

## TOWARD ABOLITIONIST GENEALOGY

ANDREW DILTS

ABSTRACT: In this essay, I offer a brief for “abolitionist genealogy” as a method and philosophical practice. By locating instances of this method within the work of prison abolitionists who are incarcerated or formerly incarcerated (specifically organizers of the 2016 National Prison Strike, CeCe McDonald, and the abolitionist organizations generationFIVE and Black and Pink), I argue that such a method is already available to theorists and critical historians of the present if we are willing to attend to the absences and presences that constitute our academic communities. I ground my brief for abolitionist genealogy by centering the experiences of queer, trans, gender-nonconforming, and intersex incarcerated people as exemplary (rather than exceptional) of how prisons and jails are fundamentally violent places which cannot, as McDonald puts it, be made safe. Lastly, I link these concerns to the broader question of queer and TGNCI visibility politics in carceral institutions such as the jail/prison and the university.

### I.

This paper carries two briefs and offers a third. The first brief builds on existing critiques of widely adopted models of “gender responsive justice” and “gender responsive incarceration” across the United States and takes up what has been called “prison pink-washing”: the use of strategies that focused on primarily queer, trans, gender-nonconforming, and intersex (TGNCI) incarcerated persons to bolster the prison industrial complex as “humane” and “safe.” Such “responsive” models rest upon and violently reproduce

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**Andrew Dilts** is Associate Professor of Political Theory in the Department of Political Science at Loyola Marymount University and is currently a Member of the School of Social Science at the Institute for Advanced Study (2016-2017). Dilts is the author of *Punishment and Inclusion: Race, Membership, and the Limits of American Liberalism* (Fordham University Press, 2014) and co-editor (with Perry Zurn) of *Active Intolerance: Foucault, the Prisons Information Group, and the Future of Abolition* (Palgrave, 2016).

essentialist notions of sexuality, gender, and race. Moreover, they also reflect the contradictory reality that prison reform agendas typically both accept racialized, gendered, and sexualized violence as a “normal” feature of the prison and also insist that the prison can be made “safe” and free from violence. The tradition of critical analysis and practice of queer, trans, and women of color anti-sexual-violence activism offers a powerful critique that prison cannot be made safe for anyone and ought to direct us all collectively away from reformist tendencies and to more radical alternatives. *This is the brief for prison abolition.*<sup>1</sup>

The second brief takes up the idea of “critical histories of the present.” I will take up this term as a type of genealogical investigation, and I rely primarily on Ladelle McWhorter’s succinct definition of genealogy as “a critical redescription of a dominant description.”<sup>2</sup> If we are to do such work, tracing out a critical history of the present as a mode of intentionally *disruptive* critique, as capable of redescribing a dominant or hegemonic formation of power/knowledge, we must be attentive to an ethics of genealogical investigation (one that centers the voices and archives of those most marginalized by the objects of analysis) and the philosophical use of history and specific histories (directed toward liberatory ends beyond the currently given conditions). *This is the brief for critical genealogy.*<sup>3</sup>

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<sup>1</sup> The literature on prison abolition is expansive and any footnote would be woefully incomplete, but several works, both foundational and which provide surveys of this literature, include: 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); Ryan Conrad, ed., *Prisons Will Not Protect You* (Lewiston, ME: Against Equality Publishing Collective, 2012); CR-10 Publications Collective, ed., *Abolition Now!: 10 Years of Strategy and Struggle Against the Prison Industrial Complex* (Oakland, CA: AK Press, 2008); Allegra M. McLeod, “Prison Abolition and Grounded Justice,” *UCLA Law Review* 62 (2015): 1156–1239; Eric A. Stanley and Nat Smith, *Captive Genders: Trans Embodiment and the Prison Industrial Complex*, 2nd ed. (Oakland, CA: AK Press, 2015); M. Brown and J. Schept, “New Abolition, Criminology and a Critical Carceral Studies,” *Punishment & Society*, September 7, 2016, doi:10.1177/1462474516666281.

<sup>2</sup> Ladelle McWhorter, *Bodies and Pleasures: Foucault and the Politics of Sexual Normalization* (Bloomington, IN: Indiana University Press, 1999), 43.

<sup>3</sup> As with prison abolition, the methodological literature on critical genealogy is expansive, but several works are important to note here, as they shape my understanding of this method and are exemplary of its practice, including: Michel Foucault, “Nietzsche, Genealogy, History,” in *Language, Counter-Memory, Practice*, ed. Donald F. Bouchard (Ithaca, NY: Cornell University Press, 1977), 139–64; McWhorter, *Bodies and Pleasures*; Ladelle McWhorter, *Racism and Sexual Oppression in Anglo-America: A Genealogy* (Bloomington, IN: Indiana University Press, 2009); David Owen, “On Genealogy and Political Theory,” *Political Theory* 33, no. 1 (2005): 110–20; Colin Koopman, *Genealogy as Critique: Foucault and the Problems of Modernity* (Bloomington: Indiana University Press, 2013); Verena Erlenbusch, “From Race War to Socialist Racism: Foucault’s Second Transcription,” *Foucault Studies*, no. 22 (January 6, 2017): 134–52.

These two briefs come together in a third brief, one which this essay gestures toward but to which the analysis here will be necessarily insufficient: a brief for abolitionist genealogy. Such a philosophical method and political practice brings together the ethics of critical genealogy and the aspiration of abolition-democracy in a way that is not merely interesting or engaging, but liberating. To this end this paper serves primarily as “thinking-out-loud,” structured as a series of questions and provocations, analyses of contemporary antiprison organizing, critiques of “progressive” prison reform, and accounts of the work of abolitionist organizations. In doing so, I stake some strong claims and endeavor to give up the floor as much as possible to those whose lives are more primarily shaped by the institutions and practices that I take up.<sup>4</sup>

My central concern, and my motivation for pointing toward a distinctly abolitionist genealogical approach, is to acknowledge the work already done by incarcerated and formerly incarcerated theorists on these questions, but whose work is largely unacknowledged as theoretical, or is acknowledged as nothing more than testimony or data for subsequent analysis. Moreover, I am convinced that the project of prison abolition requires a critical history of our own moment, as impossible as this may be to provide. One necessary path toward such an account lies with those persons in jail and prison who are engaged in critical genealogy but to whom we are not attending. Put differently, I want to ask what it means when we come together to reflect on the practice of philosophy and critical history if we fail to include some of the most astute critical historians and genealogists that we have, whose genealogically work is in the service of liberation. Theirs and ours. How can we continue to explain ourselves without them?<sup>5</sup>

## II.

In invoking the idea of “critical histories of the present,” there are at least three typically unarticulated questions that are worth stating openly. First, “whose” present is meant, exactly? Second, “who” is present in our histories? And third, given whatever provisional answers we provide to these first two

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<sup>4</sup> I take the term, “give up the floor” in part from the work the *Le Groupe d'information sur les prisons* (the Prisons Information Group, the GIP), a radical prison-activist organization that worked in the early 1970s in France to directly confront the prison and criminal punishment. Their motto was “donner la parole,” typically translated as “to give up the floor.” See Philippe Artières, Laurent Quérou, and Michelle Zancarini-Fournet, eds., *Le Groupe d'information Sur Les Prisons: Archives D'une Lutlle 1970–1972* (Paris: Éditions de L'IMEC, 2003); Perry Zurn and Andrew Dilts, eds., *Active Intolerance: Michel Foucault, the Prisons Information Group, and the Future of Abolition* (New York: Palgrave Macmillan, 2016).

<sup>5</sup> I am indebted to Sarah Tyson for this formulation of the question.

questions, what specifically is the critical position that one takes? Posing these questions nonrhetorically marks and identifies not only the presumed agents of the work of critical history and those who are absent (those who cannot be present because they are blocked from being so or who only “appear” in the archives as disruptions), but also marks the events, moments, and crises that are the objects of our analysis. And while there are obviously many answers available to these questions—posed either literally or rhetorically—they position genealogical research concretely in terms of subject position, object(s) of analysis, and motivation. In both asking and attempting to answer them, these questions mark presence, absence, and position, provoking self-reflection and disorientation from the taken-for-granted. And, perhaps most importantly, they offer a way to challenge who we read as theorists and who we read as merely “objects” we find in the archives we read.

