

**NEOLIBERALISM AND THE EROSION OF THE AMERICAN CRIMINAL
(IN)JUSTICE SYSTEM: A COVID PERSPECTIVE**

by

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A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

in

THE FACULTY OF GRADUATE AND POSTDOCTORAL STUDIES
(Political Science)

THE UNIVERSITY OF BRITISH COLUMBIA
(Vancouver)

April 2021

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Neoliberalism and the Erosion of the American Criminal (In)Justice System: A COVID
Perspective

submitted by Ritica Ramesh in partial fulfillment of the requirements for
the degree of Master of Arts
in Political Science

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Abstract

This paper examines the corrosive effects of neoliberalism on the U.S. criminal-justice system in the context of the current COVID-19 pandemic. I argue that neoliberalism, specifically a neoliberal governing rationality, has intensified the harms caused by the criminal-justice system-- harms that are rooted in the histories and legacies of slavery and racial injustice in the United States. The pandemic has exacerbated these harms in two ways. First, it has exposed the contradictions inherent in the classifications of labor, specifically in the realm of penal labor, and the impact that these categorizations have on the material conditions of workers and the value of labor. Next, I show how a neoliberal governing rationality has also strengthened the power and reach of the carceral state by reinforcing the myth of public safety that is predicated on tough-on-crime policies. Finally, I argue that the only strategy to confront the harmful effects of neoliberalism is through adopting radical frameworks for change, such as abolition.

Lay Summary

In this paper, I examine the harmful impacts of a dominant neoliberal ideology on the outcomes of the American criminal-justice system, specifically during the COVID-19 pandemic. Neoliberalism, an economic and political ideology that centers around market productivity and economic well-being over human thriving, has negatively affected the way that criminal-justice institutions, such as prisons, function. During the COVID-19 pandemic, neoliberal carceralism has exposed the contradictions in the way we classify labor and derive worth from the value of human labor, specifically in the realm of penal labor. Neoliberalism has also ensured that carceral systems have a greater reach on the everyday lives of indigent and marginalized communities, especially racialized ones, by reinforcing tough-on-crime policies in the name of public safety. In order to tackle these harmful effects of neoliberalism, I propose that strategies for change must be radical, such as through the abolition movement.

Preface

This thesis is original, unpublished, and independent work by the author Ritica Ramesh.

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Acknowledgements

First and foremost, I would like to offer my endless gratitude and thanks to Dr. Maxwell Cameron, who has consistently pushed my intellectual boundaries throughout my work on this project and in my graduate career. Thank you so much for your guidance and support, Max, I truly appreciate it, and my world is better for having a mentor like yourself in it.

Secondly, I would like to thank Dr. Bruce Baum for serving as my committee chair and for lending his invaluable time and expertise to the betterment of my project and research.

I would also like to thank my fellow graduate students at UBC for their constant support during a particularly difficult year and for believing in me and my project even when I did not. In particular I would like to thank Tristan, Aatika, Gaby, Sarah, and Chloé for all the welcome distractions and unconditional support. Isha, my roommate and sister, thank you for all the movie-nights, hugs, and laughter. I would also like to thank Joe, my best friend, for putting up with my numerous rants about everything under the sun, from crime, to abolition, to capitalism, and why we need to revolt, and for somehow still always being excited to hear me talk. I appreciate each and every one of you.

To Dr. Karine Walther, my undergraduate supervisor but lifelong mentor, thank you for always pushing me to do more and to do better. Without you, I would not be the critical thinker that I am today and my ability to believe in a better world largely stems from your support.

Last but not the least, I would like to thank my family for supporting my dreams from even before I understood what they were. Rahul, Amma, and Appa, none of this would be remotely possible without you all believing in me every step of the way. Thank you, forever and always.

Dedication

This thesis is dedicated to my mother, who has always dreamed about going to graduate school, but had many other uphill battles to fight instead. This one is for you, Amma.

Chapter 1: Introduction

On April 13th, 2020, 60-year old African-American man William Garrison died of the novel COVID-19 at the Macomb Correctional Facility the state of Michigan.¹ Garrison was only 24 days away from being released after serving 44 years in prison for a murder he was convicted of when he was 16.² Garrison tested positive for COVID after a postmortem was conducted, and most likely contracted the virus from his cell-mate who also tested positive.³ Despite this, the two shared a cell in a prison where 81 other prisoners were tested positive for the virus. Within only eight months, over 50% of Michigan's incarcerated population had contracted the virus- a pattern that has been mirrored in other states.⁴ The alarming spread of COVID within prisons has drawn national attention to the overcrowded, cramped conditions that are characteristic of most correctional institutions in the United States. Furthermore, it has heightened the awareness of the deep flaws in the political and economic ideology that has dominated and devastated American society, particularly its criminal-justice system.

Although many theorists and scholars have long criticized the rising economic inequalities brought about by late-stage capitalism, the current COVID-19 pandemic has solidified appreciation of the fact that neoliberalism is hollowing out democratic institutions and weakening their capacity for good governance. In this paper, I argue that neoliberalism has intensified the harms caused by the U.S criminal-justice system—harms that are rooted in the histories and

¹ Bill Hutchinson, "'He Was Coming Home': Michigan Prisoner Who Served 44 Years Died From Coronavirus Days Before Release", ABC News, 2020, <https://abcnews.go.com/US/coming-home-michigan-prisoner-served-44-years-died/story?id=70241168>.

² Ibid.

³ Ibid.

⁴ "A State-By-State Look At Coronavirus In Prisons", The Marshall Project, 2020, accessed 26 March 2021, <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.

legacies of slavery and racial injustice in the United States. The pandemic has exacerbated these harms in two ways. First, it has exposed the contradictions inherent in the classifications of labor, specifically in the realm of penal labor, and the impact that these categorizations have on the material conditions of workers and the value of labor. Next, I show how a neoliberal governing rationality has also strengthened the power and reach of the carceral state by reinforcing the myth of public safety that is predicated on tough-on-crime policies. Accordingly, I argue that the only strategy to confront the harmful effects of neoliberalism is through adopting radical frameworks for change, such as abolition.

1.1 Theoretical Underpinnings

In *Undoing the Demos: Unleashing Neoliberalism's Stealth Revolution*, Wendy Brown goes beyond traditional accounts of neoliberalism that situate the ideology primarily in the realm of economics and policy.⁵ Traditional Marxist and post-Marxist critiques of neoliberalism highlight its danger as an economic ideology and set of policy prescriptions that exacerbates wealth inequalities, social conditions, and subordinate the state to the influence of owners of capital.⁶ A key feature of neoliberalism, the privatization of public goods, means that the drive for profit and competitive utility-maximization has trickled down into non-capital accumulating realms such as health-care and education, hence transforming these areas into sources of profits. Brown builds on this work to examine the impact that neoliberalism has on governance and democracy. Drawing on Foucauldian and Marxist perspectives, Brown argues that it is critical to perceive neoliberalism as a “governing rationality extending a specific formulation of economic values, practices, and

⁵ Wendy Brown, *Undoing The Demos: Unleashing Neoliberalism's Stealth Revolution* (repr., MIT Press, 2015), 17.

