life**; indeed, it might even **reproduce** and **reinforce a remade carceral state** via the **material of its own critique**. Kilgore’s criticism of community-based initiatives finds resonance with the forewarning offered almost four decades previous by the scholar Stanley Cohen in his essay “The Punitive City: Notes on the Dispersal of Social Control” (1979). Writing from another period in which the legitimacy of the prison system seemed to be waning and calls for alternatives to incarceration had reached seemingly hegemonic status, Cohen surveyed such alternatives in order to problematize the ideology of community control itself: The **major results** of the new movements towards “community” and “diversion” have been to **increase** rather than **decrease the amount of intervention** directed at many groups of deviants in the system and, probably, to **increase** rather than **decrease the total number** who get into the system in the first place. In other words: “**alternatives**” become **not alternatives at all** but new programs which **supplement the existing system** or else **expand it** by attracting new populations. (347) Foucault’s 1977 genealogy of the prison system, Discipline and Punish, similarly reminds us that the **circulation** and **dispersion** of penal tactics is **not new**. Well before the period known as mass incarceration in the United States, Foucault described how **massive**, **institutionalized sites** of discipline “are **broken down** into flexible methods of control, which may be **transferred** and **adapted**” (1977, 113). The **imperatives** and **capacities** of the neoliberal era **only intensify such flexibilization** of carceral forms. This means that strategies forged in a particular era or set of places, like broken-windows policing, might be resuscitated to fit new spatial and political conjunctures, as witnessed today in Detroit. Or it might mean the invention of **new policies** and **tactics to resolve emergent crises** and **contradictions**, such as the **legitimacy crisis of mass incarceration** or the state fiscal crisis of 2008. The **question to ask** of these initiatives is **not** how they **purport themselves discursively**, but **what relations of power** they serve to either **augment** or **reproduce**, and thus **what they portend materially** for the lives of those subject to them. In the cases of both Detroit and New York, the imperatives of private property and profit margins of urban real estate **underwrite much of the state intervention** in low-income neighborhoods of color, **continuing** and **extending carceral power** and **police violence** in the lives of the urban poor. Over the neoliberal period, the city has figured as a key site for experiments in new strategies for capital accumulation, one consequence of which has been the rise of the urban real-estate economy and attendant processes of gentrification and intensified urban policing. Insofar as such restructurings have **deepened** rather than **abated**, the **lasting effect** of alternatives-to-incarceration initiatives forged under the fiscal logics and imperatives of **neoliberal prison reform**—and organized under the sign of real estate—will be **only the blurring of the borders** between the space of the **city** and the space of the **prison**. They do so by **extending the power** and **influence** of the carceral system into **neighborhoods**, **further absorbing** the family, the school, and various community agencies into the **carceral work of responsibilization**, **individuation**, **dispossession**, **economic abandonment**, and **social control**.

**Incremental reforms uphold and reinforce carceral structures.**

**Haber 16**

Naomi, “When reform falls short: eradicating the prison plague.” Dialectical Anthropology volume 40, pages411–418(2016). https://link.springer.com/article/10.1007/s10624-016-9435-4

The limits of a reformist lens: introducing a prison abolition framework

One scholar who does an excellent job of questioning and deconstructing the larger carceral structure is Angela Davis. In Are Prisons Obsolete? Davis invokes the ideal of prison abolition, rather than prison reform, in order to dismantle the prison industrial complex and its mindsets that pervade both public and private prisons. Davis expands on this notion when she asserts that “The prison is considered so “natural” that is it extremely hard to imagine a life without it” (2003: 10). Despite this, many might be surprised to learn that, for example, the National Lawyers Guild (NLG)Footnote 5 recently released a statement recommending the abolition of prisons and there is a multitude of prison abolition literature that seeks to dismantle structures of violence, build communities that depend on each other rather than the state, and ultimately—to make prisons obsolete (see INCITE! Critical Resistance Statement 2001). Without this abolitionist perspective, two major points get glossed over in Drucker’s argument. First, a reformist analysis like his fails to challenge the use of punishment more broadly and instead, only critiques what is viewed as excessive punishment. For instance, the punishment experience of imprisonment is supposed to be limited to the loss of one’s liberty (Davis 2003, p. 27). Meaning, everything beyond the loss of liberty—such as prison conditions, resource deprivation, prison architecture, and human isolation—are considered “extra” or “excessive,” however, that tends to remain obscure within reformist discourse, which **disallows any discussion of whether prisons should be an option in the first place**. This forces the discussion to stay bounded by what is visibly unjust, and ignores subtler forms of punishment. While Drucker does identify various “invisible punishments”—such as barred public welfare benefits, limited job opportunities, and voting disenfranchisement—he does not extend his analysis to acknowledge the inherent violence in caging human beings (Berger, 2014). Furthermore, the very essence of the prison structure alone—which confines human beings in cages—does not allow room for the kind of solutions Drucker advocates; his suggestions to introduce compassion and rehabilitation are diminished so long as he validates and upholds the punitive structure of US prisons that actively work against the humanization of the incarcerated. Therefore, to make any substantial progress, both the explicit and implicit forms of punishment must be interrogated and revealed, and structures of violence dismantled (Stanley and Smith 2011). Second, “reforming” prisons **reinforces the very system being critiqued**. Consider the case of Drucker’s public health model. It is undoubtedly an enticing approach that uses familiar language to evoke resonance among the public, but the ways of treating the epidemic of mass incarceration remain unclear and intangible as long as it primarily evaluates drug use and only identifies the most extreme and salient examples of punitiveness.Footnote 6 As a result, by proposing that societies engage in lesser forms of punishment, rather than abandoning punishment altogether, Drucker reinforces and validates the very catalyst he proves to be a driving force in the epidemic. How do societies think beyond prison structures? To use Angela Davis’s thoughtful analysis, “…prison…functions ideologically as an abstract site into which the undesirables are deposited, relieving us of the responsibility of thinking about the real issues afflicting those communities from which prisoners are drawn in such disproportionate numbers” (2003: 16). She proposes that prisons have become a default part of our collective imagination, so much so that very few people question its existence. This leads the public and change makers to consider only how to make better prisons, not to question the very existence of the entire structure. This in turn restricts the dialogue to issues of criminal justice reform rather than abolition (2003: 18–20). Therefore, considering the historical elements that have fueled incarceration today (see Davis, Chapter 2), it is unfortunate that Drucker’s analysis limits critical engagement to reforms that fail to challenge and to dismantle the normative use of institutional isolation as a solution to crime. Davis (2003) declares: Since the 1980s, the prison system has become increasingly ensconced in the economic, political and ideological life of the United States and the transnational trafficking in U.S, commodities, culture, and ideas. Thus, the prison industrial complex is much more than the sum of all the jails and prisons in this country. It is a set of symbiotic relationships among correctional communities, transnational corporations, media conglomerates, guards’ unions, and legislative and court agendas. (p. 107) In view of this, Angela Davis offers a critical framework to think about prison as an institution built within a web of larger systemic structures of oppression, such as those that attend capitalism and imperialism, rather than examining it as an isolated institution (2003: 106). In other words, if the contemporary definition of punishment is located at the intersection of these systems, an abolitionist approach would “…contest these relationships and propose alternatives that pull them apart” (Davis 2003: 107). Accordingly, instead of “decarceration” as the overarching objective for this type of work, activists and scholars ought to work to imagine a spectrum of alternatives to imprisonment. Examples include “…demilitarization of schools, revitalization of education at all levels, a health system that provides free physical and mental care to all, and a justice system based on reparation and reconciliation rather than retribution and vengeance” (Davis 2003: 107). To put it another way, “If prison abolition is conceptualized as…the imminent physical elimination of all structures of incarceration [,] rejection of abolition is perhaps warranted. But abolition may be understood instead as a gradual project of decarceration, in which radically different legal and institutional [responses] supplant criminal law enforcement. These institutional alternatives include meaningful justice reinvestment to strengthen the social arm of the state and improve human welfare”, as argued by McLeod (2015: 1161). The eventual goal of such an abolitionist perspective is the withering of the prison system and the development of more specific and socially constructive means to address transgression, conflict, and the social inequality and caustic economic individualism for which the US social formation is internationally notorious. In final consideration, Drucker proposes a fresh approach that interrogates traditional notions of punishment, but fails to foster a political dialogue about either the social relations of capitalism that produced a punitive system that cages human beings as a response to crime or the political economy of the US social formation that monstrously expanded this system. With this in mind, Kilgore (2015) suggests, activists and scholars should inform the public that **incremental and particularistic reforms do not and cannot address the root causes of penal structures; they only uphold the status quo and give a further lease on life to this carceral abomination**.

## Drug Treatment – Legitimation

**Drug court reforms expand carceral control over bodies and minds and increase the investment of resources in the punishment bureaucracy**

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Alec, 3/28. “The Punishment Bureaucracy: How to Think About “Criminal Justice Reform”.” https://www.yalelawjournal.org/forum/the-punishment-bureaucracy

People interested in big change must be clear about what changes they want to see as they build the power in communities to force political actors to accept them. Here, I offer some rules of thumb to differentiate between the “**reforms” of punishment bureaucrats** and the **transformational interventions that would end mass incarceration**. The standard “reforms” promoted by punishment bureaucrats typically have several characteristics. A. The Silo Mistake First, at the highest level of generality, they portray the problems of the criminal system as existing in a silo: we can “fix” the criminal system, they say, without confronting deeper problems like white supremacy, lack of access to health care, economic deprivation, educational divestment, neighborhood segregation, gender inequality, banking, lack of access to the arts, unaffordable housing, and environmental destruction.359 For them, the disproportionate use of the punishment bureaucracy in Boston against black people is not related to the fact that the median net worth of black households in Boston is $8.360 We must have better policies in this one domain, they concede, but we need not link addressing criminal system failures to remedying broader social inequities. B. Misdiagnosing the Problem Second, they accept the assumptions of the system: we have to deal with social problems through punishment; the existing bureaucracy is trying its best to help people live safe, flourishing lives; “law enforcement” uses “the rule of law” to pursue “criminal justice” and not other objectives like protecting profit and racial hierarchy. C. Hoarding Control Third, because punishment bureaucrats accept these assumptions and **rely on the bureaucracy’s good faith**, their proposals **retain power and control in the same actors and institutions that created and manage mass human caging**.361 Reformers want to give control, resources, and discretion to prosecutors, judges, police, sheriffs, probation departments, parole boards, private corporations and consultants, and so on. Their reforms are defined by their lack of community self-determination and accountability.362 They do not shift centers of power and control. D. Lack of Reparations, Lack of Justice Fourth, punishment bureaucrats’ reforms are not backward looking. Standard “reforms” pay no attention to repairing the damage done by mass human caging, such as through monetary and property reparations for massive harms caused by the punishment bureaucracy in the past and for the lawlessness against marginalized people and communities that went unprosecuted and uncompensated. Making individual survivors whole is an uncontroversial goal of standard criminal prosecutions, but making whole the many survivors of systemic government atrocities is entirely absent from broader “criminal justice reform” discourse. E. Shrinking the Bureaucracy Fifth, they do not try to shrink the punishment system. They instead tout larger budgets, more police officers, better “predictive” policing and machine learning algorithms, more prosecutors, **special “drug” courts** with different jail punishment structures, greater use of probation supervision, more parole, fee-based “diversion” programs, and electronic shackles to replace metal ones. In short, **they seek expanded control over people’s bodies and minds, but they argue that this control should be exercised in different ways**.363 A good rule of thumb for identifying whether a proposal is meaningful or hollow is asking the question: would this reform result in greater or fewer resources going to the punishment bureaucracy? Virtually every major “reform” pushed by local, state, and federal punishment bureaucrats would result in either the same or more resources flowing into the punishment bureaucracy. F. Reinvestment Sixth, because they shift resources within the punishment system (e.g. from incarceration to surveillance and supervision) they lack a plan for creating cost savings. Even when there are promises of vague savings due to less incarceration, punishment bureaucrats typically do not propose to reinvest those savings in anti-carceral institutions. They do not attempt to build up institutions that would provide the sustainable infrastructure for dismantling incarceration and shifting toward alternative community-based wellness. The resource savings from reform proposals should be articulated, and every proposal should have a transparent vision for how those savings will be reinvested outside of the punishment bureaucracy.

**Drug treatment reforms legitimize mass incarceration, obscuring the racialized nature of particular “categories” of offenders.**

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Ruth Wilson, 2/23. “The Worrying State of the Anti-Prison Movement.” http://www.socialjusticejournal.org/the-worrying-state-of-the-anti-prison-movement/

(3) A tendency to pretend that systematic criminalization will rust and crumble if some of those caught in its iron grip are extricated under the aegis of relative innocence. One of the most troubling moves by the new “new realists” is to **insist on foregrounding the relatively innocent**: the third-striker in for stealing pizza or people in prison on drug possession convictions. The danger of this approach should be clear: by campaigning for the relatively innocent, advocates **reinforce the assumption that others are relatively or absolutely guilty** and do not deserve political or policy intervention. For example, most campaigns to decrease sentences for nonviolent convictions simultaneously decrease pressure to revise—indeed often explicitly promise never to change—sentences for serious, violent, or sexual felonies. Such advocacy adds to the legitimation of mass incarceration and ignores how police and district attorneys produce serious or violent felony charges, indictments, and convictions. It helps to **obscure the fact that categories such as “serious” or “violent” felonies are not natural or self-evident**, and more important, that their use is part of a **racial apparatus** for determining “dangerousness.” For example, campaigners for California’s Proposition 47 placed a widely touted “bipartisan” op-ed in the Los Angeles Times, coauthored by Newt Gingrich and B. Wayne Hughes Jr., in which the authors argued that “California has been overusing incarceration. Prisons are for people we are afraid of, but we have been filling them with many folks we are just mad at.” Note the use of the word “afraid.” The new “new realists,” with their top-down reforms, are trying to determine who constitutes “we”; worse, they also reinforce a criminal justice system, ideology, and image bank that justified Darren Wilson’s grand jury testimony—just as it justified Bernard Goetz’s actions three decades ago. #BlackLivesMatter is an absolute statement, watered down to #sometimes by the opportunistic relativism of the new “new realists.”

**Removal of categories like ‘drug offenders’ legitimizes the prison system by sending the message that prisons are justifiable because they only contain “serious” or “violent” criminals**

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Roger, “ Penal abolitionism and reformism revisited.” Brazilian Journal of Public Policy, 8(1), 21-36. HeinOnline.

In The Politics of Abolition Mathieson 3 pointed out that well-meaning reforms can all too easily become incorporated into an expanding penal system. Consequently, he attempted to develop a strategy that would allow activists to avoid becoming complicit in shoring up the prison system by developing what he called competing or "negative reforms". These reforms, he suggested, would compete with and contradict the existing system and unlike 'positive reforms' remain open-ended demands rather than fully formed alterna-tives. These negative reforms, he argued, should be designed to call the existing system into question and to continually build them up through what he calls "didactic activity". Through this process, it is suggested, the 'expelled' and others will come to see the failures of the existing system and take action. Although Mathieson is no doubt correct in pointing out the way in which well-meaning reforms beco- me co-opted, the distinction between positive and negative reforms is not as clear cut as he suggests. For example, so-called negative reforms such as limiting prison construction or decarcerating certain groups "1 of offenders does not necessarily involve competing reforms. Limiting prison construction in periods of fiscal constraint can provide a useful rationale to policy makers, while at other times it will result in greater overcrowding, and the deterioration in the conditions of prisoners, without actually competing with the logic of imprisonment. By the same token, removing certain categories of offenders from prison may well serve to **religitimise the system** by sending out the message that **prisons are more justifiable** because they **only contain the most serious and most dangerous criminals**. On the other hand, many of the reforms that Mathieson and his followers would call "positive" can have a seriously destabilising effect on the prison system. Providing better conditions, opening prisons up to greater scrutiny and accountability, challenging disciplinary practices, controlling levels of abuse and brutality can all make the failings and limitations of the prison system more visible.4

## EBS Reform – Legitimization

**Reforms to “improve” risk-assessment mechanisms sanitize, legitimize, and perpetuate the carceral and racist structures of the criminal justice system**

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3.3 Legitimizing

Despite being implemented under the banner of criminal justice reform, risk assessments naturalize and legitimize carceral logics (e.g., risky defendants should be held before trial) and practices (e.g., determining which defendants are “risky”). Across domains, reforms that address the salient aspects of an injustice rather than the underlying causes and conditions of that injustice can **legitimize those underlying structures**. For instance, efforts to eradicate war crimes such as torture without challenging war itself have “tolerated the normalization of perpetual, if more sanitary, war” [117]. Closer to criminal justice reform, diversity and implicit bias trainings present a notable example of how reforms aimed at preventing discrimination can legitimize social arrangements that produce inequality. Numerous studies have found these trainings to be ineffective at improving diversity or reducing bias [83]. Instead, by creating “an **illusion of fairness**” that “**legitimize[s] existing social arrangements**” [84], the “formal bureaucratic procedures may **reproduce inequality rather than eradicating it**” [89]. Individualistic and procedural reforms are particularly prone to legitimization. When it comes to legal rights, “progressive victories are likely to be short-term only; in the longer run the individualism of rights-rhetoric will stabilize existing social relations rather than transform them” [157]. This observation, that winning a legal battle can rely on principles (such as individualism) that hinder long-term efforts for structural transformation, is known as “losing by winning” [157]. With regard to criminal rights (such as the guarantee that every criminal defendant be provided with an attorney), “procedural rights may be especially prone to legitimate the status quo, because ‘fair’ process masks unjust substantive outcomes and makes those outcomes seem more legitimate” [20]. The enactment of such rights “makes it more work—and thus more difficult—to make economic and racial critiques of criminal justice” [20]. Risk assessments **exemplify an individualistic and procedural reform** as well as the limits of this approach. Risk assessments focus on decision making procedures: their primary concern **is not that incarcerating people is wrong, but that decisions about which individuals to incarcerate should be reached more empirically and objectively**. This represents a **narrow vision of reform**, one that attempts to measure risk without bias or error while upholding the notion that incarceration is an appropriate response to “high-risk” individuals. In other words, risk assessments focus reform efforts on decisions about individuals while overlooking the structures shaping that decision, who is subject to it, and what its impacts are. Although presented under the banner of reform, this type of “[**a]dministrative tinkering does not confront the damning features of the American carceral state, its scale and its racial concentration**” [118]. Instead, by tweaking surface-level decisions and providing them with a semblance of neutrality and fairness, risk assessments are likely to **sanitize, legitimize, and perpetuate** the criminal justice system’s carceral and racist structure. From the perspective of decarceration and racial justice, the enactment of risk assessments represents a clear example of “losing by winning.” This process of legitimation can be seen most clearly with regard to preventative detention (detaining a criminal defendant before trial due to concerns about crime risk). The practice was not deemed constitutional until the 1987 U.S. Supreme Court case United States v. Salerno [9, 92, 172]. Yet today the practice of preventative detention—which Supreme Court Justices Marshall and Brennan deemed “incompatible with the fundamental human rights protected by our Constitution” [162]—is being legitimized as a central aspect of “modern” [120] and “smart” [163] criminal justice reforms based on risk assessments. Through such logic, the use of risk assessments as tools for reform “conced[es] Salerno” and “ratifies recent erosions of the fundamental rights of the accused” [92]. These three attributes of risk assessments—indeterminate, individualistic, and legitimizing—demonstrate the flaws of the assumption that risk assessments will promote criminal justice reform (at least with regard to **any notion of reform that involves reducing the centrality of punishment and incarceration**). These tools are **poorly suited to the task of combatting carceral practices and logics**. Despite being presented as a valuable mechanism for racial justice, risk assessments are akin to the many components of criminal justice reform today that are oriented around “the margins of the problem without confronting the structural issues at its heart” [86].

## Legal Solutions

**Jurisprudential focus sustains the ideological capture that steers law’s production toward violence. The abolitionst ethic demands new perspectives on the meaning invested in criminal justice processes.**

**McLeod 15** – Associate Professor, Georgetown University Law Center

Allegra M., “Prison Abolition and Grounded Justice.” 62 UCLA L. Rev. 1156-1239 (2015). https://scholarship.law.georgetown.edu/facpub/1490 At the level of judicial decision making and legislatively enacted criminal law, related forms of **ideological capture** **confine the courts’ and legislatures’ ca- pacities to address gross injustice** in the criminal process. Here too, then, an abo- litionist ethic promises an escape, or at least a substantial challenge to, acquiescence in these legal commitments—especially to the primacy of finality of a criminal conviction, what I will call the “fetish of finality.” If we understand law in the powerful and evocative terms proposed by Robert Cover as part of a normative universe or “nomos,” we then appropriately recognize that “**law and narrative are inseparably related**.” Law, Cover explains, is “constituted by a system of tension between reality and vision,” between law as it is and our aspirations as to what it might become.265 As Cover writes: “[L]aw is not merely a system of rules to be observed, but a world in which we live.”266 He reveals how the normative and interpretive “commitments—of officials and of others— . . . determine what law means and what law shall be.”267 As judges carry out their interpretive work, they must attempt to resolve these competing normative claims; judges themselves are variously aligned and torn between war-ring narratives and values as they **steer law’s potential for violence or peace**.268 An abolitionist ethic **resists the circumscription of the nomos of criminal jurisprudence**, inviting (even **demanding) new perspectives** within and against those which judges, legislators, and citizens might make law. More precisely, an abolitionist ethic contributes an unapologetic insistence on the brutal and morally illegitimate violence of criminal punishment—whether imprisonment or incar-ceration followed by state-inflicted death—to the nomos of constitutional crimi-nal jurisprudence. This ethic **throws down a gauntlet** to the general jurisprudential comfort with the inevitability and moral unassailability of criminal conviction’s finality and lessens, perhaps, the dread of grinding the wheels of jus-tice to a halt.269 In other words, an abolitionist ethic **decenters the primacy of finality** and the smooth operation of the criminal process such that it becomes less comfortable to rest at ease with the unimpeded operations of criminal punishment institutions, especially the imposition of imprisonment or a sen- tence of death. In Herrera v. Collins,270 for example, the U.S. Supreme Court held that claims of actual innocence based on newly discovered evidence do not state an in- dependent ground for federal habeas relief absent identification of an independ- ent constitutional violation, even in a case where a defendant is sentenced to die and may be innocent.271 Although Justice Blackmun cautions in dissent that the “execution of a person who can show that he is innocent comes perilously close to simple murder,”272 Justice Rehnquist, writing for the majority, nonetheless con- cludes that the important principle of finality trumps, given “the very disruptive effect that entertaining claims of actual innocence would have on the need for fi- nality . . . .”273 This fetish of finality is grounded in a narrative and background norms—a nomos—that complacently treats the conventional criminal process followed by conviction and prison-based punishment (or killing by the state) as basically moral and just. The majority opinion relates these ideas thus: In any system of criminal justice, “innocence” or “guilt” must be de- termined in some sort of judicial proceeding. . . . A person when first charged with a crime is entitled to a presumption of innocence, and may insist that his guilt be established beyond a reasonable doubt. Other constitutional provisions have the effect of ensuring against the risk of convicting an innocent . . . . Once a defendant has been af- forded a fair trial and convicted of the offense, the presumption of in- nocence disappears . . . . The existence merely of newly discovered evidence relevant to the guilt of a state prisoner is not a ground for re-lief on federal habeas corpus.274 This narrative telling naturalizes conviction as the point at which moral (or at least constitutional) concern ends, unless there has been a new and independ- ent ground of constitutional error identified at trial. This is true, on the Court’s account, even for a person who would be killed despite his possible innocence. An abolitionist ethic, by starkly calling into question the marker of convic- tion as one that properly puts an end to moral (and constitutional) concern and instead exposes the dehumanization at the core of that legal marking practice, holds the potential to impose greater shame and discomfort, or at least ambiva- lence and conflict, at this point of decision. A prison abolitionist ethic holds this promise of unsettlement more powerfully than a death penalty abolitionist demand because prison abolition calls into question the legitimacy of the final- ity of conviction as an end of moral concern in a more **thoroughgoing and structural form**.