For my immediate purposes, and as an example of the kind of presence, absence, and position about which I am thinking, a set of recent events mark our shared present and our shared history as persons in relation to each other: On September 9, 2016, a series of organized prison strikes began across the United States. Solidarity protests, direct-actions, and public marches on the outside took place around the world. The strike began 45 years since the Attica Prison Uprising, which took place between September 1 and September 9, 1971, and which was followed by numerous other prison strikes in the following weeks and months (including a notable strike at the Federal Reformatory for Women at Alderson, WV).<sup>6</sup> In a statement issued April 1, 2016, incarcerated organizers called for this national “work-stoppage” in prisons across the United States. This statement, jointly signed by three prisoner-led organizations (the Incarcerated Workers Organizing Committee [IWOC],<sup>7</sup> Support Prisoner Resistance, and the Free Alabama Movement) declared:

Slavery is alive and well in the prison system, but by the end of this year, it won't be anymore. This is a call to end slavery in America. This call goes directly to the slaves themselves. We are not making demands or requests of our captors, we are calling ourselves to action. To every prisoner in every state and federal institution across this land, we call on you to stop being a slave, to let the crops rot in the

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<sup>6</sup> “Alderson,” *Off Our Backs* 2, no. 2 (1971): 6.

<sup>7</sup> The IWOC is a standing committee of International Workers of the World (IWW) which, along with the “Incarcerated Workers Industrial Union 613” are formal affiliates of the IWW claiming 800 currently incarcerated members. An April 2016 prison strike in Texas was organized in conjunction with these affiliates. According to the IWOC’s statement of purpose, the membership works to build a “cage slave/wage slave” alliance in order “to further the revolutionary goals of incarcerated people and the IWW through mutual organizing of a worldwide union for emancipation from the prison system.” IWW Incarcerated Workers Organizing Committee, “About Us,” <https://iwoc.noblogs.org/about/>.

plantation fields, to go on strike and cease reproducing the institutions of your confinement.<sup>8</sup>

In announcing the strike, organizers placed the action in series with more recent prison strikes and protests across the United States, including a 2010 prison strike across Georgia prisons,<sup>9</sup> the series of hunger strikes centered at the Pelican Bay supermax prison in California, which spread throughout the entire system in the summer of 2013,<sup>10</sup> the work stoppages organized by the Free Alabama movement throughout 2014,<sup>11</sup> and hunger-strikes and work stoppages organized by and with incarcerated women at immigration detentions centers and jails throughout the United States.<sup>12</sup> All of

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<sup>8</sup> The call does not credit individual authors, but rather is claimed to be collectively authored by “outside supporters” and incarcerated persons in Alabama, Mississippi, Ohio, and Virginia. The call is signed by three organizations, each of whose membership includes persons both inside and outside of prison. It was published online in English and Spanish and was provided in two printable formats. The first version features a graphic of a prison tower and a matchstick announcing “This is a call to end slavery in America. National Prison Strike September 2016.” The other is “mail room friendly” whose front page features a photograph of a serene wooded lake and features the innocuous text, “On September 9<sup>th</sup>, 2016...” See Support Prisoner Resistance, “Announcement of Nationally Coordinated Prisoner Workstoppage for Sept 9, 2016,” <https://supportprisonerresistance.noblogs.org/post/2016/04/01/announcement-of-nationally-coordinated-prisoner-workstoppage-for-sept-9-2016/>; Free Alabama Movement, “National Prisoner Workstoppage: STOP SLAVERY – Sept 9 2016,” *Free Alabama Movement*, August 31, 2016, <https://freelabamamovement.wordpress.com/national-prison-strike-sept-9-2016/>; IWOC, “Announcement of Nationally Coordinated Prisoner Workstoppage for Sept 9, 2016 | IWW Incarcerated Workers Organizing Committee,” April 1, 2016, <https://iwoc.noblogs.org/post/2016/04/01/announcement-of-nationally-coordinated-prisoner-workstoppage-for-sept-9-2016/>. “Solidarity with Prison Rebels: New Booklet/PDF For Distro,” *ITS GOING DOWN*, September 12, 2016, <https://itsgoingdown.org/solidarity-prison-rebels-new-bookletpdf-distro/>.

<sup>9</sup> Sarah Wheaton, “Prisoners Strike in Georgia,” *New York Times*, December 12, 2010; Sarah Wheaton, “Inmates in Georgia Prisons Use Contraband Phones to Coordinate Protest,” *New York Times*, December 12, 2010, <http://www.nytimes.com/2010/12/13/us/13prison.html>.

<sup>10</sup> Paige St. John, “30,000 California Prisoners Refuse Meals in Apparent Hunger Strike,” *Los Angeles Times*, July 8, 2013, <http://articles.latimes.com/2013/jul/08/local/la-me-ft-prison-strike-20130709>; Jennifer Medina, “Hunger Strike by California Inmates, Already Large, Is Expected to Be Long,” *The New York Times*, July 10, 2013, <http://www.nytimes.com/2013/07/11/us/hunger-strike-by-california-inmates-already-large-is-expected-to-be-a-long-one.html>. The best source of information on the 2011 and 2013 hunger strikes in California comes from the organizing network, Prison Hunger Strike Solidarity (PHSS). “Prisoner Hunger Strike Solidarity,” *Prisoner Hunger Strike Solidarity*, n.d., <https://prisonerhungerstrikesolidarity.wordpress.com/>.

<sup>11</sup> Free Alabama Movement, “National Prisoner Workstoppage.”

<sup>12</sup> Pete Brook, “Women Prisoners in California Are Hunger Striking in Solidarity with Detained Immigrants,” *San Francisco Bay View*, December 16, 2015, <http://sfbayview.com/2015/12/women-prisoners-in-california-are-hunger-striking-in-solidarity-with-detained-immigrants/>; Samantha Michaels, “Hundreds of People Have Gone on Hunger Strike. Here’s Why No One Is Talking about It,” *Mother Jones*, December 3, 2015, <http://www.motherjones.com/politics/2015/11/why-are-hundreds-detained-immigrants-going-hunger-strike>.

these protests, strikes, work-stoppages, and uprisings share the feature that they were organized by incarcerated persons *across* facilities, underlining how prison, jail, and detention center conditions are understood by organizers as *linked* together (even as specific demands were issued within each facility).<sup>13</sup>

Building on a long tradition of prison-based organizing that takes up a class-based analysis, conceiving of a “convict-class” interest, the organizers of the Attica anniversary strike identify themselves specifically as *incarcerated workers*. And, like other workers, their labor-power is exploited by the demands of a broader political-economic system. But unlike other workers, they are also exploited by the state (and by proxy, by all those who benefit from that exploitation, i.e., those who are not presently incarcerated and whose material well-being is improved through exploited labor).<sup>14</sup> These incarcerated workers draw out a genealogical connection between the conditions of confinement as prison slavery and broader conditions of criminalization and the fact of widespread “extra-judicial execution” visited upon specific communities in the United States. The ever present “threat of capture, of being thrown into these plantations, shackled and forced to work” continues to loom for members of racialized and gendered communities.<sup>15</sup> Through a disruptive juxtaposition of chattel slavery and “the prison” as deeply linked institutions, these authors expressly link their conditions of labor and confinement in three ways (mirroring and extending academic

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<sup>13</sup> Moreover, it is important to note that the very fact that organizers coordinated across facilities was itself a form of resistance against carceral control of communication. It is equally important to note, however, that such coordination is not a contemporary phenomenon. In demands issued by incarcerated people at the Federal Reformatory for Women in Alderson, WV, as part of a strike following the Attica uprising in September 1971, organizers expressly noted that “We join with the prisoners of the Federal Prisons at Danbury, Connecticut and Springfield, Missouri, in demanding that necessary changes be made.” See “Alderson Demands,” *Off Our Backs* 2, no. 1 (1971).

<sup>14</sup> See, especially, chapter five of Dan Berger, *Captive Nation: Black Prison Organizing in the Civil Rights Era* (Chapel Hill, NC: The University of North Carolina Press, 2014). On the material “wages” for nonincarcerated persons of prison-based labor see, for instance, Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley, CA: University of California Press, 2007); Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006).

<sup>15</sup> As Dan Berger notes, the articulation of a class-based analysis by incarcerated persons has historically been in tension with an expressly race-based analysis, especially during the 1970s. During that period, the figuration of incarcerated persons as “slaves” rather than “workers” mapped roughly to a split between (1) revolutionary and abolitionist discourse led by black nationalists for whom “slavery” drew an express link to racial subordination and the history of chattel slavery, and (2) by prison unionists who employed the language of “slavery,” but primarily as a metaphor or limited to a race-neutral economic analysis. Berger, *Captive Nation*, 186.

analyses): *analogically* (prison is *like* slavery),<sup>16</sup> *homologically* (prison *is* slavery),<sup>17</sup> and *genealogically* (slavery is a condition of possibility for the prison).<sup>18</sup>

In each of these models of connection and in their invocation by incarcerated workers who are theorizing their own positions, we can observe the traces of a critical history of *their* present as incarcerated persons. By marking the links between the racialized, gendered, and sexualized institution of chattel slavery in the United States and contemporary conditions of forced labor and confinement, incarcerated organizers both engage in critical history of the present and they present themselves to those of us who are not currently incarcerated as critical theorists of our shared situation. The strike statement is itself both a political action (as a concrete call to action and as a speech act constituting a group) and it is itself a critical history of the present (identifying and grounding contingent connections between regimes of racialized and sexualized domination). The organizers critically redescribe the contemporary social condition as structured by the prison-form (in the same sense that irrespective of one's direct connection to the practice of chattel slavery in the antebellum period, any person living in the United State was part of a slave-society).<sup>19</sup>

They identify *our* present as one in which slavery continues as an identifiable practice within a nation-state that has already celebrated emancipation and which thus disavows these persons as slaves. As such, these incarcerated persons are both excluded from this "emancipated" present (discounted as analysts of their own situation) and simultaneously included in this present

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<sup>16</sup> The crux of the analogical claim is in the specification of some set of descriptive qualities that are linked to the institution of slavery, are defining features of an institution of slavery (such as forced labor, or natal alienation, or social death, racial domination, etc.), are identified conceptually, and which are then located in historical and/or contemporary practices of incarceration.