⁶ Timothy Shenk, "What Exactly Is Neoliberalism?", *Dissent Magazine*, 2015, <https://www.dissentmagazine.org/blog/booked-3-what-exactly-is-neoliberalism-wendy-brown-undoing-the-demos>.

metrics to every dimension of human life.”⁷ Here, Brown is drawing attention to the ability of neoliberal policies to extend its features to inherently non-economic aspects of life. Brown also makes the point that this economization does not imply a drive for monetization.⁸ The key here is that neoliberal rationality “configures human beings as market actors” in the sense that we approach every aspect of our lives, including our personal lives, with the approach of a market-model and we define ourselves and our value in market terms, even if profit-maximization is not the first and foremost goal of a specific human activity.⁹

The focus of Brown’s argument is on the breakdown of democratic values due to the control exerted by a neoliberal governing rationality. The privatization of all spheres of life has enabled the state to reshape the ideals of democracy and citizenship to favor capital accumulation. In addition to this, liberty as a concept is partially shifted from the political realm to the economic one.¹⁰ Thus, our conceptions of what freedom and equality entail are defined by “market formulation of winners and losers.”¹¹ As a result, the objectives of policymakers are dominated by and are in service of market imperatives at the expense of the needs of the people. By aggressively privatizing all public goods, neoliberalism has completely transformed our understandings of what the ‘public’ even entails. As a result, wealthy corporations that are able to produce large profits margins possess the ability to shape citizen-level outcomes. Public policy and legal outcomes are not driven by the goal of fostering strong social ties in the community but rather to serve the interests of the wealthy. Brown argues that neoliberalism creates a specific subject, or “homo economicus” that is derived from a distinctive code of conduct or “scheme of

⁷ Brown, *Undoing the Demos*, 30.

⁸ Ibid, 31.

⁹ Ibid.

¹⁰ Ibid, 41.

¹¹ Ibid.

valuation.”¹² This code of conduct renders human subjects as primarily economic actors rather than political ones. Human beings are commodified, and their value is determined by the state, not the purely political state, but the neoliberal one that renders some human lives as less valuable than others due to their disposability under the market model. Building on her arguments in *Undoing the Demos*, in her next book *In The Ruins*, Brown critiques the extent to which neoliberalism has “valorized markets while depoliticizing them, and demonized social justice in favor of traditional morality,” by relying on a close reading of writings of the original neoliberals such as Friedrich Hayek and Milton Friedman.¹³ Here, she argues that neoliberalism impacts democratic values by reinforcing hierarchies of power through the lens of a traditional morality that serves as an antithesis to aims of equality and social justice. Neoliberal reason, as devised by its original creators, fuses markets and morals into a singular realm with an identical ontological disposition, and it is through this homogenous, singular framework that neoliberalism implements its governing rationality.¹⁴ As a result, socially progressive movements that seeks to reshape existing racial, gender, and class inequalities are characterized as an attack on freedom and morality under neoliberalism.¹⁵ Brown’s argument is particularly important because it highlights the fact that not only does the market exacerbate historically produced inequalities in systems, such as the entrenched racism and classism in the criminal-justice system, it also strongly resists socially progressive movements, as such the abolition movement, through its weaponizing of traditional morality.

¹² Ibid, 21.

¹³ Wendy Brown, *In The Ruins Of Neoliberalism* (repr., Columbia University Press, 2019), 9-12.

¹⁴ Ibid, 11.

¹⁵ Ibid, 12.

Like the term neoliberalism, the term carceral state has also been the subject of debate. In his article “Finding and Defining the Carceral State,” historian Dan Berger describes carceral power at its core as a “repressive social control, yet the places and means through which this control is expressed changes overtime.”¹⁶ Berger also highlights the evasive, yet often intuitive nature of the term: “historians of the carceral state simply knew it when we saw it.”¹⁷ While Michel Foucault, in his seminal work *Discipline and Punish*, locates the carceral at the core of all state power, several scholars have since used the idea in still broad, yet less all-encompassing ways. Katherine Beckett and Naomi Murakawa offer the most comprehensive, and for this thesis, relevant, discussion of the carceral state in their article “Mapping the Shadow Carceral State: Toward an Institutionally Capacious Approach to Punishment.”¹⁸ Beckett and Murakawa argue that by expanding the breadth of our understanding of the carceral state, we are able to truly comprehend how penalty contributes to and exacerbates social inequalities, capture the way the less obvious mechanisms of the carceral state operate, and how the state obscures the extra-legal implications of carceral power.¹⁹ For the purposes of this thesis, I use the term carceral state to mean what Beckett and Murakawa understand as shadow carceral state-- “government policies, legal doctrine, and institutions with the power to impose sanctions that either mimic the coercive practices widely considered to be of punishment (e.g. incarceration, whether under the moniker of administrative detention or immigrant detention) or impose significant hardship and carry with

¹⁶ Dan Berger, "Finding And Defining The Carceral State", *Reviews In American History* 47, no. 2 (2019): 279-285, doi:10.1353/rah.2019.0040.

¹⁷ Ibid.

¹⁸ Katherine Beckett and Naomi Murakawa, "Mapping The Shadow Carceral State: Toward An Institutionally Capacious Approach To Punishment", *Theoretical Criminology* 16, no. 2 (2012): 221-244, doi:10.1177/1362480612442113.

¹⁹ Ibid.

them social and political opprobrium,”²⁰ while acknowledging that prisons and the prison-industrial complex are only one part of a larger toolbox of state oppression.

In order to analyze the ideological workings of neoliberalism and its impact on the criminal-justice system, this thesis turns to Stuart Hall, Doreen Massey, and Michael Rustin’s influential volume titled *After Neoliberalism? The Kilburn Manifesto*. Hall et al. argue that the one of the central reasons why neoliberalism continues to thrive is because it has not yet contributed to a political crisis, but only an economic one.²¹ This lack of a political crisis has only allowed for the neoliberal oligarchy- a government run by neoliberals who put market prosperity first- to further justify the neoliberal agenda. This means that not only has the neoliberal state failed to enrich societies with social and economic prosperity, it has used this failure to “restructure our societies under market lines,”²² a strategy that is central to the growth and flourishing of the prison-industrial complex. This strategy is entirely hegemonic in nature and relies on the government’s ability to maintain a strong security-state that is hostile to democratic values. And because our societies are restructured under market lines, social problems are often times offered economic, market-based solutions. The unique contribution of this volume is its discussion of the common good and good society under neoliberal governing rationality.²³ Hall et al. argue that the idea of a common good under neoliberalism has established itself based on a reworked conception of common sense.²⁴ Common sense, which the authors describe as “a form of everyday thinking which offers us frameworks of meaning with which to make sense of the world,”²⁵ has come to

²⁰ Ibid.

