

# Political Theory and Philosophy in a Time of Mass Incarceration: Introduction to Part I

*Natalie Cisneros and Andrew Dilts*

It has become customary to begin conversations about the state of punishment in the United States with a rehearsal of shocking statistics, in the unstated hope that the sheer weight of data will force a policy change. And at this point, it would hopefully be unnecessary to remind readers that the United States has the highest recorded incarceration rate in the world.<sup>1</sup> The statistics, nevertheless, remain shocking—if not surprising. As scholars have recognized for more than a decade, the U.S. penal system is one of “mass incarceration,” not simply because of its high rate of imprisonment, but also because of the concentration of its effects on communities of color.<sup>2</sup> Recent reports indicate that rates of imprisonment for Black and Latina/o men and women are twice to over six times as high as those of whites.<sup>3</sup> Indigenous people are also incarcerated in dramatically disproportionate numbers, and women of color are the fastest growing group of people who find themselves behind bars.<sup>4</sup> Moreover, these statistics do not capture the

1. *One in 100: Behind Bars in America 2008* (Washington, DC: The Pew Center on the States, 2008), 35.
2. David Garland, “Introduction: The Meaning of Mass Imprisonment,” in *Mass Imprisonment: Social Causes and Consequences*, ed. David Garland (London: Sage, 2001). On the proliferation of the academic and popular use of the terms “mass imprisonment” and “mass incarceration” see Oliver Roeder, *Just Facts: Quantifying the Incarceration Conversation* (Brennan Center for Justice, 2014) (accessed July 31, 2014)]; available from <http://www.brennancenter.org/blog/just-facts-quantifying-incarceration-conversation>.
3. *One in 100*.
4. Robin Levi and Ayelet Waldman, eds., *Inside This Place, Not of It: Narratives from Women's Prisons* (San Francisco: McSweeney's Books, 2011), 18. See also Beth E. Richie, “The Social Impact of Mass Incarceration on Women,” in *Invisible Punishment*, ed. Marc Mauer and Meda Chesney-Lind (New York: The New Press, 2002); Beth E. Richie, *Arrested Justice: Black Women, Violence, and*

veritable explosion in the incarceration of migrants held in “immigration detention centers” throughout the United States, especially in the past two decades.<sup>5</sup> Despite the alarming nature of these numbers, such statistics don’t fully represent the scale of mass incarceration in the United States.

Mass incarceration and its attendant realities of racist, sexual, and gender-normalizing violence structure the contemporary era; the prison fundamentally shapes our political landscape, economy, ways of knowing, practices, and selves. We work, teach, and think in what Joy James has called a “penal democracy.”<sup>6</sup> Our democratic relations to each other are mediated (if not outright defined) by a network of carceral institutions and practices predicated on inequality, the restriction of freedom, and the control of marginalized populations administered by the force of the state (or its private agents). In much the same way that for persons living in a slave society, political, economic, and social life were structured by the practice of chattel slavery, our lives are structured politically, economically, and socially with respect to prisons.

How do we—and how should we—engage in critical theory about mass incarceration under such terms? How should we continue the work of intellectuals and philosophers who have placed the prison, punishment, and the voices of those imprisoned at the center rather than the periphery of their work? How do specific realities of mass incarceration determine our philosophical and political practice? This special project is one attempt at that work. The four essays gathered here by Perry Zurn, Sarah Tyson, Robert Nichols, and Keramet Reiter directly engage the material reality of mass incarceration through theoretical and philosophical analyses of prisons as contemporary sites of the functioning of power. It is our working assumption that the prison—whether theorized as a location, space, object, practice, or form—is anything but a self-explanatory phenomenon. Rather, the prison requires critical theoretical and philosophical interpretation to make sense of it. Moreover, we assume that existing theoretical and philosophical frameworks are impoverished if they are not brought to bear on the material realities of the prison and mass incarceration. This special project works between and across the assumed boundaries of theory and practice, hopefully expanding our knowledge of both prisons and philosophy and

---

*America's Prison Nation* (New York: New York University Press, 2012). United Nations General Assembly Human Rights Council, “Study on Access to Justice in the Promotion and Protection of the Rights of Indigenous Peoples” (2013).

5. Jennifer M. Chacón, “Immigration Detention: No Turning Back?,” *The South Atlantic Quarterly* 113.3 (2014). See also Eithne Luibheid and Lionel Cantú Jr., eds., *Queer Migrations: Sexuality, U.S. Citizenship, and Border Crossings* (Minneapolis: University of Minnesota Press, 2005).
6. Joy James, “Introduction: Democracy and Captivity,” in *The New Abolitionists: (Neo)Slave Narratives and Contemporary Prison Writings*, ed. Joy James (Albany: State University of New York Press, 2005), xxi.

transforming our practices with a force that the statistics alone have so far failed to produce.