## Police Reform – Pacification

**Police reforms obscure the fundamental nature of policing as a state institution predicated on the use of violence**

**Vitale 20** – Brooklyn College sociology professor

Alex, interview with Madison Pauly, 6/2. “What a World Without Cops Would Look Like.” https://www.motherjones.com/crime-justice/2020/06/police-abolition-george-floyd/

Madison Pauly: Why defund the police, rather than reform them?

Alex Vitale: Five years ago, in the wake of the murders of Mike Brown and Eric Garner and Tamir Rice, we were told, “Don’t worry, we’re going to fix it. We’re going to give the police implicit bias training. We’re going to hold some community police encounter sessions. We’re gonna buy some body cameras.” A whole set of what we often refer to as “procedural reforms” designed to make the police more professional, less biased, more transparent—and that this is going to magically fix the problem. But t**hings did not get better. People are still being killed**, and more importantly, the problem of overpolicing remains. Why didn’t it work? Procedural justice folks, they **want to restore the public’s trust in the police so that the police can go back to policing**. But this ignores the question of what they are policing, and whether they should be policing it. We have [millions of] low-level arrests in the United States every year and most of them are completely pointless. It is just a huge level of harassment meted out almost exclusively on the poorest and most marginal communities in our society. There is a deep resentment about policing in those places. And then, when there’s a high-profile incident, it unleashes all this pent-up anger and rage. Reducing policing goes hand in hand with widespread decriminalization, then—of things like having an open container in your front yard or selling untaxed cigarettes. Absolutely. It goes hand in hand with decriminalizing sex work, drugs, homelessness, mental illness. We don’t really need a vice unit, we need a system of legalized sex work that’s regulated just like any other business. We don’t need school police, we need counselors and restorative justice programs. We don’t need police homeless outreach units, we need supportive housing, community based drop-in centers, social workers. How do you mesh the idea of police abolition with the need to address serious public safety threats like murder or aggravated assault (when those crimes are committed by the general public)? The criminal justice system says there’s one strategy for everything—make arrests, put them in prison. What abolitionists say is, Well, let’s figure out why they’re doing this and try to develop concrete prevention strategies. Not all homicides are the same. Is it a domestic violence case? Is it a school shooting? Is it a drug deal gone bad? We know, for instance, that in almost all the school shooting cases, somebody had a pretty good idea that this might happen, but did not tell anyone—or told the police and the police had no tools to do anything about it. What if instead, we had a system in place where when a young person thinks their friend might do something awful, can go and talk to a responsible adult without worrying that the police will get involved, that they will have ratted on their friend to the police, or that their friend will get expelled from school because of some zero tolerance policy? It’s important to remember that there is no perfect world, there’s no perfect solution. What we have now is far from perfect. People get killed all the time, even though our society is filled with police. Can we come up with a situation where there are fewer killings, and fewer collateral consequences? Where did the movement to abolish the police come from? It began to take a coherent shape in the late ’60s, early ’70s. Initially, the radical edge of this, from the Black Panthers and others, was the idea of community control of the police. But a group of activists and academics wrote a document called The Iron Fist and the Velvet Glove, in which they began to say, “Wait a second—is there any policing that’s actually a good idea?” When we understand the fundamental nature of policing, even if the community has control over it, it’s still a **state institution that’s predicated on the use of violence to fix problems**. And historically, it has **never operated in the interests of the poor and the nonwhite**. After the ’70s, this idea became very dormant. It was the rise of mass incarceration in the last 20 years that has brought this idea back into the fore. A little over 20 years ago, Critical Resistance was formed in California, which was mostly focused on prison abolition. This led to works by Angela Davis and Ruth Wilson Gilmore that were focused on prison abolition. But communities understood that to achieve prison abolition, we needed to do something about policing as well. So little campaigns began to pop up. In the Black Lives Matter era, there’s been a deepening of analysis among the activists who initially just wanted to jail some killer cops, but then began to see that that would **not really fix the problem**.

**Police reform efforts have a pacification effect that blunt the momentum toward structural change.**

Paul **Butler 16,** Georgetown law professor, “The System Is Working the Way It Is Supposed to: The Limits of Criminal Justice Reform,” 104 Geo. L.J. 1419, HeinOnline

Indeed, in some instances, ratchets get in the way of change because they **placate and take energy and focus away from the actual transformative work**. Professors Carol Steiker and Jordan Steiker have made a related point about the death penalty-efforts to make implementation of capital punishment more "fair" may have the perverse consequence of furthering what is a fundamentally unjust practice.3 22 Further, recall Los Angeles, for example, where after the DOJ intervention, more than two thirds of the black and Latino citizens felt that the police are doing a good or excellent job.323 Despite this newly placated response to policing, the statistics suggest that **the level of policing in Los Angeles has increased substantially since the DOJ 324 intervention**. In essence, the police are still serving as the government for the black and Latino residents of the city.325 Those residents remain disproportionately the victims of police violence. In this sense, the LAPD is not doing good or excellent work for the black and Latino citizens they are supposed to serve and protect. A related dynamic occurred in Prince George's County Maryland. As discussed above, after the DOJ intervention, the number of complaints about use of force decreased. **At the same tim**e,however, **the use of force by the police actually increase**d. In other words, the police used force more and received fewer complaints about it.3 26 One concern about reform is that it has a pacification effect. It calms the natives even when they should not be calm.327 **"False consciousness**" is the term some theorists have used to describe the tendency of liberal reforms to "dupe[] those at the bottom of the social and economic hierarchy" with promises of "equality, fairness, and neutrality., 328 In the context of civil rights and anti-discrimination law, Kimberld Crenshaw warned that the "limited gains" of civil rights legislation could "hamper efforts of African-Americans **to name their reality and to remain capable of engaging in collective action in the future**., 329 Even though civil rights laws passed in the 1960s succeeded in breaking down some formal barriers, subtle and invidious forms of discrimination persisted. Moreover, the perception of progress may have mollified communities of color and sapped the energy needed for a continued push for substantive equality. Some criminal justice scholars and policy makers have focused on perceptions of the fairness of the criminal process. A newsletter from the Department of Justice's Community Oriented Policing Services office, entitled "The Case for Procedural Justice: Fairness as a Crime Prevention Tool," describes the work of the leading procedural justice scholar: Professor Tom Tyler of Yale Law School, ha[s] identified several critical dimensions of procedural fairness: (1) voice (the perception that your side of the story has been heard); (2) respect (perception that system players treat you with dignity and respect); (3) neutrality (perception that the decision-making process is unbiased and trustworthy); (4) understanding (comprehension of the process and how decisions are made); and (5) helpfulness (perception that system players are interested in your personal situation to the extent that the law allows).330 The problem with reform that is focused on improving perceptions about the police is that it can cloak aggressive policing in enhanced legitimacy, and it has the potential **to blunt the momentum for rising up against overcriminalization, wealth inequality, and white supremacy.** Some procedural justice scholars have warned about the potential of "perception" based reform to make citizens feel better even about police conduct that is unconstitutional. Tracey Meares argues that we should encourage "rightful policing"-police officers should not only obey every constitutional requirement and administrative rule; they should also "comport themselves in ways that confer dignity on those with whom they interact and otherwise treat people with respect., 331 In this framing, the ideal form of policing is both lawful and legitimate.332 In the above chart, the x-axis is lawfulness, the y-axis is legitimacy, and the optimal policing approach "Rightful Policing" is both lawful and legitimate.333 Of course, Professor Meares is correct that police officers should be polite and comply with the law in their encounters with citizens. But lawfulness and legitimacy are not enough. If existing law is too tolerant of police violence, then "rightful policing" might fail to address the substantive shortcomings of the criminal justice system. Any procedural justice reforms need to be accompanied by substantive reforms if they are to have an impact beyond public relations.

**Today’s police reforms will become tomorrow’s tools of repression unless grounded in a strategic long-term vision for change**

Examples: CompStat, SWAT teams

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Rachel, 9/16. “Big Dreams and Bold Steps Toward a Police-Free Future.” https://truthout.org/articles/big-dreams-and-bold-steps-toward-a-police-free-future/

Today, calls for policing reform in the United States are louder and more frequent than they have been for many years. The protest movements fueled by bold, dynamic resistance in Ferguson, Baltimore and other cities across the country have raised awareness about police killings, especially of Black people, and brought new voices and ideas to the fore. Those same movements are also making recommendations about policing reforms. Some recommendations have been broad and ideological such as Ferguson Action’s demand for an “end to all forms of discrimination and the full recognition of our human rights.” Others have involved collecting data and holding hearings, such as Ferguson Action’s demand to call “a Congressional Hearing investigating the criminalization of communities of color, racial profiling, police abuses and torture by law enforcement.” Others, such as the Organization for Black Struggle’s recommendation that police should receive “enhanced personal unarmed combat training” or Campaign Zero’s recommendation that body and dash cameras be required and funded, are more focused on the day-to-day aspects of policing practice. And these examples are merely representative of the range of recommendations currently being circulated. This wave of reform recommendations comes within the context of an increased public focus on police killings, during a presidential election cycle, and in the age of social media dominance. **Context matters** in determining what will be understood as viable or politically advantageous, what is perceived as legitimate and who is accepted as having expertise. And, of course, the media are serving as an amplifier, turning up the volume on certain voices, recommendations and critiques, while rendering others silent. A reform is merely a change. When people experience harms being done by the systems that govern their interactions, movements and behaviors, some of them will undoubtedly be moved to improve those systems in hopes of reducing that harm. Eager for relief, they craft plans designed to bring that relief quickly and in a way that generates as little resistance as possible. Similarly, they may recommend reforms in reaction to a set of incidents or a pattern of harm of which they are newly aware, suggesting tools or vehicles they imagine are most expedient to address that specific set of incidents or patterns. In the case of law enforcement, if the primary goal is to eliminate deaths at the hands of cops, the focus of reforms may be on the fastest way to curb those deaths by targeting the practices that most frequently lead to fatal incidents. Making incremental changes to the systems, institutions and practices that maintain systemic oppression and differentially target marginalized communities is essential to shifting power. Taking aim at specific aspects and demanding change helps build power among repressed communities in ways that are more lasting and sustainable. **Without a strategic long-term vision for change,** however, **today’s reforms may be tomorrow’s tools of repression**. In the 1990s, under the influence of Police Commissioner William Bratton, the New York City Police Department (NYPD) embraced CompStat, a data tracking and analysis system used to monitor incidences of “crime and disorder” precinct by precinct. This system is meant to track, in detail, crime complaints, arrests and summonses, with corresponding locations and times. The information from all the precincts in a jurisdiction is combined and used to generate a weekly report used in management meetings among departments’ leadership. Decreasing crime and increasing officer accountability were just two of the benefits CompStat was purported to have, and it represented a reform to the previous methods for documenting daily policing practices. CompStat has spread widely among law enforcement agencies across the county and the world and has become one of the standard tools of modern police forces. And while advocates like William Bratton maintain that CompStat is crucial in decreasing crime rates, time has shown that these decreases tend to initially be dramatic and then increase again. Time has also led to more and more cops coming forward to describe the coercion they felt to overreport or underreport certain types of incidents to generate particular kinds of CompStat results. The accountability that CompStat was supposed to encourage among individual cops was supplanted by pressure to deliver the kinds of crime statistics desired by the city’s political leadership, including police chiefs and commissioners. When crime rates continued to fall in fairly predictable patterns, police had to demonstrate their effectiveness and legitimate their role by continuing to prove that they were making contact with people that would do harm to residents if not for their intervention. In New York City, stop-and-frisk was one way that cops were able to demonstrate the power of these interventions. Before CompStat, cops had usually stopped and questioned people of whom they were suspicious and generally only searched them under reasonable suspicion of danger (usually involving suspicion of carrying a weapon). The broken windows orientation underlying Bratton’s mode of policing, which also extended to CompStat, suggested that the very presence of suspicious persons was a danger to the community. Through CompStat, the police could demonstrate that they were neutralizing that danger. Soon, “stop and question” transitioned to “stop and question and frisk,” and eventually to stop-and-frisk. By 2011, the NYPD was doing over 684,000 street stops per year, nearly 90 percent of which resulted in no arrest or summons. These stops disproportionately targeted people of color (especially Black people), young people, homeless people, and queer and trans people. The depth and breadth of the physical and psychological harm done by the practice of stop-and-frisk ignited a citywide campaign to eliminate the practice and resulted in a lawsuit against the city based on the practice’s racial bias. While CompStat is still prized by departments across the country, the longer it is used, the more clearly the problems inherent in its use become evident. The specialization of policing is another reform meant to reflect responsiveness to the changing needs of police forces and the residents they police. As modern policing has evolved, many forces created units to focus on specific areas of crime such as homicide, gangs or vice. One of the most notorious of these units is special weapons and tactics (SWAT) teams. First used in the mid-1960s as small, elite units designed to respond to situations requiring paramilitary force and precision, SWAT and other paramilitary policing units have ceased to be the exception in policing and have **become the rule**. Roughly 90 percent of all police departments in cities with populations over 50,000 have some type of SWAT team as do federal departments including the Department of Agriculture and the Department of Education. Additionally, SWAT teams routinely run training for new cops. They are used in a wide range of policing activities from traffic stops to seeking informants, to more high-impact policing. And although SWAT is a reform initiated from within law enforcement, its overwhelming expansion and mission creep are consistent with other forms of police specialization. Keeping the function of policing in focus – **armed protection of state interests** – increases clarity about what policing is meant to protect and whom it serves. Further, that clarity helps us reflect on what asking for police accountability really means. Police forces tend to be very accountable to the interests they were designed to serve, and those interests frequently clash with the interests of the communities targeted most aggressively by policing. Recognizing policing as a set of practices used by the state to enforce law and maintain social control and cultural hegemony through the use of force reveals the need for incremental changes that lead toward the erosion of policing power rather than reinforcing it. This recognition may also move us toward ways to reduce the impacts of the violence of policing without ignoring the serious issues that lead to violence within our communities. For anyone with experience dealing with the grinding harassment, psychological or physical harm, or death meted out by policing, it’s clear that the best way to reduce the violence of policing is to reduce contact with cops. Plans for change must include taking incremental steps with an eye toward making the cops obsolete, even if not in our own lifetimes. Taking incremental steps toward the abolition of policing is even more about what must be built than what must be eliminated. Further, it requires steps that build on each other and continue to clear the path for larger future steps while being mindful not to build something today that will need to be torn down later on the path toward the long-term goal. The context created by the powerful protest movements referenced above has created an **opportunity to make bigger, bolder changes** than we have seen in a very long time. Now should be the time to draw from the organizations that have been hard at work making that change on the ground and to test out creative new approaches rather than attempting to develop brand new platforms or repackaging reforms already in the Department of Justice pipeline, or reintroducing old reforms such as civilian review boards that have a demonstrated track record of being more theater than substance.

## Sentencing Reform – Generic

**Efforts to reform the system fail and reinforce carceral structures.**

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CRIMINAL JUSTICE REFORM Although advocates tend to **assume** that risk assessments will pro-mote **criminal justice reform** [68,127,164], **altering** decision making **procedures** to **promote fairness and objectivity** does **not necessarily reduce** incarceration and racial discrimination. **Sentencing reform** offers a **striking case** of how the “**well-intentioned pursuit** of **ad-ministrative perfection**” characteristic of twentieth century civil rights reforms “**ultimately** **accelerated** **carceral state development**” [118]. In 1984, concerned about the **racial disparities** **produced by the judicial discretion** to set criminal sentences, Congress passed the **Sentencing Reform Act**, creating mandatory sentencing guide-lines tied to the characteristics of the offender and the offense [101]. This system was designed to constrain judicial discretion and thereby “provide certainty and fairness in meeting the purposes of sentencing” [160]. **The reform failed to have the intended impacts**, however. The **guidelines** “**set in motion** **dramatic changes** in **day-to-day federal criminal justice operations**, largely by **shifting** a **massive amount of discretionary power** from **judges** to **prosecutors**” [101]. The **result was a “punitive explosion**” that **increased** both **incarceration** and **racial disparities** [101]. **Similar reforms** **throughout U.S. history** have centered on the expansion of rights as a mechanism to promote fair procedures. These rights-based reforms **often did not actually notably improve outcomes**: for instance, **schools remained segregated and unequal** well after the Supreme Court deemed school segregation **unconsti-tutional** in **Brown v. Board** of Education [157]). U.S. legal scholars in the twentieth century therefore developed the “critique of rights”—a critique of rights-based reforms and discourse in mainstream legal thought. Advanced by scholars such as Duncan Kennedy [88]and Mark Tushnet [156,157], the critique of rights revolves around five assertions: 1) Rights are **less effective** at spurring progressive social change than commonly assumed, 2) The **impacts** of rights are **indeterminate**, 3) The **discourse** of rights **abstracts away** the **power imbalances** that **create injustice**, 4) The **individualistic discourse** of rights **prioritizes** **individual freedom over social solidarity** and community well-being, and 5) Rights can **impede** democracy by **reinforcing** undemocratic relationships and institutions [22]. Today’s appeals to risk assessments **mirror** **historical appeals to rights**: **like rights reforms** such as the **right to a lawyer**, the introduction of risk assessments into bail and **sentencing** is **intended to pro-duce a fair and neutral process** for criminal defendants [68,120,164].This suggests that risk assessments **should be interrogated** **against the critique of rights**. Doing so, I show that risk assessments suffer from the **same core limitations as rights**: they are **indeterminate**, **individualistic**, and **legitimizing**.

## Sentencing Reform – Net Widening

**Sentencing reform enables the net-widening of the criminal justice system---promotes increased use of supervision**

Carl **Takei 17**, ACLU National Prison Project staff attorney, “ From Mass Incarceration to Mass Control, and Back Again: How Bipartisan Criminal Justice Reform May Lead to a for-Profit Nightmare,” 20 U. Pa. J.L. & Soc., HeinOnline

Consistent with the principles described above, the criminal justice reform proposals that have emerged from recent bipartisan alliances tend to focus exclusively on decarceration without attempting **to reduce the broad net cast by the criminal justice system generally**. For example, the major criminal justice reform bill introduced with bipartisan congressional support in 2015-the CORRECTIONS Act (S.467), the Smarter Sentencing Act of 2015 (S.502), and Sentencing Reform and Corrections Act of 2015 (S.2123)-focused on reducing mandatory minimum sentences and, in the case of the CORRECTIONS Act, increasing the use of home confinement and community supervision.2 8 ' Similarly, criminal justice reform legislation sponsored by the Pew/BJA JRI often functioned by shifting certain populations from prisons into supervision programs like parole and probation.2 8 2 And in general, politicians calling for sentencing reform tend to link less use of prison to **greater use of supervision**. There are two risks associated with such proposals. First, the incentives they create for prosecutors may inadvertently **result in netwidening by shifting people onto more intensive supervision regimes than those people may have otherwise received.** 2 8 3 Second, they create opportunities **for rent-seeking** by companies that profit from reentry and supervision services. As described supra, the two major private prison companies have already begun to acquire community corrections facilities and electronic monitoring firms.2 8 4 If bipartisan criminal justice reform efforts result in a large-scale shift from incarceration to community corrections and supervision, the now-diversified private prison companies will be poised to capture that business. As one GEO executive put it on a recent earnings call, "We believe that the emphasis on offender rehabilitation and community reentry programs as part of criminal justice reform will create growth opportunities for our company." 2 85 Additionally, privatized probation firms represent a natural acquisition target for CCA/CoreCivic and GEO in the coming years-particularly for GEO, which already has a GPS monitoring subsidiary with complementary capabilities. If such acquisitions are completed, then in certain states, the two companies **could achieve vertically integrated control over every non-judicial step in the criminal justice system**, from pretrial supervision to incarceration to community corrections to probation and parole supervision. This vertical integration would incentivize CCA/CoreCivic and GEO not just to keep people in prison, **but to keep people involved in the criminal justice system generally**, whether through expanding the populations subject to probation, extending probation terms, or returning people to prison through probation revocations. For any individual who enters such a vertically integrated system, there is only one outcome that would not feed corporate revenue: **a successful exit from the criminal justice system**. Additionally, because supervision is cheaper on a per-person basis than incarceration, any shift from prisons to supervision would tend to incentivize these companies to boost revenue **by widening the net of criminal justice system involvement**. Statistics compiled by the Administrative Office of the U.S. Courts indicate that incarcerating a person in a federal prison costs $30,621 per year, while keeping a person on post-sentencing community supervision costs $3,909 per year. 2 8 6 Thus, assuming that both activities yield the same 10% profit margin, 2 87 a private prison company would have to keep more than 7,800 people on probation for a year to make the same profits that they would have made from incarcerating 1,000 people for a year. Indeed, even without vertical integration, private probation firms are incentivized to widen the net of people on supervision and keep people on supervision rather than allow them to successfully complete it. This dynamic has already been documented in the private, for-profit probation firms that operate in Georgia. Thanks to the existence of private probation companies, many people who would not otherwise be on probation are placed on indeterminate sentences of "pay only" probation solely to pay off outstanding court fines and fees.2 8 8 The longer it takes for a person to pay off the underlying court debt, the more fees the probation company collects-and HRW documented multiple instances of people being trapped in pay-only probation arrangements for years after being convicted.2 8 9

# Impact Debate

## Impact – Everywhere War

#### Carceral assemblages naturalize state violence, producing both the “Everywhere War” and the “Everywhere Police.”

Tyler **WALL** School of Justice Studies @ Eastern Kentucky **’16** “Ordinary Emergency: Drones, Police, and Geographies of Legal Terror” *Antipode* Published Online Early View 3-6-16

In “Critique of Violence”, Walter Benjamin famously referred to police as a “formless, nowhere tangible, all-pervasive, ghostly presence in the life of civilized states” (1978:287). For Benjamin, police is the exemplary illustration of the “spectral mixture” of the violence that at once makes and preserves legal order. His point is not that this ghostliness renders police to be “nowhere”, rather his point is that police is everywhere—tangible/intangible, formless/formed, spectral/solid. I open with this by way of suggesting that it is important we think through the ways that the animus of police haunts, or anticipates and actively bolsters, the dronification of state violence (Shaw and Akhter 2014) that has proven so central to late modern capitalism's late modern wars. Over the last decade, the “drone wars” have been subject to much debate and commentary, and what I want to do here is think through the ways that this apparently “new” mode of organized violence might provocatively be unpacked as a mobilization of police power. This is a question about the ways that Everywhere War, to use Derek Gregory's (2011) phrase, is inseparable from what we might call Everywhere Police.