²¹ Stuart Hall, Doreen B Massey and Michael Rustin, *After Neoliberalism? The Kilburn Manifesto* (repr., Lawrence and Wishart, 2015), 8.

²² Ibid.

²³ Ibid, 9.

²⁴ Ibid, 14.

²⁵ Ibid, 52.

mean the primacy of the free market, the centrality of individualism, and the superiority of private over public.²⁶ The hegemony of this common sense, they argue, is what legitimizes a “regime of power, profit, and privilege.”²⁷ In this thesis, I utilize this framework of common sense to argue that neoliberalism has strengthened and solidified what I describe as carceral realism-- the notion that the existence of the carceral archipelago cannot be challenged and that carceral solutions are absolutely necessary to repair harm.

1.2 Brief History of The American Carceral State

The history of mass incarceration in the United States and its growth over time is central to the contextualization of neoliberalism’s influence on the American carceral state. Although imprisonment itself can be traced back to antiquity, incarceration as a form of punishment in the American context gained traction in the 18th century, becoming increasingly popular after 1775 due to the influence of the Enlightenment Era’s efforts to create institutions that would reform so-called deviants.²⁸ Commonly referred to as the first state penitentiary in America, which later served as a model for future carceral structures, the Eastern State Penitentiary was established in 1829.²⁹ Unlike previous jails and smaller sites of incarceration, this prison in Philadelphia sought to reform harsher attitudes towards crime. Founded by the Quakers, the institution aimed towards rehabilitating prisoners rather than punishing them. Ironically, this effort led penitentiary administrators to introduce the concept of solitary confinement to American prisons.³⁰ Solitary confinement, they believed, was the best way to achieve penance as opposed to physical

²⁶ Ibid, 14.

²⁷ Ibid.

²⁸ Harry Elmer Barnes, "The Historical Origin Of The Prison System In America", *Journal Of The American Institute Of Criminal Law And Criminology* 12, no. 1 (1921): 36, doi:10.2307/1133652.

²⁹ Ibid, 49.

³⁰ Ibid.

punishment or hard labor. This new system of imprisonment and punishment became widely popular as advocates defined it as a progressive step towards reform. The Pennsylvania system, along with the New York system based on the Auburn Correctional Facility in New York which favored hard labor over solitary isolation, became the leading models of imprisonment in the United States.³¹ The reformist logic of these new penitentiaries had much in common with both the practices and justifications of defending the institution of slavery.³² Enslaved peoples and prisoners were both subject to strict routines, were both isolated from their communities, were coerced into laboring, and received zero to minimal compensation for their work.³³ And like the penitentiary, slave owners defended the institution by advancing arguments of civilization, religious morality, and reform.

In 1865, following the Civil War, the 13th Amendment to the U.S. Constitution abolished slavery and involuntary servitude for all individuals, with the exception of those who had been “duly convicted” of a crime.³⁴ The abolition of slavery initially meant that Southern states could no longer rely on cheap slave labor to propel their economies. The exception in the wording of the 13th Amendment, however, quickly provided states and local capitalist interests with an impetus to pursue criminalization as an important and lucrative avenue to regain access to a cheap and steady labor supply.³⁵ The wording of the 13th Amendment allowed white Southerners to create a new criminal-justice system dependent on convict leasing. Under this new carceral system, state officials, in cooperation with local stakeholders, put in place a series of laws called the Black

³¹ Ibid, 35.

³² Angela Davis, *Are Prisons Obsolete?* (repr., Seven Stories Press, 2003), 27.

³³ Ibid.

³⁴ U.S. Constituion, amend XIII. <https://www.archives.gov/historical-docs/13th-amendment>.

³⁵ Ibid. The 13th Amendment states that “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

Codes, which they used to criminalize and arrest freed African-Americans.³⁶ Once they were convicted of a crime, they were sentenced to prison where their punishment was to then perform hard labor on former slave plantations and in other local industries that had previously relied on slavery. Thus, while slavery was technically abolished under the law, it quickly reemerged in new, innovative through the criminal-justice system. The growth of the convict-leasing system, which continued till 1941 when it was outlawed, marked the inextricable relationship between criminality and race in American history. African-Americans were disproportionately and unfairly targeted and criminalized and the state yet again regained social and economic domination over Black bodies. Prisoners died of starvation, heat, abuse, disease, and fatigue- none of this mattered, however, as the Black Codes and subsequent Jim Crow legislation ensured that African-Americans could be arrested and convicted for the most arbitrary actions such as “walking alone at night,” thus allowing the state to maintain a stable source of labor. According to historian Khalil Gibran Muhammad, blackness in the 20th century was repackaged as criminality. In his book, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*, Muhammad writes that “Northern black crime statistics and migration trends in the 1890s, 1900s, and 1910s, were woven together into a cautionary tale about the exceptional threat black people posed to modern society.”³⁷ The abolition of slavery and the creation of the convict-leasing system laid down the racist and capitalist foundations of the modern American criminal-justice system.

Indeed, President Franklin Roosevelt’s formal abolition of the practice of convict leasing in 1941 did not end the exploitation of black prison labor. This continued exploitation would

³⁶ Davis, *Are Prisons Obsolete?*, 31. While Black Codes were abolished during the period of Radical Reconstruction, they would reemerge in the passage of Jim Crow legislation after 1877.

³⁷ Khalil Gibran Muhammad, *The Condemnation Of Blackness: Race, Crime, And The Making Of Modern Urban America* (repr., Harvard University Press, 2010), 7.

persist in other ways and was accompanied by the rising imprisonment of African-Americans. Between 1880 and 1980, the American prison population increased by an alarming 886 percent, from 30,659 people in 1880 to 302,377 people in 1980.³⁸ Prison populations rapidly increased both in the North and the South due to the Great Migration in the 20th century. In the 1960s, the Richard Nixon presidency politicized the “law and order” rhetoric, which successfully solidified the relationship between criminality and race and the need to police certain racialized communities due to their apparent proclivity to commit crime.³⁹ At the peak of the Civil Rights Movement in the 1960s, President Lyndon Johnson declared a war on crime. A similar approach was later adopted by President Ronald Reagan 1980s, when he declared his “war on drugs.”⁴⁰ In 1970, the incarcerated population was 196,441, and by the mid-1980s, it had risen to 481,616.⁴¹ Their political dog-whistles resulted in changes in sentencing policies, policing, and incarceration rates that overwhelmingly targeted racialized ethnic groups and minorities, particularly African-Americans. As of 2020, the United States incarcerates around 2.5 million people in federal, state, local prisons as well as other forms of involuntary detention such as juvenile prisons and immigration detention.⁴²

The enormous growth in the U.S. prison population, however, had no effect on crime rates or public safety.⁴³ Angela Davis argues that with every construction of a new prison in the United States, “corporate involvement in construction, provision of goods and services, use of prison

³⁸ Ruth Delaney et al., "Reimagining Prison Web Report", Vera Institute Of Justice, 2018, <https://www.vera.org/reimagining-prison-web-report/american-history-race-and-prison>.