<sup>17</sup> The homological claim takes the analogical claim a step further and either (1) identifies a similar set of descriptive qualities that are *essential* to slavery and finds them as likewise *essential* characteristics of the prison, or (2) focuses on the functions of slavery in the United States (in particular the maintenance of white supremacy) and marks how the prison today serves the same functions as previous institutions.

<sup>18</sup> The genealogical claim arguably steps away from ideal abstractions of either slavery or the prison and instead traces the specific ways the prison-form and slavery are linked through historical contingencies, perhaps most notably the clause in the Thirteenth Amendment to the US Constitution, which states that involuntary servitude is allowed as "punishment" for a crime, paving the way for the development of the convict lease system in the postbellum United States. This claim arguably subsumes both the analogical and homological claims, but insists on a materialist historical approach to trace out how the prison came to be what it was. This is the tradition in which we find the work of critical social theory and history.

<sup>19</sup> This is similar to how sociologist Beth Richie refers to the United States as a "Prison Nation," in that of the nation-state project is defined through the prison. Beth E. Richie, *Arrested Justice: Black Women, Violence, and America's Prison Nation* (New York, NY: NYU Press, 2012).

(as seemingly archaic figures whose presence troubles narratives of progressive history). Their presence/absence reflects what philosopher and feminist theorist Sina Kramer has identified as “constitutive exclusion,” a “structure and process by which a political body is constituted through the exclusion of some form of difference intolerable to it. This excluded difference is, however, retained within the political body, but under an epistemological block—this ‘internal excluded’ is repressed, disavowed, or abjected.”<sup>20</sup>

As such, this critical redescription of the present grounds the moral and political imperatives to *end* prison slavery. As it contemporizes an otherwise archaic project—the abolition of chattel slavery—as a movement to positively abolish the prison. Prison abolition becomes, as the philosopher and activist Alisa Bierria has put it, a “subversive proposition,”<sup>21</sup> which disrupts hegemonic forms of white-supremacist, ablest, settler-colonial-hetero-patriarchy. Abolition as a political project targets a specific institution (slavery in the nineteenth century and prison in the twentieth and twenty-first centuries) and becomes a broader politics itself, one that embraces horizons, and resists closure, silence, and death.<sup>22</sup> It is, as Angela Davis has argued, the ongoing building of W. E. B. Du Bois’ “Abolition-Democracy.”<sup>23</sup>

Or, as CeCe McDonald puts it more succinctly, reflecting on the relationship between the prison industrial complex and slavery:

Like slavery, there is no other way around the violence of the PIC, so we have to destroy it. We can’t hold onto these powerful institutions that oppress people and

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<sup>20</sup> Sina Kramer, “On Negativity in Revolution in Poetic Language,” *Continental Philosophy Review* 46, no. 3 (2013): 465–79, doi:10.1007/s11007-013-9272-y. See also Sina Kramer, *Excluded Within: The (Un)Intelligibility of Radical Political Actors* (Oxford: Oxford University Press, 2017).

<sup>21</sup> Alisa Bierria, “Community Accountability: Emerging Movements to Transform Violence,” (lecture, Cal-State Fullerton Annual Philosophy Symposium, “Rethinking Mass Incarceration: Gender, Race, and the Prison Industrial Complex,” Fullerton, CA, April 11, 2014).

<sup>22</sup> See also Allegra McLeod, who distinguishes nicely between “prison abolitionist frameworks” and “prison abolitionist ethics.” McLeod, “Prison Abolition and Grounded Justice.” As Ladelle McWhorter puts it, noting the dangers of closure, “Whatever presses for closure, finality, absolute assurance presses also for an end to vitality—that is, for a kind of death. Set opinions, fixed categories, unquestionable procedures and protocols rooted in theory and tradition that lie beyond critique are some of the main ingredients in a fascist way of life, in a way of life that bears contempt for life. What we must realize is that the degree to which we leave things unexamined and undisturbed is the degree to which we diminish our lives and the life around us.” Ladelle McWhorter, “Foreword,” in *Foucault and the Government of Disability*, ed. Shelley Tremain (Ann Arbor: University of Michigan Press, 2005), xvi. I take McWhorter’s claim here to be a central part of a life dedicated to critical theory and genealogical self-reflection, but also one of abolitionist practice.

<sup>23</sup> W. E. B. Du Bois, *Black Reconstruction in America* (New York: Simon & Schuster, 1995); Joel Olson, *The Abolition of White Democracy* (Minneapolis: University of Minnesota Press, 2004); Davis, *Abolition Democracy*; George Lipsitz, “Abolition Democracy and Global Justice,” *Comparative American Studies An International Journal* 2, no. 3 (2004): 271–86.



expect that they will go away just because we reform them. Of course, change is good, but in instances of systematic oppression, like prisons, there is no way for it to be reformed. That's just like saying we can reform racism—there's no "better" form of racism—you have to abolish it. Racism lives within the prison industrial complex, and in order to end that, to end racism, we'd have to abolish all those powerful institutions that allow that energy to navigate through our lives.<sup>24</sup>

The specific challenge of defending incarceration as a practice that is even *possible* to "reform" requires a defense of incarceration as such in its form, as well as its genealogy. In the United States, as a material site, this requires an articulation of incarceration that can be distinguished clearly from *both* homologies and analogies to slavery (or, alternately, a defense of slavery and its afterlives). At the heart of any such defense is a confrontation with the idea that incarceration produces "safety," both for those who are incarcerated and for those who supposedly benefit from that incarceration.<sup>25</sup>

We (an amorphous and problematic "we") cannot understand this present without a critical genealogy. Or, rather, insofar as the present is understandable to us, it is only in an uncritical manner because specific critical and anti-normative practices have been relegated to the margins of both analysis and popular interpretation. In this formulation, therefore, prison abolition may also be part of critical genealogical investigation and vice-versa: projects of imagination linked intimately with historical projects that redescribe how we have arrived at this present. An abolitionist genealogy identifies the critical and antinormative *practices* that break through the dominant description or hegemonic understanding at key moments.<sup>26</sup> For instance, as queer

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<sup>24</sup> CeCe McDonald, "Foreword," in *Captive Genders: Trans Embodiment and the Prison Industrial Complex*, 2.

<sup>25</sup> It is important in this moment not to conflate *punishment* with *incarceration* as a form of punishment. The general difficulty that most people (including many philosophers of punishment) have in doing so reflects just how powerfully this *form* has taken over our collective ethical imaginations. Or, as Angela Davis argues, it reveals the degree to which many people are comfortable with such a form only given the knowledge that we live in a racial polity, which largely exempts white people from incarceration. See Davis, *Are Prisons Obsolete?*; Davis, *Abolition Democracy*.

<sup>26</sup> The phrase "abolitionist genealogy" is simultaneously meant to mark the genealogical analysis of prison-abolition and an identifiable type of genealogical method. For an instance of the *kind* of approach I am arguing for, see Dylan Rodríguez, "Disrupted Foucault: Los Angeles' Coalition Against Police Abuse (CAPA) and the Obsolescence of White Academic Raciality," in *Active Intolerance: Michel Foucault, The Prisons Information Group, and the Future of Abolition*, ed. Perry Zurn and Andrew Dilts (New York: Palgrave Macmillan, 2016). For a similar move to my own, see Bogdan Popa's invocation of "queer genealogy" as a method and approach to the study of shame. Bogdan Popa, *Shame: A Genealogy of Queer Practices in the 19th Century* (New York: Oxford University Press, 2017), 10–14.

activists often remind us, “Stonewall was a *police* riot.”<sup>27</sup> Remembering the Stonewall uprisings as part of a radical project of queer liberation (rather than merely as the start of a project of liberal inclusion) is itself a political/genealogical claim.