### The Condition of Philosophy and Theory in Penal Democracy

There is, of course, something puzzling about philosophy's reluctance to engage in a sustained way with the prison, even under the conditions of mass incarceration, given the prevalence of punishment generally—and imprisonment specifically—in the canons of philosophy and political theory. Plato, Aquinas, Locke, Hobbes, Bentham, Mill, Rousseau, Kant, Hegel, and Nietzsche (to name just a few), all speak at some length in their work about punishment. Antonio Gramsci famously wrote while imprisoned, and, in Plato's *Phaedo*, Socrates himself dies in prison after refusing an offer to escape it. And yet, Michel Foucault remains the standard philosopher or theorist of the prison itself.

Indeed, philosophy's relative failure to engage explicitly with the conditions of mass incarceration has sidelined the important critical work done on prisons by Angela Davis, W. E. B. Du Bois, Ida B. Wells, Joy James, Ruth Gilmore, Keally McBride, Lisa Guenther, Eduardo Mendieta, Jeffrey Paris, and many others.<sup>7</sup> But, while these thinkers and other philosophers have taken up questions surrounding the material conditions of mass incarceration in a critical way, it is simply the case that the overwhelming majority of philosophical analysis and work in political theory largely ignores and disavows these material conditions. The overwhelming majority of theorists and scholars of mass incarceration draw primarily from cultural studies, American studies, and sociology. But we contend that not taking seriously the prison as a location, space, object, practice, or form has shaped philosophy in specific detrimental ways:

1) It has limited what we do know and what we can know. Not attending the material realities of prisons has left philosophy operating under various epistemological blocks, or what Nancy Tuana, Charles Mills, and Linda

---

7. See Angela Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003); Angela Davis, *Abolition Democracy: Beyond Empire, Prisons, and Torture* (New York: Seven Stories Press, 2005); Jeffrey Paris, "Decarceration and the Philosophies of Mass Imprisonment," *Human Studies* 30.1 (2007); Eduardo Mendieta, "The Prison Contract and Surplus Punishment: On Angela Y. Davis's Abolitionism," *Human Studies* 30 (2007); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007); Joy James, *States of Confinement: Policing, Detention, and Prisons* (New York: Palgrave Macmillan, 2002); Joy James, ed., *Warfare in the American Homeland: Policing and Prisons in a Penal Democracy* (Durham, NC: Duke University Press, 2007); Keally McBride, *Punishment and Political Order* (Ann Arbor: University of Michigan Press, 2007).

Alcoff have all identified as an epistemology of ignorance.<sup>8</sup> In this vein, philosophy's failure when it comes to prisons has also participated in limiting what counts as philosophical knowledge and who counts as a philosopher. This is evident in the history of philosophers who have done critical work on the prison in distinction to that of ideal theorists and philosophers of punishment; the former, unlike the latter, have been largely excluded from mainstream philosophical discourse. This is the case both with respect to the material conditions of philosophy and to the voices of philosophers, thinkers, and intellectuals who are deserving of those names: anti-violence activists, prison abolitionists, and incarcerated and formerly incarcerated persons themselves (see Sarah Tyson's essay in this issue, for example).<sup>9</sup>

2) It has facilitated a failure to critically interrogate the very terms of our analysis. That is, philosophy's reluctance to engage with the material realities of mass incarceration has impoverished critical philosophical modes of understanding the world (see Keramet Reiter's essay in this issue, for example). Guenther's work, a notable exception to philosophy's relative failure in this vein, shows us how seemingly descriptive concepts, such as the body itself, presume relations with time, space, and the presence of others that are intentionally disrupted and disordered by the prison.<sup>10</sup> Moreover, key normative terms for the analysis of punishment (such as proportionality, desert, guilt, and innocence) derive their meanings from the particular practices of punishment, incarceration, and inclusion/exclusion from the body politic.<sup>11</sup> The terms of philosophical analysis take shape through actual practice, and, when theory is not practically engaged with the lived, material reality of mass incarceration, its modes of critique are severely limited.

3) It has foreclosed the possibility of a thoroughly critical analysis of the relationship between theory and practice in philosophy itself. Put differently, we have failed to note how mass incarceration is intimately connected

---

8. Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997); Shannon Sullivan and Nancy Tuana, eds., *Race and Epistemologies of Ignorance* (Albany: State University of New York Press, 2007); Linda Martín Alcoff, "Epistemologies of Ignorance: Three Types," in *Race and Epistemologies of Ignorance*, ed. Shannon Sullivan and Nancy Tuana (Albany: SUNY Press, 2007).