In his discussion of colonial air power as police power, Mark Neocleous (2014) suggests that drones are first and foremost technologies of police. By police he is not simply referring to “the police” (i.e. uniformed agents) but to police power as broad state policy concerned with the fabrication of capitalist social relations through the eradication of threats to accumulation and private property. For Neocleous drones extend and merge the biopolitical and the necropolitical mandates of “traditional” air power to the extent drones project power by occupying the skies, surveying populations, and violently intervening on earthly subjects. Neocleous’ “air power as police power” is not simply a turn of phrase; air power was in fact historically referred to as “air police”, and this needs to be taken seriously in any analysis of aerial violence. The point being that what is often taken as a purely military form of power—missile strikes, bombing and aerial surveillance—can also be understood as forms of police power. This is not to suggest some binary between war and police, rather it is to suggest the exact opposite by starting from a position that understands war and police as “**always already together**” (Neocleous 2014) since the grounded realities of state power betray any easy, simplistic binaries. As Fanon (2004:3–4) reminds us, from the vantage of the life and death realities of colonized populations war and police are always coupled as a “language of pure force”, with the “colonized world” **best “represented** by the [**military] barracks** and the **police stations**”, the “policeman and the soldier”, “rifle butts and napalm”—and it is in this war/police assemblage that “unmanned” violence should be situated.

Working within a similarly broad conception of police power, albeit more directly contextualized in histories of anti-Black violence, Nikhil Singh (2014:1098) also suggests drone warfare is nothing less than police extending its “sway to the ends of the earth”, effectively continuing the legacy of racist police violence visited upon “Amadou Diallo to Renisha McBride to Michael Brown”. Similarly, Robin Kelley (2013) and Vijay Prashad (2013), albeit only in passing, have also suggested that drone violence “over there” has its corollary in the legal terror endemic to “the police” under racial capitalism. While framing the killing of Travyon Martin within the “history of routine violence”, Kelley (2013) writes that “[w]hat are signature strikes if not routine, justified killings of young men who might be al-Qaeda members or may one day commit acts of terrorism? It is little more than a form of high-tech racial profiling”. This is to insist that spatial acts of blood-letting against “foreign enemies” cannot so easily be separated from the legal terror waged against poor people “at home”. This requires, as Jenna Loyd (2014:9) has shown, a rejection of the “strict separation between the domestic and foreign spheres of government action” normalized by nationalist ideologies.

Thinking drone war with police violence helps to challenge the apparent “exceptionality” of the drone by usefully locating the drone within one of the most pervasive, insidious, yet mundane rationalities and mandates of emergency power: police. Hence the “spectacular” drone is firmly situated within already existing “ordinary” architectures of security, policing, war, and surveillance, such as patrols, helicopters, CCTV, stakeouts, checkpoints, raids, and forms of violence, as well as the political economies of racial differentiation. The nascent drone, as police technology, extends these pre-existing practices of violence while threatening to expand, amplify, and intensify their operative logics of legibility, profiling, prevention and preemption. But of course, policing itself, especially in the North American context, emerges out of the historical geographies of settler colonialism and plantation power (Kelley 2000), as well as many imperial and colonial projects of violence directed against foreign others (see McCoy 2009 for instance). Thinking drone violence in relation to police, then, also helps to de-fetishize the seeming “newness” of drone violence by locating this terror not only within the police mandate, but within longer transnational histories of racial capitalism, including spatial acts of violence associated with settler colonialism and slavery that exceeded common understandings of formal uniformed policing like slave patrols and lynch mobs and all sorts of techniques for surveilling Blackness such as lantern laws, for instance (see Browne 2015). The point though is not to conflate unique and complex histories and geographies but to confront the “persistence and convergence of patterns and systems” of violence in order to grasp how “the centrality of violence to all aspects of US life helps explain the continuum from policing and prisons to war” (Gilmore 2009:73). As Ruth Gilmore writes, “Killing somebody has always been on the American agenda, and avoiding being caught in American crosshairs an ontological priority” (2009:78).

## Impact – Global White Supremacy

#### The carceral formation naturalizes white supremacist violence in all its forms.

Rodríguez, 7 – Professor and Chair of Ethnic Studies @ UC Riverside

Dr. Dylan Rodríguez, “American Globality and the US Prison Regime: State Violence and White Supremacy from Abu Ghraib to Stockton to Bagong Diwa,” Kritika Kultura 9 (2007): pg. 22-48

Variable, overlapping, and mutually constituting white supremacist regimes have in fact been fundamental to the formation and movements of the United States, from racial chattel slavery and frontier genocide to recent and current modes of neoliberal land displacement and (domestic-to-global) warfare. Without exception, these regimes have been differently entangled with the state’s changing paradigms, strategies, and technologies of human incarceration and punishment (to follow the prior examples: the plantation, the reservation, the neoliberal sweatshop, and the domestic-to-global prison). The historical nature of these entanglements is widely acknowledged, although explanations of the structuring relations of force tend to either isolate or historically compartmentalize the complexities of historical white supremacy. For the theoretical purposes of this essay, white supremacy may be understood as a logic of social organization that produces regimented, institutionalized, and militarized conceptions of hierarchized “human” difference, enforced through coercions and violences that are structured by genocidal possibility (including physical extermination and curtailment of people’s collective capacities to socially, culturally, or biologically reproduce). As a historical vernacular and philosophical apparatus of domination, white supremacy is simultaneously premised on and consistently innovating universalized conceptions of the white (European and euroamerican) “human” vis-à-vis the rigorous production, penal discipline, and frequent social, political, and biological neutralization or extermination of the (non-white) sub- or non-human. To consider white supremacy as essential to American social formation (rather than a freakish or extremist deviation from it) facilitates a discussion of the modalities through which this material logic of violence overdetermines the social, political, economic, and cultural structures that compose American globality and constitute the common sense that is organic to its ordering. While the US prison industrial complex constitutes a statecraft of perpetual domestic crisis that emerges from this social logic of white supremacy, the US prison regime is becoming profoundly undomesticated in a twofold sense: the technologies of carceral racial domination have distended into localities beyond the US proper (they are extra-domestic), while the focused and mundane (though no less severe) bodily violence of the prison’s operative functions have constituted a microwarfare apparatus, accessing and penetrating captive bodies with an unprecedented depth and complexity (the regime is in this sense defined by an unhinged, undomesticated violence). In this context, the (racial) formations of punishment and death inscribed on the various surfaces of the US prison regime—from the nearby to the far away—are in fact generally unremarkable. It cannot be overemphasized that this carceral formation produces a normal and trite violence, a naturalized facet of American social intercourse across scales and geographies, forming the underside of a civil society that is historically unimaginable outside its modalities of formal exclusion and civil/social neutralization.

#### Abolitionism exposes the prison as a mechanism of racial domination and global white supremacy.

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Liat, Genealogies of Resistance to Incarceration: Abolition Politics within Deinstitutionalization and Anti-Prison Activism in the U.S." Sociology – Dissertations, Paper 70. https://surface.syr.edu/cgi/viewcontent.cgi?article=1070&context=soc\_etd

There are many versions of prison abolitionism -- including those that propose to abolish punishment altogether and replace it with reconciliatory responses to criminal acts. Canadian penal abolitionist Ruth Morris (1995) suggests that the goal of prison abolition is to envision a time where a prison is built and no one would be put in it, because society will say no to caging human beings and to mechanisms advocating revenge instead of justice. The prison abolition movement can be construed as having both academic and activist arms. The International Conference on Penal Abolition (ICOPA), for example, and the emerging field of critical prison studies, are academic attempts to critique conventional criminology discourses that shape our understanding of criminality and the prison; while prisoners, ex-prisoners and non-mainstream victims‟ right groups represent activism on the ground (Saleh-Hanna 2000). Saleh-Hanna (2000) contends that prison abolition (like deinstitutionalization I would argue) is a term encompassing a verb, with a specific goal- to abolish. Therefore the scholarly field or prison abolition implies and demands “doing,” and presumes activism. There are various organizations which could be characterized as abolitionists in the U.S such as Critical Resistance, Families against mandatory minimums, All of us or none, Mothers reclaiming our children, Justice Now, Schools not jails, the Prison Moratorium project, American Friends Service Committee, Anarchist Black Cross, Prison activist resource center, to name a few. Although they do not necessarily share ideas regarding alternatives to imprisonment, they all share the dream and struggle for a world with no prisons, or no penalty as a response to harm. In a conversation between activist/scholars Angela Y. Davis and Dylan Rodriguez, they describe prison abolition as much bigger than a critique of incarceration, but rather providing a broader critique of society (Davis 2000a). The most powerful relevance of the prison abolitionist stance, for them, is to analyze the prison as a core structure that shapes social relations in society, not just for those affected directly but for everyone. The prison has direct implications for all, in terms of morality, ethics, surveillance, commodification, criminalization, inequality and oppression based on race and class (Davis 2000a). Thus, prison abolition insists not only on ridding ourselves of imprisonment but of imagining “a new world order” in the absence of the carceral archipelago. As Angela Y. Davis (2000) suggests, “The call for prison abolition urges us to imagine and strive for a very different social landscape.” In a discussion group at the 2009 annual meetings of the American Sociological Association, Dylan Rodriguez connected prison abolition in particular to the creation and preservation of particular racial formation, especially in the U.S. context. Rodriguez conceptualizes abolition as a radical intellectual position, which is not about closure of prisons, as that is not enough, but perceives it instead as a revolutionary framework which transforms the way we analyze and understand forces that shape our histories and everyday lives. The prison is therefore conceptualized by Rodriguez not merely as a punitive institution, but as a mechanism of state violence and racial domination. Put simply, for Rodriguez, abolition is a way to expose global white supremacy and its institutions of control. Pg. 9-10

## Impact Framing

**Magnitude x Probability Bad**

**Simple probability times magnitude risk calculus erases the socially constructed monsters. We must confront the hidden politics of risk that condemns people to massacre for the sake of political expediency.**

Martin **SHAW**, IR @ Sussex, **5** [*The New Western Way of War*, pg. 96-97]

The roles that solider- and even civilian-protection play in the new Western way of war amount therefore to a radical domestication of war-risks as previously understood. The novel concern with saving soldiers’ lives reflects the general taming of life-risks in modern society. In the West, where individuals are safer than ever from many of the historic dangers of hunger and disease, lives count more, and remaining risks are constantly assessed. Risk analysis, with its assumptions that risk can be calculated and weighed, has become universal. As Giddens puts it, ‘A significant part of expert thinking and public discourse today is made up of risk profiling – analyzing what, in the current state of knowledge and in current conditions, is the distribution of risks in given milieux of action.’15 This thinking has clearly invaded the military field. We do not know whether Western leaders have gone into wars with precise formulae for understanding the relationships between casualty numbers and opinion-poll ratings. But it is a reasonable assumption that, in most of the wars we have discussed, they have assumed that numbers of Western military casualties in the low hundreds, and of direct civilian victims in the low thousands, may be compatible with successful electoral feedback. Likewise it is reasonable to assume that they have weighed the electoral risks of massacre and found that, with prompt and effective media management, they may be contained. However, Ulrich Beck – who famously described ‘risk society’ as ‘an inescapable structural condition of advanced industrialization’16 – has rightly criticized the **‘mathematicized morality’** of such exercises.17 While policy-oriented risk assessment posited the manageability of risks, Beck and his sociological colleagues point out that ‘even the most restrained and moderate-objectivist account of risk implications involves a hidden politics, ethics and morality.’18 Risk ‘is **not reducible** to the product of probability of occurrence multiplied with the intensity and scope of potential harm.’19 Rather, it is a **socially constructed phenomenon**, in which some people have a greater capacity to define risks than others. Not all actors really benefit from reflexivity – only those with real scope to define their own risks. **Risk exposure is replacing class as the principal inequality of modern society**, because of how risk is reflexively defined by actors: ‘In risk society relations of definition are to be conceived analogous to Marx’s relations of production.’20 Surprisingly, sociological risk theorists have not generally paid much attention to risk in war.21 Yet **risk-transfer war hinges** on **extreme inequalities of definition**. Western government and commanders define risk for others, as well as themselves, differentially in ways that have dramatic consequences for whether people live or die. Beck pointed out that ‘risks are related directly and indirectly to cultural definitions and standards of a tolerable and intolerable life.’22 Western culture demands a high standards of soldier protection. It also demands higher standards of civilian protection than in the past, but in the end the lives of civilians – by virtue of their location in war zones as well as perceived cultural differences such as race and religion – are not as valuable as those of soldiers. And neither, in the end, is any more valuable than their political risk-significance allows. Sociological risk theory has tended to emphasize the ways in which Western society has increasingly managed basic life-risks, replacing them with new, socially constructed risks. This discussion has suggested that Western warfare, in controlling life-risks for the military, not only defines but also generates new life-risks, which are only weakly managed, for civilians in war zones. Looking at global society as a risk society, it is difficult not to be impressed chiefly by gross inequalities of life-risks, and it is sobering to recognize these as **artefacts of power**.

### Root Cause

#### The carceral-military state is the root cause of oppression and violence. Only the alternative enables the liberatory politics that

Robin D. G. **KELLEY** Gary B. Nash Professor of American History at UCLA **’15** Transcript of Talk “

Ending War?: Decolonial Democracy Against Neoliberalism” <http://aas.princeton.edu/event/toni-morrison-lectures-by-robin-d-g-kelley-ending-war-decolonial-democracy-against-neoliberalism/>

52:29-1:04:57 in video, transcribed by John Turner

So Mike Brown was the casualty of war. Let’s see. Actually I’ll leave that up there. I like that picture. He died at the hands of an employee of the state whose salary and uniform and vehicle and bullets Mike Brown’s family helped to pay for. This was no mistake, no act of misrecognition, no violation of police policy or code. This was just another day in the modern world. Collateral damage in perpetual war whose colonial roots are still alive. As Nelson Maldonado-Torres so eloquently puts it, “In modernity the racialized others take the place of enemies in a perpetual war, out of which modern ideals of freedom and autonomy get their proper sense. This is the foundation of modernity as a paradigm of war and a source of many of its pathologies, crises and evils. Coloniality is the spinal cord, as it were, of the modern paradigm of war.” And I would also add to that that coloniality and capitalism are inseparable. And indeed, you could make the argument, that colonialism has proven to be the most dominant and pervasive mode of production in the world. What I’ve tried to demonstrate, over the past three days, is that every effort to use the master’s tools, the presumably democratic state, to overturn the paradigm, to establish an ethical and just polity in which all people are accorded status as humans, and sovereignty and the commons are respected, was crushed. We can no longer expect the very state, the very legal edifice, that continues to reproduce our condition to provide the solution or be the arbiter of justice. This is not a startling conclusion, and its certainly not a new idea, you know. Read Bakunin, Peter Kropotkin, who my daughter actually hit me to. Oh, I said I wasn’t going to acknowledge you, I’m sorry. My brilliant daughter Elisa. This should be really the starting conclusion. No I’m sorry, let me go back. So, this is not a a new idea. Chickasaw scholar Jodi Byrd points to a fundamental contradiction, in that “human rights and equal rights and recognitions are predicated on and arbitrated by, the very systems that propagate and maintain the dispossession of indigenous peoples to the common good of the world. Now, in the face of persistent colonial war, what choice is there but decolonization. And what does this mean? Fanon writes, “Decolonization, which sets out to change the order of the world, is obviously a **program** of **complete disorder**. Complete disorder. But it cannot come as a result of magical practices, or a natural shock, or of a friendly understanding. Decolonization, as we know, is a historical process, that is to say that it cannot be understood, it cannot become intelligible, nor clear to itself except in the exact measure that we can discern the movements which give it historical form and content.” Now, most of us take the rest of that chapter, Concerning Violence, in the Wretched of the Earth, we take from that chapter the idea of the necessity of violence, violence as a cleansing force. Which is the way Fanon is almost always read. But, instead, I guess I see the dismantling of the killing machine, the militant resistance to social death, the necessary life taking, I’m sorry the necessary life taking. Actually, let me just repeat that, because I missed an article. So, I see the dismantling of the killing machine, the militant resistance to social death, not necessarily life taking. So, it doesn’t require life-taking. But a call for a **revolutionary act of love.** In Algeria in 1960, armed resistance and sabotage was an appropriate response to a settler colonial state outnumbered and weakened by global forces always precarious despite its myths about itself. In the United States, where the structure of colonialism is completely shrouded in liberal multiculturalism, in neoliberal homilies about freedom, colorblind discourse that undergirds criminalization and white supremacy, enabling 400 years of state sanctioned serial murder to continue with impunity, power cannot be unseated through violence. Power cannot be unseated through violence. I don’t think that’s the case. Of course, you know, the very word I used here, impunity, reveals a contradiction, in that the point of law, for the colonized, is **not protection**, but **containment**. You know, it’s not defense, but discipline, and in some cases genocide. In all of my talks, I’ve tried to show that every struggle to end war was also an effort to restore forms of law and order that could bring the colonizer to justice. To actually recognize and hold him accountable for crimes against humanity. We continually turn to the very state apparatus, the crime weapon, to appeal for justice. And sometimes movements actually make progress, in you know, molding and retrofitting the state in the service of reform. I’m not going to deny that. Sometimes it works in a redistributive capacity, even protecting workers, I’m not going to deny that. But, as much as it shifts and grows and changes, it **cannot be held.** I know this appears to be kind of a pipe dream. But, it’s worth considering the ideas of Aimé Césaire and Leopold Senghor, which I appreciated Josh bring up Césaire, who propose alternative visions of governmentality that sought to dislodge the colonial state. Here I’m thinking about Gary Wilder’s really excellent new book called Freedom time: Negritude, decolonization, and the future of the world, which kind of shocked me, I learned a lot I just did not know. What he does is he resurrects their postnationalist vision. They sought forms of association between the former colonies and France that would explode the existing national state from within. In this model, he writes, “legal pluralism, disaggregated sovereignty, and territorial disjuncture would be constitutionally grounded. The presumptive unity of culture, nationality, and citizenship would be ruptured.” And moreover, decolonization would actually transform the metropole. That was the vision. That decolonization wasn’t just about the colonized spaces. But, about the metropole itself. So, decolonization was a global process that especially had to decolonize the colonizer. And it would also you know create a centralized, decentralized, I should say, federation based on a socialist economy. In spite of Senghor’s own actions, which are very problematic, he believed, at least he wrote down, that a socialist decolonization could never succeed unless revolutionizing the metropole. In other words, its sort of like the argument about socialism in one country, you can’t have socialism in the periphery without socialism in the metropole and you can’t have the transformation of class relations in the periphery without the same in the metropole. That was the argument. It’s quite profound, even if his own policies didn’t come close to that. Now, there are many reasons why their vision was never taken seriously or never considered. Partly because there was no social movement behind their aims, and for most of the colonized world, political independence was the necessary first step to sovereignty. But, under such an arrangement, neocolonialism might have been, and again this is a question, might have been impractical, if not impossible. Cause there would be no undocumented, there would be no sans papier in that circumstance. Building on Fanon, DuBois, Aimé Césaire, Senghor, as well as numerous contemporary scholars, Emma Perez, Walter Mignolo, Ramon Grosfogel, Jodi Byrd and others I already talked about in this presentation. I want to suggest that liberatory politics in our neoliberal era might be built on a concept of decolonial democracy. Now, proponents of the decolonial option tend to see the decolonial option as an alternative to democracy or against democracy. I kind of resist that opposition, let me tell you why: because to position them in opposition excludes the idea that colonized, the enslaved, the dispossessed could be authors or have authored forms of democracy that carry a core decolonial vision. In other words, you can’t talk about reconstruction without those former enslaved people being authors of a new mode of democracy, a new way of thinking, a new vision that had within it a core decolonial vision. It also assumes that democracy only begins in Europe. Which erases the US appropriation of say the Iroquois understandings of the constitution and confederacy. Decolonial democracy requires the abolition of all forms of oppression and violence. It means disbanding the army, opening the prisons, freeing the body from the constraints inherited in imposed normativities. It is also about making life, ending precarity The nation-state is incapable of doing this. I will not say it is an artifact or a relic of the past, because that would assume a statial view of history. It is an historical fact, an historical product. It will not be dislodged easily or anytime soon. But the nation-state has become the barrier, and its always been, even when in the best of times we’ve been able to momentarily establish some control, could steer the beast in the direction of making life. But, we cannot remove its coercive function without abolishing the state itself. We must continue to fight the indiscriminate killing of us, whether by assault rifle, drone, or starvation. But, we also need to continue to build community based on the values of cooperation, mutuality, nonviolence, equality and love. Those are decolonial values for sure. Grace Lee Boggs constantly told us, we need to take governance and production into our own hands. Rebuild our crumbling cities. But we cannot remake the commons or seize the commons without dismantling the state. I don’t’ believe we can survive on the basis of dual power, unless we can match the coercive power of the state. And, this is their raison d’etre so that’s not possible. If I claim to know how we could do this, then my historian card or my credentials as a dialectical thinker ought to be revoked, okay. I don’t know how. Movement, struggle, will determine the future. All I know is that this war must come to an end and that requires destroying the state as we know it, the carceral state, the military state, all forms. And creating new forms of governmenality that are about loving each other.

## Racialized Violence

#### Carceral domestic warfare is constituted by gendered racist state violence, and cannot be resolved through liberal-reformist promises.

Rodriguez 19 – Professor of Ethnic Studies and Chair of the Academic Senate, University of California, Riverside

Dylan, Abolition as Praxis of Human Being: A Foreword, 132 Harv. L. Rev. 1575. HeinOnline.

What I have begun to characterize as the narrative structure of "mass incarceration" reformist discourse is also an attempt to trace the cul-tural-political fallout of carceral domestic warfare. The consequences of this marshaling of police power, criminal justice policy, and racialized national culture are transgenerational and have fundamentally de-formed the capacities of targeted communities and people to reproduce within a sociality that is constituted by the logics and protocols of gendered racist state violence so incisively demystified by organizations like We Charge Genocide, which we will examine more closely below.62 Such a fallout cannot be triaged or redressed through liberal promises of futurity, redeemed citizenship, and revalued civil life precisely because these deformations are relatively indelible and are in- habited and carried by their involuntary inheritors. Given the depth of these systemically induced, targeted casualties, it becomes urgently necessary to study the collateral consequences wrought by mass- incarceration-reform discourse in and of itself.