That is, our current present reveals that not just any mode or practice of genealogy is sufficient here, both in object and method. Rather, it ought to be a genealogy of resistant practices within and against the intolerable institutions of “the courts, the cops, the hospitals and asylums, school, military service, the press, the state, and above all the prisons.”<sup>28</sup> These “intolerable” institutions engage in practices that constitute their own subjects, produced as reified objects that are not only taken as “natural” rather than produced, but also excluded from traditions of critical history, genealogy, and theory. An abolitionist genealogy, focused on these institutional practices ought to, therefore, attend expressly to *who* is present in our genealogies as subject/objects, as authors, and as critics. Put differently: it matters who is, and who is not, in the room. The absences matter and the histories and conditions of those absences matter. Incarcerated philosophers are not here with us today, and their absences co-constitute what counts as presence and what is knowable as the present. The critical stance from which I do this work already reflects those absences and presences whether I note them or not. Recognizing and acknowledging them is part of the ethics of genealogy and the critical history of the present. These are not orthogonal questions to the substance of the investigation, analysis, and claims that we make. Rather, this approach connects to what Kristie Dotson has noted as the necessity of having *diverse practitioners of philosophy* in the room if we are to challenge forms of epistemic violence through silencing that occur when we bracket, in advance, the testimony and analyses of those whose absence co-constitutes our presence.<sup>29</sup>

There are critical historians of the present and critical genealogists who are not here today because the carceral mechanisms of the prison keep them from being present. And there are *also* many critical genealogists who are not here today because of the carceral mechanisms of the university and of academic disciplines. The contingent and amorphous “we” that comes together

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<sup>27</sup> It is itself indicative of the political-epistemological work of memorialization that the 1969 Stonewall uprisings typically mark the beginning of the LGBTQ liberation movement, while prior uprisings occurred in August 1966 at Compton’s Cafeteria in San Francisco and January 1967 at the Black Cat Tavern in Los Angeles.

<sup>28</sup> This list of “intolerable” things appears on the title page of *Intolérable 1*, a pamphlet originally published by *Le Groupe d’information sur les prison* in 1971. *Groupe d’information sur les prisons: Intolérable*, ed. Philippe Artières (Paris: Verticale, 2013), 16, translation by Perry Zurn.

<sup>29</sup> Kristie Dotson, “How Is This Paper Philosophy?,” *Comparative Philosophy* 3, no. 1 (2011): 3–29; Kristie Dotson, “Tracking Epistemic Violence, Tracking Practices of Silencing,” *Hyppatia* 26, no. 2 (2011): 236–57.

is determined in relation to the carceral practices of both of these institutions, but they operate to silence differently. That is, there are those who are silenced by the disciplinary norms and practices of philosophy, theory, and history in addition to the carceral state's discipline, not by the literal walls of the prison but by the (literal and figurative) walls of the university and the discipline of philosophy. That the epistemic silencing functions through multiple institutions and in multiple ways, determining in advance who can be and who cannot be at such gatherings as this reflects how the "inside" and the "outside" are never clearly and cleanly given, but produced through practice.<sup>30</sup>

### III.

Situated in this way, attending to the present as a *moment* and *place* within a prison nation, as a position within and from which I take a critical and (hopefully) subversive stance toward the prison, and, cognizant of the notable absence of incarcerated and formerly incarcerated people from most conversations *about* prisons and jails, I want to gesture toward an alternate genealogical practice. What would it look like to give a critical account of the prison centered on the experience of those people who know it best, who are most effected by its violence, and who are theorizing their own subjectivization?

In the previous section, I concluded that we ought to trace the *practices* of subject formation of intolerable institutions by foregrounding the voices, experiences, and analyses of those typically absent from such attention (or, rather, present only as objects). In this section, I will sketch two alternate ways in which the conditions of confinement for Queer and TGNCI incarcerated people and their voices are made observable to those outside of the prison. In one instance (offered through CeCe McDonald's analysis of her own confinement) we can observe a *critical* account, which re-describes the terms of confinement. In the other instance (offered through popular reporting about the K6G segregation unit in Men's Central Jail in Los Angeles) we can observe an *uncritical* account, which fails to analyze its own terms of production. It is my contention that a critical history of this present is best given by those who theorize their own position within the present, not simply because their experience validates their claims, but because they have done the work (as with incarcerated organizers above) of identifying the contingencies that have been naturalized by institutional arrangements. If the form of

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<sup>30</sup> On relationship between the "inside" and "outside" as reflected in (and produced by) the teaching of and practice of philosophy, see Sarah Tyson and Joshua M. Hall, eds., *Philosophy Imprisoned: The Love of Wisdom in the Age of Mass Incarceration* (Lanham, MD: Lexington Books, 2014).

such analyses appears out of step with our typical understanding of critical history of the present or genealogy, this is because “we” critical historians have failed to read expansively, not that “they” have failed to be properly analytical.

We should take it for granted that under current conditions the categories that people “know” and “experience” as race, gender, and sexuality do not exist without reference to “the prison,” and, conversely, “the prison” (as we know and experience it) does not exist without the categories of race, gender, and sexuality.<sup>31</sup> These categories of “identity” and the object of “the prison” or “the jail” (as a system of interpolation enacted through carceral techniques of power) are dialectically related; they move with and against each other, simultaneously building and rebuilding each other.<sup>32</sup> As such, critical genealogists rightly should turn their attention to moments and practices in which this dialectic is exposed, moments where the contingency of race, gender, and sexual subjectivities are naturalized. For instance, most prison and jail admissions processes rely on gender and racial categorization, as if these are stable markers of identity whose prior existence necessitates differential treatment. This is, of course, discursively and materially productive work. As Natalie Cisneros has demonstrated, jails and prisons do this work through sexual violence and through the (re)production of what she terms, “criminal masculinity.” As she puts it, “The construction and regulation of dangerous and sexually deviant criminal masculinity is itself a violent and integral function of the prison industrial complex.”<sup>33</sup> Moreover, prison and jail *reform*

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<sup>31</sup> See Regina Kunzel, *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality* (Chicago: University Of Chicago Press, 2010); Russell K. Robinson, “Masculinity as Prison: Sexual Identity, Race, and Incarceration,” *California Law Review*, 2011, 1309–1408; Michael L. Walker, “Race Making in a Penal Institution,” *American Journal of Sociology* 121, no. 4 (2016): 1051–78, doi:10.1086/684033; 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), 89–103; Davis, *Are Prisons Obsolete?*, chap. 4.

<sup>32</sup> This dialectic is traceable in specific carceral practices through which this general relation operates. For instance, and perhaps at its most foundational, binary categories of both sex and gender are *produced* at the moment they are taken to be most seemingly “natural”: through the segregation of jails and prisons along lines of so-called “birth sex,” (but which ought to be called “sex-assignment at birth”) into “men’s” and “women’s” jails and prisons. Beyond the gender-normalizing violence of this segregation itself (which is both structural and interpersonal in nature), scholars and activists have long noted that the conditions of confinement are themselves sites of pervasive interpersonal sexual violence. See INCITE! Women of Color Against Violence, *The Color of Violence: The Incite! Anthology* (Cambridge: South End Press, 2006); Sarah Tyson, “Prison Abolition and a Culture of Sexual Difference,” in *Death and Other Penalties: Philosophy in a Time of Mass Incarceration*, ed. Geoffrey Adelsberg, Scott Zeman, and Lisa Guenther (New York: Fordham University Press, 2015).

<sup>33</sup> Cisneros, “Criminal Masculinity: Race, Gender, and Sexuality in the Age of Mass Incarceration,” 93.

projects that seek to address the specific gendered conditions of incarceration (those often referred to as “gender-responsive programming” or “gender-responsive justice,” including specifically transgender responsive models) *rest upon* on and *reproduce* violently essentialist notions of sexuality, gender, and race.<sup>34</sup>

I turn specifically to Queer and TGNCI incarcerated people, because their experiences of sexual and gender-based violence are not *exceptional*, but rather they are *exemplary*. Incarcerated and formerly incarcerated Queer and TGNCI people are especially credible analysts of state power in part because they are precariously exposed to the violence of the criminal punishment system at multiple locations: in the pathways to the prison, in the everyday violence experienced within jails and prisons, and in the prison and jail itself.<sup>35</sup> The exemplary situation of Queer and TGNCI incarcerated people reveals both how sexual and sexualized violence is foundational to the prison’s operation and how such violence is nevertheless marked (by the prison’s defenders) as an aberration, something which can be “fixed.” But, as the philosopher Erin Gilson argues, incarceration does not suppress or reject violence, but instead distributes vulnerability as “peril” and harm.<sup>36</sup> And such (re)distribution is more pronounced and often qualitatively different for Queer and TGNCI people generally, and for trans-femme, trans-but, trans-men, and trans-women of color specifically. Quite simply, there is no

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<sup>34</sup> Cassandra Shaylor, “Neither Kind Nor Gentle: The Perils of ‘Gender Responsive Justice,’” in *The Violence of Incarceration*, ed. Phil Scraton and Jude McCulloch (London: Routledge, 2008), 145–63; CURB, *How “Gender Responsive Prisons” Harm Women, Children, and Families* (Los Angeles, CA: CURB: Californians United for a Responsible Budget, 2007); Brady Heiner and Sarah Tyson, “Feminism and the Carceral State: Gender-Responsive Justice, Community Accountability, and the Epistemology of Antiviolence,” *Feminist Philosophy Quarterly* 3, no. 1 (2017), <http://ir.lib.uwo.ca/fpq/vol3/iss1/3>.