9. See Ryan Conrad, ed., *Prisons Will Not Protect You* (Lewiston, ME: Against Equality Publishing Collective, 2012); INCITE! Women of Color Against Violence, *Color of Violence: The INCITE! Anthology* (Cambridge, MA: South End Press, 2006); CR-10 Publications Collective, ed., *Abolition Now!: 10 Years of Strategy and Struggle against the Prison Industrial Complex* (Oakland, CA: AK Press, 2008).

10. Lisa Guenther, *Solitary Confinement: Social Death and Its Afterlives* (Minneapolis: University of Minnesota Press, 2013).

11. Andrew Dilts, *Punishment and Inclusion: Race, Membership, and the Limits of American Liberalism* (New York: Fordham University Press, 2014).

to the practice of philosophy (see Perry Zurn's essay in this issue, for example)—and who it is practiced by. This issue of representation in philosophy itself, which has been raised in important work by Kristie Dotson, among others, brings to the fore the connection between prisons, philosophy, and race and gender identities.<sup>12</sup> At the same time—and through similar strategies—that academic philosophy has remained a largely white and male institution, it has also excluded the theoretical contributions of incarcerated persons. This manifests itself as a seemingly impossible divide between theory and praxis. Even in the moments when philosophy/theory has taken up the task of engaging with the realities of mass incarceration, it has done so while often reproducing some of the very same pathologies it should resist (see Robert Nichols's essay in this issue, for example). Recent and important contributions in philosophy/theory and prison have continued to be largely produced by those without direct experience with incarceration. Because of this, work on prisons still sometimes sidelines deeper and related forces that should shape the study of incarceration, such as settler colonialism, white supremacy, patriarchy, and hetero-sexism. Attending philosophically to prisons means that we must critically trouble the rigid boundaries between theory and non-theory, and between philosopher and prisoner.

### **Toward the Ruthless Critique of the Prison (or, how we want to do Critical Prison Theory and Philosophy)**

Given the current state of theorizing about incarceration, it may seem that simply attending to the prison as a condition of philosophical thought is in and of itself a radical act. This, however, is not what we are asserting. Rather, we want to distinguish what *radical* philosophy and *critical* theory can and should do when they are focused on the prison. In this vein we argue that attending to the material realities of mass incarceration requires a transformation—and radicalization—of philosophical praxis.

First and foremost, a radical approach must not reify the abstract versus concrete dichotomy, so often mobilized in the analysis of prisons and punishment. Our approach is, in this sense, deeply indebted to critical theory and in particular to strains of theory and philosophy that begin from lived experiences of marginalization and oppression. We follow, therefore, the model of Iris Young's account of critical theory as "situated normative reflection." For Young, critical theory recognizes that its reflection is always in relation to a specific set of conditions.<sup>13</sup> Our motivation to reflect on this

12. Kristie Dotson, "How Is This Paper Philosophy?," *Comparative Philosophy* 3.1 (2011). See also Linda Martín Alcoff, "Philosophy's Civil Wars," *Proceedings and Addresses of the APA* 87 (2013).

13. Iris Marion Young, *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 1990), 5.

situation, then, is driven by the experience of oppression and by the demands of those who suffer. We are not, nor do we pretend to be, impartial or objective in our analyses. We are subjective and motivated by our relations to others who, precisely because of the effectiveness of the prison technique, have been systematically removed, destroyed, exiled, and rendered socially dead. In this sense, the challenge of critical prison theory—and of radical philosophy—is both all the more difficult and all the more important.

Second, this approach must not take the current conditions as given, natural, or exogenous to philosophy and theory. In particular, any honest confrontation with the material history of mass incarceration must acknowledge its intimate relationship with white supremacy as a political system.<sup>14</sup> Similarly, a critical theoretical engagement with the prison must take seriously its role in the reproduction of hetero-sexist modes of patriarchal domination.<sup>15</sup>

Third, we recognize that we will fail in our task but turn to failure as both a positive and negative resource. Concretely, this means that we will have to confront the questions of reform versus revolution, of abolition versus amelioration, and, perhaps most generally, of theory and praxis. It is our contention that any radical philosophical approach to the prison will begin by rejecting these as false distinctions imposed upon our practice and our thought not merely by our situation, but also by our unwillingness to think otherwise than we have been trained and by our failure to think with those who have been imprisoned. It is imperative, then, to recognize the prison as both a location of revolutionary praxis and a means of revolutionizing philosophy and theory. Or as members of the radical Prison Information Group put it in 1971, following the assassination of George Jackson at San Quentin State Prison, “Prison struggle has now become a new front of the revolution.”<sup>16</sup>

## Critical Prison Theory as Radical Philosophy in Practice

We are grateful to *Radical Philosophy Review* for the space to present two sets of essays that grapple with these questions and pursue these themes.