#### Prioritize our impacts --- the racialized violence of the carceral state has an innumerable body count

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Lena, “With Immediate Cause: Intense Dreaming as World-Making,” Abolition: A Journal of Insurgent Politics, no. 1 (2018): 57-67. https://journal.abolitionjournal.org/index.php/abolition/article/view/27/6

The body count of stigmatized, criminalized, incarcerated, legally eliminated, socially dead, expendable and disposable, sex- ually violated, tortured, missing, and murdered Indigenous girls, girls and women of color, queer and trans youth of color continues to climb. The growing murder-suicide rates, statistics of missing and murdered Indigenous and Black women, should no longer surprise or overwhelm us but incite us to urgent action and theo- rization in line with radical women of color feminist movements mobilizing to end gendered and racialized violence endemic to the carceral state. A feeling of mortal urgency hounds us everywhere, every day, all the time, all at once in white settler societies like ours; it surrounds, envelops, and blankets us, most often lulling us into a deep, depressed, dreamless stupor rendering us hopeless and immobilized. Many of us have already lost the battle. How many Black and Indigenous girls and women have had their lives cut short by interpersonal, intimate, state and state-sponsored vi- olence since the Black socialist lesbian feminist Combahee River Collective first held up that banner boldly declaring “We cannot live without our lives” and initiated a self-help and antiviolence community mobilization in the late seventies? At other times, when not killed-off, bought-off, co-opted, or placated by the carcer- al state and its so-called kinder and gentler politics of recognition and reconciliation and its nonprofit, professionalized social ser- vice apparatuses, we channel the pent-up sum of our intergen- erational rage into “dreaming big” and “making power” within our families, intimate relations, and communities. The mortal urgency lies in us staying dormant and continuing to patiently over-rely on the carceral state to guarantee the health of our lands and waterways, our human and civil rights, our bodily integrity, our safety and security, our health and well-being, our children’s futures rather than aligning ourselves with radical Black feminist, Indigenous de-colonial, and prison abolitionist movements. We fail to listen and actively disengage with these (re)emergent and resurgent movements that resist the liberal and neoliberal state’s politics of recognition, visibility, and inclusion at our own peril. Five hundred years after the advent of colonial genocide and chat- tel slavery, the stakes are as high as ever. As Ntozake Shange de- clares, “We all have immediate cause.”

# Alt Debate

## Confront Hegemony

**Failure to analyze the way normative debates of invisibility constrain our imagination siphons off the imperative for undoing the naturalization of state-sanctioned violence. Only an abolitionist pedagogy is able to build holistic critiques and movements against state violence. This requires a confrontation with the hegemonic frames of thought embedded within the affs silence**

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The relative **invisibility** of domestic state violence vis-à-vis war **constrains the imagination and imperative** for building just, free, and peaceful futures, internationally and domestically. Domestic practices of state violence (namely policing and imprisonment) are frequently treated as inherently more legitimate than war-making because these practices are founded in popular sovereignty. Yet, these institutions reproduce racial, gender, class, and sexual relations of hierarchy and domination that contribute to family separation, community fragmentation, labor exploitation and premature death. Building a **nonkilling future**, thus, means challenging the state’s organization for violence that are practiced domestically in the form of defense (military-industrial complex) and in the form of prisons and policing as the “answer” to social and economic problems ranging from poverty, to boisterous youth, to human migration, and drug use (Braz, 2008; Gilmore and Gilmore, 2008). It takes sustained ideological work to contain “war” as the only form of state violence and to contain the good sense that war’s harms cannot be confined to weapons, neatly demarcated battlefields, and declarations of wars’ conclusions. Building critiques of and movements against state violence means **confronting hegemonic frames** that understand state violence as exceptional, rather than as normal practices structuring both international relations and domestic governance. It means asking why denunciations of the “war at home” sound hyperbolic to some Americans. It means asking in what ways domestic practices of state violence are practiced elsewhere and international practices are imported. Such cross-boundary traffic in practices (and personnel) of policing, imprisonment and war-making are important for showing that the lines between foreign and domestic, war and peace, civilian and military are constantly blurred. This in turn highlights the tremendous ideological work that goes into maintaining these boundaries, and the material consequences such geographical imaginations have on people’s lives and the places in which they live. This is not to say that the war at home and war abroad are the same or necessarily have the same intensity. Rather it is to trace the frame of exceptionalism that structures the relations between these places in ways that facilitate violence in both places. As we have seen, the invisibility and naturalization of state violence in the form of the prison is one of the most overlooked sites of American exceptionalism, critiques of US state violence, and of antiwar efforts. For precisely this reason, attentions should be placed on challenging the prison regime as one aspect of building nonkilling futures. For this historical moment, Dylan Rodríguez argues that undoing the naturalization of such commonplace violence, centers squarely on an **abolitionist pedagogy** that works “against the assumptive necessity, integrity, and taken-for-grantedness of prisons, policing, and the normalized state violence they reproduce” (2010: 9). Dismantling prisons is about dismantling relations of white supremacy, heteropatriarchy and economic exploitation that undermine the possibilities for freedom and human flourishing. Prison abolition has an **expansive antiviolence imperative** that necessarily demands an end to connected practices of war, colonial dispossession, and imperial rule. Abolitionist imaginations **challenge violent suppression** of human freedom and offer **important visions for forging links** among different sectors of anti-violence organizing. We might look for example to the nineteenth century international slavery abolition movement or more recently to the nonaligned movement of (formerly) colonized nations, which regarded ending the Cold War as a condition for political autonomy and fulfilling human needs (Prashad 2007). Likewise, for civil rights organizers in the US South, the abolition of Cold War annihilation was predicated on domestic peace, which could only be won through freedom, that is overthrowing the legal and extralegal relations of white supremacy (Loyd, 2011). Creating the possibilities for nonviolent resolution of social conflict is a recognized aim of antiwar or peace organizing. Prison abolition too is premised on dismantling the prison as a solution for social conflict and for creating the possibilities for freedom and human flourishing. As Andrew Burridge, Matt Mitchelson, and I (2009-2010) write: “Building economies and community institutions that foster creativity, care, self-determination and mutual responsibility are among the abolitionist visions for a just society. That is, abolition is a vision for the future that can guide current action for making communities that create real safety and meet people’s needs.” Abolition links dreams of peace and freedom. Abolitionism critically analyzes how dominant categorizations of governance and sovereignty are premised on (categorical) unfreedom. Making these links in practice means recognizing how the **prison underpins violent domination on a world scale**. Abolition is thereby offers **imperative theoretical vision and practical means** for building nonkilling futures. Pg. 119-121

## Historical Roots

#### Abolitionism addresses the historical roots of the criminal justice system, enabling new conceptualizations of social life.

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Dylan, Abolition as Praxis of Human Being: A Foreword, 132 Harv. L. Rev. 1575. HeinOnline.

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

Consider abolition as both a **long accumulation and future planning of acts**, performed by and in the name of peoples and communities re- lentlessly laboring for their own physiological and cultural integrity as such. **Embrace the obligation that accompanies the term abolition** - a complex, dynamic, and deeply historical shorthand, if you will - in the work of constantly remaking sociality, politics, ecology, place, and (hu- man) being against the duress that some call dehumanization, others name colonialism, and still others identify as slavery and incarceration. Abolition, then, is constituted by so many acts long overlapping, dis- persed across geographies and historical moments, that reveal the un- derside of the New World and its descendant forms - the police, jail, prison, criminal court, detention center, reservation, plantation, and "border."

No longer limited by canonized narratives of late nineteenth-century (and disproportionately white) abolitionists seeking redemption of the American project against its own constitutional racial-colonial-chattel carcerality, or even by recent articulations of early twenty-first-century abolition across a spectrum of progressive-to-radical rejoinders to gen- dered racist state violence, **another conceptualization** of the term **be- comes possible**. Now and long before, abolition is and was a practice, an analytical method, a present-tense visioning, an infrastructure in the making, a creative project, a performance, a counterwar, an ideological struggle, a pedagogy and curriculum, an alleged impossibility that is furtively present, pulsing, produced in the persistent insurgencies of hu- man being that undermine the totalizing logics of empire, chattel, occu- pation, heteropatriarchy, racial-colonial genocide, and Civilization as a juridical-narrative epoch.

## Ideology

#### Reform does more active harm to the community, Abolition is the only way to break down prison ideology

#### Mohamed & Neilson 2020

Writers for the New Internationalist. A publication based in Oxford, U.K. Written on March 4th, 2020 <https://newint.org/features/2020/02/10/should-prisons-be-abolished> Kales

**Kelsey:** Prison abolition is the radical goal that envisions a world without cages, using the principles of transformative justice to work towards a society built on care, mutual aid and community accountability. Since prisons were first introduced, they have been used to control and cage those marginalized by their class, race, gender and disabilities, and have protected the most powerful from being held accountable while silencing the rest of us. Many who support abolition have come to the movement through experiencing violence – both within their communities and at the hands of the state. This violence can be physical and interpersonal, but can also be state-sanctioned neglect. If we seek to reduce harm, we need to abolish our current system. A system of incarceration, no matter how much we try to reform it, does nothing to reduce the violence that marginalized people experience every day. An institution built on abusive power dynamics, fuelled by isolation and control, is ineffective in creating individual or societal change, and does nothing to provide the necessary support for someone who has been harmed. We want to be accountable as individuals and a community and work together to transform the conditions that allow harm to be produced in the first place. **Andrew:** I agree that incarceration is a toxic force, which damages people, entrenches disadvantage and creates more crime and societal harm in the long run. Solutions do not lie within prisons or the criminal justice system, but in tackling the underlying causes of crime in the community. Our society won’t progress through imprisoning people, and in a nation like the United States where mass incarceration is the norm, huge intergenerational problems have been created by the jailing of millions of North Americans. Reducing harm is not achieved by writing people off. It can be achieved by nurturing everyone’s potential and creating opportunities for people to contribute to their communities. Prison abolitionism speaks to all of this and is therefore a valuable contribution to how we think ourselves out of current criminal justice practices. But we must be pragmatic about what can be achieved. There are undeniably people who do commit serious and violent crimes, who cannot be safely managed in the community. We may be able to radically reduce our prison population, but there are sadly some individuals who will still be incarcerated for what they have done and what they may do to others. **Kelsey:** Most people who have caused serious harm aren’t currently in prison and never will be. The Grenfell Tower fire tragically took many working-class lives – the majority black and brown lives – yet nobody has been held accountable. If we look at incidences of sexual violence, we know it’s powerful people – CEOs, workplace managers, artists, sports coaches and religious leaders – who are overwhelmingly protected and continue to cause harm. A person is labelled ‘violent’ because of who they are, not what they have done. It is impossible to safely address serious harm in a violent institution. Someone who has perpetrated violence won’t be incentivized to do better by being locked up and exposed to further violence, in places where prison officers sexually and physically assault people in their care. This dynamic will continue as long as the state is empowered to deny anyone their human rights. How can we be so concerned about people being hurt yet make an exception for those who receive a salary for it? Many communities, unable to rely on the state, have worked to keep each other safe through community support and accountability for generations. Mutual aid and care have always existed outside of the carceral state. **Andrew:** I agree that harms which are termed ‘crimes’ by the state are in part the result of a political choice. The system is geared towards punishing poverty and disadvantage. As the French author Anatole France once remarked: ‘The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.’ There are certain serious violent harms by some individuals however – including murder and sexual violence – where the incapacitating function of incarceration will trump other considerations. This is not to ignore the failure of prisons to safely address serious harm, but to see incarceration as a necessary evil in some circumstances. Efforts should then be directed to reducing the use of imprisonment, which should be viewed as a ‘last resort’. At the same time, I recognize that abolitionism offers a powerful critique of the danger of some reform initiatives. Expanding community sentencing and ‘alternatives to custody’, for example, brought more people into the criminal justice system, rather than reduce the prison population as they were intended to do. The context both reformers and abolitionists work in, however, is one of punitive populism. There is strong support among many voters for ever-longer prison sentences and a popular view that prisons are ‘holiday camps’, despite the fact that prisons in England and Wales face record levels of violence and self-injury behind bars. **Kelsey:** The media and the government have fuelled a fear in the population that certainly must be reckoned with; unlearning carceral logic is a crucial part of building strong, supportive communities. However, to paraphrase Mariame Kaba of US non-profit Survived and Punished: we don’t need a whole system designed around exceptional individuals. Most people in prison are not serial killers, yet those are the cases exploited to entrench punitive desires in the public, all the while ignoring the true agenda and impact of this system on the oppressed. The reality is that most people experiencing domestic or sexual violence do not report it to the police and, if they do, are unsupported or retraumatized. Many black and other minority groups impacted by interpersonal violence are also impacted by state violence: via the police, the Home Office, homelessness, etc. We have no interest in reforming a white supremacist system built with the purpose of oppressing, controlling and facilitating the premature death of our people. As you pointed out, reforms have ended up expanding criminalization and strengthening an industrial complex that relies on its perpetuation. Let’s build a society that prioritizes care, and genuine safety for everyone, wherein we don’t rely on the inhumanity of cages and we don’t treat anyone as disposable.The extent to which the media and government fuel punitive populism is for discussion on another occasion. While prison is a relatively modern concept, human history is a litany of violence meted out in order to punish and control other human beings. I accept there is inherent racism in the criminal justice system; many poor white people suffer too. Can high incarceration rates be explained away as ‘white supremacism’? The US jails more people than anywhere else in the world, but other countries with disproportionately high prison populations include Thailand, Turkey and Rwanda. Figures suggest the 1.7 million individuals imprisoned in China is a number proportionately closer to the prison population in England and Wales than the United States – and yet reports from human rights activists suggest more than a million Muslim Uighurs are detained in secretive ‘re-education camps’ in Xinjiang. Nevertheless, we concur that societies everywhere should prioritize care, community and genuine safety for every­one. There are also avenues for abolition we can agree on – for example, when it comes to children. No child should be behind prison bars. And if we can’t imagine a world without prisons, even as a distant ideal to strive slowly towards, then we are only imprisoning ourselves.

# 2NC

## ov

#### The aff’s prison reform instantiates a more liberalized prison system that is just as violent as it would be prior to their reform, which props up the illusion of progress, sacrifices a broader political vision, and thus invests in status quo punitive punishments

#### The impact is violent progressivism - The prison industrial complex is a death-world whose preservation of functions replicate the very impact the aff tries to prevent ---proves how reform will always fail and worst it’s a reason to vote neg on presumption

#### Only an abolitionist pedagogy is able to effectively combat state violence – this is a question of starting points only by centering an abolitionist pedagogy and exposing the ways prison reform further legitimates state violence can we dismantle PIC as it’s seen in our daily lives

#### This is a framing issue that guides how you filter their solvency along with every answer they make---the law preserves itself by accepting just enough transformation to stabilize status quo conditions. If we win that the prison industrial is structurally oriented towards violence and social death, then [plan’s function], solves none of their impacts.

## fw

### t/l

#### Interp: you should evaluate the 1ac not as a policy but as an object of research. the role of the negative should be to disprove the various meanings of that object.

#### ROJ: the role of the judge is to be a critic that evaluates the subjects produced by their analysis. If we win the aff’s analysis of cjr produces a harmful subjectivity, it outweighs any benefit to weighing the 1ac –

#### We must begin by interrogating and questioning the institutional practices, ontological processes, and language of criminal justice—efforts that begin within dominant discourses will never achieve success.

Baldry 15 – Professor of Criminology, School of Social Sciences and Deputy Dean, Faculty of Arts and Social Sciences, University of New South Wales

Eileen, with Bree Carlton and Chris Cunneen, “Abolitionism and the Paradox of Penal Reform in Australia: Indigenous Women, Colonial Patriarchy, and Co-option.” Social Justice, Vol. 41, No. 3 (137) (2015), pp. 168-189. JSTOR.

Ruggiero (2011,100) argues that penal abolition is not merely a decarceration program, but also an approach, a perspective, and a blueprint for action. In the United States (Critical Resistance 2000, 2009; Davis 1998, 2003), the United Kingdom (Scraton 2007; Sim 2009), and Europe (Hulsman 1991; Mathiesen 1974, 2000; Ruggiero 2011), there has been considerable engagement with abolitionist theory and practice. However, abolition is still misunderstood by some as advocating the immediate and wholesale closure of prisons and release of prisoners. Aligning with the struggles and voices of imprisoned people (Critical Resistance 2000, 2010), abolitionist visions extend beyond the foundational knowledge systems underpinning prisons and criminal justice. Abolitionists are ultimately concerned with attaining social change and freedom from the inequalities and oppressions that drive mass incarceration. European abolitionists like Hulsman (1991, 32) argue that in order to make progress in creating alternatives to imprisonment, it is critical to first "abandon the cultural and social organization of criminal justice." This requires the interrogation and questioning of the institutional practices, the ontological processes, and the language that underpin criminal justice theory and policy (Hulsman 1991; Mathiesen 1974; Scraton 2009). Davis (2003) states that this begins with deconstructing the taken-for-granted nexus between crime punishment and, as argued by Scraton (2009), and with the process of identifying and demystifying social, political, and economic constructions of "crime" and "criminality" (Mathiesen 1974,1993; Scraton 2007,2009). Challenging dominant discourses and knowledge systems is integral to the purpose of critical criminology. As long as criminology as a discipline continues to promulgate and incorporate the language and concepts derived from the criminal justice process, it will never achieve success in interrogating the "definitional activities of the system" (Hulsman, cited in Scraton 2009).

#### Defense:

#### doesn’t moot the 2ac it just forces you to justify your advantage claims which resolves their fairness claims –

#### Key to test the aff – it forces better 2ac explanation on multiple different levels – turns education

#### if you write an aff, you should be able to defend your discourse and the hierarchy it endorses which is key because those justifications get solidified in political action and causes things like serial policy failure

## AT: Abolition Fails - Impractical

#### They’re wrong --- movement organizations are practicing abolition every day

**Akbar 18** – Assistant Professor, Moritz College of Law, The Ohio State University Amna A., 7/25. “Toward a Radical Imagination of Law.” Public Law and Legal Theory Working Paper Series No. 426. http://ssrn.com/abstract=3061917

Typically associated with prison abolition, the contemporary call for abolition includes police.273 This reinvigorated abolitionist call rec- ognizes that policing and mass incarceration co-constitute each other. Mass incarceration’s footprint will not get smaller without shrinkage of policing. Abolition makes a number of demands: the end of mass incarceration by shifting the methods through which law and norms are enforced away from policing and other violence-backed threats, redirecting money from policing, jails, and prisons into social pro- grams for directly impacted communities, and creating community accountability mechanisms for harm.274 Movement organizations like Critical Resistance, Black & Pink, We Charge Genocide, Project NIA, and the Audre Lorde project are “*practicing abolition every day* . . . by creating local projects and initiatives that offer *alternative ideas and structures* for mediating conflicts and addressing harms without relying on police or prisons.”275 The Vision is in line with the abolitionist politics resurgent in left spaces, which call for the end of prisons and policing as interrelated phenomena.276 It shifts the police reform frame from adherence to law and accountability to lesser reliance on criminal law enforcement: fewer police, prosecutions, prosecutors, jails, and prisons. This creates an imperative to push for reforms that shrink the footprint of police, prisons, and jails.

## AT Alt Utopian

1. **The alt is an imagination of what “abolition” would look like, just like the aff. Any claim of the alt being “utopian” means the aff links too.**
2. **Any major movement that went against societal norms was deemed “utopian.” Just because it's new doesn't mean its utopian.**
3. **There is no brightline for “utopian” -** **creates the worst model of debate in which everything is “utopian” – infinitely regressive**

#### Every major social transformation in history was condemned as utopian before its realization. Your ballot is an essay in refusal.

**Ben-Moshe 11** – Postdoctoral research associate at the department of Disability and Human Development, University of Illinois-Chicago

Liat, Genealogies of Resistance to Incarceration: Abolition Politics within Deinstitutionalization and Anti-Prison Activism in the U.S." Sociology – Dissertations, Paper 70. https://surface.syr.edu/cgi/viewcontent.cgi?article=1070&context=soc\_etd

It is my hope, as an activist/scholar that this work brings to light the ghost of the incarceration yet to come but also **highlights abolition as praxis to resist it**. As Gordon (2004) explicated, the aim of the **politically engaged intellectual** is to nourish cultures of resistance and to aid in the fulfillment of the human potential of all. In addition, and in response to critique that claimed that his work in Discipline and Punish is not practical but only theoretical in nature, Foucault explained that his role as an intellectual (or scholar/activist) is **not to prescribe solutions**, but to **open up conversations**. He remarked that “it is true that certain people, such as those who work in the institutional setting of the prison… are not likely to find instructions in my book that tell them „what is to be done‟. But my project is precisely to bring it about that they “no longer know what to do”, so that the acts, gestures, discourses that up until then had seemed to go without saying become problematic, difficult, dangerous” and that “it seems to be that “what is to be done” ought not to be determined form above by reformers, be they prophetic or legislative, but by a long work of comings and goings, of exchanges, reflections, trials and different analyses” (Foucault 1994: 256). Critique, according to Foucault, is sometimes the goal and sometimes the means to a goal, often one which is not yet conceived but is used in a process of trial and error. Foucault asserts that critique “should be an instrument for those who fight, those who resist and refuse what is. Its use should be in processes of conflict and confrontation, **essays in refusal**. It doesn’t have to lay down the law for the law. It isn’t a stage in programming. It is a challenge directed to what is” (Foucault 1994: 236). I contend that this challenge towards “what is” is the work of abolition today, and for the future of a non-carceral society. Even for those of us who find deinstitutionalization, anti-psychiatry and prison abolition movements to be “too radical” or problematic for whatever reason, I believe activists and scholars could benefit greatly from connecting them to each other and paying attention to the path of abolition of oppressive institutions. People or ideas, which are perceived as radical are often characterized as dangerous, and sometimes “crazy,” and these are exactly the populations we still hold behind bars and locked doors. But in terms of abolition, people who called for the abolition of slavery were also called dangerous and some lost their lives in the struggle, but you would be hard pressed to find people who advocate for slavery today. One can hope that this will be the case in relation to prisons and institutions in the imminent future. As Sebastian Scheerer (1987:7) comments: “the great victories of abolitionism are slowly passing into oblivion, and with them goes the experience that there has **never been a major social transformation** in the history of mankind that **had not been looked upon as unrealistic, idiotic or utopian** by the large majority of experts even a few years before the unthinkable became reality.” This research attempts to ensure that abolition of the carceral in the form of deinstitutionalization, prison abolition and anti-psychiatry do not pass into oblivion and are not only preserved but built upon in a shared horizon combating “the incarceration yet to come.” Pg. 366-368

## AT Perm

#### The perm fails—the conditions of possibility for abolition cannot come from within the existing order

**Ben-Moshe 11** – Postdoctoral research associate at the department of Disability and Human Development, University of Illinois-Chicago

Liat, Genealogies of Resistance to Incarceration: Abolition Politics within Deinstitutionalization and Anti-Prison Activism in the U.S." Sociology – Dissertations, Paper 70. https://surface.syr.edu/cgi/viewcontent.cgi?article=1070&context=soc\_etd

Abolition can be conceptualized as a strategy beyond resistance- as it does not acknowledge the structure as it is but envisions and creates a new worldview in which oppressive structures do not exist. **It goes beyond protesting the current circumstances**, as discussed by Brown in the preceding passage, to **creating new conditions of possibility** by collectively contesting the status quo. Norwegian sociologist Thomas Mathiesen conceptualizes abolition as an alternative in the making: “The alternative lies in the “unfinished”, in the sketch, in what is not yet fully existing” (Mathiesen 1974: 1). As discussed in chapter 5, abolition takes place when **one breaks with the established order** and simultaneously breaks new ground. Abolition is triggered by making people aware of the necessary dilemma they are faced with- continuing with the existing order with some changes (i.e. reform) or transitioning to something unknown. The question becomes not "what is the best alternative" in its final formulation, but how this new order shall begin from the old. The second question, which emerges from the unfinished as alternative, is how to maintain it as such, a sketch, not a final result but a process of change (Mathiesen 1974).