<sup>35</sup> Beth Richie, *Compelled to Crime: The Gender Entrapment of Battered Black Women* (New York: Routledge, 1996); Richie, *Arrested Justice: Black Women, Violence, and America’s Prison Nation*; Jason Lydon et al., *Coming out of Concrete Closets: A Report on Black and Pink’s National LGBTQ Prisoner Survey* (Black & Pink, October 2015), <http://www.blackandpink.org/wp-content/uploads/Coming-Out-of-Concrete-Closets.-Black-and-Pink.-October-21-2015..pdf>; Critical Resistance and INCITE! Women of Color Against Violence, “Gender Violence and the Prison-Industrial Complex,” in *Color of Violence: The INCITE! Anthology* (Cambridge: South End Press, 2006), 223–26; “Flow Chart: Disproportionate Incarceration,” *SRLP (Sylvia Rivera Law Project)*, accessed April 19, 2017, <https://srlp.org/resources/flow-chart-disproportionate-incarceration/>; Jason M. Lydon, “Once There Was No Prison Rape: Ending Sexual Violence as Strategy for Prison Abolition,” *philoSOPHIA* 6, no. 1 (2016): 61–71, doi:10.1353/phi.2016.0014; Center for American Progress and Movement Advancement Project, *Unjust: How the Broken Criminal Justice System Fails Transgender People* (Denver, CO: Movement Advancement Project, May 2016), <http://www.lgbtmap.org/file/lgbt-criminal-justice-trans.pdf>.

<sup>36</sup> Erin Gilson, “The Perils and Privileges of Vulnerability: Intersectionality, Relationality, and the Injustices of the U.S. Prison Nation,” *philoSOPHIA* 6, no. 1 (2016): 43–59, doi:10.1353/phi.2016.0011.

moment when the prison technique does not directly police or manage gender with the use of force.

From the specific experience of trans-femme and trans-women of color who are incarcerated and typically held by force in isolation and segregation, we can follow their analyses to mount a broader critique of the purported “safety” of any jail or prison.<sup>37</sup> Returning to the case of CeCe McDonald, all three levels of violence of the prison are observable (i.e., as a pathway into jail/prison, as exposed to increased levels of violence while in jail/prison, and through the jail/prison itself). McDonald was convicted of second-degree manslaughter for defending herself against a racist and transphobic attack that occurred in Minneapolis during the summer of 2012. She was sentenced to serve her imprisonment in a men’s prison, despite her gender identification as a woman. She was released from prison in 2014 after accepting a plea agreement, which was made possible thanks to her work with outside organizers, mobilized by her unjust confinement.

In the years since her confinement, McDonald has become a vocal analyst of the criminal punishment system in the United States and, in particular, of its effects on queer, trans-femme, and trans-women of color subjected to state and interpersonal violence for appearing in public. Across her writing and speaking, she offers a paradigmatically *critical* analysis of the prison from the perspective of someone who is a survivor of both interpersonal and state violence. Her critical analysis enacts a direct challenge to the given terms of analysis and practice that support the current state of affairs. Refusing to accept that prison can be made “safe” for anyone, or that it can be “perfected” and made to “work,” McDonald states:

I know people kind of want to sensationalize the fact that I was a transwoman in a men’s prison. . . . I just want to say that all prisons are fucked up. It wouldn’t matter if I went to a women’s prison . . . you know, they’re talking about building a new trans prison in California? It’s like, no prison is safe for no one. You want to capitalize off of me through a fucked up system? And I’m not having it. . . . I would rather die than go to any prison. . . . There is no way that you can convince me that being in a men’s prison or being in a women’s prison, or being in a trans prison, being in a fucking unicorn prison, I don’t care. It’s not beneficial to anyone. It’s not beneficial me, it’s not beneficial to you, it’s not beneficial to our community. And that’s where the truth lies. . . . But think about all the other people who are in

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<sup>37</sup> On the specific use of “segregation” (which in most contexts means “isolation”) see Perry Zurn, “Waste Culture and Isolation: Prisons, Toilets, and Gender Segregation” (unpublished manuscript, n.d.).

prison. . . . But let's remind ourselves, there are still people in there who are struggling, and we have to be in solidarity with them.<sup>38</sup>

Note particularly McDonald's last point about solidarity with those "still" inside "who are struggling." McDonald's call to "remind ourselves" of people still on the inside marks the way in which we already *know* that there are strong connections between inside and outside, but also that one of the key things that the prison does is create the appearance of an inside and an outside. Throughout this entire passage, McDonald offers a critical redescription of multiple criminological and social descriptions of political life. She challenges both the given constructions of "safety" and "security" that the prison claims to offer and also the boundary itself that the prison erects between those inside and those on the outside. As McDonald argues, "our community" exists across that boundary, and her call for solidarity is a call to refuse the state's practices of isolation, segregation, and moral differentiation. What happens "in there" is what happens "out here," and the distinction between the two is both the condition of possibility and impossibility for present conditions.

It is important to recall that a central (if not foundational) prohibition upon which the prison is organized is the prohibition of sexual activity. Further, a central (if not foundational) presumption through which that prohibition operates is a prohibition of heteronormative, reproductive, sexual intercourse. The mere presence of individuals whose sexuality and gender-identity challenges normalization appears as a problem to which the prison responds predictably: through carceral techniques of isolation, segregation, surveillance, and pastoral "care." That is, anyone who appears to give the lie to the naturalness of sex and/or heterosexual desire, and thus the efficacy of sex segregation to achieve a space without sex, must be subjected to more rigorous techniques of normalization under the guise of safety. And McDonald's critical analysis points this out directly, redescribing institutional practices of "safety" through isolation and segregation as heteronormative violence. Notably, and in keeping with the work of more traditional genealogical investigation, McDonald draws our attention to the *practices* used in confinement, and in doing so both analyzes the archive of her own experience and builds a new archive for further analysis.

While McDonald's reference to "a new trans prison in California" refers to proposals to establish an entire segregation unit within the state prison

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<sup>38</sup> CeCe McDonald, "The Struggle for Trans Liberation: A Conversation with CeCe McDonald," YouTube video, 58:01, from a public lecture at the Socialism 2014 Conference in Chicago, IL, posted by "WeAreManyMedia," August 21, 2014, <https://youtu.be/emx5iHwbPOg>.

system, such a facility already exists within the Los Angeles County Jail system. The K6G segregation unit within the LA County Jail system was established in 1985 following a series of civil rights lawsuits litigated by the ACLU.<sup>39</sup> Filed on behalf of “homosexual” inmates in Men’s Central Jail (MCJ), these suits argued that the structure of the jail itself rendered “homosexual” persons unsafe due to harassment and violence at the hands of other incarcerated persons and jail staff. Through a consent agreement, the LA Sheriff’s Department (LASD) agreed to segregate “homosexual” inmates upon arrival to the jail. The consent agreement included a requirement for a “classification” system that would “verify” if individuals are “truly gay.” The stated purpose for such a process was that nonhomosexual “predators” had routinely gained access to the existing segregation unit, exposing incarcerated persons there to systematic sexual violence for which the jail was liable.

Two Sheriff’s deputies, Bart Lanni and Randy Bell, developed a protocol to “verify” individuals who self-identified as gay or as transwomen during intake. Upon subsequent “verification,” individuals “confirmed” to be gay or transgender live in separate dorms within MCJ, wear different uniforms (powder blue rather than dark blue), have access to dedicated programming, and are escorted by deputies when moving through other parts of the jail. Neither Lanni or Bell themselves identify as gay, transgender, or gender-nonconforming. Their interview protocol seeks to determine if “this person live(s) ‘a homosexual lifestyle’ on the outside.”<sup>40</sup> In addition to requiring individuals to provide an account of their sexual history—providing names and contact information for former partners—individuals whose sexual identity is suspect are routinely asked to provide details of specific “gay” clubs and venues in Los Angeles and to define “slang” terms for sexual practices. Lanni and Bell have operated this unit together since its inception, and their knowledge is based on their own self-described “research” conducted through hanging out at clubs, bars, and venues, primarily in the West Hollywood neighborhood. As Russell Robinson has already demonstrated, the questions used rely on presumptions not only about what a “true” homosexual would know (in terms of specific clubs, sexual practices, etc.), but also rely on norms of *white* homosexuality, shoring up a specific mode of homo-normativity and gender expression. The K6G unit is, not surprisingly, disproportionately white compared to the general population at Men’s Central Jail.<sup>41</sup>

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<sup>39</sup> Dolovich discusses that the unit was originally named K11, but the computer system could only go up to 10. K10 is the designation for the highest security incarcerated persons. K6G was used to avoid confusion. Sharon Dolovich, “Strategic Segregation in the Modern Prison,” *American Criminal Law Review* 48 (2011): 1–110.

