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Introduction: Reform or Abolition?

The United States has a higher imprisonment rate than any country on the planet, with more than twenty-five percent of the world's prisoners.¹ Walnut Street Prison, the first in the nation, opened in Philadelphia in 1773, initially as a conventional jail and then expanded in 1790 into a state penitentiary, where convicted prisoners were required to perform hard labor in solitude.² But forms of incarceration, used for a variety of purposes, have existed in other places for centuries. While many historical examples are obviously horrifying and inhumane, today's prisons, in the United States and elsewhere, continue to raise serious questions of justice and human rights.

It is a hopeful sign of moral progress that many believe prison systems, around the globe but especially in the United States, are in urgent need of fundamental change. The problem of mass incarceration has received broad and deep news coverage. Numerous public stories, both reported and first-person accounts, detail the generally dreadful lives of prisoners. Persistent and sometimes militant activism is directed at reforming prisons, jails, and immigration detention centers. What is more, the belief that major reforms are needed in our prisons, and in our

criminal law systems more broadly, cuts across the political spectrum, with many conservatives joining the call.³

More recently, a growing number of voices call for more than reform. They demand that we stop using prisons altogether. This political and philosophical outlook—known as “prison abolition” or sometimes “penal abolition”—rejects the very idea that incarceration can be a justified penalty for committing a crime. Prison abolition is radical, counterintuitive, and strikes some as absurd. But perhaps the abolitionists are correct—that prisons simply cannot be reformed, that even the most ideal prison would be indefensible. Prisons do tremendous and lasting harm, and this damage extends beyond prisoners to their families and communities. If a society relies on prisons, as all modern societies do, this use demands compelling defense. And so I welcome the call to scrutinize this long-standing practice.

Those convinced that prison reform is feasible and required by justice have long argued against defenders of the status quo and against those who benefit from the current broken system. Yet, with rising interest in and advocacy for prison abolition, it has now become essential for advocates of prison reform to put their views on trial against a significant and potentially superior alternative. Indeed, some abolitionists insist that reform efforts are not just ineffective but legitimize an inherently dehumanizing and unjust practice.⁴ In effect, they charge prison reformers, including those who might be well meaning, serious, and earnest, with complicity in maintaining an oppressive social practice.⁵ Some abolitionists also argue that prison reform is a liberal-capitalist project that lacks the radical imagination needed to bring about a truly humane, democratic, and

free society. These charges warrant thoughtful philosophical attention.

Philosophy, Punishment, and Prisons

At the heart of the vocation of philosophy is an inclination to consider radical ideas, to entertain the heretical thought, to not dismiss the “crazy” proposal. We should be open, even disposed, to questioning common sense and current arrangements, even when doing so is highly unpopular and poses some personal risk. Once we have thoroughly considered the radical thesis, we may find that we cannot accept it, that there are not compelling enough reasons to endorse it. We may nonetheless come away with a deeper appreciation of the relevant problems and possible solutions, and with a stronger grasp of what matters most.

For centuries, philosophers—Plato, Aquinas, Kant, Bentham, and many more—have written extensively about punishment and its justification. They have proposed and criticized theories based on retribution, deterrence, consent, forfeiture, fairness, reconciliation, rehabilitation, moral education, and other things. These philosophical theories typically abstract away from the concrete and grim realities of imprisonment, including the related questions of political economy and public finance. It is generally taken for granted that if penalties for criminal wrongdoing are legitimate, then a prison sentence is among the penalties that can be legitimately imposed. These theories also usually assume that the society within which imprisonment occurs is a just one (or nearly) and that the governing authority is fully legitimate. But what is yet to be shown—if

it can be—is that imprisonment is a defensible practice in our own unjust society and world, or that it would be justified under better social conditions that we can realistically bring about.

Philosophers, legal scholars, and others have addressed the death penalty, and many are adamantly opposed to it, even when the offense is especially heinous.⁶ The question of whether prisons should be abolished can be thought of in similar terms. Even if punishment as a practice is permissible, not all penalties are legitimate crime-control measures, notwithstanding that some crimes are serious. For example, few would accept torture and maiming as legitimate forms of punishment, even if they did help to prevent crime. We should also ask whether incarceration can be a legitimate penalty for a criminal offense.

We might formulate the issue by distinguishing two questions. First, can the practice of imprisonment be justified despite existing structural injustices (for example, institutional racism and economic injustice), or should the use of prisons be discontinued, wholly or in part, until these structural injustices have been corrected? Second, could the practice of imprisonment ever be justified in a just social order, or would a fully just society obviate the need for prisons and therefore make their use illegitimate and repugnant? These are the questions I will address.