Abolition therefore cannot wait to a future constellation when appropriate alternatives are already in place. In fact this is inherently impossible because alternatives **cannot come from living in the existing order, but from a process of change that will come as a result of a transition from it**. So abolition as a goal and a mindset is needed in order to come up with new alternatives (Mathiesen 1974). Avery Gordon (2004) further asserts that **the core of abolitionism is its refusal to wait**. Slaves or prisoners, and those fighting for their freedom, cannot wait for a new world order in order to be free of incarceration or bondage. They cannot wait until the right conditions emerge and the desired future begins. This sense of urgency enables abolitionism, as utopian consciousness and praxis, to become a model for political activity in the here and now. Pg. 334-335

**Reform is only a superficial fix to the history of prisons. Abolition fixes not only the material problems that reforms tries to destroy, yet it tries to ideology and psychic issues of it.**

**Davis 2015**

Angela Davis, writer and civil rights activist, “Freedom is a constant struggle”. Published on August 17th, 2015. Archived by A Working Library. <https://aworkinglibrary.com/writing/abolition-not-reform> Kales

Frank Barat asks Angela Davis, “Talking about the abolition movement, even with my kids, I’ve noticed that when we’re playing my little boy says, ‘Okay, well, if you’re bad, you’ll go to jail.’ And he’s three and a half years old. So he is thinking that bad = jail. This also applies to most people. So the idea of prison abolition must be a very hard one to advocate for. Where do you start? How do you advocate for prison abolition versus prison reform?” Davis responds: The history of the very institution of prison is a history of reform. Foucault points this out. Reform doesn’t come after the advent of prison; it accompanies the birth of the prison. So prison reform has always only created better prisons. In the process of creating better prisons, more people are brought under the surveillance of the correctional and law enforcement networks. The question you raise reveals the extent to which the site of the jail or prison is not only material and objective but it’s ideological and psychic as well. We internalize this notion of a place to put bad people. That’s precisely one of the reasons why we have to imagine the abolitionist movement as addressing those ideological and psychic issues as well. Not just the process of removing the material institutions or facilities. Why is that person bad? The prison forecloses discussion about that. What is the nature of that badness? What did the person do? Why did the person do that? If we’re thinking about someone who has committed acts of violence, why is that kind of violence possible? Why do men engage in such violent behavior against women? The very existence of prison forecloses the kinds of discussions that we need in order to imagine the possibility of eradicating these behaviors. This bit about how prison “forecloses discussion” about the nature of violence or other “bad” behaviors is something I’ve been thinking about a lot since reading this; what other policies or systems foreclose the kinds of discussions we need to be having to build a truly free, equitable society? Davis continues:I don’t think that the criminal justice system can operate without racism. Which is to say that if we want to imagine the possibility of a society without racism, it has to be a society without prisons.Not only do we have to imagine it, we have to work to build it. Echoing Michelle Alexander, Davis points out: There are more Black people incarcerated and directly under the control of correctional agencies in the second decade of the twenty-first century than there were enslaved in 1850. Sit with that, then imagine the alternatives

## AT: Reformism Good

#### Any argument aff brings up about “reform good” or “reform possible” is false. History proves that any kind of reform that was aimed to help solve racial inequalities or improve life for minorities was co-opted.

1. **By saying that reform is possible, the aff ignores the fact that the system was made to hurt and suppress black bodies. Any attempt to try to reform the system only reaffirms the ideology of “only a few bad” policies.**
2. **Reform does not fix the racist foundation that the system was creating on - no amount of reform can make the system better for poc.**

#### Reformism reaffirms the racial innocence of the carceral state

**Murakawa 19** – associate professor of African American Studies at Princeton University

Naomi, October. “Racial Innocence: Law, Social Science, and the Unknowing of Racism in the US Carceral State.” Annual Review of Law and Social Science Vol. 15:473-493. https://www.annualreviews.org/doi/full/10.1146/annurev-lawsocsci-101518-042649

LIBERAL REFORMISM

This section considers liberal reformism as another mechanism for neutralizing radical protest and reaffirming the racial innocence of the carceral state. “Racial innocence is the alchemy by which Americans turn enduring and otherwise visible inequality into redemptive stories of rights, equal protection, individualism, and progress,” as Taylor (2015, p. 56) explains. This alchemy—of spinning virtue from hoarding and domination—relies on a narrative of progress and liberal reformism. Racial innocence is **adaptive**, and the “American Creed” that celebrates procedural equality enables and constrains political reform (Crenshaw 1988, HoSang 2010, Taylor 2015). Liberal reform reflects the recognition that movement demands are powerful and threatening, and therefore preservation of power relations is best served by adopting some movement demands after reducing them to a suitably moderate form (Omi & Winant 1986, Schept 2015). Decarcerating the Relatively Innocent Recent reforms have focused on relatively sympathetic figures like the “non, non, nons”: the nonserious, nonrepeat, and nonviolent offenders (Beckett 2018, Gilmore 2015, Gottschalk 2015). This strategy, however, sidesteps the two most consequential macroshifts in sentencing policy since the 1970s: the increased likelihood that a felony arrest would result in prison admission and increased time served in prison (Beckett 2018, Tonry 2013, Travis et al. 2014). Confronting these equilibrium shifts would require massive sentencing reform, including but not limited to repealing mandatory minimums and three-strikes provisions, abolishing life sentences and virtual life sentences of greater than 40 years, replacing sentencing's high floors with low ceilings, reinstating good-time early-release credits, and reducing parole length and terms of revocation (Beckett 2018; Gottschalk 2015; Kim et al. 2018; Mauer & Nellis 2018; Tonry 2013, 2016). In short, advocating for the relatively innocent is inadequate. Note, for example, that incarceration rates still would have quadrupled over the past 35 years even if all drug convictions were eliminated (Beckett 2018, Forman 2012, Gottschalk 2015). Advocating for the relatively innocent legitimizes the idea that the relatively guilty deserve what they get. Based on content analysis of legislative reforms and media language from 2000 to 2012, Beckett et al. (2016) found that reforms pertaining to nonviolent offenses were often justified as freeing resources to incarcerate violent offenders for even longer sentences. That is, reformers demand less prison in the name of more prison (Beckett et al. 2016; Gilmore 2015, 2017). This reform tactic also hardens status divides between nonviolent and violent criminals, categories that are neither natural nor self-evident. Rather, police and district attorneys actively produce “serious” or “violent” felony charges, and “their use is part of a racial apparatus for determining ‘dangerousness'” (Gilmore 2015). Carceral Feminism “Carceral feminism” critically names efforts to criminalize away the routine violence of rape, domestic violence, and heteropatriarchy (Burnstein 2007, Davis 2016, Thuma 2019). As a major “lever of legitimacy for expanding the carceral state,” the Violence Against Women Act (VAWA) delivered unprecedented federal funding for sexual and domestic violence prosecution. VAWA was nested in the omnibus Violent Crime Control and Law Enforcement Act of 1994, which allocated nearly $10 billion for state prison construction and subsidized local hiring of more police officers (Thuma 2019). Other manifestations of carceral-feminist expansion include mandatory arrest policies and pro-prosecution protocols. Women who do not “fit the traditional image of the innocent victim”—that is, black women, women of color, poor women, sex workers, lesbians, and trans women—are likely to be criminalized rather than protected through such policies (Richie 2012, p. 123; Gottschalk 2006, Gruber 2018, Ritchie 2017). Much like “hate crime” legislation, carceral feminism builds punitive capacity while enabling lawmakers to stand in disavowal of state-sanctioned racial heteropatriarchy (Reddy 2011, Schept 2015, Spade 2015). In short, critics of carceral feminism highlight the mutually reinforcing dynamics of carceral expansion, coopted resistance, and falsely affirmed state legitimacy. Training and “Police Humanitarianism” Like the Black Lives Matter movement, liberation movements and uprisings throughout the 1960s identified police as frontline enforcers of racial hierarchy (Platt 2018, Taylor 2016). Reformers in both moments turned to police training, promoting what some critically call “police humanitarianism” and “carceral humanism” (Gilmore 2017, Gilmore & Gilmore 2016, Kilgore 2014, Schept 2015). In classic terms, The Iron Fist and the Velvet Glove identified the rise of “community policing” as complementary to the rise of aggressive paramilitary policing (Cent. Res. Crim. Justice 1975). Indeed, funding for community policing rose with SWAT teams and paramilitary units (Camp 2016, DeMichele & Kraska 2001, Hinton 2016). Procedural justice and implicit bias dominate the current landscape of police training. Against the chorus of support, some scholars fear that procedural-justice training, as a stand-alone remedy, risks sustaining saturated police presence in communities of color, essentially teaching police to continue the same patterns but with superficial niceties (Bell 2017, Butler 2017, Epp et al. 2014, Vitale 2017). Some similar concerns apply to implicit-bias training, as companies like Fair & Impartial Policing® instruct police to cultivate the skill of acknowledging their cognitive bias. Framed as a pervasive yet individual-level phenomenon, implicit bias is presented as mitigatable through education (Lynch et al. 2013, Petersen 2018). This vision of training calls to mind HoSang's (2010, p. 31) very definition of racial innocence: It is the notion that “the self-possessed individual” can decide “to free himself or herself from the narrow trappings of prejudice” and “no longer be ‘guilty’ of racism.” Experimental tests of debiasing interventions demonstrate some success in very short-term reductions of implicit biases, but there is limited and conflicting evidence of whether reductions endure past two or three months (Smith 2015). Observations of implicit-bias police training paint a disturbing picture of racial criminalization reaffirmed, not deconstructed; one popular training module assures officers that implicit associations between blackness and criminality are partially justified by reality (Petersen 2018). Critical race theorists have long relied on implicit bias research to combat legal definitions of discrimination as intentional harm, but recent pushback against the implicit-bias preoccupation is illuminating in the context of police training. Marshalling long citation chains of experimentally confirmed implicit bias research is a satisfying “hard evidence” refutation of the intent standard, but not all racial harm can or should be attributed to cognitive bias in the unwitting racist's interior (Seigel 2018, Selmi 2016). The habit of blaming implicit bias—a subset of the overarching habit of equating racism with psychological error—risks exonerating institutional arrangements that incentivize and legitimize racist harm (Butler 2017, Frymer 2005, Lynch et al. 2013, Obasogie & Newman 2018, Vitale 2017). CONCLUSION: REJECTING INNOCENCE Law and social science are implicated in constructing the carceral state, of course, but this article illuminated the legal and social scientific tools used to obscure the carceral state, to blunt our perception of its intrinsic dehumanization and its routine racism. Criminal law condones racial profiling, caging, and killing, while antidiscrimination law formalizes the presumption of racial innocence by tasking plaintiffs with the burden of proving intentional discrimination. Positivist social scientists practice the same willful ignorance by setting a null hypothesis of no racism, fastidiously separating racial from presumably nonracial factors, and then measuring “the race effect” instead of racism's effects. Social science has furnished a respectable statistical rhetoric of black criminality since the Progressive era, and this articulation of “the Negro problem” justifies carceral development and its racial disparity. In short, willful ignorance, invention of “the Negro problem,” and **liberal reformism secure the racial innocence of the US carceral state**. Witnessing carceral devastation requires **rejecting innocence**. For scholars of the carceral state, this entails rejecting professional investments in race-free crime statistics and nonracial legal variables; measures and methods are freighted to an unfolding history in which race matters (Muhammad 2010, Thompson 2010, Ward 2015, Zuberi 2001). More broadly, witnessing carceral devastation requires rejecting the fantasy that social scientists can or should be innocent of normative commitments. The dehumanization of the carceral state exceeds what can be seen through racial disparity analysis, which is too often the stand-in for moral analysis. When Baldwin [1985 (1960), p. 210] challenged “urban renewal,” he staked a historically informed moral claim about race, place, and abolition, writing, “The people in Harlem know they are living there because white people do not think they are good enough to live anywhere else. No amount of ‘improvement’ can sweeten this fact…A ghetto can be improved in one way only: out of existence.” The same should be said of prisons. Prisons normalize the practice of creating separate and subordinate spatial, legal, and political universes for whole categories of people (Gottschalk 2008, Lerman & Weaver 2014, Miller & Stuart 2017, Simon 2007). Further still, the carceral state reaffirms the foundational fictions of racial capitalism—fictions of freedom through the sanctification of property, fictions of earned opulence and deserved deprivation (Brown & Schept 2017; Camp 2016; Davis 2016; Gilmore 2007, 2017; McLeod 2015; Turner 2012; Vegh Weis 2018). For these very reasons, abolitionist scholars insist that **no amount of improvement can secure the innocence of the carceral state**. Indeed, **it is the pursuit of innocence that constitutes the crime**.

# Aff Answers

## Framework

**Interpretation: the judge should evaluate the fiated hypothetical implementation of the plan vs a competitive policy option**

**They have the burden of rejoinder—the K must prove the fiated implications of the plan are worse than the consequences of a neg ballot.**

**Anything else unpredictably shifts focus from the controversy, allowing the neg to monopolize prep and undermine preparation for all debates. Lack of clash turns any education impact and makes it impossible to devise political strategies**

**Affective politics like the alternative terminally fail – they can’t influence politics or create any real and substantial change.**

**Schrimshaw 12** [Will, "Affective Politics and Exteriority", willschrimshaw.net/subtractions/affective-politics-and-exteriority/#, published 2012, accessed 06/29/18] BBro

The affective turn in recent politics thereby becomes auto-affective and in remaining **bound to an individual’s feelings** and emotions **undermines the possibility of its breaking out into collective action and mobilisation**. Yet, referring back to Fisher’s article, it is where this affective orientation is inscribed into the social circuits of musical use and sonorous production that it perhaps begins to break out of the ideology of individualism through tapping into a transpersonal or `machinic’ dimension of affective signals that **never find a voice** yet remain expressive and hopefully inch towards efficacy. What is important to express here is that much of this affective content is inscribed in the use of music as much as its composition. As little of the Grime and Dancehall that Fisher and Dan Hancox catalogued towards a playlist of the riots and uprisings expresses in explicitly linguistic and lyrical content the sentiments of political activism, it is in the use of music and sound as a carrier of affects at the point of both playback and composition that its importance lies.2 Where music is deployed as a more affective than symbolic force in resistance, its **significance becomes obscure and ambiguous** from the perspective and expectations of symbolic coherence. This noted lack of coherence and communicable message **marks**, as Fisher points out, **a certain exhaustion** of **recognised channels of** musical **resistance**: the protest song seems worn out, lacklustre, its own disempowerment, apparent obsolescence and displacement in pop culture a symptom **compounding the apathy** and estrangement that has characterised much of the still fairly **recent discourse on** youth and **`political engagement’.**

## Abolition Fails

### Counterproductive

#### Focus on abolitionism is counterproductive --- fails to achieve meaningful change and obscures larger forces at play

J. Harvie Wilkinson 14, judge serving on the United States Court of Appeals for the Fourth Circuit, former Associate professor at the University of Virginia School of Law, formerly had a position in the Civil Rights Division of the U.S. Department of Justice, June, “In Defense of American, Criminal Justice”, Vanderbilt Law Review, http://www.vanderbiltlawreview.org/content/articles/2014/06/In-Defense-of-American-Criminal-Justice.pdf

One final count in the indictment remains. Can we truly call a system democratic when a very large section of the citizenry—African-Americans—feel oppressed by or excluded from it? Is this a reason to discredit American criminal justice? The reaction to the verdict in the George Zimmerman trial in July 2013—in parts angry, reflective, and resigned—reminded us that many African-Americans feel as though the criminal justice system does not work for them. Washington Post columnist Eugene Robinson argued, "Our society considers young black men to be dangerous, interchangeable, expendable, guilty until proven innocent.” 362 Manhattan Institute scholar and New Republic contributor John McWhorter argued that, for African-Americans, “the poisonous relationship between young black men and law enforcement is the prime manifestation of racism in modern America.” 363 And President Obama noted that “the African American community is looking at this issue through a set of experiences and history that doesn’t go away,” one wrapped up in “a history of racial disparities in the application of our criminal law.” 364¶ There is something to these criticisms. Americans have tried to address them over the years by requiring objective, race-neutral justifications for government actions within the criminal justice system. We have, for example, required that the jury venire be composed of a fair cross-section of the community, and in Batson v. Kentucky, the Supreme Court outlawed the use of peremptory challenges of jurors based upon their race. We can insist that objective criteria support stop and frisks. And we can focus on racial discrepancies in criminal-law enforcement—which may lead, for example, to four times as many marijuana arrests for black Americans as white Americans, despite similar rates of use.367¶ But efforts such as these won’t solve our problems altogether. This is because the story is more complicated than simply a criminal justice system that has failed to win the trust and confidence of many in the African-American community. The problem of racial equality and criminal justice is one of “painful complexity.” 368 We can acknowledge that we have not yet reached our goal of race neutrality in the dispensation of justice while acknowledging also that this alone does not account for the racial makeup of our prisons and halfway houses. Then–New York Mayor Michael Bloomberg stated, “Ninety percent of all people killed in our city—and 90 percent of all those who commit the murders and other violent crimes—are black and Hispanic.” 369 That is the great double-edged sword. It understandably leads to more stops and more arrests in high-crime areas. It understandably leads to more convictions of those of whatever race who commit the crimes. But it also leads to understandable anger and resentment on the part of disadvantaged young black males who want to make a decent go of American life, only to find themselves the object of recurrent false suspicion and repeated frisks.¶ The solution to the problem of race and criminal justice is not a total overhaul of the system. That just renders the criminal justice system the scapegoat for a much larger set of social problems. The criminal justice system feels the effects of those problems; it does not cause them. Drug and gun crimes are not any less a blight upon society because of the racial makeup of the offenders; indeed, as Robinson noted, “[N]owhere will you find citizens more supportive of tough law-and-order policies than in poor, high-crime neighborhoods.” 370 Our criminal justice system rightly aims to reduce dangerous behavior, and the beneficiaries of success in that endeavor may be those less advantaged citizens for whom basic safety will make for greater opportunity, not to mention better prospects for a brighter life. ¶ To cast ceaseless blame on America’s criminal justice system is to ignore the enormity of the problems it has been asked to solve. It only diverts attention from the larger ways in which America has failed its underclass. As Michael Gerson recently noted, “The problem of African American boys and young men is a complex mix of lingering racial prejudice, urban economic dislocation, collapsing family structure, failing schools and sick, atomized communities.” 371 To chastise criminal justice when many levers of upward mobility are so compromised is an inversion of priorities. A complete “fix” of what the critics allege ails criminal justice will do nothing to restore shattered family structures, improve failing schools, impart necessary job skills, restore religious and community support groups, or provide meaningful alternatives in deprived neighborhoods to the gangs and drug rings that steer young people toward lifelong addictions and lives of crime. Society doesn’t create opportunity by sacrificing the basic social need for order. To the contrary, improvements in communities and institutions will only take root in the kind of safe environment that, at its best, a strong criminal justice system can provide. And when we provide opportunity, we in turn reduce the pressure on the criminal justice system and lessen the monumental task that lack of opportunity for the poorest Americans has left it to perform.¶ How a society chooses to balance justice and safety with rights and liberties will invariably be the subject of vigorous debate. Our criminal justice system is no exception. Many good and intelligent people will disagree passionately about the contours of our criminal law. That is all to the good. We should not grow complacent in the face of particular problems, both for the sake of individual defendants and for the rule of law itself. ¶ But instead of engaging in a constructive debate about the American approach to criminal justice, legal elites largely have condemned the entire enterprise. The system, we are told, is broken, and only sweeping reforms imposed from on high can save it. But the rhetoric that fuels the wholesale assault upon the system not only will fail to achieve any meaningful change, it obscures the many strengths of our institutions. By focusing so much on what is wrong, we inevitably forget what is right.¶ The terms of engagement must change. My call is not for scholars to whitewash our system’s failings but to realize the picture is far more nuanced and complex than they have presented it. Given the volume of matters it is asked to address and immensity of the task it is asked to perform, our criminal justice system functions rather well. It is both unrealistic and uncharitable to portray the system as an engine of oppression and injustice. Ironically, many of the features that critics claim operate one-sidedly against defendants often work to their benefit. The American criminal justice system strikes a valuable front-end note. It strikes difficult balances between protecting the innocent and convicting the guilty, between procedural protections and administrative realities. It rightly allows these contestable choices to be made democratically, but only to a point. Such qualities are hardly the hallmarks of a failed system.¶ Indeed, those who have been among the most persistent critics of the criminal justice system were among the first to call for its utilization in the aftermath of the September 11th terrorist attacks.372 And since that time, the refrain has often been that acts of terrorism are crimes that should be dealt with in the customary way through enforcement of federal criminal law.373 I recognize that this plea for criminal trials does not constitute an acknowledgment of the system’s perfection, but it does indicate that the system imparts a legitimacy for the deprivation of liberty that other routes of trying suspected terrorists may lack. This is no place to explore the complicated question of whether alleged terrorism is more aptly regarded as a criminal offense or as an act of war. Separation of powers concerns and the need for action to prevent mass casualties make the question an exceptionally complicated one. I note only the irony that many who reject the considerable virtues of the American criminal justice system are at least prepared to look upon it as a preferred solution when the values of liberty and security are in epochal tension.¶ To be sure, there is plenty of room for reform, and all parts of the legal profession should head for the front lines. But let us not forget our system’s virtues as we seek to correct its vices. Otherwise, any legitimate concerns will be lost in the din of diatribe. We have gone too long without a degree of balance or moderation in our assessment of the American criminal justice system. It is time we gave our institutions a fair trial.