<sup>40</sup> Dolovich, “Strategic Segregation in the Modern Prison,” 34.

<sup>41</sup> Robinson, “Masculinity as Prison,” n. 19.



Nevertheless, the K6G unit is held up by the LASD as a specifically progressive achievement, and it has been taken up extensively at this point in academic analysis, primarily by legal scholars focused primarily on questions of how the unit satisfies the terms of the 1985 consent agreement, if these practices adequately reduce the jail's liability for systemic and interpersonal sexual violence against incarcerated persons, and more broadly, the constitutionality of the segregation practices themselves. Moreover, the unit is routinely pointed to by city officials, and mainstream LGBT organizations as a model of police/community relations.

My primary interest is in the *public presentation* of the K6G unit, rather than its internal functioning. News coverage of the unit circulated nationally following the November 2014 publication of a cover story in the *LA Weekly* by Ani Ucar under the headline, "In the Gay Wing of L.A. Men's Central Jail, It's Not Shanks and Muggings but Hand-Sewn Gowns and Tears."<sup>42</sup> A follow-up article appeared in early 2015 that focused on Deputies Lanni and Bell.<sup>43</sup> LASD offered extensive access to Ucar to speak with, photograph, and film people incarcerated inside the K6G unit. In the first article, framed through an account of an impromptu fashion show, Ucar tells a story of how a concern for the physical safety for well-being of "homosexual inmates" created not only increased safety, but a "flourishing society behind bars":

MCJ's gay wing was set up in response to a 1985 ACLU lawsuit, which aimed to protect homosexual inmates from a higher threat of physical violence than heterosexuals faced. But something unexpected has happened. The inmates are safer now, yes. But they've surprised everyone, perhaps even themselves, by setting up a small and flourishing society behind bars. Once released, some re-offend in order to be with an inmate they love. There are hatreds and occasionally even severe violence, but there is also friendship, community, love—and, especially, harmless rule-bending to dress up like models or decorate their bunks, often via devious means.<sup>44</sup>

The bulk of the article focuses its attention on improvised clothing, several charismatic incarcerated gay men and transgender women in the unit, and crafts largely a story of unexpected redemption, made possible by the community built through segregation. The online version of the article included

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<sup>42</sup> Ani Ucar, "In the Gay Wing of L.A. Men's Central Jail, It's Not Shanks and Muggings But Hand-Sewn Gowns and Tears," *LA Weekly*, November 18, 2014, <http://www.laweekly.com/news/in-the-gay-wing-of-la-mens-central-jail-its-not-shanks-and-muggings-but-hand-sewn-gowns-and-tears-5218552>.

<sup>43</sup> Ani Ucar, "How the Beatles Saved the Gay Inmates of L.A. Men's Central Jail," *LA Weekly*, January 22, 2015, <http://www.laweekly.com/news/how-the-beatles-saved-the-gay-inmates-of-la-mens-s-central-jail-5347072>.

<sup>44</sup> Ucar, "In the Gay Wing of L.A. Men's Central Jail, It's Not Shanks and Muggings But Hand-Sewn Gowns and Tears."

a three-minute edited video of interviews with incarcerated people living inside the unit and sheriff's deputies as well as footage focused on the impromptu fashion show staged in the jail dormitory. The video, as with the article, focuses its gaze primarily on clothing and appearance and the confirmation process used by LASD deputies, referred to as "gay-dar" throughout.

To be clear, the K6G unit and its public presentation is *not* an exercise in improving safety, but rather redistributing it. As Robinson notes, "The K6G unit ultimately serves as a clever decoy. It allows the Jail to portray itself as progressive and gay friendly, while diverting attention from the suffering among the men in GP whose need for protection does not map onto society's gendered understanding of vulnerability. . . . the Jail simply shifts victimization."<sup>45</sup> Moreover, regardless of the possibly good intentions of members of the LA Sheriff's Department to address rampant (and multiple forms of) violence, the K6G unit functions primarily as an instance of "pink-washing," a means to legitimate and save the prison as an institution through the public presentation of its progressive bonafides. Specifically, it seeks to maintain popular support for an institution that is demonstrably unable to produce public safety and operates as a system of racialized, class-based, and gendered social control. What appears as "progressive" social policy covers over (i.e., "white"-washes) what is otherwise a system that maintains itself through the exploitation of the individuals it appears to serve.

The term "pink-washing" was originally used to critique the practices of companies that market themselves as supporting breast-cancer survivors, but who in fact profit off of their illness (e.g., companies whose products are themselves cancer causing, but who remarket themselves, typically using the color pink, as supporters of breast cancer research). The term has since been applied to state practices regarding progressive tolerance and inclusion of gays and lesbians into military service as a way of covering over military abuses and colonial practices, specifically pointing to the practices of the State of Israel and, in particular, the IDF.<sup>46</sup> Pink-washing builds on Jasbir Puar's framework of "homonationalism": a "conceptual frame . . . for understanding the complexities of how 'acceptance' and 'tolerance' for gay and lesbian subjects have become a barometer by which the right to and capacity

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<sup>45</sup> Robinson, "Masculinity as Prison," 1314.

<sup>46</sup> See Sarah Schulman, "'Pinkwashing' and Israel's Use of Gays as a Messaging Tool," *The New York Times*, November 22, 2011, <http://www.nytimes.com/2011/11/23/opinion/pinkwashing-and-israels-use-of-gays-as-a-messaging-tool.html>. Dean Spade's comments in "What is Pinkwashing?," Vimeo video, 2:01, posted by "Pinkwashing Exposed," <https://vimeo.com/127277489>.

for national sovereignty is evaluated.”<sup>47</sup> For Puar, pink-washing is not the same thing as homonationalism, which is an analytic for understanding a wide array of state *and* nonstate practices, structures, and affects. Pinkwashing specifically refers to a set of *state* practices that operate under homonationalism.

Dean Spade has used this framework to account for a broader set of state practices than just inclusion in the military. He writes:

This is the new normal—police departments, prisons, the military, immigration enforcement and politicians and nefarious governments are all branding themselves as progressive, liberal and right-on with talking points about LGBT inclusion, meanwhile continuing their murderous work that harms queer and trans people and cannot be aligned with our liberation. When left movements across the US are calling attention to the racist violence of the immigration and criminal punishment systems, when more and more organizations are adopting resolutions to boycott and divest from Israel and the prison industry, queer and trans organizations have to get sharp about not becoming fig leaves or propaganda sites for institutions scrambling to prop up their tarnished images as their violence is exposed.<sup>48</sup>

What Spade articulates here is important precisely because of something which Puar notes in her analysis of the relationship between pink-washing and homonationalism: that pink-washing only “works” in relation to specific (and hopefully identifiable) conditions. Puar notes that “As its use as a shorthand proliferates, it [pinkwashing] must be situated within its wider geopolitical context. That is to say, pinkwashing works because both history and global international relations matter.”<sup>49</sup>

Puar’s methodological insistence on history underscores the necessity of genealogical (rather than uncritical) approaches to understand such practices. That is, the analytic framework offered by the account of pink-washing (as Puar and Spade are using it) calls us to specify those conditions and trace *how* they came about such that they are stable formations against which and with which articulations of power may operate. If we are to utilize and extend this framework to account for practices within the US criminal punishment system, its attendant use of jails and prisons, and its deployment of segregation strategies within those jails and prison, it likewise is incumbent

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<sup>47</sup> Jasbir K. Puar, “Rethinking Homonationalism,” *International Journal of Middle Eastern Studies* 45 (2013): 336.

<sup>48</sup> Dean Spade, “Creating Change: Pinkwashing ICE, Pinkwashing Israel,” *Deanspade.net*, January 15, 2016, <http://www.deanspade.net/2016/01/15/creating-change-pinkwashing-ice-pinkwashing-israel/>; Dean Spade, *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*, rev. ed. (Durham, NC: Duke University Press, 2015).

<sup>49</sup> Puar, “Rethinking Homonationalism,” 338.

on us to articulate the specific conditions of possibility that allow for it to “work.”

Perhaps at first glance, Ucar’s reporting and the images and video of the K6G unit published in *LA Weekly* may appear to counter the jail’s insistence that the K6G unit provides “safety.” Ucar does attend to the ways in which sexual violence continues to be pervasive across the entire jail and even within the K6G (although at lower reported rates than other units). However, the pink-washing framework illustrates how the public presentation of the K6G operates through three vectors: the audience of the performance, its authors, and the presentation of the claim through the language of exception and/or disavowal. In this case, we get a narrative focused on “reform,” “safety,” and a “happy community,” produced *for progressives* (who might otherwise adopt anti-jail and prison attitudes), directly *by and with jail administrators*, and presented as spectacular exceptions, as limit cases of humanity. That is, pink-washing operates through the simultaneous deployment of tolerable difference and intolerable abnormality.