This book takes up abolitionist ideas as philosophy. The reflections offered, sometimes critical, are my way of thinking through whether to adopt abolition as my own philosophical and political stance. I explore these thoughts with the hope they might help others decide whether to be reformers or abolitionists. My reflections have not led me to become an abolitionist, at least not in the most radical sense of that designation. But

I have learned much from thinking about abolitionist ideas, and I have changed my mind, at times fundamentally, about the practice of imprisonment under current conditions and in our possible futures. This critical encounter with the idea of prison abolition is therefore as much about explaining what I think abolitionists get right as it is about showing where I believe they go wrong. It is not my aim, then, to offer “the case against abolition” but rather to see what can be gained, philosophically and practically, from taking abolitionist ideas seriously.

Angela Davis and Black Critical Theory

Although all abolitionists share hostility toward prisons, abolitionist theory and practice is remarkably varied. Though broadly leftist in orientation, the radical anti-prison movement is not unified by an agreed-upon set of basic principles. There are black radical, Marxist, pacifist, feminist, post-structuralist, and anarchist strands of abolitionist thought, activism, and organizing. I do not survey or engage the full evolving constellation of ideas and arguments that self-described prison abolitionists have put forward.⁷ I focus on the wide-ranging and hugely influential philosophical contributions of Angela Y. Davis.

Davis is the preeminent scholar-activist in the abolitionist movement, a prolific writer and defender of radical ideas, and a distinguished philosopher.⁸ She is a key leader in the movement, and her work is a touchstone among abolitionists. In numerous books, essays, speeches, films, and interviews, Davis has defended a world without prisons as a morally required and realistic goal. Her anti-prison theorizing takes its shape within a distinctive and well-developed philosophical framework. And

in the context of such theorizing, she asks vital philosophical questions, such as: “How do we imagine a better world and raise the questions that permit us to see beyond the given?”⁹ Thinking about, and resisting, the practice of imprisonment has occupied Davis for more than fifty years. As she says, “a protracted engagement with the prison system has literally defined my life.”¹⁰

Not all of Davis’s writings on prisons focus on abolition. She critically engages prisons from a range of perspectives and for a variety of purposes. For instance, in her early intellectual and political development, she focused mainly on freeing political prisoners and exposing the ways that incarceration can be used as a mode of political repression (see Chapter 1). But in time she came to argue that prisons are obsolete.¹¹ This stance suggests that although prisons may have had some legitimate uses in the past, they are currently unnecessary, either because these legitimate functions can now be served in better and less costly ways or because there is no longer a need to have these functions served. Davis has also defended prison abolition as a necessary component of effective resistance to neoliberalism and as a key demand in a democratic socialist movement.¹² I take a broad view of what from her enormous corpus is relevant but concentrate on those writings that might plausibly be thought to support the thesis that prisons, even the “best” ones, should not exist—whether now, in the near future, or in a distant yet feasible utopia.

For Davis, talk of “abolition” rather than “reform” is not merely provocative rhetoric or the strategic hyperbole characteristic of some radical consciousness-raising discourse. Davis argues that a reform framework gives prisons unwarranted legitimacy and that what is needed is to convince people that states are not

justified in using prisons and that justice demands that we work together to eliminate them. This position is made clear in a recent coauthored book on abolition feminism, where Davis and her collaborators write:

What differentiates this explicitly abolitionist approach from prevailing ideas and scenarios addressing prison repression—both then and now—is the tenacious critique of prison reform and of criminal justice reform more broadly, as well as the recognition that the ideological impulse to contain all efforts to address the social damage wrought by prisons within the parameters of “reform” serves to further authorize incarceration as the legitimate and immutable foundation of justice.¹³

Moreover, Davis’s language of “abolition” should not be interpreted as the propaganda of an elite vanguard of revolutionaries, nor as an expression of oracular wisdom from a charismatic leader who expects deference. Her organizing efforts are democratic, not demagogic. She seeks to work with others as equals, not to use them as unwitting instruments to the fulfillment of esoteric ideals. And in her writings, interviews, and public speaking, she proclaims her radical objectives openly and without apology.