³⁹ Ibid.

⁴⁰ Davis, *Are Prisons Obsolete?*, 12.

⁴¹ U.S. Department of Justice, "Historical Statistics On Prisoners In State And Federal Institutions, Yearend 1925-86", 1988, <https://www.ojp.gov/pdffiles1/Digitization/111098NCJRS.pdf>.

⁴² Wendy Sawyer and Peter Wagner, "Mass Incarceration: The Whole Pie 2020", Prison Policy Initiative, 2020, <https://www.prisonpolicy.org/reports/pie2020.html>.

⁴³ Davis, *Are Prisons Obsolete?*, 12.

labor” also expanded.⁴⁴ The expansion of the prison system and the increasing capital investments related to the prison industry gave rise to the prison-industrial complex. Through the prison-industrial complex, corporations found innovative ways to realize their market-based objectives within the punishment industry. Through the violent oppression of human life that yielded the state plentiful profits, the prison-industrial complex molded itself into the epitome of what Cedric Robinson called racial capitalism-- the idea that all capitalism is racial capitalism because a capitalist system can only fulfill its accumulating function when it is dispossessing the value of human life and labor through racism.⁴⁵ Similarly, Gargi Bhattacharyya argues that racial neoliberalism is the “mobilization of racializing and/or racist processes for neoliberal ends.”⁴⁶ This has enabled structural racism to have far-reaching effects as it intensifies inequality in the name of economic prosperity.⁴⁷ It also leads to the solidification of existing systems of racial exclusion and injustice. Mass incarceration, specifically the incarceration of Black bodies, is profitable and offers a lucrative arena for wealth generation for the state as well as the capital owning class.

Ironically, the prison boom began to gain velocity during a period of decreasing crime rates, but the lure of penal labor and private prisons, in addition to deepening relationships between prisons and corporations, benefitted states’ economic interests and thus drove their continued investment in growing its carceral project. For white Americans and economic elites committed to maintaining the inequality of the racial and economic status quo, the prison in and of itself allowed the state to punish and dominate Black and other marginalized and low-income communities. The

⁴⁴ Ibid.

⁴⁵ Cedric Robinson, *Black Marxism: The Making Of The Black Radical Tradition* (repr., UNC Press, 1983), 2.

⁴⁶ Gargi Bhattacharyya, "Racial Neoliberalism And The Fragmentation Of One Neoliberal Order", in *Neoliberalism In Context*, 2020.

⁴⁷ Ibid.

crisis of mass incarceration is further worsened by the neoliberal governing rationality's prioritization of profits over people. Within the dark, disturbing walls of prison, incarcerated people are expected to churn revenues for the state at the expense of their freedom, well-being, and humanity.

Chapter II: Penal Labor: A Site of Dominance and Control

The prison-industrial complex in the United States has frequently been cited as one of the biggest drivers of mass incarceration. The prison-industrial complex has been driven by the interdependence of the state and the market in pushing for policies that drive the growth of the carceral state due to its economic and political benefits. One of its most salient features is the American government and private market's reliance on prison labor. As of 2005 (the most recent year of available data), 1.4 million incarcerated people were engaged in some form of prison labor.⁴⁸ As of 2017, prisoners earned an average of 86 cents in daily minimum wages.⁴⁹ Several states, including Alabama, Georgia, and Texas do not pay the majority of their prisoners any wages at all for jobs they perform.⁵⁰ In several other states, programs such as victim relief funds, witness assessments, and post-release savings require incarcerated people to give away up to half of their earnings, further reducing the already minimal payment that incarcerated people receive for their labor. Prisoners have worked for multi million-dollar companies such as Walmart, Victoria Secrets, and Whole Foods. In 2017, when the state of California was dealing with record-high numbers of wildfires, incarcerated prisoners were fighting the fires on the front lines for \$1/day.⁵¹

The exploitation of prisoners in such dangerous forms of labor has exposed them to both short term and long-term risks. More recently, the lack of concern for prisoners' health has become all the more apparent due to the pandemic. As of February 2021, there have been at least 372,520

⁴⁸ Michael Poyker, "America's Captive Labor", Project Syndicate, 2019, <https://www.project-syndicate.org/commentary/manufacturing-employment-us-prison-labor-by-michael-poyker-2019-07?barrier=accesspaylog>.

⁴⁹ Wendy Sawyer, "How Much Do Incarcerated People Earn In Each State?", Prison Policy Initiative, 2017, <https://www.prisonpolicy.org/blog/2017/04/10/wages/>.

⁵⁰ Ibid.

⁵¹ Geman Lopez, "California Is Using Prison Labor To Fight Its Record Wildfires", Vox, 2018, <https://www.vox.com/2018/8/9/17670494/california-prison-labor-mendocino-carr-ferguson-wildfires>.

confirmed cases of COVID-19 and 2,357 deaths reported among prisoners in the United States--a number that is expected to steeply as the American prison population continues to rise rather than drop.⁵² After the outbreak of the virus in the State of New York in early March 2020, New York Governor Andrew Cuomo announced that the state was going to produce 100,000 gallons of hand sanitizer using prison labor.⁵³ This decision was noteworthy, given that most federal and state prisons in the United States consider hand sanitizer as contraband and its use or possession is punishable.⁵⁴ These directives draw on wider policies adopted by many American prisons, where hygiene is not a priority and is considered a privilege rather than a right. In many prisons, cleaning products are only reserved for common areas and ineffective products are sold in the commissary at high prices.⁵⁵ After the arrival of the pandemic into U.S. prisons, prisoners' health, like their hygiene, has also become a luxury commodity.

Despite the rise of COVID-19 cases within prisons in the United States, several prisoners are still expected to report to work and are not provided with adequate personal protective equipment.⁵⁶ Unicolor, a federal program that operates factories within prisons, continues to operate across the country, despite several of its workers contracting and succumbing to the virus.⁵⁷ Since prisoners are not protected by the Fair Labor Standards Act (FLSA), their working conditions are

⁵² "A State-By-State Look At Coronavirus In Prisons", The Marshall Project, 2020, accessed 26 March 2021, <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.

⁵³ Josiah Bates, "New York Is Using Prison Labor To Make Hand Sanitizer", Time, 2020, <https://time.com/5799710/new-york-hand-sanitizer-prison-labor/>.

⁵⁴ Keri Blakinger and Beth Schwartzapfel, "How Can Prisons Contain Coronavirus When Purell Is A Contraband?", ABA Journal, 2020, <https://www.abajournal.com/news/article/when-purell-is-contraband-how-can-prisons-contain-coronavirus>.

⁵⁵ Ibid.

⁵⁶ John Bazemore, "Federal Prison Factories Kept Running As Coronavirus Spread", The Marshall Project, 2020, <https://www.themarshallproject.org/2020/04/10/federal-prison-factories-kept-running-as-coronavirus-spread?>.