### Pragmatism Best

#### The absence of pragmatic proposals that can actually be implemented dooms the alternative to failure --- turns their impacts

Louis Michael Seidman 11, Professor of Constitutional Law at Georgetown, Hyper-Incarceration and Strategies of Disruption: Is There a Way Out, moritzlaw.osu.edu/osjcl/Articles/Volume9\_1/Seidman.pdf

Understanding the problems with ameliorative approaches naturally leads us to ask whether we can do better. Suppose we forsake the goal of modest piecemeal reform and aim instead at radical transformation. Strategies of this sort rest on the supposed fragile and vulnerable character of the ideology that justifies the system. On this view, it may seem that this system is impregnable, but that is only an illusion. The careful and relentless exposure of the hypocrisy, brutality, and injustice at the base of the system can bring it down.¶ These strategies are closely allied to important strands of the critical legal studies movement. Some people allied with the movement (“crits”) believed that the internal contradictions of liberalism could be exploited to such an extent that the system could be revealed for what it is—an empty shell that supports power and privilege only so long as we allow it to do so.54¶ Projects along these lines would, for example, explore the contradictions in mainstream accounts of blameworthiness. Moral condemnation, on this view, amounts to no more than an ideological cover for the exercise of power by some people over others.55 It does not follow, though, that the economic model can simply replace the moral model. It, too, rests on unchallenged assumptions about what, precisely, counts as a “cost” and a “benefit”—about who is benefited and on whom the costs are imposed.56¶ Once we clear away the ideological detritus, we are left with a simple question: Do we really want to live in a decent society? Critical Legal Studies has many strands and many of its adherents had complicated positions. Still, at least in their optimistic moods, many crits thought that, with the freedom provided by deconstruction of constraining structures of thought, people would make the right decision.57¶ I must confess to more than a little attraction to this way of thinking. A fair amount of my own work has been influenced by it. As a serious strategy for producing change, though, it leaves much to be desired. One problem with focusing on micro-processes is that they may be more deeply embedded than some crits supposed. ¶ It is true that as a logical or intellectual matter the justificatory standards that shield the criminal justice system from criticism are quite vulnerable. No one has provided a good answer to the arguments deconstructing free will on the one hand and instrumental rationality on the other, at least as they apply to our practices of criminal punishment. It is nonetheless simply a mistake to suppose that these structures of thought will collapse once they are shown to be incoherent. They reflect ways of living and perceiving, rather than merely intellectual arguments. It will not do to try to dismantle them so as to damage the system they protect; they are impervious to attack precisely because they protect that system.¶ Nor is it obvious that if the structures were somehow dismantled, their collapse would produce a more humane system. The structures serve functions that would have to be served by something else if they disappeared. On the one hand, belief in personal responsibility and the possibility of moral choice is, itself, a determinant of behavior. Without it, there might well be more crime. On the other hand, cost-benefit analysis is a check on wanton and purposeless brutality. Without it, there might well be more punishment. ¶ As Meir Dan-Cohen pointed out years ago, we would be well served if we could maintain “acoustic separation” between the mainstream and target communities.58 We could then inculcate personal responsibility in the target community, thereby reducing crime, while convincing the mainstream community that members of the target community have very constricted choices, thereby reducing punishment. We could convince the target community that it is instrumentally rational to obey the law because of the strong possibility of punishment, while convincing the mainstream community of the instrumental rationality of reducing punishment levels. But nobody has a clue how to maintain such separation or, indeed, how to induce either set of beliefs in the first place. In any event, advocates of radical transformation want to dismantle these false categories altogether, rather than maintaining them for separate communities. ¶ Moreover, even if a frontal assault on justificatory rationales were a more promising strategy, we would still need to give it some specific programmatic content. Ameliorative strategies have their limits and problems, but at least they consist of real proposals that are being, or might actually be, implemented. What kind of program does radical deconstruction entail? ¶ It is not only naïve but also inexcusably solipsistic to suppose that writing law review articles is such a program. Perhaps localized subversion holds out greater promise,59 but there is a remaining vagueness about what this subversion would consist of. In any event, as invigorating and liberating as these individual acts of defiance may be, the chance of their sparking a global change seems quite remote. ¶ A program of large-scale organization of target communities and building bridges based on racial solidarity between those communities and mainstream African Americans seems more promising. But there is no need to rehearse yet again the difficulties of mobilizing dispirited and isolated minority communities, the powerful reasons middle class African Americans have for distancing themselves from those communities, or the panicked opposition among the privileged that such organization produces. Moreover, even in this context, the problem of programmatic content remains. If organizers offer no practical programs at all, they appear unreasonable and utopian. If they offer such programs, they fall back into the amelioration trap. ¶ In any event, as a comfortable, wealthy, white academic, I am afraid that I am not about to start knocking on doors in the inner city. As a personal matter, I nonetheless remain committed to the practice of dismantling justificatory categories, but people like me need to give up on the absurd claim that doing so promises immediate social transformation. The categories deserve attack because they are false and constricting. The people who argue for them deserve censure because they should know better and because their arguments provide a cover for an unjust status quo. Acts of rebellion, whether in law reviews or as localized subversion, are good in themselves. But no one should suppose that these acts will ultimately solve our problems. And, in the meantime, the waste and suffering from hyper-incarceration goes on unabated

### Public Support

#### Abolitionism makes the ideal the enemy of the good --- reduces public support

Keller 19 – the founding editor of the Marshall Project, a nonprofit news organization focused on criminal justice. Prior to that he was a correspondent, editor and op-ed columnist for the New York Times

Bill, 6/12. “Is ‘Abolish Prisons’ the Next Frontier in Criminal Justice?” https://www.bloomberg.com/opinion/articles/2019-06-12/-abolish-prisons-the-next-frontier-in-criminal-justice-reform

To reformists who work in or with the system, the abolitionists can be exasperating — a case of the ideal being the enemy of the good. DeAnna Hoskins, president of JustLeadershipUSA, which mobilizes former prisoners to press for reform, points to the campaign that persuaded New York to close the jail complex on Rikers Island. The plan depends on building smaller, more humane jails in four boroughs to house a much-reduced population of prisoners. Along with the inevitable resistance of prospective new neighbors, the city now faces vocal opposition from abolitionists who object to any new jails on principle.

“That’s just not realistic,” Hoskins said. “We’re not going to close Rikers on Monday and not have any type of detainment.” She added, “When we talk about abolishing prisons and abolishing law enforcement, it’s actually reducing the power and the reach of those entities.”

One of the liveliest abolition debates concerns parole and probation, which get less attention than incarceration but regulate the lives of 4.5 million Americans, twice as many as are confined in prisons and jails. Because a parolee can be returned to prison for a technical infraction such as a missed appointment or a trace of drugs in a urine sample, the parole-to-prison pipeline is a major feeder of mass incarceration.

Vincent Schiraldi, the co-director of the Columbia University Justice Lab, ran the New York City probation department when Michael Bloomberg, the founder and majority owner of Bloomberg LP, was mayor. Schiraldi estimates that the borough of Manhattan alone spends roughly $16 million a year for supervision of ex-offenders.

“If probation didn’t exist, who would spend that $16 million inventing probation?” he asked. “Who would spend that $16 million to hire a bunch of people — with guns and badges and civil service protections — to drive in every day from Queens and Long Island to help those people, who mostly live in Harlem, learn how to live in Harlem?”

Experts have proposed a range of replacements for the supervisory bureaucracy. One option, already practiced in New York City for parolees regarded as less risky, is to replace parole officers with ATM-like kiosks that scan fingerprints. Check in once a month, answer a few questions on a computer screen and get on with your life. Schiraldi’s version of abolition favors a more human approach: outsourcing supervision to organizations that would be paid to help the formerly incarcerated navigate the outside world.

Years ago, when he was running Pennsylvania’s corrections department, the professor Horn offered an even more radical suggestion: give parolees vouchers they can use to buy education, housing, drug treatment or other services and let them decide what help they need to reenter society. These are services the current bureaucracy performs poorly, if at all. Horn concedes that to prepare prisoners for such an independent life would require transforming prisons into prep schools, devoted to graduating people with marketable skills and control of their demons, especially addiction.

Although polling is scarce, it’s a fair bet that “abolition” is not a voter magnet. The electorate may want the system to be less cruel and more rehabilitative, but voters also want a professional answering that 911 call when their kid gets shot — and not a member of neighborhood watch. The bipartisan coalition that has found common ground on criminal justice would be severely strained by such a lurch to the left. The conservative attack ads write themselves.

### Utopian

#### Abolition is a utopian goal that doesn’t meaningfully improve quality of life. Claims that “reform always fails” are rooted in a misconception of the past five decades’ project of counter-reform.

Lancaster, 17 – Professor of anthropology and cultural studies at George Mason University and author of Sex Panic and the Punitive State

Roger, "How to End Mass Incarceration," <https://www.jacobinmag.com/2017/08/mass-incarceration-prison-abolition-policing>

Meanwhile, the Left is divided over how to imagine and advocate for our goals. Prison abolitionism has gathered steam among some activists, although it shows little sign of winning over the wider public. With evangelical zeal, abolitionists insist that we must choose between abolition and reform, while discounting reform as a viable option. The history of the prison system, they say, is a history of reform — and look where that has gotten us. I have tried to show here what’s wrong with this argument. It is remarkably innocent of history. In fact, **the history of reform was interrupted some time around 1973** **and what we have had instead** for the past five decades is a history of counter-reform. **The unconscionable conditions we see today are not inevitable byproducts of the prison**; they are the results of the punitive turn. Abolitionists base their approach on an analogy between the prison system and chattel slavery. This is a strained analogy at best, and it only appears convincing in light of the oversized and [unusually cruel](https://www.amazon.com/Unusually-Cruel-Punishment-American-Exceptionalism/dp/0190659343/) American penal system. Slavery was an institution for the extraction of unfree labor over a person’s (and his or her children’s) lifetime; the prison is an institution that imposes unfreedom for a set period of time as punishment for serious infractions — historically with the express bargain that at least theoretically the lawbreaker was to be improved and reintegrated into society. The better analogy might be with other disciplinary institutions, which also to varying degrees curb freedoms in the name of personal and social good: the school, the hospital, the psychiatric institution. Abolitionists usually respond to the obvious criticism — “but every country has prisons” — by citing Angela Davis’s polemical work, [Are Prisons Obsolete?](https://www.feministes-radicales.org/wp-content/uploads/2010/11/Angela-Davis-Are_Prisons_Obsolete.pdf) Slavery, too, was once universal, they point out; it required the abolitionists’ utopian vision to put an end to that unjust institution. But this, too, misstates history. By the time American abolitionism got fully underway in the 1830s, much of Europe and parts of Latin American had already partially or wholly abolished slavery. The Haitian Revolution had dealt the institution a major blow, and slavery was imploding in parts of the Caribbean. A world without slavery was scarcely unthinkable. The same cannot be said of prisons: all signs suggest that the public — and not only in the United States — believes that prisons are legitimate. Abolitionist arguments usually gesture at restorative justice, imagining that some sorts of community institutions will oversee non-penal forms of restitution. But here, we are very far out on a limb. Such models might more or less work in small-scale, face-to-face indigenous or religious communities. But, in modern cities, it is implausible to think that families, kinship networks, neighborhood organizations, and the like can adjudicate reconciliation in a fair, consistent manner. In short, **abolitionism promises a** heaven-on-earth that will never come to pass. What we really need to do is fight for measures that have already proven humane, effective, and consistent **with social and criminal justice**. Consider Finland. In the 1950s, it had high crime rates and a punitive penal system with high incarceration rates and terrible prison conditions. In these regards Finland then was much like the United States today. After decades of humanitarian and social-democratic reforms, the country now has less than one-tenth the rate of incarceration as the United States. Its prisons resemble dormitories with high-quality health care, counseling services, and educational opportunities. Not coincidentally, **its prison system does not breed anger, resentment, and recidivism**. [Finland’s system](http://epublications.marquette.edu/cgi/viewcontent.cgi?article=1057&context=socs_fac) aligns with that of other [Nordic](https://www.theatlantic.com/international/archive/2013/09/why-scandinavian-prisons-are-superior/279949/) and [Northern European](https://www.nytimes.com/2015/08/07/opinion/what-we-learned-from-german-prisons.html?_r=0) nations, **all of whom remained** continuously on the path of reform. There, small-scale penal institutions are insulated from public opinion, with its periodic rages against lawbreakers, and prioritize genuine criminological expertise. **They have expressly rehabilitative aims**, **working** not only to punish but also to repair the person and restore him to society. Penalties top out at around twenty years, consistent with the finding that longer sentences have neither a rehabilitative nor a deterring effect. Many Scandinavian prisons have no walls and allow prisoners to leave during the day for jobs or shopping. Bedrooms have windows, not bars. Kitchens and common areas resemble Ikea displays. Rather than call for the complete abolition of prisons — a policy unlikely to win broad public support — the American left should fight to introduce these conditions into our penal system. We should strive not for pie-in-the-sky imaginings but for working models already achieved in Scandinavian and other social democracies. We should demand dramatically better prison conditions, the release of nonviolent first offenders under other forms of supervision, [discretionary parole for violent offenders](https://www.nytimes.com/2017/08/08/opinion/violent-offender-parole-sentencing-reform.html) who provide evidence of rehabilitation, decriminalization of simple drug possession, and a broad revision of sentencing laws. Such demands would attract support from a number of prominent social movements, creating a strong base from which we can begin to build a stronger, universal safety net.

## K is Not a Prior Question

**Consequences must be evaluated --- insistence on ‘principle’ as end-in-itself ensures that the alternative fails**

**Bracey 6** – Associate Professor of Law, Associate Professor of African & African American Studies, Washington University in St. Louis

Christopher A., September, Southern California Law Review, 79 S. Cal. L. Rev. 1231, p. 1318

Second, reducing conversation on race matters to an ideological contest allows opponents to **elide inquiry into whether the results of a particular** preference **policy are desirable**. Policy positions masquerading as principled ideological stances create the impression that a racial policy is not simply a choice among available alternatives, but the embodiment of some higher moral principle. Thus, the "principle" becomes an end in itself, without reference to outcomes. Consider the prevailing view of colorblindness in constitutional discourse. Colorblindness has come to be understood as the embodiment of what is morally just, independent of its actual effect upon the lives of racial minorities. This explains Justice Thomas's belief in the "moral and constitutional equivalence" between Jim Crow laws and race preferences, and his tragic assertion that "Government cannot make us equal [but] can only recognize, respect, and protect us as equal before the law." [281](http://web.lexis-nexis.com/universe/document?_m=cd9713b340d60abd42c2b34c36d8ef95&_docnum=9&wchp=dGLbVzz-zSkVA&_md5=9645fa92f5740655bdc1c9ae7c82b328#n281) For Thomas, there is no meaningful difference between laws designed to entrench racial subordination and those designed to alleviate conditions of oppression. Critics may point out that colorblindness in practice has the effect of entrenching existing racial disparities in health, wealth, and society. But in framing the debate in purely ideological terms, opponents are able to avoid the contentious issue of outcomes and make viability determinations based exclusively on whether racially progressive measures exude fidelity to the ideological principle of colorblindness. Meaningful policy debate is replaced by ideological exchange, which further exacerbates hostilities and deepens the cycle of resentment.

**Pragmatic arguments and targeted reforms are vital to generate broader support – progress is possible**

**Cole, 11** – Professor at Georgetown University Law Center

David, “Turning the Corner on Mass Incarceration?,” 9 Ohio St. J. Crim. L. 27-51. Lexis.

The tragedy of the United States’ forty-year incarceration epidemic remains very much with us. No country on earth incarcerates more people, or at a higher rate per capita. And while that strategy has imposed unnecessary costs on us all, the burden has been disproportionately borne by African American and Latino men. But that is old news. The new news is that after forty years of increasing incarceration and widening racial disparities, **the trend lines appear to be shifting**. In recent years, the incarceration rate has dropped, as has the total number of persons incarcerated in state prisons. And racial disparities are also falling. Legislatures that were once obsessed with enacting mandatory minimums and increasing the severity of criminal sentences are now eliminating mandatory minimums, reducing criminal penalties, and directing new resources to alternatives to incarceration and reentry. The politics of crime, at least for the moment, appears to have changed. It is less captured by demagoguery and more susceptible to **arguments about costs and benefits**. These developments should not be overstated. The changes have as yet been only marginal, offering little challenge to the United States’ dubious distinction of being the world leader in incarceration rates. Moreover, the criminal justice system, at every stage, still disproportionately targets minority groups. But the change in direction is nonetheless good, and surprising, news. The story has been otherwise for two solid generations. Might we be in the midst of a new story line, a new strategy, a new criminal justice policy? It is too early to tell, of course. But it is not too early to recognize the changes, to ask what may have prompted them, and to **think about strategies for facilitating further positive change**. We ought to build on what has worked and push for change that might create further improvements. While what must be done is relatively clear—reduce criminal sentences, **reduce reliance on criminal penalties for illicit drugs**, increase resources for alternatives to incarceration, and invest in communities that are most vulnerable to crime—it is less clear how we **persuade the public** that these measures are worth it. **Pragmatic arguments** about cost savings need to be paired with **moral appeals** to America’s commitment to equality. But most importantly, we must bridge the empathy gap between the public at large and the incarcerated population. If Americans were to come to view those behind bars as part of our community, indeed our family, mass incarceration would no longer be tolerated.

## Perm Evidence

#### Short-term, material reforms are necessary and can be connected to the long-term aims of abolition

Meiners, 11 – professor of gender and women's studies and education at Northeastern Illinois University

Erica R., “Ending the School-to-Prison Pipeline/Building Abolition Futures.” The Urban Review volume 43, Article number: 547 (2011). https://link.springer.com/article/10.1007/s11256-011-0187-9

As is the case with many pressing justice issues—healthcare, housing, food—resisting on the carceral state requires that organizers and scholars practice the “both/and”: social service and social change. Services are desperately needed for young people who are locked up, and yet equally important are structural and paradigmatic shifts that alter the contexts that produce such high levels of incarceration in the U.S. I frame this tension between the need to provide services and the need to make structural reforms as a reform/abolition tension. Or, short-term reforms are needed to address the real conditions and real needs of actual people caught up in the system, but this is not enough. Many, as Angela Davis writes, are raising the question of abolition (Are prisons obsolete? 2003). Critical Resistance, a national anti-prison organization, defines prison abolition as “the creation of genuinely safe, healthy communities that respond to harm without relying on prisons and punishment” (Critical Resistance, n.d.). Prison abolition doesn’t mean that there will be no violence. Rather, it acknowledges that prisons are not a just, efficient or moral solution to the problems that shape violence in our communities. As we have reduced or eliminated social assistance programs, and criminalized the options that poor people possess to cope with untenable situations, the majority of those in prisons and jails are poor people. In Illinois in 2002, 90% of women caught up in the system were locked up for non-violent crimes, largely related to poverty and addiction (Clark and Kane-Willis 2006, p. 4). As California (CA) State Senator Gloria Romero stated (CA is the state with the world’s two largest prisons for women) “California can’t build [more prisons as] its way out of this problem” (Romero, as cited by Braz 2006, p. 87). While abolition is not a utopian dream but a necessity, simultaneously reform work is required because there are real bodies in need of immediate resources. For example, in schools students are under or over diagnosed with a “behavior disorder,” there are grotesque disproportionalities in who gets suspended and expelled, and police presence in select urban schools has been naturalized. As longtime feminist anti-prison activist and scholar Karlene Faith writes, this requires those invested in change to negotiate reform and structural change work: Every reform raises the question of whether, in Gramsci’s terms, it is a revolutionary reform, one that has liberatory potential to challenge the status quo, or a reform reform, which may ease the problem temporarily or superficially, but reinforces the status quo by validating the system though the process of improving it. (Faith 2002, p. 165) Faith reminds us of the necessity of doing the “both/and” where everyday local work may involve engaging reforms, but it is also useful to place, understand and connect these reforms to a larger movement. Or, if we are keeping our eyes on the prize, what is the prize? Liberation and justice for all, including the young people in juvenile detention centers, or cleaner prisons that have better due process? Better school suspension and expulsion policies that just remove the “right” bad kids from schools, or communities and school systems that do not prioritize identifying and punishing “bad” kids?

#### Reform and abolition are compatible --- you can ascribe to the goal of abolition but work for reform in the interim

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Nathan, "CAN PRISON ABOLITION EVER BE PRAGMATIC?," <https://www.currentaffairs.org/2017/08/can-prison-abolition-ever-be-pragmatic>

**Prison abolition and prison reform can** actually be reconciled fairly easily. The ultimate goal is prison abolition, because in a world without hatred and violence there would be no need for prisons, and the goal is a world without hatred and violence. In the interim, **prisons must be made better and more humane**. It’s not that you should, in the world we live in now, **open the prison gates and give murderers probation**. It’s that you should always remember that even if you think prison is a necessary evil, that still makes it evil, and evil things should ultimately be gotten rid of, whatever their short-term necessity. You can be both pragmatic and utopian at the same time**.** One should always adopt the “utopian” position, because it helps affirm what our ideal is and serves as a guiding star. But you can simultaneously operate with the real-world political constraints you have. As Angela Davis says, “the call for prison abolition urges us to imagine and strive for a very different social landscape.” It’s useful because it gets us thinking about big questions, picturing what very different worlds might be like and then beginning to plot how we might get from here to there.

#### Concrete policy reforms can embrace broader critique --- this is the most effective route to the redistribution of power

Levin 18 – Associate Professor, University of Colorado Law School

Benjamin, "The Consensus Myth in Criminal Justice Reform," Michigan Law Review 117, no. 2 (November 2018): 259-318. HeinOnline.

To be clear, though, this Article is meant to be neither a call for ideologi-cal purity nor a critique of incrementalism. To that end, the over/mass dis-tinction is not intended to be a stand-in (or disguise) for the incremental/ radical distinction. Indeed, while the mass critique is fundamentally radi- cal and sweeping, that does not mean that the critique is incompatible with pragmatism or incremental reforms. Existing mass critiques—both inside and outside of the academy-often do include concrete steps or policy solu-tions designed to redistribute political, social, and economic power. 299 Putting aside, for a moment, a range of over-style policy solutions that would address mass concerns (e.g., drug decriminalization; ending mandato- ry minimum sentencing), it is important to recognize that many of the most vital criminal justice reform efforts on the ground reflect a mass approach. For example, consider the movements to end cash bail and the push to re- duce fines and fees in the criminal system. In recent years, scholars and activists have focused on the problem of cash bail: people who cannot afford bail must languish in jail as they await trial or resolution of their case. 301 The movement to address cash bail gained steam following the suicide of Kalief Browder, a young man who spent three years incarcerated at Riker's Island awaiting trial for allegedly stealing a backpack.302 The over response to the problem focuses on whether the right people are being detained (i.e., courts should use algorithms to determine if a given defendant poses a societal danger); if so, she should remain in custody pretrial.3 °3 That response addresses over concerns (i.e., more people are be- ing detained than necessary). That said, mass responses reflecting different concerns and priorities have attracted significant attention and backing. Perhaps most notable has been the rise of the community bail fund-a fund established by community members to pay bail for people awaiting trial.30 4 The idea being that the court is detaining defendants in the name of the community, but the community does not believe that the court represents its voice(s).30 5 This mass approach to the problem does not focus on optimizing detention; rather, its goal is to resituate power and voice in the criminal sys- tem.306 By providing bail money to defendants, community members are able to override official decisions that might have disparate impacts or that might not accurately reflect popular will.307 As a part of a broader political project of community empowerment and a less punitive criminal system, the bail fund represents an incremental solution. Relatedly, media coverage has helped shed light on the problem of fines and fees in the criminal system, and a range of scholars and activists have taken up the cause.3"8 Like the cash bail issue, this is a problem deeply rooted in issues of economic and racial justice. Poor arrestees and defendants of- ten wind up deep in debt, rearrested, or incarcerated because they are unable to pay fines or fees that courts and police departments impose. The cri-tique of this practice is fundamentally a mass one, rather than an over one: the issue is not that the fines should be lower, that the wrong class of defend- ants is being fined, or even that the fines or fees are sometimes levied against people who have not been convicted. Rather, the concern is that the criminal system is driving people further into poverty and helping to drive a cycle in which people remain court-involved after their case is resolved. In some cas- es, the state and law enforcement entities are enriching themselves on the backs of poor and marginalized defendants. This line of criticism and law reform, then, explicitly confronts the place of the criminal system as a driver of inequality and as inextricably linked to distributive justice. A growing body of scholarship addresses these issues, and advocates are working to end these practices via impact litigation and legislative activism.311 While these are only two examples, they both demonstrate the capacity of mass critiques to translate into on-the-ground legal and policy solutions. That is, while the critique itself may be sweeping and less appealing as a way to frame legal or policy arguments, it is important to recognize that the mass critique can yield mass reform movements and interventions that are prag-matic and incremental in scope.312 It might be that these movements find support among some critics adopting an over frame, just as it may well be that mass critiques support over-inflected solutions. But recognizing the dif- ferent motivations, priorities, frames, and goals should be an important component of our understanding of the criminal justice reform movement as a collection of-at times complementary, and at times contradictory- movements. CONCLUSION In his powerful account of race and criminal justice in Washington, D.C., Forman argues that mass incarceration is the product of "a series of small decisions, made over time, by a disparate group of actors."313 There-fore, “mass incarceration will likely have to be undone in the same way.”314 I gree with Forman that fixing the criminal system will require many differ- ent decisions, interventions, and solutions. Indeed, as in many contexts, the perfect may be the enemy of the good, and recognizing the promises of a range of criminal justice reforms and reformers is and will be critical to the movement's success. But, in order to reform a system, we need to know what is wrong with it, and what "reform" means. Ultimately, this Article argues that the literature on criminal justice reform reflects two distinct ways of un- derstanding the system and its flaws. While cooperation and compromise will be essential to addressing the broken and unjust system, glossing over disagreement and nuance risks losing the power of the critiques that got us to this moment of possibility in the first place.