Yet Davis does sometimes say things like the following:

When we are told that we simply need better police and better prisons, we counter with what we really need. We need to reimagine security, which will involve the abolition of policing and imprisonment *as we know them*. We will say demilitarize the police, disarm the police, abolish the institution of the

police *as we know it*, and abolish imprisonment as the *dominant* mode of punishment [emphasis added].¹⁴

This kind of phrasing (“as we know it” and “as the dominant mode”) could be interpreted as qualifying the call for prison and police abolition in ways that might make the distinction between abolition and reform seem unimportant or to be merely a verbal dispute. After all, many reformers also want to see policing and imprisonment radically changed. These qualifying phrases suggest that we might still rely on police, provided they were not armed with military-grade weapons, or that we might use prisons, provided they were not the *primary* form of crime control. Perhaps that is all some advocates mean by “abolition,” a radical and evocative phrase that conjures up images of the abolitionist movement against chattel slavery but that, when stripped of rhetorical flourish, means no more than a call for fundamental change in law-enforcement practice. Yet that is not what Davis has in mind. Accordingly, I will explore prison abolition, not only in its more moderate versions, but primarily in its boldest and most radical form: a rejection of prison reform, even fundamental reform, as the ultimate goal; and a practical vision of a society and world that does not need or use prisons at all.¹⁵

Davis’s critique of prisons is situated within a broader critique of racism, sexism, imperialism, and capitalism. She draws extensively on the traditions of Marxism, critical theory, feminism, and black radicalism. I too have been deeply influenced by these traditions of thought, and my discussion of abolition will largely operate within their parameters.

Much contemporary black radical thought, including black feminist theory, has been shaped by currents in Marxism, particularly by strains in critical theory. As a radical approach to studying and critiquing modern Western civilization, critical theory was forged in the 1920s and early 1930s at the Frankfurt-based Institute for Social Research (Institute für Sozialforschung), which was founded in 1923 and has long been regarded as the principal institutional site of the “Frankfurt School” tradition of critical theory. Herbert Marcuse, an early and prominent Frankfurt School theoretician, taught Angela Davis as an undergraduate (at Brandeis University), served as her dissertation advisor (at UC San Diego), and influenced her thought substantially. With Marcuse’s encouragement, Davis studied Kant, Hegel, and Marx at the Institute in Frankfurt (then housed at Goethe University) from 1965 to 1967, where she attended lectures and participated in seminars conducted by Theodor W. Adorno, Jürgen Habermas, and other leading critical theorists. In subsequent years, and through a variety of books and essays, Davis developed her own approach to critical theory, which draws not only on Frankfurt School ideas but also on the broader Afro-modern intellectual tradition and radical feminist theory.

Black critical theorists, including Davis, rely primarily on historical analysis, social theory, cultural criticism, autobiographical narratives, personal experience, and experimental art to critique existing social arrangements and to communicate their transformative vision. True to their Frankfurt School roots, they generally avoid and are often suspicious of mainstream “positivist” empirical social science of the sort one generally encounters in U.S. departments of political science, sociology, and

economics. Black critical theory is decidedly and consciously interdisciplinary, methodologically unconventional, and transgressive with respect to established academic norms.

Black critical theorists, like all critical theorists, are fundamentally concerned with liberating human beings from oppression. Though they value intellectual activity, *freedom* is their ultimate goal, and they believe radical structural transformation is needed to secure full liberation. Rejecting any sharp distinction between scholarship and political advocacy, their studies are not designed to be value-free, disinterested inquiry but forthrightly crafted to expose injustices, to defend the interests of the oppressed, and to highlight feasible paths to a better world. But they also, like earlier Marxists, tend not to engage in systematic moral theory or normative political philosophy of the sort typical in mainstream “analytic” philosophy departments.

Unlike the canonical figures of the Frankfurt School, black critical theorists are deeply influenced by black thinkers whom they deem part of what Cedric Robinson famously called “the black radical tradition.”¹⁶ Influential thinkers in this tradition include W.E.B. Du Bois, C.L.R. James, Claudia Jones, Frantz Fanon, Walter Rodney, and Angela Davis herself. This is a strand of the wider black political tradition that draws insights not only from Marxism, but also from revolutionary Black Nationalism, Afro-Caribbean radicalism, and Pan-African socialism. Black radicals are sharply critical of class stratification and capitalist labor exploitation but equally concerned with systemic racism and colonial subjugation. They do not pin their hopes for liberation on the leadership of the white working class but rather insist that those subjugated by white supremacy and Euro-American imperialism, including those relegated to

slums, ghettos, and Bantustans around the world, are vital to any realistic hope for a truly free and democratic future.