⁵⁷ Ibid.

especially precarious during the pandemic.⁵⁸ Not only is social distancing impossible in prison factories, but the lack of protective gear and adequate sanitization has extended these risks to prison officials and administrative staff. Moreover, the wages afforded to prisoners is insufficient to meet their financial needs, such as paying for child support, court fines, and room and board expenses.⁵⁹ Many prisoners who work full-time inside prisons still accrue thousands of dollars in debt by the time they finish their sentences.⁶⁰ In order to avoid debt, many prisoners opt to continue working long hours for a low wage. According to carceral state historian Heather Thompson, prisoners are unable to miss work due to fear of a pandemic and doing so would result in a punishment of some sorts.⁶¹ Similarly, stringent policies like this have also been imposed on many economically and racially marginalized workers outside of U.S. prisoners.⁶²

The phenomenon of penal labor in the United States is an excellent example of how the prosperity of the market and corporate profits have defined the contours of liberty, even in life-threatening situations. The ability of the state to monopolize on low-cost labor during a crisis regardless of health outcomes is characteristic of neoliberal governance. Under neoliberalism, there is no robust conception of the public good since all goods are privatized. Foucault argues that the use of penal labor is the “constitution of a power relation, an empty economic form, a schema of individual submission and of adjustment to a production apparatus.”⁶³ The prison-

⁵⁸ Lauren-Brook Eisen, "Covid-19 Highlights The Need For Prison Labor Reform", Brennan Center For Justice, 2020, <https://www.brennancenter.org/our-work/analysis-opinion/covid-19-highlights-need-prison-labor-reform>.

⁵⁹ Ibid.

⁶⁰ Tanzina Vega, "Costly Prison Fees Are Putting Inmates Deep In Debt", CNN Business, 2015, <https://money.cnn.com/2015/09/18/news/economy/prison-fees-inmates-debt/index.html>.

⁶¹ John Bazemore, Ibid.

⁶² Josephine Moulds, "Gig Workers Among The Hardest Hit By Coronavirus Pandemic", World Economic Forum, 2020, <https://www.weforum.org/agenda/2020/04/gig-workers-hardest-hit-coronavirus-pandemic/>.

⁶³ Michel Foucault, *Discipline And Punish: The Birth of the Prison* (repr., Random House, 2021), 243.

industrial-complex's motivation to ensure that prisoners have access to safe living conditions, hygiene products, and the ability to social distance is largely absent, because of the inherent profit-making nature of prisons, which seeks to reduce the costs of running institutions to maximize profits. The incentive to produce goods and services at a cost below the market price through the labor of workers who are not allowed to unionize or even refuse work takes priority over the value of a human life.

The continued widespread use of prison labor during COVID-19 also provides an opportunity to re-think the dichotomy between skilled and unskilled labor as well as essential and non-essential work. Unpacking these dichotomies is particularly important because just like the existence of prisons, the distinctions produced by these terms are frequently used to assign quantitative value to human worth in alignment with the ideologies of neoliberalism. The terms skilled and essential spark similar, positive ideas akin to desirability, whereas the terms unskilled and non-essential trigger notions of undesirability. Unskilled work often conjures up images of low-paying jobs such as factory workers, cleaners, store clerks, waste-collectors, etc. Unskilled work is also labelled as transient work- merely a steppingstone before people transition into their *real* dream careers. However, during a time of economic, political, and social crisis, it is these very categories of work that are deemed essential to everyday functioning. According to sociologist of work Patrick McGovern, classifications of skilled and unskilled work ought to not actually represent the skill of the individual doing it.⁶⁴ Yet, because there is no universal unit to quantify and measure skill, social scientists have resorted to drawing a connection between the market value of the output produced by these workers to the cost of their labor.⁶⁵ However, in a neoliberal state,

⁶⁴ Patrick McGovern, "Who Are You Calling Unskilled?", LSE Blog, 2020, <https://blogs.lse.ac.uk/brexit/2020/03/06/long-read-who-are-you-calling-unskilled/>.

⁶⁵ Ibid.

this economic measurement goes beyond the realm of the market, and seeps into social constructions of the value of the human-being itself. That is, if the market decides that job of the factory-worker is unskilled, the neoliberal state demarcates the factory-worker themselves as unskilled. Once workers are deemed unskilled, they are inevitably are regarded as part of a community of individuals who are less desirable to society. Furthermore, the impact produced by such distinctions further erodes what Michael Sandel terms as the dignity of work.⁶⁶ When the essential work that prisoners and low-wage workers do is less valued than the work of professionals like hedge-fund managers, it sends across the message that this work's contribution to the common good of our society is negligent, and thus less worthy of social recognition.⁶⁷ Not only does this breed resentment among people who feel unappreciated, it also widens inequality. By erasing the social aspects of work in favor of the economic, neoliberalism solidifies the idea that market outcomes reflect the value of a human being.

The kind of benefits that wage workers earn in exchange for their labor is also a direct result of neoliberal, capitalist classifications. For example, warehouse workers at Amazon were only earning \$15/hour pre-pandemic.⁶⁸ After the virus hit and integral nature of warehouse workers became increasingly apparent, Amazon, owned by the world's wealthiest individual, increased the workers' wages by \$2/hour- a modest difference but one that was barely conceivable before the pandemic.⁶⁹ Similarly, several other corporations began to roll out bonuses, benefit programs, and wage hikes in order to retain their wage workers. High-level executives saw substantial increases

⁶⁶ Michael Sandel, *The Tyranny Of Merit: What's Become Of The Common Good?* (repr., Farrar, Straus and Giroux, 2020), 198.

⁶⁷ Ibid.

⁶⁸ Nathaniel Meyersohn, "Bonuses And Pay Hikes: How Grocery Stores Keep Workers On The Front Lines", CNN, 2020, <https://www.cnn.com/2020/03/23/business/walmart-kroger-amazon-trader-joes-pay-bonuses/index.html>.

⁶⁹ Ibid.

to their net worth during their pandemic- increasing wages, even marginally, allowed them to experience this surge in wealth by staying safe in the comfort of their homes while their low-level workers put themselves at risk every day. This also delivered an important public narrative of benevolent care, similar to the kind of arguments made to justify the exploitation of prison labor.

In the face of the COVID-19 crisis, new narratives have now deemed unskilled workers as essential workers. While such narratives have complicated previous binary framings, they have been instrumentalized to ensure the economic needs of the moment, while simultaneously justifying the precarious exposure of marginalized racial and economic minorities to COVID-19. This reveals the ability of the neoliberal state to reverse older narratives of financial incapacity and budgetary restrictions and channel political will as and when necessary in order to maintain the interests of the capital-owning class and corporate bureaucrats. The once unskilled worker is now an essential worker; the news media praises them, government officials laud their efforts, and companies that hire them launch marketing campaigns to appreciate them, all while they perform the same job with the same benefits (or lack thereof) for a \$2 wage-hike in extremely risky, unsafe conditions.⁷⁰ It is almost impossible to imagine a world without unskilled labor due to the primacy of what Mark Fisher calls “capitalist realism”- the idea that there can be no other economic or political order that serves as an alternative to our current one.⁷¹ This is yet again a feature of the neoliberal governing rationale. The coercive power of the state is realized by the state first creating a class of workers without any considerable political capital or economic mobility. Next, the state nurtures a sociopolitical environment where it is not only near impossible for these workers to

⁷⁰ Hannah Van Drie and Richard Reeves, "Many Essential Workers Are In “Low-Prestige” Jobs. Time To Change Our Attitudes – And Policies?", Brookings Institution, 2020, <https://www.brookings.edu/blog/up-front/2020/05/28/many-essential-workers-are-in-low-prestige-jobs-time-to-change-our-attitudes-and-policies/>.