It has the structure of an *alibi*, a claim that, if taken as true, excuses culpability because the claimant is *not present* at the time of a crime. The K6G creates a place where “we” *are not* in multiple senses that ought to be contradictory and that are nevertheless productive: a place where “problems” are sent and yet whose “humanity” is recognized through their display as failing to live up to some specific axis of humanity. These are the “bad” queers, unlike the property-owning ones who live a few miles north in historically queer but now gentrified neighborhoods like Silverlake. And, at the same time, these are the “good” prisoners, whose vulnerability to sexual violence is undeserved, such that their segregation is good for them. And “we,” queer or not, trans or not, perform our embrace of them through disavowal, bringing them *in* as still human through their abjection as still criminal.

The K6G unit and its presentation in *LA Weekly* rearticulates survival techniques of incarcerated persons as sensationalist news that reaffirms jails as “safe spaces” in which an unexpected “flourishing society” emerges.<sup>50</sup> In giving “voice” to the folks inside K6G it does so on the terms of a pink-wash, as a covering over. It seems to be showing how things are, but it does so uncritically, and, as such, it is system reinforcing. The popular function of the pink-wash becomes clear: to provide a consistent answer to the question of how to protect vulnerable incarcerated persons. And it is always the

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<sup>50</sup> On the fraught history of geographical “safe-spaces” and their relation to gentrification, see Christina B. Hanhardt, *Safe Space: Gay Neighborhood History and the Politics of Violence* (Durham, NC: Duke University Press, 2013).

same answer: more prison, more jail, better prison, better jail. The jail/prison is never questioned, and the basic organizing sexual violence of the prison is never acknowledged as foundational. Or, as Spade puts it, “The bottom line is that to reduce the sexual violence faced by trans prisoners (or any prisoners), we must get those people out of prison. Measures taken inside prison using the tools of the prison, such as enhancing guards’ ability to punish and segregate prisoners, will only enhance the vulnerability of targeted prisoners.”<sup>51</sup>

While McDonald’s analysis of the impossibility of a “safe” prison is predicated on a hypothetical (i.e., the prospect of returning to prison), her analysis of the terms of confinement is nevertheless better than that given by Ucar’s reporting. This is, I would assert, because even in the short paragraph quoted above, McDonald addresses the object of the Queer and TGNCI incarcerated person *as a subject*, only objectifying herself and others in light of who is still inside and who has been able to escape confinement. Ucar’s analysis, on the other hand, is uncritical (even if it is more historically expansive and rightly relies on incarcerated people as interview subjects). This is in large part because the conditions of confinement structure the conditions of Ucar’s reporting. Quite simply, Ucar can only go and “see” the prison and incarcerated people as objects, whereas McDonald accounts for incarcerated people as subjects and objects through both her experience of the subjugation of the prison *and through her theorization of it*. If she (or others) appear as objects in her analysis, it is in how they have been *made* objects, rather than being taken for granted as such.

#### IV.

Let me close by bringing these briefs together again, rephrasing my overarching question in terms of trans visibility and pink-washing on the one hand, and genealogical investigation (again following Ladelle McWhorter) as “a critical redescription of a dominant description” on the other.<sup>52</sup> If it is the case that the task of genealogy is to take what is known to us already, often in abundance, and know it otherwise, then we ought not be surprised to find ourselves in the archives, tracing contingencies, mapping disruptions and dislocations, and generally finding the resources to redescribe the dominant description. We are right to engage in practices of “over-reading”

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<sup>51</sup> Dean Spade, *Normal Life*, 150.

<sup>52</sup> McWhorter, *Bodies and Pleasures*, 43.

and “critical fabulation” in our attempts to make clear what could have been otherwise and *how* conditions came to be what they are.<sup>53</sup>

Yet when the archive is itself still being constructed or perhaps not even yet an archive, when the present for which a critical history is offered is itself in open relation (organized by the three guiding questions of presence, absence, and position I suggested earlier), then part of the work is necessarily in the domain of appearance and visibility. And if we take up the position at hand (being at a philosophy conference organized by a philosophy department at a university training doctoral students as part of its mission) in juxtaposition with the conditions of sexualized and gender-based violence targeting Queer and TGNCI people, especially those of color, it seems necessary to reflect on what it means in relation to whose voices are heard, whose bodies are visible, and whose words are read.<sup>54</sup>

As Perry Zurn puts it on the American Philosophical Association’s website, drawing attention to the increasing interest in trans philosophy and presence of trans philosophers in the discipline:

In our contemporary moment, there is a clash between the increased political and cultural legibility of trans people (signaled by the visibility of people such as Laverne Cox, Caitlyn Jenner, Chelsea Manning, CeCe McDonald, and Janet Mock) and its backlash in a relentless series of anti-trans legislation (perhaps most infamous being recent “bathroom bills”). As such, trans\* people today stand in the cross-hairs of visibility and vulnerability.<sup>55</sup>

Zurn and I share an interest in one kind of response to how to think with those placed in these cross-hairs, both inside academic departments and disciplines, and inside institutions of confinement and social death. We have drawn recently on the work of the *Le Groupe d’information de la prison* (the Prisons Information Group, the GIP), the radical antiprison (and we contend “abolitionist”) organization of which Foucault and other French intellectuals were founding members alongside incarcerated people and their

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<sup>53</sup> On critical fabulation and over-reading, see Saidiya Hartman, “Venus in Two Acts,” *Small Axe* 12, no. 2 (2008): 1–14; David Kazanjian, *The Brink of Freedom: Improvising Life in the Nineteenth-Century Atlantic World* (Durham: Duke University Press, 2016); David Kazanjian, “Freedom’s Surprise: Two Paths Through Slavery’s Archives,” *History of the Present* 6, no. 2 (2016): 133–45, doi:10.5406/historypresent.6.2.0133.

<sup>54</sup> I am struck, even in writing this, how dependent my own language is on visual and aural senses and metaphors tied to sightedness and hearing. The limits of such an ablest framework are not lost on me and should hopefully draw attention to the ways in which philosophy relies on such metaphors are organizing principles of thought and structures of politics.

<sup>55</sup> Perry Zurn, “Trans Experience in Philosophy,” *Blog of the APA*, August 11, 2016, <http://blog.apaonline.org/2016/08/11/trans-experience-in-philosophy/>.

families. Their mottos were, “To Give the Floor,” and “Speech to the Detainees!”<sup>56</sup>

Such a project of amplification of the voices of those most effected by incarceration is, obviously, a fraught one, and a great deal of scholarship has emerged around the (im)possibility of such work, invoking not only Foucault’s own thoughts on how to “empower” others through critique, but in the dangers of speaking for others and doing epistemic violence through testimonial silencing, as Dotson calls it.<sup>57</sup> So, what are the relationships between silencing and archives and between those who are present and those who are absent? About those who cannot be heard and yet who must/need to be heard if we are to both advance projects of liberation and ethically engage in genealogical investigation?

Speaking at a plenary event at the University of California at Riverside, Eric Stanley, the co-editor of *Captive Genders*, said bluntly in response to a question about the increasing visibility of trans people in popular and political culture: “trans visibility is a trap”<sup>58</sup> And yet, at the same time, as George Ciccariello-Maher has recently argued (in his careful reading of Fanon), “For those relegated to nonbeing and condemned to invisibility, to even appear is a violent act—because it is violent to the structures of the world and because it will inevitably be treated as such.”<sup>59</sup> This is the dangerous dialectic for TGNCI incarcerated people, caught between needing to be seen and not seen. As Zurn describes this double-bind:

To be a gender non-conforming prisoner is, at one level, to be unmarked and to go unnamed. Prisoners in general are easily lost in the system and erased from social memory. For gender non-conforming people, this erasure is compounded. . . . But to be a gender non-conforming person in prison is also to be marked. You are marked with enhanced psychological, physical, sexual, and emotional abuse. You are marked by slurs and epithets. You are marked as sexual property, to be traded between powerful guards or prisoners. As a trans man, you may well be marked by a dress and panties. . . . As a trans woman, your head may be shaved. In some

<sup>56</sup> Zurn and Dilts, *Active Intolerance*, chap. 1.

<sup>57</sup> On the limits of the GIP’s ability to faithfully render the voices of incarcerated people, see, in particular, Cecile Brich, “The Groupe D’information Sur Les Prisons: The Voice of Prisoners? Or Foucault’s?,” *Foucault Studies*, no. 5 (2008): 26–47. For counterpoints, see Janos Toevs, “Giving the Floor to Whom?,” *The Carceral Notebooks*, no. 12 (2016): 131–49; Perry Zurn, “Publicity and Politics: Foucault, the Prisons Information Group, and the Press,” *Radical Philosophy Review* 17, no. 2 (2014): 403–20, doi:10.5840/radphilrev201452018.