#### The perm can be a concrete expression of a more systemic critique --- this dialectical interaction enables revolutionary transformation

Ben Wray 14, International Socialist Group, The case for revolutionary reforms, http://internationalsocialist.org.uk/index.php/2014/04/the-case-for-revolutionary-reforms/

We need revolutionary change. There’s no two ways about it – if the exploitation of labour by capital continues to be the central dynamic driving economic development, we are headed for human and environmental catastrophe.¶ But as I’ve discussed in the previous five parts of this series, getting from where we are to a revolutionary transformation that overthrows the dominant property relations of the capitalist economy and replaces them with social relations based on democratic control of the world’s resources is not as simple as declaring our desire for it to be so. I saw a petition on change.org the other day proposing the overthrow of capitalism. If one million people signed that petition and one million people signed a further petition to introduce full collective bargaining rights for trade-unions in the UK, which one would move us closer to the overthrow of capitalism? I wager the latter.¶ Whilst having an end goal in sight is important, most people don’t change their thinking about the world based on bold visions of what could be done at some point in the future: they change their ideas based on evidence from their material lives which points to the inadequacy or irrationality of the status quo. In other words, we need to have ideas that build upon people’s lived experience of capitalism, and since that it is within the framework of a representative democracy system, we need ideas based around proposals for reforms. At the same time those reforms have to help rather than hinder a move to more revolutionary transformation that challenges the very core of the capitalist system.¶ The dialectic of reform and revolution¶ What we need, therefore, is a strategy of revolutionary reforms. Such a notion would appear as a contradiction in terms to many who identify as reformists or revolutionaries and see the two as dichotomous, but there is no reason why this should be the case. Indeed, history has shown that revolutionary transformations have always happened as a dialectical interaction between rapid, revolutionary movements and more institutional, reform-based challenges. Even the revolutionary part of that dialectic has always been motivated by the immediate needs of the participants involved – ‘land, bread and peace’ being the first half of the slogan of the Russian Revolution.¶ What does a strategy of ‘revolutionary reforms’ entail? Ed Rooksby explains that it is a political strategy that builds towards revolutionary change by using reforms to ‘push up against the limits’ of the ‘logic of capitalism’ in practice:¶ “At first these “feasible objectives” will be limited to reforms within capitalism—or at least to measures which, from the standpoint of a more or less reformist working class consciousness, appear to be legitimate and achievable within the system, but which may actually run counter to the logic of capitalism and start to push up against its limits. As the working class engages in struggle, however, the anti-capitalist implications of its needs and aspirations are gradually revealed. At the same time, through its experience of struggle for reform, the working class learns about its capacity for “self-management, initiative and collective decision” and can have a “foretaste of what emancipation means”. In this way struggle for reform helps prepare the class psychologically, ideologically and materially for revolution.” The late Daniel Bensaid expressed this argument through the lens of the history of the socialist movement:¶ “In reality all sides in the controversy agree on the fundamental points inspired by The Coming Catastrophe (Lenin’s pamphlet of the summer of 1917) and the Transitional Programme of the Fourth International (inspired by Trotsky in 1937): the need for transitional demands, the politics of alliances (the united front), the logic of hegemony and on the dialectic (not antinomy) between reform and revolution. We are therefore against the idea of separating an (‘anti-neoliberal’) minimum programme and an (anti-capitalist) ‘maximum’ programme. We remain convinced that a consistent anti-neoliberalism leads to anti-capitalism and that the two are interlinked by the dynamic of struggle.”¶ So revolutionary reforms means a policy agenda that, as Alberto Toscano has put it, “at one and the same time make concrete gains within capitalism which permits further movement against capitalism”. The Italian marxist Antonio Gramsci described this approach as a ‘war of positon’.

### Non-Reformist Reform

#### The perm is an example of non-reformist reform that treats the symptoms of carceral harm in the creation of building blocks for future abolition

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Dorothy E., Abolition Constitutionalism, 133 Harv. L. Rev. 1 (2019). HeinOnline.

Abolition constitutionalism could support many of the nonreformist reforms in which prison abolitionists and other activists are already en- gaged, including efforts to stop prison expansion by opposing prison construction or shutting down prisons that already exist;716 end police stop-and-frisk practices;"7 eliminate the requirement of money bail to release people charged with crimes;71 repeal harsh mandatory minimums, even for violent crimes;7 19 give amnesty to individual pris- oners, including political prisoners and prisoners believed to have killed in self-defense;7 20 and decriminalize drug use and possession and other nonviolent conduct.721 To the extent that such practices perpetuate slav-ery in violation of the Thirteenth Amendment, Congress, state legislatures, and city assemblies, as well as courts, are empowered by the Federal Constitution722 and state constitutions723 to enact these non- reformist reforms. Prison abolitionists have also organized to hold police and other law enforcement agents accountable for violence and rights violations. One of their major victories is the Reparations Ordinance, passed by the Chicago City Council on May 6, 2015.724 The ordinance was a long- delayed response to the Chicago Police Department's systematic inflic- tion of torture and other forms of violence against African American suspects under the command of Jon Burge. After decades of agita- tion, the activists won a package of measures, including monetary compensation for the living survivors, tuition-free education at the City 76 Colleges for survivors and their families, and a public memorial. 2 Mariame Kaba calls the Reparations Ordinance "an abolitionist docu- ment" because it "did not rely on the court, prison, and punishment '7 7 system[s] to try to envision a more expansive view of justice. 2 The activists deliberately refused to seek criminal prosecution of the officers 728 involved or civil damages against the City of Chicago. Instead, they pressured the City Council to redress their claims through a radically democratic process, led by survivors and grassroots organizers and oc- curring outside formal legal institutions, that included street protest, partnership with international human rights organizations, and media 7 29 education. 3. Treating the Symptoms While Ending the Disease. – While complete prison eradication is the ultimate goal of the abolitionist pro- ject, before that aim comes to fruition abolitionists might consider invok- ing the Constitution instrumentally to mitigate the harms inflicted by carceral punishment. As law student, activist, and former prisoner Angel Sanchez puts it, abolitionists must treat prison like a "social cancer: we should fight to eradicate it but never stop treating those affected '73 by it. The Thirteenth Amendment could facilitate a number of nonreformist reforms. For example, abolitionists might consider taking up the constitutional arguments put forth by numerous scholars who have posited that the Thirteenth Amendment prohibits exploita-tive treatment of incarcerated people. 31 Legal scholars have also made strong constitutional arguments against the shackling of incarcer- ated people during labor and delivery732 and against solitary confinement.7 33 Efforts to end the collateral consequences of incarcera- tion, such as restrictions on voting rights, exclusion from public housing and other government benefits, and imposition of monetary sanctions, can also find support in the Thirteenth Amendment's abolition of slavery.7 34 Professor William Carter lays out a framework for defining modern badges and incidents of slavery that looks to "the connection the group to which the plaintiff belongs or that Congress seeks to protect has to the institution of chattel slavery" and "the connection the chattel slavery.1 5 Thus, when numerous “racialized policies,” including those inflicted as a result of a criminal conviction, create "a permanent caste distinction of... magnitude and impermeability... [they] amount to a badge or incident of slavery.17 36 Systematic exclusion of former prisoners from labor and housing markets,7 37 for example, deprives them of full rights of citizenship, amounting to an incident of slavery.7 3 Notably, Congress has the authority to pass legislation under the Thirteenth Amendment to end practices that were instituted after the Civil War to reinstall white supremacy, such as monetary sanctions, forced prison labor, and felon disenfranchisement.739 4. Creatingthe Conditions for a Society Without Prisons.- Finally, prison abolitionists are dedicated to working within carceral society to "build models today that can represent how we want to live in the fu- ture" and to start creating a radically different society where prisons are unimaginable.14 We can use constitutional support to demand the building blocks needed for this construction project - for example, legislation that transfers funds currently devoted to carceral systems, such as police, prisons, detention centers, and foster care, to community- based efforts to meet people's needs and resolve social conflicts nonvio- lently. Alexander Lee, founder and director of the Transgender, Gender Variant & Intersex Justice Project, argues that prison abolitionists will have to form "prickly coalitions" with people outside the movement who are engaged in providing "housing, healthcare, and other essentials [that] are the basis from which a world without prisons will be made possible.17 4 1 Such coalitions that help to build a new society can be guided by abolitionist constitutional principles and requirements.42

#### Non-reformist reform is pragmatic radicalism consistent with abolitionism --- connects specific reforms to transformative political possibilities

Berger et al. 17 – associate professor of comparative ethnic studies at the University of Washington at Bothell and the author of Captive Nation: Black Prison Organizing in the Civil Rights Era

Dan, with Mariame Kaba and David Stein, 8/24. “What Abolitionists Do.” https://www.jacobinmag.com/2017/08/prison-abolition-reform-mass-incarceration

Lancaster claims that “with evangelical zeal, abolitionists insist that we must choose between abolition and reform, while discounting reform as a viable option.” While one could find “evangelical zeal” among any political movement, it is inaccurate to cast abolitionists as opposed to incremental change. Rather, abolitionists have insisted on reforms that reduce rather than strengthen the scale and scope of policing, imprisonment, and surveillance. As Lancaster well knows, the history of the American carceral state is one in which reforms have often grown the state’s capacity to punish: reforms of indeterminate sentencing led to mandatory minimums, the death penalty to life without parole, sexual violence against gender-nonconforming people gave rise to “gender-responsive” prisons. Instead of pushing to adopt the Finnish model of incarceration — itself a far-fetched enterprise — abolitionists have engaged these contradictions by pursuing reforms that shrink the state’s capacity for violence. Abolitionist groups have often led fights for better conditions, connecting them to more transformative political possibilities. And the pragmatic radicalism of abolitionists has won tangible victories. Starting in 1999, activists with California Prison Moratorium Project and Critical Resistance fought the further growth of the system. While California built and filled twenty-three new prisons between 1983 and 1999, the state has opened only two institutions since (one of them a prison hospital). As the state has shifted tack to emphasize jail construction — partly in response to this organizing — abolitionists have turned their focus to the county level as well. Similar examples of abolitionist-led fights against expanding prison and jail capacity can be found in New York, Pennsylvania, Texas, Washington, and other states around the country. In Chicago, abolitionists spearheaded a successful campaign to oust a punitive district attorney, while in Philadelphia they were central to a progressive civil rights attorney winning the district attorney primary in a landslide victory. For more than thirty years, abolitionists have been at the forefront of the very campaigns and coalitions that Lancaster suggests the Left should be fighting for instead of abolition: parole for those convicted of violent offenses, decriminalization of drug use, sentencing reductions, better conditions for imprisoned people, an end to mass surveillance, and fewer people in prison.

#### Non-reformist reform involves important steps toward challenging the logic of incarceration while developing practical strategies that erode public support for mass incarceration --- this avoids the pitfalls of cooption

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Julia, “Rethinking Global Justice: Black Women Resist the Transnational Prison-Industrial Complex.” Souls: A Critical Journal of Black Politics, Culture, and Society, Volume 10, Issue 4. Taylor & Francis.

Chronic overcrowding has led to worsening conditions for prisoners. As a result of the unprecedented growth in sentenced populations, prison authorities have packed three or four prisoners into cells designed for two, and have taken over recreation rooms, gyms, and rooms designed for programming and turned them into cells, housing prisoners on bunk beds or on the floor. These new conditions have created challenges for activists, who have found themselves expending time and resources in pressuring prison authorities to provide every prisoner a bed, or to provide access to basic education programs. As prison populations continue to swell, anti-prison activists are faced with the limitations of reformist strategies. Gains temporarily won are swiftly undermined, new “women-centered” prison regimes are replaced with a focus on cost-efficiency and minimal programming and even changes enforced by legal cases like Shumate vs. Wilson are subject to backlash and resistance. 19 Of even greater concern is the well-documented tendency of prison regimes to co-opt reforms and respond to demands for changes in conditions by further expanding prison budgets. The vulnerability of prison reform efforts to cooption has led Angela Y. Davis to call for “non-reformist reforms,” reforms that do not lead to bigger and “better” prisons. 20 Despite the limited long-term impact of human rights advocacy and reforms, building bridges between prisoners, activists, and family members is an important step toward challenging the racialized dehumanization that undergirds the logic of incarceration. In this way, human rights advocacy carried out in solidarity with prisoner activists is an important component of a radical anti-prison agenda. Ultimately, however, anti-prison activists aim not to create more humane, culturally sensitive, women-centered prisons, but to dismantle prisons and enable formerly criminalized people to access services and resources outside the penal system. The New Civil Rights Movement: Challenging Post-Incarceration Sentences After three decades of prison expansion, more and more people are living with criminal convictions and histories of incarceration. In the U.S., nearly 650,000 people are released from state and federal prisons to the community each year. 21 Organizations of formerly incarcerated people focus on creating opportunities for former prisoners to survive after release, and on eliminating barriers to reentry, including extensive discrimination against former felons. The wide array of “post-incarceration sentences” that felons are subjected to has led activists to declare a “new civil rights movement.” 22 As a class, former prisoners can legally be disenfranchised and denied rights available to other citizens. While reentry has garnered official attention, with President Bush proposing a $300 million reentry initiative in his 2004 State of the Union address, anti-prison activists have critiqued this initiative for focusing on faith-based mentoring, job training, and housing without addressing the endemic discrimination against former prisoners or addressing the conditions in the communities which receive former prisoners, including racism, poverty, and gender violence. Organizations of ex-prisoners working to oppose discrimination against former prisoners and felons include All of Us Or None, the Nu Policy Leadership Group, Sister Outsider and the National Network for Women Prisoners in the U.S., and Justice 4 Women in Canada. All of Us Or None is described by members as “a national organizing initiative of prisoners, former prisoners and felons, to combat the many forms of discrimination that we face as the result of felony convictions.” 23 Founded by anti-imperialist and former political prisoner Linda Evans, and former prisoner and anti-prison activist Dorsey Nunn, and sponsored by the Northern California–based Legal Services for Prisoners with Children, All of Us Or None works to mobilize former prisoners nationwide and in Toronto, Canada. The organization's name, from a poem by Marxist playwright Bertold Brecht, invokes the need for solidarity across racial, class, and gender lines in creating a unified movement of former prisoners. Black women play a leading role in the organization, alongside other people of color. All of Us Or None focuses its lobbying and campaign work at city, county, and state levels, calling on local authorities to end discrimination based on felony convictions in public housing, benefits, and employment, to opt out of lifetime welfare and food stamp bans for felons, and to “ban the box” requiring disclosure of past convictions on applications for public employment. In addition, the organization calls for guaranteed housing, job training, drug and alcohol treatment, and public assistance for all newly released prisoners. 24 In the context of the war on drugs, many people with felony convictions also struggle with addictions. The recovery movement, which is made up of 12-step programs, treatment programs, community recovery centers, and indigenous healing programs run by and for people in recovery from addiction, offers an alternative response to problem drug use through programs focusing on spirituality, healing, and fellowship. However, the recovery movement's focus on individual transformation and accountability for past acts diverges from many anti-prison activists' focus on the harms done to criminalized communities by interlocking systems of dominance. As a result, anti-prison spaces seldom engage with the recovery movement, or tap the radical potential of its membership. Breaking with this trend, All of Us Or None has initiated a grassroots organizing effort to reach out to people in 12-step programs with felony convictions. This work is part of their wider organizing efforts that aim to mobilize former prisoners as agents of social change. Building on the strengths of identity politics, these organizations suggest that those who have experienced the prison-industrial complex first-hand may be best placed to provide leadership in dismantling it. As former prisoners have taken on a wide range of leadership positions across the movement, there has been a shift away from leadership by white middle-class progressives, and a move to promote the voices of those directly affected by the prison-industrial complex. Shrinking the System: Decarceration Politicians who promote punitive “tough-on-crime” policies rely on racialized controlling images of “the criminal” to inspire fear and induce compliance among voters. Once dehumanized and depicted as dangerous and beyond rehabilitation, removing people from communities appears the only logical means of creating safety. Activists who pursue decarceration challenge stereotypical images of the “criminal” by making visible the human stories of prisoners, with the goal of demonstrating the inadequacy of incarceration as a response to the complex interaction of factors that produce harmful acts. Decarceration usually involves targeting a specific prison population that the public sees as low-risk and arguing for an end to the use of imprisonment for this population. Decarcerative strategies often involve the promotion of alternatives to incarceration that are less expensive and more effective than prison and jail. For example, Proposition 36, the Substance Abuse and Crime Prevention Act, which passed in California in 2000 and allowed first- and second-time non-violent drug offenders charged with possession to receive substance abuse treatment instead of prison, channels approximately 35,000 people into treatment annually. 25 Drug law reform is a key area of decarcerative work. Organizations and campaigns that promote drug law reform include Drop the Rock, a coalition of youth, former prisoners, criminal justice reformers, artists, civil and labor leaders working to repeal New York's Rockefeller Drug Laws. The campaign combines racial justice, economic, and public safety arguments by demonstrating that the laws have created a pipeline of prisoners of color from New York City to newly built prisons in rural, mainly white areas represented Republican senators, resulting in a transfer of funding and electoral influence from communities of color to upstate rural communities. 26 Ultimately, the campaign calls for an end to mandatory minimum sentencing and the reinstatement of judges' sentencing discretion, a reduction in sentence lengths for drug-related offenses and the expansion of alternatives, including drug treatment, job training, and education. Former drug war prisoners play a leadership role in decarcerative efforts in the field of drug policy reform. Kemba Smith, an African–American woman who was sentenced to serve 24.5 years as a result of her relationship with an abusive partner who was involved in the drug industry, is one potent voice in opposition to the war on drugs. While she was incarcerated, Smith became an active advocate for herself and other victims of the war on drugs, securing interviews and feature articles in national media. Ultimately, Smith's case came to represent the failure of mandatory minimums, and in 2000, following a nation-wide campaign, she and fellow drug war prisoner Dorothy Gaines were granted clemency by outgoing President Clinton. After her release, Smith founded the Justice for People of Color Project (JPCP), which aims to empower young people of color to participate in drug policy reform and to promote a reallocation of public expenditures from incarceration to education. While women like Kemba Smith and Dorothy Gaines have become the human face of the drug war, prison invisibilizes and renders anonymous hundreds of thousands of drug war prisoners. The organization Families Against Mandatory Minimums (FAMM) challenges this process of erasure and dehumanization through its “Faces of FAMM” project. The project invites people in federal and state prisons serving mandatory minimum sentences to submit their cases to a database and provides online access to their stories and photographs. 27 The “Faces of FAMM” project highlights cases where sentencing injustices are particularly visible in order to galvanize public support for sentencing reform. At the same time, it dismantles popular representations of the war on drugs as a necessary protection against dangerous drug dealers and traffickers, demonstrating that most drug war prisoners are serving long sentences for low-level, non-violent drug-related activities or for being intimately connected to someone involved in these activities. Decarcerative work is not limited to drug law reform. Free Battered Women's (FBW) campaign for the release of incarcerated survivors is another example of decarcerative work. The organization supports women and transgender prisoners incarcerated for killing or assaulting an abuser in challenging their convictions by demonstrating that they acted in self-defense. Most recently, FBW secured the release of Flozelle Woodmore, an African–American woman serving a life sentence at CCWF for shooting her violent partner as an 18 year old. Released in August 2007, after five parole board recommendations for her release were rejected by Governors Davis and then Schwarzenegger, Woodmore's determined pursuit of justice made visible and ultimately challenged the racialized politics of gubernatorial parole releases. 28 While the number of women imprisoned for killing or assaulting an abuser is small—FBW submitted 34 petitions for clemency at its inception in 1991, and continues to fight 23 cases—FBW's campaign for the release of all incarcerated survivors challenges the mass incarceration of gender-oppressed prisoners on a far larger scale. FBW argues that experiences of intimate partner violence and abuse contribute to the criminalized activities that lead many women and transgender people into conflict with the law, including those imprisoned on drug or property charges, and calls for the release of all incarcerated survivors. Starting with a population generally viewed with sympathy—survivors of intimate partner violence—FBW generates a radical critique of both state and interpersonal violence, arguing that “the violence and control used by the state against people in prison mirrors the dynamics of battering that many incarcerated survivors have experienced in their intimate relationships and/or as children.” 29 In theorizing the intersections of racialized state violence and gendered interpersonal violence, FBW lays the groundwork for a broader abolitionist agenda that refutes the legitimacy of incarceration as a response to deep-rooted social inequalities based on interlocking systems of oppression. By gradually shrinking the prison system, Black women activists involved in decarcerative work hope to erode the public's reliance on the idea of imprisonment as a commonsense response to a wide range of social ills. At the other end of anti-expansionist work are activists who take a more confrontational approach. By starving correctional budgets of funds to continue building more prisons and jails, they hope to force politicians to embrace less expensive and more effective alternatives to incarceration. No More Prisons: Moratorium Prison moratorium organizing aims to stop construction of new prisons and jails. Unlike campaigns against prison privatization, which oppose prison-profiteering by private corporations, and seek to return imprisonment to the public sector, prison moratorium work opposes all new prison construction, public or private. In New York, the Brooklyn-based Prison Moratorium Project (PMP), co-founded by former prisoner Eddie Ellis and led by young women and gender non-conforming people of color, does this work through popular education and mass campaigns against prison expansion. Focusing on youth as a force for social change, New York's PMP uses compilations of progressive hip hop and rap artists to spread a critical analysis of the prison-industrial complex and its impact on people of color. PMP's strategies have been effective; for example, in 2002 the organization, as part of the Justice 4 Youth Coalition, succeeded in lobbying the New York Department of Juvenile Justice to redirect $53 million designated for expansion in Brooklyn and the Bronx. 30 PMP has also worked to make visible the connections between underfunding, policing of schools, and youth incarceration through their campaign “Stop the School-to-Prison Pipeline.” By demonstrating how zero tolerance policies and increased policing and use of surveillance technology in schools, combined with underfunded classrooms and overstretched teachers, has led to the criminalization of young people of color and the production of adult prisoners, PMP argues for a reprioritization of public spending from the criminal justice system to schools and alternatives to incarceration. 31 Moratorium work often involves campaigns to prevent the construction of a specific prison or jail. In Toronto, for example, the Prisoner Justice Action Committee formed the “81 Reasons” campaign, a multiracial collaboration of experienced anti-prison activists, youth and student organizers, in response to proposals to build a youth “superjail” in Brampton, a suburb of Toronto. 32 The campaign combined popular education on injustices in the juvenile system, including the disproportionate incarceration of Black and Aboriginal youth, with an exercise in popular democracy that invited young people to decide themselves how they would spend the $81 million slated for the jail. Campaigners mobilized public concerns about spending cuts in other areas, including health care and education, to create pressure on the provincial government to look into less expensive and less punitive alternatives to incarceration for youth. While this campaign did not ultimately prevent the construction of the youth jail, the size of the proposed facility was reduced. More importantly, the campaign built a grassroots multiracial antiprison youth movement and raised public awareness of the social and economic costs of incarceration. Moratorium campaigns face tough opposition from advocates who believe that building prisons stimulates economic development for struggling rural towns. Prisons are “sold” to rural towns that have suffered economic decline in the face of global competition, closures of local factories, and decline of small farms. In the context of economic stagnation, prisons are touted as providing stable, well-paying, unionized jobs, providing property and sales taxes and boosting real estate markets. The California Prison Moratorium Project has worked to challenge these assertions by documenting the actual economic, environmental, and social impact of prison construction in California's Central Valley prison towns. According to California PMP: We consider prisons to be a form of environmental injustice. They are normally built in economically depressed communities that eagerly anticipate economic prosperity. Like any toxic industry, prisons affect the quality of local schools, roads, water, air, land, and natural habitats. 33 California PMP opposes prison construction at a local level by building multiracial coalitions of local residents, farm workers, labor organizers, anti-prison activists, and former prisoners and their families to reject the visions of prison as a panacea for economic decline. 34 In the Californian context, where most new prisons are built in predominantly Latino/a communities and absorb land and water previously used for agriculture, PMP facilitates communication and solidarity between Latino/a farm worker communities, and urban Black and Latino/a prisoners in promoting alternative forms of economic development that do not rely on mass incarceration. Scholar-activist Ruth Wilson Gilmore's research on the political economy of prisons in California has been critical in providing evidence of the detrimental impact of prisons on local residents and the environment. 35 As an active member of CPMP, Gilmore's work is deeply rooted in anti-prison activism and in turn informs the work of other activists, demonstrating the important relationship between Black women's activist scholarship and the anti-prison movement. 36 A World Without Prisons: Abolition Font ID=I;This system of locking people in cages cannot be fixed or reformed; it must be abolished. 37 Many anti-prison activists view campaigns for decarceration or moratorium as building blocks toward the ultimate goal of abolition. These practical actions promise short and medium-term successes that are essential markers on the road to long-term transformation. However, abolitionists believe that like slavery, the prison-industrial complex is a system of racialized state violence that cannot be “fixed.” The contemporary prison abolitionist movement in the U.S. and Canada dates to the 1970s, when political prisoners like Angela Y. Davis and Assata Shakur, in conjunction with other radical activists and scholars in the U.S., Canada, and Europe, began to call for the dismantling of prisons. 38 The explosion in political prisoners, fuelled by the FBI's Counter Intelligence Program (COINTELPRO) and targeting of Black liberation, American Indian and Puerto Rican independence movements in the U.S. and First Nations resistance in Canada as “threats” to national security, fed into an understanding of the role of the prison in perpetuating state repression against insurgent communities. 39 The new anti-prison politics were also shaped by a decade of prisoner litigation and radical prison uprisings, including the brutally crushed Attica Rebellion. These “common” prisoners, predominantly working-class people of color imprisoned for everyday acts of survival, challenged the state's legitimacy by declaring imprisonment a form of cruel and unusual punishment and confronting the brute force of state power. 40 By adopting the term “abolition” activists drew deliberate links between the dismantling of prisons and the abolition of slavery. Through historical excavations, the “new abolitionists” identified the abolition of prisons as the logical completion of the unfinished liberation marked by the 13th Amendment to the United States Constitution, which regulated, rather than ended, slavery. 41 Organizations that actively promote dialogue about what abolition means and how it can translate into concrete action include Critical Resistance (CR), New York's Prison Moratorium Project, Justice Now, California Coalition for Women Prisoners, Free Battered Women, and the Prison Activist Resource Center in the U.S. and the Prisoner Justice Action Committee (Toronto), the Prisoners' Justice Day Committee (Vancouver) and Joint Action in Canada. CR was founded in 1998 by a group of Bay Area activists including former political prisoner and scholar-activist Angela Y. Davis. Initially, CR focused on popular education and movement building, coordinating large conferences where diverse organizations could generate collective alternatives to the prison-industrial complex. Later work has included campaigns against prison construction in California's Central Valley and solidarity work with imprisoned Katrina survivors. CR describes abolition as: [A] political vision that seeks to eliminate the need for prisons, policing, and surveillance by creating sustainable alternatives to punishment and imprisonment … . An abolitionist vision means that we must build models today that can represent how we want to live in the future. It means developing practical strategies for taking small steps that move us toward making our dreams real and that lead the average person to believe that things really could be different. It means living this vision in our daily lives. 42 In this sense, prison abolitionists are tasked with a dual burden: first, transforming people's consciousness so that they can believe that a world without prisons is possible, and second, taking practical steps to oppose the prison-industrial complex. Making abolition more than a utopian vision requires practical steps toward this long-term goal. CR describes four steps that activists can get involved in: shrinking the system, creating alternatives, shifting public opinion and public policy, and building leadership among those directly impacted by the prison-industrial complex. 43 Since its inception in the San Francisco Bay Area, Critical Resistance has become a national organization with chapters in Baltimore, Chicago, Gainesville, Los Angeles, New Orleans, New York, Tampa/St. Petersburg, and Washington, D.C. As such, CR has played a critical role in re-invigorating abolitionist politics in the U.S. This work is rooted in the radical praxis of Black women and transgender activists.