⁷¹ Mark Fisher, *Capitalist Realism* (repr., John Hunt Publishing, 2009), 2-4.

escape their current conditions, but it is also near impossible for the capital-owning class to reconfigure and adapt to a world where the health and well-being of the unskilled working class is not in grave danger. In order to reconcile this paradox, the neoliberal state redefines these workers as essential, a word that goes beyond its literal meaning and now functions as a symbol. This symbolic gesture comes with no actual change in the lived experiences of these workers. Grocery store employees are testing positive for COVID at higher rates, and like gig workers, are in jobs where they rarely have access to healthcare. Moreover, essential workers are especially prone to social ostracization due to their increased likelihood of being exposed to the virus. It is apparent that these binaries of skilled and unskilled work have existed primarily to serve the state-constructed project of exclusion.

This tension between unskilled and essential work has long existed within the walls of correctional institutions. As sites of immense violence and trauma, the very nature of prisons imposes on its occupants a social and literal status of exclusion from the community. The prison-industrial complex relies so heavily on penal labor despite demonstrating a total disregard for the humanity of prisoners as evidenced by the unsafe working and living conditions. This sends out a clear message to incarcerated populations that is characteristic of neoliberalism. Prisoners themselves are not permitted derive any inherent value from their existence, labor, relationships, or everyday lives. They are, however, expected to serve at the pleasure of the state and the corporations that profit from their incarcerated status. Karl Marx theorizes this sense of “alienation” as a consequence of capitalism in his *Economic and Philosophical Manuscripts*.⁷² According to him, alienation arises as a result of the worker’s loss of control over their own labor.⁷³

⁷²Karl Marx, *Economic And Philosophical Manuscripts Of 1844* (repr., Progress Publishers, 1932), 30.

⁷³ Ibid.

To Marx, this alienation is not purely a psychological or mental state of being, but rather a structural problem that arises when an individual's labor under capitalism is unable to act as a means to further their own collective interest as a result of serving the interests of the capital accumulating class.⁷⁴ In the same vein, the neoliberal carceral state ensures that prisoners are confined to spaces of violence and instability, do not have the agency to choose restorative, rehabilitative avenues of healing, and are trapped in a system where they are reduced to less-than-human status, thoroughly alienating them from themselves and the rest of society. Simultaneously, the only semblance of value allowed to incarcerated people is their labor value, which solely benefits the state and wealthy industries.

It is important to recognize that the COVID-19 pandemic is not responsible for the crisis of penal labor inside prisons today, nor has the crisis revealed anything particularly outrageous about the phenomenon. Rather, this pandemic has demonstrated how the failure to drastically reform our institutions with a sense of urgency has only accelerated the negative bearings of neoliberal governance in a time of crisis. For these reasons, it is not only important to tackle the crisis itself but also the structural issues that have led to the pandemic harshly and disproportionately impacting marginalized communities. In order to tackle the harmful manifestations of a neoliberal governing rationality, Hall et. al argue that it is important for us to contemplate and develop radical alternatives to its foundational assumptions.⁷⁵ Engaging in a paradigm shift from viewing imprisonment as a form of punishment towards implementing values of restorative justice allows us to assess the pandemic situation within prisons from an ethical, safety perspective as opposed to a retributive one. Continuing to operate factories within prisons

⁷⁴ Ibid.

⁷⁵ Hall et al., *After Neoliberalism?*, 22.

and denying prisoners access to protective gear endangers incarcerated lives as well as accelerates the spread of the virus inside and outside prisons.

While government officials and policymakers have by and large failed to act in ways that take into consideration the humanity of prisoners, incarcerated people have ensured that their voices be heard during the pandemic. Across many jurisdictions in North America, for example, incarcerated people have begun to stage hunger strikes within prison in order to demand better living conditions and access to hygiene products.⁷⁶ Despite the alarming threat they face to their health and safety, these prisoners sought to organize anyway and as a result of their actions, their voices were heard and masks were provided a few weeks after. This role that requires careful moral deliberation amongst the collective members of society, however, may be easier said than done. One of the ways in which neoliberalism weaponizes moral decision-making is that it instills a sense of “individual responsibility”, making individual people believe that they are personally responsible for making their society a better place while operating in an immoral free market.⁷⁷ It is within this paradoxical situation that neoliberalism weaponizes the propensity of individuals to want to do good against them to further its market-oriented aims.⁷⁸ The institutions nurtured by neoliberalism act as constraints on moral behavior, even if there are practitioners within those institutions and members of society that wish to create change. Ensuring that companies that rely on prison labor to make goods such as masks and sanitizers are still able to produce these necessities without engaging in exploitation requires tackling a bigger, structural problem that

⁷⁶ Joseph Darius, "Family Members Say Franklin County Jail Inmates Are Staging Hunger Strike Over Coronavirus Concerns", PA Post, 2020, <https://papost.org/2020/04/08/family-members-say-franklin-county-jail-inmates-are-staging-hunger-strike-over-coronavirus-concerns/>.

⁷⁷ Peter Bloom, *Ethics Of Neoliberalism* (repr., London: Taylor and Francis, 2017), 2.

⁷⁸ *Ibid.*

cannot quite be championed by a few individuals alone. In the final section of this paper, I discuss why it is imperative to adopt an abolitionist ethic to deinstitutionalize the carceral state.

Chapter III: The Dangerous Criminal Versus Public Safety

Prisons in the United States are not appropriate spaces for social distancing. Correctional facilities are characterized by cramped, overcrowded conditions and an extreme lack of personal hygiene.⁷⁹ As mentioned in the previous section, there are at least 377,000 cases of COVID-19 inside American prisons, with several presumptive cases not being reported by the Bureau of Prisons. In April 2020, an Ohio judge ruled that the “BOP (Bureau of Prisons) acted with deliberate indifference” due to lack of testing.⁸⁰ According to public health officials, flattening the curve requires keeping at least 2 meters from everyone at all times. When one prisoner is infected and unable to distance from anyone, there will inevitably be a large outbreak across prisons in the country as these facilities are perfect breeding grounds for an infectious virus like COVID-19. In some countries, governments have made decisions to release prisoners during the pandemic in order to maintain safety. In Iran, for example, the state released over 85,000 prisoners in order to curb the spread of COVID-19 within facilities.⁸¹ U.S Attorney General William Barr also ordered the Bureau of Prisons (BOP) to identify and release federal prisoners who were “non-violent and posed minimal likelihood of recidivism and who might be safer serving their sentences in home confinement.”⁸² A recent report published by the Prison Policy Initiative, however, revealed that

⁷⁹ The Sentencing Project, "Report Of The Sentencing Project To The United Nations Special Rapporteur On Contemporary Forms Of Racism, Racial Discrimination, Xenophobia, And Related Intolerance", 2018, <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>.