<sup>58</sup> UC Riverside, May 18, 2016; quotation confirmed and used with Stanley’s permission via email correspondence, July 6, 2017. Stanley’s answer invokes Foucault’s famous account of Bentham’s Panopticon: “Visibility is a trap.” Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1995), 200.

<sup>59</sup> George Ciccariello-Maher, *Decolonizing Dialectics* (Durham: Duke University Press, 2017), 61.

instances, you will be made to wear a sex-offender's uniform. . . . If you were on hormone treatment, you will likely be marked by an increasingly incongruous appearance, as well as mental instability due to the suspension of your meds. You may be transferred to a particular unit or put in solitary. You may well be called "it". . . . If you want to change your name after your release, you will have an uphill legal battle on your hands. You will be marked by additional strip searches, repeated rapes, and the denial of conjugal visits. And you will be marked by all of this because prison is essentially a sexual punishment, calibrated according to one's perceived and expected gender identity.<sup>60</sup>

Visibility is, it seems, very much a trap. It exposes people to violence and even in doing so is insufficient to the task of liberation, as Che Gossett has recently noted in their brilliant critique of Slavoj Žižek's terrible analysis of trans politics in the United States.<sup>61</sup> But the visibility trap can at least become recognized and possibly avoided *as a trap* if we do more than treat trans people as objects to be seen, but as theorists and analysts of liberation. And, as Gossett further notes, we have a deep and rich archive of such analysis and organizing to draw upon, *if* we prioritize intersectional accounts of both trans subjectivity and the history of radical practices from the margins. As they put it:

Gender nonconforming and trans people have been organizing against that violence since even before Sylvia Rivera and Marsha P. Johnson articulated an unapologetically insurgent trans political horizon in the early 1970s. Expansion toward this horizon continues now in the collective work of trans abolitionist knowledge, power, and theory.<sup>62</sup>

This is, of course, a question about the choice of incorporation into *existing orders* of power/knowledge versus the overhaul and abolition of those orders. Such a path, though, is not unknown or unknowable, but readily available. As Gossett continues, "Rather than accepting Žižek's thought style, which leaves the racialization and colonization of gender unthought—a real analysis of trans subjectivity in our neoliberal times begins in and as Black and Native theory, knowledge, and power."<sup>63</sup> That is to say, a form of visibility that may not be able to escape this trap but which arguably challenges it by resisting incorporation is one that draws from the specific legacies within radical queer and trans liberation movements, one that prioritizes the centrality

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<sup>60</sup> Perry Zurn, "The Politics of Anonymity: Foucault, Feminism, and Gender Non-Conforming Prisoners," *philoSOPHIA* 6, no. 1 (2016): 37–38, doi:10.1353/phi.2016.0008.

<sup>61</sup> Che Gossett, "Žižek's Trans/Gender Trouble," *Los Angeles Review of Books*, September 13, 2016, <https://lareviewofbooks.org/article/zizeks-transgender-trouble/>.

<sup>62</sup> Gossett, "Žižek's Trans/Gender Trouble."

<sup>63</sup> Gossett, "Žižek's Trans/Gender Trouble."



of antipolice and antiprison activism in earlier moments of various strains in the movement.<sup>64</sup>

One of the things revealed by attending to the experiences of queer, trans, and gender-nonconforming individuals in prison is both the immediate need to reorient ourselves toward the pathways to incarceration that are exposed most clearly by their treatment, but also to attend to the already present critical redescription of a dominant description, to the work that has already been done. Additional examples of abolitionist organizations that expressly engage in the work of critical redescription abound. Two are especially relevant offered by queer, trans, and women of color abolitionist groups, each by taking up the discourse of safety.

First, we can turn to the work of women of color led antisexual violence organization, generationFive:

We understand safety as liberation from violence, exploitation, and the threat of future acts of violence. The safety that we seek manifests on three intersecting and mutually reinforcing levels. On an individual level, a [survivor's] safety from immediate violence and the threat of further acts of violence (sexual, economic, etc.) is central. For the community, safety comes from fostering community norms and practices which challenge violence and support conditions for liberation. Lastly, across communities and collectives, safety means mutual accountability, challenging power dynamics within and between groups, guarding against backlash, and building strong alliances so that we can collectively support and protect each other from interference and targeting by the State.<sup>65</sup>

They offer a broader conception of what we can mean by “safety” such that it that prioritizes the *conditions* that produce harm rather than trying to reduce harm through threats of violence.<sup>66</sup> Second, we can look to Black and Pink's statement of purpose:

Abolition means a world where we do not use the prison industrial complex as an ‘answer’ to social, political, and economic problems. Abolition means that instead we make new ways to stop harm from happening. It means responding to harm when it does happen, without simply ‘punishing.’ We will try to fix the causes of

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<sup>64</sup> See Hanhardt, *Safe Space*; Timothy Stewart-Winter, “Queer Law and Order: Sex, Criminality, and Policing in the Late Twentieth-Century United States,” *Journal of American History* 102, no. 1 (2015): 61–72, doi:10.1093/jahist/jav283; Sarah Schulman, *The Gentrification of the Mind: Witness to a Lost Imagination* (repr., Berkeley: University of California Press, 2013); Emily K. Hobson, *Lavender and Red: Liberation and Solidarity in the Gay and Lesbian Left*, American Crossroads 44 (Oakland, California: University of California Press, 2016).

<sup>65</sup> generationFIVE, “Toward Transformative Justice: A Liberatory Approach to Child Sexual Abuse and Other Forms of Intimate and Community Violence” (San Francisco, CA: generationFIVE, 2007), 28, [http://www.generationfive.org/wp-content/uploads/2013/07/G5\\_Toward\\_Transformative\\_Justice-Documents.pdf](http://www.generationfive.org/wp-content/uploads/2013/07/G5_Toward_Transformative_Justice-Documents.pdf).

<sup>66</sup> Sarah Tyson, “Experiments in Responsibility: Pocket Parks, Radical Anti-Violence Work, and the Social Ontology of Safety,” *Radical Philosophy Review* 17, no. 2 (2014): 421–34, doi:10.5840/radphilrev201471820.

harm, instead of using the failed solution of punishment. This means harm will occur far less often. This is often called ‘harm reduction.’ We will not use policing, courts, and prisons, which are making us less safe. Abolition means creating sustainable, healthy communities with the power to create safety.<sup>67</sup>

Lastly, we can return to McDonald’s analysis of the PIC and so-called trans and GNC responsive prisons and jails, such as the K6G. As quoted above, McDonald’s direct rejection of the possibility of a “safe” prison operates both as a direct obstruction to the reformist hopes of “getting the prison right” and a critical redescription of the terms of “safety” offered in the form of isolation and segregation for TGNCI incarcerated people. McDonald’s analysis disrupts both the notion that her own incarceration was justifiable on the basis of her personal “safety” and the more generally held belief that prisons themselves can ever be made anything other than locations that produce social death for the sake of others. McDonald refuses to allow for the reproduction of carceral institutions as possible sites of abstract or concrete “safety,” conceptualizing such reproduction as a problem of *knowing*. In this, she reorients our theorizing toward abolitionist and anticarceral politics of everyday practices, to the ways in which the solutions to the problems of inclusion and exclusion are found *before* and *in front of* the carceral system, in the immediate and distant present.

What McDonald (and others who are similarly situated) has done is to use her subjective experience of the prison to directly inform her theoretical analysis of the prison as an object. And it is here, in such practices by abolitionist organizations and incarcerated and formerly incarcerated theorists, that the brief for prison abolition and the brief for critical genealogy come together, such that our abolitionist practices are deeply critical (exposing contingencies and opening possibilities for other ways of living) and that our critical genealogical work must be directed toward mutual liberation. We ought not to engage in genealogical work that does not serve liberation, and we ought not think about the prison and the people who live there in ways that excuse or support its violence. An abolitionist genealogy is one that self-consciously refuses to do both. And as I have tried to suggest in this essay—by reading statements by the organizers of the 2016 national prison strike and by McDonald as themselves critical genealogical analyses—thinking *with* incarcerated or formally incarcerated genealogists is already possible. McDonald and other abolitionist groups who prioritize the analysis of those most affected by the institutions they study and target are already engaging in

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<sup>67</sup> “Purpose and Analysis,” *Black and Pink*, <http://www.blackandpink.org/purpose-analysis/>. This statement is based on words by Rose Braz, former director of Critical Resistance. On Black and Pink, see also Lydon, “Once There Was No Prison Rape.”

such a method, and it is incumbent on those of us who turn to critical historical methods to understand our present to follow them. It requires changing *whose present* we study. And it requires changing *who is present* to us when we come together to do this work. It is a risky endeavor, as it is necessarily unclear where any abolitionist project will lead. But given the present in which we find ourselves, this is surely a risk worth taking.<sup>68</sup>

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