Afro-Analytical Marxism and the Black Radical Tradition

The critical inquiry this book takes up is, in some ways, incongruous with the philosophical and political orientation of Davis and other black critical theorists. Some of what I have written—and the way I have written it—may strike many as perplexingly (and perhaps perversely) at cross purposes with those I am engaging. To reduce this dissonance (and at the risk of appearing pedantic), let me be explicit about how my approach to thinking about prison abolition differs from recent trends in black critical theory and abolitionist writings.

I consider myself part of the black radical tradition, not the least because my thinking has been profoundly shaped by the writings of Du Bois, the canonical black radical thinker.¹⁷ But unlike some black critical theorists, I do not regard the black radical tradition as diametrically opposed to all forms of liberalism. I believe that core ideas drawn from liberal-egalitarian thought in particular merit steadfast defense—a bedrock commitment to an equal and extensive set of basic liberties for all, prioritizing the well-being of the worst off, tolerance for different conceptions of human flourishing, and limiting economic inequality to protect both democratic practices and meaningful opportunities to secure valued positions in social life. Liberalism and capitalism, in my view, need not stand or fall together, and “liberal socialism” is not a contradiction in terms. Here

I follow John Rawls in thinking that sound principles of justice are incompatible with welfare-state capitalism and are consistent only with either a property-owning democracy (essentially, egalitarian social democracy) or liberal market socialism. I also agree with Rawls that while basic individual liberties are of the utmost importance and have moral priority over fostering socioeconomic equality, the right to own means of production and to make market transactions for private gain are not basic liberties. These economic freedoms are justified only if they are to everyone's advantage and best promote the interests of the least well off in society.¹⁸

While I believe a philosophical approach that combines elements of liberal egalitarianism, Marxism, and black radicalism is exactly the approach that Du Bois took in works like *Black Reconstruction in America* (1935) and *Dusk of Dawn* (1940), my discussion of prison abolition will not rely primarily on liberal ideas or frameworks. Davis is a sharp critic of liberalism, and I prefer to take up her arguments largely on terms we both can accept.

Although I too have been influenced by Marxism and critical theory, in terms of method I am closer to G. A. Cohen's analytical Marxism and Habermas's critical theory than are many black radicals, including Davis. I believe it can be valuable, even indispensable, to make use of the tools of analytical philosophy and mainstream social science when critiquing existing social conditions and defending a vision of a just world.

I also believe that it is not enough to possess strong ethical convictions and moral courage, as vital as these are. Black critical theorists must also develop systematic moral arguments, not only against the status quo, but also for the radical social vision they favor. These arguments need not amount to a fully

developed theory of justice. But they should have the capacity to persuade people who are open-minded but perhaps not yet convinced to accept black critical theorists' basic moral principles and not yet disposed to choose a radical solution to mutually acknowledged social problems.

Unlike many black critical theorists and Davis herself, I philosophize at some remove from political activism and social movements. I try to learn and accept criticism from any credible source of potential knowledge and wisdom, including from activists and movement leaders. This book is not, however, a commentary on the activities of the abolitionist movement. It is a book about ideas. Nor do I write in the role of a scholar-activist in an existing political struggle. Indeed, it would not be entirely unfair to describe me as part of the academic industrial complex that many black radicals ostensibly oppose.¹⁹

However, those who insist on a tighter connection between theory and practice (or between vision and praxis, to use the movement's idiom) may still find value in thinking these challenging questions through with me. I hope to present arguments they have yet to entertain or fully consider, arguments that may make a difference to their confidence in abolition or their skepticism toward it. No book is for everyone. *The Idea of Prison Abolition* is primarily for those still considering whether to insist that the practice of imprisonment can and should be improved or commit to fighting for abolition. It is a book premised on the notion that philosophical reflection can help us decide whether to join, champion, abandon, or oppose a cause. Philosophy has proven its value when it comes to thinking through the various dimensions of causes like animal rights, environmental justice, socialism, reproductive rights, reparations for

slavery, multiculturalism, and ending global poverty. The cause of prison abolition is just as suitable a subject for philosophical engagement.