⁸⁰ Walter Pavlo, "Bureau Of Prisons Had A Response Plan For A Pandemic But Delayed Action", Forbes, 2020, <https://www.forbes.com/sites/walterpavlo/2020/04/23/bureau-of-prisons-had-a-response-plan-for-a-pandemic-but-delayed-action/#35ab99533d97>.

⁸¹ Tracy Shelton, "Iran Releases 85,000 Prisoners To Curb Coronavirus Spread, But Australian Still Behind Bars", ABC News, 2020, <https://www.abc.net.au/news/2020-03-20/coronavirus-covid-19-iran-releases-85,000-prisoners/12073630>.

⁸² "How Bill Barr'S COVID-19 Prisoner Release Plan Could Favor White People", The Marshall Project, 2020, <https://www.themarshallproject.org/2020/03/28/how-bill-barr-s-covid-19-prisoner-release-plan-could-favor-white-people>.

as of December 2020, 13% of all COVID-19 cases in the United States between May and August were attributed to outbreaks in prisons and jails.⁸³ Barr's memo reveals and serves as validation for a position that abolitionists in the United States have adopted for decades- mass incarceration is not the solution to public safety, whether that is public health or social safety. In fact, mass incarceration, especially during a pandemic, only poses a threat to public safety. Prisoners have always maintained that conditions inside prisons were unsafe and advocates have always argued that incarceration has a harsh, negative impact on the social health of impacted communities, yet lawmakers continued to turn a blind eye to these concerns. After COVID-19 hit prisoners harder than the general population, it is the very people who run and operate these prisons who are now tacitly admitting that the institutions they manage are unsafe.

There are several reasons why it is inaccurate to present public safety and abolition as mutually-exclusive dichotomies on opposing sides of the spectrum. Evidence-based policy analysis has proven that mass incarceration leads to undesirable social outcomes for both the individuals directly impacted as well as the larger society. Criminologist Todd Clear studies the impact of mass incarceration on public safety in five different social realms- individuals, intimate relationships, social relationships, institutions, and democracy, in his paper titled "The Impacts of Incarceration on Public Safety."⁸⁴ Incarceration has overwhelmingly negative effects on all of these connections, with negligible positive effects that can be acquired through other restorative means.⁸⁵ The problem with attributing danger and risk with incarcerated people is reducing the problem to the legal culpability of the individual actor. Scholars have identified the various social,

⁸³ Gregory Hooks and Wendy Sawyer, "Mass Incarceration, COVID-19, And Community Spread", Prison Policy Initiative, 2020, <https://www.prisonpolicy.org/reports/covidspread.html>.

⁸⁴ Todd Clear, "The Impacts Of Incarceration On Public Safety", *Social Research: An International Quarterly* 74, no. 2 (2007): 613-630, <http://muse.jhu.edu/article/527533>.

⁸⁵ Ibid.

genetic, and environmental factors that cause someone to commit crime, which is itself a socially constructed term. As Clear has argued, homelessness and social insecurity are leading factors that affect any individual's proximity to being involved in the criminal-justice system.⁸⁶ In fact, criminal activity and violence in communities are often aggravated by cyclical modes of incarceration where certain communities are perpetually targeted more than others.⁸⁷

As the copious volumes of scholarship have demonstrated, systemic racism also plays a crucial role in determining criminal-justice outcomes. African-Americans are 5.9 times more likely to be incarcerated than whites and Latinos are 3.1 times as likely.⁸⁸ Loic Waquant argues in *Punishing the Poor* that the American government operates within a "state policy of criminalization for the consequences of state-sponsored poverty," framework by reorganizing social services as a tool of state surveillance and control, which primarily targets indigent people and communities of color.⁸⁹ Given the long history of systemic racism in the U.S. criminal-justice system, it is no surprise that race and wealth are so inextricably linked when it comes to incarceration. Poor and racialized communities are common targets of the system and cyclical incarceration ensures that it is very hard for individuals from these communities to break out of the cycle. Clear also makes another important observation that is key to understanding how the state dominates poor and racialized bodies- convicted men who receive prison sentences have far worse life outcomes than men who commit the same crimes but are not convicted.⁹⁰ In another

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ The Sentencing Project, "Report Of The Sentencing Project To The United Nations Special Rapporteur On Contemporary Forms Of Racism, Racial Discrimination, Xenophobia, And Related Intolerance", 2018, <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>.

⁸⁹ Loic Wacquant, *Punishing The Poor: The Neoliberal Government Of Social Insecurity* (repr., Duke University Press, 2009), 58.

⁹⁰ Todd Clear, "The Impacts Of Incarceration On Public Safety."

empirical study conducted by sociologist David Harding, sentencing an individual to prison had no effect on their chances of being convicted of a violent crime after being released from prison.⁹¹ This speaks to the larger problems of mental health and violence perpetuated within prison walls. Correctional facilities are simply not sites of restoration and rehabilitation because they foster an environment that is not conducive to cultivating motivations to change.

Communities that face the brunt of mass incarceration also have weak social capital.⁹² When strong social links are constantly being broken and redesigned due to the cycle of incarceration, there is damage done to the strength of the community, the family, and the individual. Furthermore, incarceration destabilizes the single most important unit of a community, the family. When an adult member of a family is incarcerated, this results in higher risk factors for juveniles in the family.⁹³ When analyzed through the lens of race, this is particularly worrying. As several certain racialized communities have strong family links that go beyond the nuclear family, the cycle of incarceration disproportionately affects the same groups over and over again, further solidifying the structural class and racial divide. This divide also fosters a sense of cynicism and distrust against the state among communities that are disproportionately affected by criminal-justice policies. This erodes the trust that is necessary for citizens to have in order for a democracy to thrive. Rather than constructively pay attention to these voices and pursue radical reform, the neoliberal state weaponizes their grievances against them to continue the reproduction of inequitable social outcomes in the name of market prosperity. While we like to think that incarcerating an individual who commits a crime will intuitively reduce the prevalence of said

⁹¹ David Harding, "Do Prisons Make Us Safer?", *Scientific American*, 2019, <https://www.scientificamerican.com/article/do-prisons-make-us-safer>.

⁹² Todd Clear, "The Impacts Of Incarceration On Public Safety."

⁹³ *Ibid.*

crime, it is crucial to think of incarceration from a structural, not individual, angle. Crime is not always the cause of incarceration, but nonetheless it also acts as a consequence of it.⁹⁴ This is why it is dangerous to pit notions of public safety and convicted criminal against each other. Mass incarceration in itself as a system and institution is a direct threat to public safety. This then begs the question- if prisoners were never a threat to public safety in the first place, why did politicians advocate for tough-on-crime policies?