## Reformism Good

### Coalitions

#### Coalitional politics is vital to make their strategy effective --- that requires an approach of compromise

Michelle Alexander 10, associate professor of law at Stanford Law School, civil rights lawyer, advocate and legal scholar, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, 2010, The New Press, p. 255-259

This brings us to a critical question: who is the us that civil rights advocates are fighting for? Judging from the plethora of groups that have embarked on their own civil rights campaigns since Martin Luther King Jr.'s assassination— women, gays, immigrants. Latinos, Asian Americans—the answer seems to be that us includes everyone except white men.¶ This result is not illogical. When Malcolm X condemned "the white man" and declared him the enemy, he was not, of course, speaking about any par- ticular white man, but rather the white, patriarchal order that characterized both slavery and Jim Crow. Malcolm X understood that the United States was created by and for privileged white men. It was white men who dominated politics, controlled the nation's wealth, and wrote the rules by which everyone else was forced to live. No group in the United States can be said to have experienced more privilege, and gone to greater lengths to protect it, than "the white man."¶ Yet the white man, it turns out, has suffered too. The fact that his suffering has been far less extreme, and has not been linked to a belief in his inherent inferiority, has not made his suffering less real. Civil rights advocates, however, have treated the white man's suffering as largely irrelevant to the pursuit of the promised land. As civil rights lawyers unveiled plans to desegregate public schools, it was poor and working-class whites who were expected to bear the burden of this profound social adjustment, even though many of them were as desperate for upward social mobility and quality education as African Americans. According to the 1950 census, among Southerners in their late twenties, the state-by-state percentages of functional illiterates (people with less than five years of schooling) for whites on farms overlapped with those for blacks in the cities. The majority of Southern whites were better off than Southern blacks, but they were not affluent or well educated by any means; they were semiliterate (with less than twelve years of schooling). Only a tiny minority of whites were affluent and well educated. They stood far apart from the rest of the whites and virtually all blacks.59¶ What lower-class whites did have was what W.E.B. Du Bois described as “the public and psychological wage” paid to white workers, who depended on their status and privileges as whites to compensate for low pay and harsh working conditions.60 As described in chapter 1, time and time again, poor and working-class whites were persuaded to choose their racial status interests over their common economic interests with blacks, resulting in the emergence of new caste systems that only marginally benefited whites but were devastating for African Americans. ¶ In retrospect, it seems clear that nothing could have been more important in the 1970s and 1980s than finding a way to create a durable, interracial, bottom-up coalition for social and economic justice to ensure that another caste system did not emerge from the ashes of Jim Crow. Priority should have been given to figuring out some way for poor and working-class whites to feel as though they had a stake—some tangible interest—in the nascent integrated racial order. As Lani Guinier points out, however, the racial liberalism expressed in the Brown v. Board of Education decision and endorsed by civil rights litigators “did not offer poor whites even an elementary framework for understanding what they might gain as a result of integration.”61¶ Nothing in the opinion or in the subsequent legal strategy made clear that segregation had afforded elites a crucial means of exercising social control over poor and working-class whites as well as blacks. The Southern white elite, whether planters or industrialists, had successfully endeavored to make all whites think in racial rather than class terms, predictably leading whites to experience desegregation, as Derrick Bell put it, as a net “loss.”62¶ Given that poor and working-class whites (not white elites) were the ones who had their world rocked by desegregation, it does not take a great leap of empathy to see why affirmative action could be experienced as salt in a wound. Du Bois once observed that the psychological wage of whiteness put “an indelible black face to failure.”63 Yet with the advent of affirmative action, suddenly African Americans were leapfrogging over poor and working class whites on their way to Harvard and Yale and taking jobs in police departments and fire departments that had once been reserved for whites. ¶ Civil rights advocates offered no balm for the wound, publicly resisting calls for class-based affirmative action and dismissing claims of unfairness on the grounds that whites had been enjoying racial preferences for hundreds of years. Resentment, frustration, and anger expressed by poor and working-class whites was chalked up to racism, leading to a subterranean discourse about race and to implicitly racial political appeals, but little honest dialogue.¶ Perhaps the time has come to give up the racial bribes and begin an honest conversation about race in America. The topic of the conversation should be how us can come to include all of us. Accomplishing this degree of unity may mean giving up fierce defense of policies and strategies that exacerbate racial tensions and produce for racially defined groups primarily psychological or cosmetic racial benefits. ¶ Of course, if meaningful progress is to be made, whites must give up their racial bribes too, and be willing to sacrifi ce their racial privilege. Some might argue that in this game of chicken, whites should make the fi rst move. Whites should demonstrate that their silence in the drug war cannot be bought by tacit assurances that their sons and daughters will not be rounded up en masse and locked away. Whites should prove their commitment to dismantling not only mass incarceration, but all of the structures of racial inequality that guarantee for whites the resilience of white privilege. After all, why should “we” give up our racial bribes if whites have been unwilling to give up theirs? In light of our nation’s racial history, that seems profoundly unfair. But if your strategy for racial justice involves waiting for whites to be fair, history suggests it will be a long wait. It’s not that white people are more unjust than others. Rather it seems that an aspect of human nature is the tendency to cling tightly to one’s advantages and privileges and to rationalize the suffering and exclusion of others. This tendency is what led Frederick Douglass to declare that “power concedes nothing without a demand; it never has and it never will.” ¶ So what is to be demanded in this moment in our nation’s racial history? If the answer is more power, more top jobs, more slots in fancy schools for “us”—a narrow, racially defined us that excludes many—we will continue the same power struggles and can expect to achieve many of the same results. Yes, we may still manage to persuade mainstream voters in the midst of an economic crisis that we have relied too heavily on incarceration, that prisons are too expensive, and that drug use is a public health problem, not a crime. But if the movement that emerges to end mass incarceration does not meaningfully address the racial divisions and resentments that gave rise to mass incarceration, and if it fails to cultivate an ethic of genuine care, compassion, and concern for every human being—of every class, race, and nationality—within our nation’s borders, including poor whites, who are often pitted against poor people of color, the collapse of mass incarceration will not mean the death of racial caste in America. Inevitably a new system of racialized social control will emerge—one that we cannot foresee, just as the current system of mass incarceration was not predicted by anyone thirty years ago. No task is more urgent for racial justice advocates today than ensuring that America’s current racial caste system is its last.¶ Given what is at stake at this moment in history, bolder, more inspired action is required than we have seen to date. Piecemeal, top-down policy reform on criminal justice issues, combined with a racial justice discourse that revolves largely around the meaning of Barack Obama’s election and “postracialism,” will not get us out of our nation’s racial quagmire. We must flip the script. Taking our cue from the courageous civil rights advocates who brazenly refused to defend themselves, marching unarmed past white mobs that threatened to kill them, we, too, must be the change we hope to create. If we want to do more than just end mass incarceration—if we want to put an end to the history of racial caste in America—we must lay down our racial bribes, join hands with people of all colors who are not content to wait for change to trickle down, and say to those who would stand in our way: Accept all of us or none. ¶ That is the basic message that Martin Luther King Jr. aimed to deliver through the Poor People’s Movement back in 1968. He argued then that the time had come for racial justice advocates to shift from a civil rights to a human rights paradigm, and that the real work of movement building had only just begun.64 A human rights approach, he believed, would offer far greater hope for those of us determined to create a thriving, multiracial, multiethnic democracy free from racial hierarchy than the civil rights model had provided to date. It would offer a positive vision of what we can strive for—a society in which all human beings of all races are treated with dignity, and have the right to food, shelter, health care, education, and security.65 This expansive vision could open the door to meaningful alliances between poor and working-class people of all colors, who could begin to see their interests as aligned, rather than in conflict—no longer in competition for scarce resources in a zero-sum game.

### Police Reform

#### Reform works --- the comparison between cities where policy changes were adopted and other areas demonstrates that targeted reforms make a material difference

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Samuel, 6/1. “Police Are Killing Fewer People In Big Cities, But More In Suburban And Rural America.” https://fivethirtyeight.com/features/police-are-killing-fewer-people-in-big-cities-but-more-in-suburban-and-rural-america/?campaign\_id=9&emc=edit\_nn\_20200605&instance\_id=19111&nl=the-morning&regi\_id=61244245&segment\_id=30155&te=1&user\_id=9f7c62b5e943b1845985ebb98a44733d

Six years after nationwide protests against police violence captured the country’s attention, the recent killings of Breonna Taylor and George Floyd have put the issue of police violence back into national focus. Many are left asking what, if anything, has really changed? In the absence of comprehensive federal data, databases such as Fatal Encounters, Mapping Police Violence and The Washington Post’s Fatal Force project have tracked these killings year after year. And the data produced by these projects suggests that police, at least on a national level, are killing people as often now as they were before Michael Brown’s death in Ferguson, Missouri, sparked widespread protests in 2014. But these numbers don’t tell the whole story. While the nationwide total of people killed by police nationwide has remained steady, the numbers have dropped significantly in America’s largest cities, likely due to reforms to use-of-force policies implemented in the wake of high-profile deaths. Those decreases, however, have been offset by increases in police killings in more suburban and rural areas. It seems that solutions that can reduce police killings exist, in other words — the issue may be whether an area has the political will to enact them. Indeed, looking only at the 30 most populous cities in the country,1 you see a substantial decrease in the number of people killed by police in recent years. Police departments in America’s 30 largest cities killed 30 percent fewer people in 2019 than in 2013, the year before the Ferguson protests began, according to the Mapping Police Violence database. Similarly, The Washington Post’s database shows 17 percent fewer killings by these agencies in 2019 compared to 2015, the earliest year it tracks. This data isn’t perfect. The databases have slightly different methodologies for collecting and including police killings. And not everyone who’s shot winds up dying, which means some people who are shot by police don’t end up in one of these tracking projects. So to better test and understand the progress made in these big cities, I compiled an expanded database of all fatal and nonfatal police shootings by these departments, which expands our view of any changes in police behavior. Based on data published on police departments’ websites and reported in local media databases, I found data covering police shootings in 2013-2019 for 23 of the 30 departments.2 An analysis of this data shows that police shootings in these departments dropped 37 percent from 2013 to 2019. So why haven’t these trends resulted in fewer people killed by police nationwide? Examining the geography of police killings based on population density (a methodology developed by the real estate site Trulia, which was featured in a previous FiveThirtyEight article), police killings in suburban and rural areas appear to have increased during this time period — offsetting reductions in big cities. This shift mirrors other trends within the criminal justice system. For example, since 2013, the number of people in jail per capita in urban areas has fallen by 22 percent, while rates have increased by 26 percent in rural areas, according to a study by the Vera Institute of Justice. Similarly, arrest rates have declined in major cities at a faster pace than arrest rates in suburban and rural areas. Fewer arrests means fewer police encounters that could escalate to deadly force — police are substantially more likely to use force when making an arrest than in other interactions with the public — so falling arrest numbers could have a marked effect on police killings. Comparing police shootings data to the arrests data each department reported in the FBI Uniform Crime Report shows that departments that reported larger reductions in arrests from 2013-20183 also reported larger reductions in police shootings. Specifically, cities that reduced police shootings also made 35 percent fewer arrests in 2018 than 2013, compared to only a 4 percent drop in arrests in cities where police shootings increased or remained constant. These declining arrest rates have been attributed, in part, to reforms reducing enforcement of low-level offenses such as marijuana possession, disorderly conduct, loitering and prostitution. Other reforms may be making a difference as well. Police shootings dropped in Philadelphia, San Francisco and Baltimore after the cities began reforming their use-of-force policies to match recommendations from the Department of Justice. In Chicago, police shootings dropped following protests over the shooting of Laquan McDonald and fell further after the city adopted more restrictive use-of-force policies and a new police accountability system. Denver also adopted more restrictive use-of-force policies in 2017, requiring de-escalation as an alternative to force. Los Angeles police shootings reportedly declined to the lowest number in 30 years in 2019, which officials attribute to new policies requiring officers to use de-escalation and alternatives to deadly force. Shootings dropped precipitously in Phoenix a year after public scrutiny led the department to evaluate its practices and implement changes to its use-of-force policy. And, in response to local protests over the 2012 killing of James Harper, Dallas implemented a range of policies to emphasize de-escalation, which local authorities credit with producing a sustained decline in police shootings. This suggests that reforms may be working in the places that have implemented them. Many of these reforms were initiated in response to protests and public outcry over high-profile deaths at the hands of police — most notably in Baltimore following the police killing of Freddie Gray, in San Francisco following the killing of Mario Woods, and in Chicago and Dallas following the deaths of Laquan McDonald and James Harper. This suggests that protests and public pressure may have played an important role in producing policy changes that reduced police shootings, at least in some cities.

#### Achievable and incremental changes to hyper-incarceration should take priority over “root causes.” Short-term fixes are critical to support for any broader agenda.

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The experience of other industrialized countries may shed some light on how to mitigate the carceral state in the United States. Almost in passing, Brodeur (2007) makes a profound and underappreciated observation about penal reform, suggesting that the “**root causes” approach** to progressive penal reform, however well intentioned, may be shortsighted (77). This approach seeks to solve the crime and punishment dilemma by focusing on amelio- rating structural problems like widespread poverty, high unemployment, dysfunctional schools, an ineffective health-care system, and outcomes dramatically stratified by race. Fifteen or so years ago, the focus on the structural roots of crime and punishment was critical to help neutralize the culture of poverty and the moral poverty arguments that supported the development of the carceral state. Attention to structural causes—and how they create cultural pathologies—at a time of rising (and then falling) crime rates and media hysteria over crime also helped mitigate somewhat the demonization of people living in high crime, inner-city communities. But if the aim today is to shrink the country’s **extraordinary incarceration rate** over the next few years—not the next few decades—perhaps the focus on structural causes and solutions is misplaced. By giving **structural problems primacy** in efforts to end mass incarceration, we are essentially accepting that the extensive US penal system is here to stay for a **very long time to come**. After all, structural problems call for comprehensive, often expensive, long-term solutions and commitments. Long-term fixes are problematic not just because they take a long time. As Brodeur notes, they are nettlesome because they are harder to sustain from one change of administration to the next. In the case of the United States, the absence of a respected, expert, nonpartisan civil service that maintains policy continuity, despite political shifts, compounds the problem. The focus on structural problems overshadows the fact that about two-thirds of the people in prison are serving time for nonviolent offenses, many of them property **or petty drug offenses** that would not warrant a sentence in many other countries. It also deflects attention away from the fact that **prisons exacerbate many social ills** that contribute to crime and poverty and are unlikely to significantly rehabilitate anyone. Other countries that once had exceptionally high incarceration rates, notably Finland, successfully brought down their rates by **focusing on changes in penal policy** rather than by mounting a sustained attack on structural problems and the root causes of crime (Lappi-Seppälä 2007, 234; Brodeur 2007, 75). Four decades ago, the United States had many of the same structural problems it has today, but it did not have such an **expansive penal system**. Since then, the United States has embarked on a war on drugs and a broader war on crime characterized by penal policies and penal conditions unprecedented in modern US history and unheard of or disdained in other developed countries. A deeper commitment to lifting many more people out of poverty is an admirable goal. But by making that the centerpiece of any penal reform agenda, **opponents of the carceral state risk** **losing a sense of urgency**. Criminal justice is fundamentally a political problem, not a crime and punishment problem. The real challenge is how to create the political will and political pressure to pursue and implement these policies. The central question is: “when in all other respects we defend policies based on social equality, full citizenship, solidarity, and respect for reason and humanity, why should we choose to adopt criminal justice policies that show so little appreciation of these very values and principles?” (Lappi-Seppälä 2007, 290).

### Drug Treatment

#### Reformism works in the drug treatment context --- policy changes have meaningfully reduced prison populations and shifted the political narrative

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The idea that prison populations have grown too large is increasingly given expression in public and political venues. for example, one meta-analysis of recent studies of discourse about punishment found that “readers and viewers of mainstream media are learning about nationwide efforts to reduce prison populations, about substand- ard prison conditions, and about the negative consequences of ‘zero tolerance’ school disciplinary policies, among other things” (Opportunity Agenda 2014, 3). Moreover, as many have noted, many of the new critics of mass incarceration are politically conservative; the emergence of these Right on Crime critics of mass incarceration marks an important shift in the political landscape (Dagan and Teles 2014). At the policy level, too, changes are apparent. Drug policy reform is especially widespread: more than half the states have adopted significant drug law reforms in recent years. for example, in 2004 and again in 2009, New york State revised its notorious Rockefeller drug laws (Greene and Mauer 2010). More recently, Michigan abolished its automatic life without parole (LWOp) sentence for those convicted of selling 650 grams or more of cocaine or heroin, and Texas notably expanded diversion options for drug possessors (Greene and Mauer 2010; Subramanian and Moreno 2014). Many states have also adopted parole reforms that enable eligible inmates to earn “good time” credits in order to accelerate their release dates and/or reduce the number of technical violators who are returned to prison (Greene and Mauer 2010; Subramanian and Moreno 2014). Moreover, these recent drug and parole reforms have made a dent in prison admissions in many states. Overall, admissions to state prisons for drug offenses fell by 24.7 percent between 2006 and 2011 (Bureau of Justice Statistics [BJS] 2013, Table 4). Similarly, prison admissions stemming from parole revocations dropped by 36.5 percent between 2007 and 2012 (BJS 2013, Table 1). And although federal policy reform has been comparatively slow in coming, recent legislation such as the Smarter Sentencing Act of 2014 has the potential to nota- bly reduce the number of people serving time in federal prison for drug offenses.