There is an additional value to this kind of critical interchange across philosophical and political traditions apart from how it bears on prison abolition. I favor pluralism when it comes to philosophical method. I think different approaches—phenomenology, critical theory, conceptual analysis, pragmatism, genealogy, reflective equilibrium, and so on—often yield complementary insights. And this book is an attempt at philosophical engagement across the continental-analytic divide—“Afro-analytical Marxism,” as I call it.²⁰

It is also valuable, though unfortunately too rare, to have open debate among those working in different political traditions of Afro-modern political thought. In recent years, one can’t help but notice a general reluctance among black progressives and radicals to openly disagree with each other in print. To be sure, black conservatives and black “neoliberals” are relentlessly attacked, mocked, and dismissed. And those who try to “reduce” race to class are sometimes openly challenged. But debate within the broader black left is generally more muted, indirect, and infrequent; and when it does occur, it is often weighted down with ad hominem attacks or fueled by personal rivalry.

Yet we will make more progress in our thinking by directly testing our ideas with those who are not already inclined to accept them but who might be open to reconsidering their views. It is also good democratic practice, a way to maintain a healthy sense of our own fallibility and to prefigure the kind of social relations we hope to bring about. Indeed, black critical theory is already an amalgam of sometimes contending traditions, an

approach forged through constructive debate and the exchange of ideas drawn from different philosophical frameworks. And I am convinced, and hope to persuade readers, that black critical theory, while vibrant and essential, needs to change in some ways if it is to realize its full transformative potential.

Lastly, there is, we must admit, a general reticence to openly disagree with our heroes. Angela Davis is an iconic, revered, and courageous figure on the left and in the black political tradition. Her work is thus seldom subjected to close critical scrutiny by those who are inspired by or admire her. But criticism, when honest and constructive, is not an insult. Hagiography is not the only way to honor our most cherished freedom fighters. On the contrary, it is out of respect for Davis's writings that I feel it necessary to engage with her ideas. Too often, Davis is treated as a mere symbol of black radicalism and militancy, like a raised fist or an Afro, as she herself laments.²¹ As one of our most original and influential philosophers, she deserves the same kind of critical but respectful engagement that distinguished male or white philosophers regularly receive.

Reform or Abolition?

For reasons I will explain, prison abolition philosophy is utopian in ways that are both good and bad. Yet its utopianism is not my primary reason for not fully accepting prison abolition. Nor do my disagreements with this philosophy depend on rejecting socialism, much less defending capitalism. Rather, I continue to believe that incarceration has legitimate and socially necessary uses, including as punishment, and so prisons are not inherently unjust. Moreover, I think that the use of

incarceration, under the right circumstances and in conjunction with other less harmful practices, can be worth its attendant risks and costs. I also believe that abolitionists' most compelling criticisms are properly directed, not at incarceration as such, but at background structural injustices in society, correctable failures of due process and prison administration, inhumane prison conditions, and inadequate public efforts to enable former prisoners to rejoin society on equal terms.

In saying that incarceration has legitimate uses, I am *not* defending U.S. federal, state, or municipal prison systems. These facilities are often grossly unjust and inhumane. They also contain many who have been confined for far too long, and many who should never have been imprisoned at all. Indeed, elsewhere I have questioned the legitimacy of the American criminal justice system.²² Though I am not convinced that prisons are obsolete or approaching obsolescence, I strongly oppose U.S. mass incarceration, with its unprecedented and unrivaled rates of imprisonment and its highly punitive policies and unforgiving retributive ethos.²³ Still, there is a meaningful and important difference between, on the one hand, demanding such things as more humane prison conditions, less harsh prison sentences, and fewer prisoners and, on the other, insisting that there should be no prisons.

Some critics of prison reform write as if reformers seek merely to improve the criminal justice system but are not interested in or, in any case, are not committed to changing the basic structure of society.²⁴ Some abolitionists also charge reformers with viewing criminal law and law enforcement as the sole tools of crime control and harm prevention. I would not associate myself with either conception of reform. Not only must systemic injustice in the broader society be meaningfully addressed, but

prison reform will not be successful without such redress. And crime can, and should, be controlled and prevented through a variety of means. Prisons are just one tool and best used, if at all, as a last resort.

Both reformers and abolitionists seek social change, sometimes the same changes (for example, greater protections for the lives, well-being, and health of prisoners). Indeed, some abolitionists are committed to what are sometimes called “non-reformist reforms”—that is, reforms that improve the lives and safety of prisoners but that will not strengthen, further legitimize, or expand prison systems.²⁵ The reformer, though, thinks the needed changes are consistent with preserving key features of the practice of imprisonment. The abolitionist, by contrast, believes the requisite changes require doing away with the practice of imprisonment completely or so transforming the practice that it would no longer be accurate to call it “imprisonment.”

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