---

14. Mills, *The Racial Contract*.

15. Andrea Smith, “Heteropatriarchy and the Three Pillars of White Supremacy,” in *Color of Violence*; Dean Spade, *Normal Life: Administrative Violence, Critical Trans Politics and the Limits of Law* (Cambridge, MA: South End Press, 2011); Natalie Cisneros, “Criminal Masculinity: Race, Gender, and Sexuality in the Age of Mass Incarceration,” in *Philosophy Imprisoned: The Love of Wisdom in the Age of Mass Incarceration*, ed. Sarah Tyson and Joshua Hall (New York: Lexington Books, 2014).

16. Michel Foucault, Catherine Von Bülow, and Daniel Defert, “The Masked Assassination,” in *Warfare in the American Homeland: Policing and Prisons in a Penal Democracy*, ed. Joy James (Durham, NC: Duke University Press, 2007), 157.



The first set of essays appears in this issue, and a second set will appear in issue 18.2, in the Fall of 2015.

In "Publicity and Politics: Foucault, the Prisons Information Group, and the Press," Perry Zurn raises the question of how to engage in philosophical and political practice in our time of mass incarceration. In contradistinction with typical accounts of publicity as a distraction from both material reality and philosophical practice, Zurn illustrates how "radical" publicity has been and can be a strategy for critiquing the prison itself and doing philosophy better. Drawing on Foucault's work with the Prisons Information Group (GIP), Zurn analyzes how radical publicity functions as a technique of critical philosophical and political transformation. His analysis in this essay makes a significant contribution to conversations about the meaning and possibility of resisting mass incarceration in the United States and elsewhere; by focusing on the particular modes of publicity practiced by the GIP in resisting the prison, Zurn offers a real direction for both political and philosophical practice. In addition to being a significant contribution to literature on Foucault and theoretical work on resistance more generally, his project shows us in a concrete way how the utilization of publicity that "ruptures institutional systems of information by gratuitous proliferation" both has been—and can be—a way of refusing to tolerate the intolerable material reality.

"Experiments in Responsibility: Pocket Parks, Radical Anti-Violence Work, and the Social Ontology of Safety" takes up questions of sexuality, violence, and the carceral system. In an analysis squarely rooted in pressing contemporary concerns surrounding sexual violence and mass incarceration, Sarah Tyson examines the impact of sex offender registries for communities in the United States. She compels us to reconsider the meanings of success, safety, and community by engaging with both empirical research on the effects of judicial regulations surrounding sexual violence and Judith Butler's work on interdependency and the inevitability of vulnerability. By doing so, her essay shows not only that the strategy of creating "pocket parks," public green spaces that exclude people registered as sex offenders, doesn't actually make communities safer; it also critically examines why the violence of exclusion means this is inevitably the case. In the last section of her essay, Tyson explores the possibility and promise of transformative justice by centering the work of generationFIVE, an organization dedicated to eradicating child sexual abuse within five generations. Tyson shows us how this work opens up the possibility of a practice of resistance to sexual violence that isn't invested in the carceral system. Ultimately, Tyson calls us to transform our thinking about vulnerability and community as well as to confront the violence of exclusion in our political and philosophical practice.

Robert Nichols, in his essay "The Colonialism of Incarceration: Carceral Power, Territorialized Sovereignty, and Indigenous Political Critique in North America," calls into question some of the central assumptions of critical

prison studies. By placing it into conversation with indigenous thought, he demonstrates how critical theory about prisons that doesn't take seriously decolonial thought fails to account for the realities of the carceral system. Moreover, he brings to the fore how, especially in the North American context, critiques of mass incarceration that emphasize the disproportionate "over-representation" of people of color are problematic when they focus on the racialized bodies within prisons rather than the political function of the carceral system as a whole. At the same time, he locates mass incarceration within the context of settler colonialism and territorialized sovereignty in order to call attention to the blurry line between crime and war, underlining the necessity of a renewed critique of state power in critical prison studies. Indeed, Nichols's essay moves toward decolonizing critical prison studies and challenging the existence of both the prison and carcerality in general.

We close this installment of the project with "The Supermax Prison: A Blunt Means of Control, or a Subtle Form of Violence?." Here, Keramet Reiter draws our critical attention to the Supermax Prison and the violence perpetrated in and by this major strategy of mass incarceration in the United States. Drawing on interviews with and writings by former Supermax prisoners, Reiter shows how this institution, which is justified as a means of controlling violence, actually functions to produce it. Her compelling history of the Supermax as a strategy of the state further illustrates the cycle of violence and justification that has sustained and perpetuated it: the very violence perpetrated in these spaces of incarceration has been used to legitimize them. In this way, Reiter dismantles the state's claim that Supermaxes control violence by engaging in a critique rooted in their history and in the lived experiences of people subjected to them. By doing so, she urges us to critique forms of violence effected by mass incarceration in a way that doesn't reproduce it. — • —