Hall et. al. argue that governments and politicians further acquire widespread support for their neoliberal policies by appealing to “common sense.”⁹⁵ This entails going beyond just invoking popular opinion, and instead requires “shaping and influencing it so they can harness it in their favor. By asserting that popular opinion already agrees, they hope to produce agreement as an effect.”⁹⁶ In this way, neoliberal ideas shape what we might consider common sense. The notion of safety and security and their role in popular public discourse in the United States demonstrates why this specific conceptualization of public safety is particularly valuable. In his book *Policing the Crisis*, Hall argues that in societies where individualism and the nuclear-family model is most common, the networks that connect people’s separate lives, such as the media or official government data, are pivotal in creating what he calls moral panic.⁹⁷ Despite the fact that the rate of crime in the United States has been falling since the late 20th century, most Americans in the early 2000s believed that the country is experiencing an epidemic of crime.⁹⁸ Joel Dyer characterizes this phenomenon as the “real war on crime- a political war of crime gap propaganda

⁹⁴ Ibid.

⁹⁵ Stuart Hall and Alan O’Shea, “Common Sense Neoliberalism” (repr., Lawrence and Wishart, 2015), 52.

⁹⁶ Ibid.

⁹⁷ Stuart Hall, *Policing The Crisis* (repr., Palgrave Macmillan, 2013), 135.

⁹⁸ Joel Dyer, *The Perpetual Prisoner Machine* (repr., Basic Books, 2008), 29.

designed to transform society's media-generated crime anxiety into social capital.”⁹⁹ Public opinion about crime and safety are not arbitrarily formed, but rather have an ideological structure that resembles a social process.¹⁰⁰ The language adopted by the mainstream media, which is often sourced from police departments, court reports, government releases, all central components to the prison-industrial complex itself, play a pivotal role in not just influencing, but determining what the dominant public narrative is about public safety and crime.

Thus, for the vast majority of the population, the dichotomy between crime and public safety can feel organic. Such framing presents as common sense that crime is a rampant problem (despite evidence that points to the contrary), that criminals are violent and dangerous, and that to protect yourself, a tough-on-crime approaches designed and implemented by the prison-industrial complex is the only way to guarantee individual safety. A jarring example of this was in August 2017, when a leaked report from the Federal Bureau of Information revealed that the agency was surveilling and collecting information about what they called “Black Identity Extremists.”¹⁰¹ This report deemed Black activists, including groups such as Black Lives Matter (BLM) as “threats to public safety,” without broadly defining what public safety means or looks like.¹⁰² Such practices are not new- the FBI adopted similar approaches to civil rights activists in the 1950s and 1960s. But this ideological function of what common sense does not merely exist adjacent to neoliberal policies; it also fortifies and reinforces them. Believing in the dominant narratives of crime can produce a social anxiety that allows for neoliberal individualization and profit-maximization to be

⁹⁹ Ibid, 117.

¹⁰⁰ Hall, *Policing The Crisis*, 136.

¹⁰¹ Chelsea Jubitana, "Behind Locked Bars: The Role Of Media And Mass Incarceration", The Kenan Institute For Ethics At Duke University, 2019, <https://kenan.ethics.duke.edu/behind-locked-bars-the-role-of-media-and-mass-incarceration-march/>.

¹⁰² Ibid.

institutionalized, by and large against racialized and indigent groups. This logic of common sense lies at the core of carceral realism. When the state, through its neoliberal governing rationality, purports that an arbitrary sense of crime is rampant in our societies, our collective apprehensions around criminal behavior and punishment render the existence of highly-militarized police departments, state surveillance, and mass imprisonment as the natural and objectively correct institutional response to achieve the myth of public safety.

Collective public and political advocacy for tough-on-crime policies especially target poorer communities, across racial and ethnic lines, pointing to another symptom of the prison-industrial complex's neoliberal character. The neoliberal state only practices non-interventionist policies at the level of the capital-owning class.¹⁰³ However, when it comes to the lower end of the class and racial hierarchy, the neoliberal state is "fiercely interventionist and authoritarian."¹⁰⁴ Wacquant argues that making this division in terms of governance allows the state to still exert authority and dominance at an institutional level.¹⁰⁵ This behavior of the neoliberal state is particularly dangerous for criminal-justice outcomes because the heightened need to control the poor and the non-white populations coupled with the breakdown of social welfare creates a perfect climate to cultivate an expanded penal system. The state simultaneously reduces its support for social welfare and aggressively punishes those who fall through the cracks as a consequence of the state's own failings.¹⁰⁶ In this way, incarceration functions as a mutually orchestrated response by the state and its corporations to control and restrain any citizen who does not choose market-conforming methods of status improvement in the face of the societal injustice that the state creates

¹⁰³ Loic Wacquant, "The Punitive Regulation Of Poverty In The Neoliberal Age", *Opendemocracy*, 2011, <https://www.opendemocracy.net/en/5050/punitive-regulation-of-poverty-in-neoliberal-age/>.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

for them. The growth of the prison-industrial complex and the rise of profits for private prison companies in the United States proves that incarceration as a project does not primarily seek to serve public safety and community well-being, but rather the large corporations that benefit off of it and offer the state a stake in the seeds of their exploitation. It also allows for the state to solidify its hegemony over minority communities and guarantee their second-class status in society's hierarchy.

Despite the state's claim that public safety is a top priority, the Bureau of Prisons has not succeeded in containing the spread of COVID in prisons as well protecting the health of returning-prisoners and their communities. As some U.S. correctional facilities release low-risk prisoners in an effort to curb the spread of the virus within American prisons, many prisoners who do not qualify under the BOP eligibility criteria are still facing a threat to their lives. According to The Marshall Project, as of May 2020, only 1,027 prisoners were released from American federal prisons, where over 174,000 people are incarcerated.¹⁰⁷ Barr's directive also reinforces the racial disparities in the criminal-justice system as only 7% of incarcerated African-American men are deemed low-risk and hence eligible for release according to the federal government's risk-assessment tool.¹⁰⁸ On the other hand, 30% of incarcerated white men are eligible. In order to organize releases, the federal government has authorized prison officials to use a software called PATTERN, which has never been used before.¹⁰⁹ The minimum cut-off score according to this tool's algorithm discriminates against drug offenders who are disproportionately African-

¹⁰⁷ Joseph Neff and Keri Blackinger, "Few Federal Prisoners Released Under COVID-19 Emergency Policies", The Marshall Project, 2020, <https://www.themarshallproject.org/2020/04/25/few-federal-prisoners-released-under-covid-19-emergency-policies>.

¹⁰⁸ How Bill Barr's COVID-19 Prisoner Release Plan Could Favor White People", The Marshall Project, 2020, <https://www.themarshallproject.org/2020/03/28/how-bill-barr-s-covid-19-prisoner-release-plan-could-favor-white-people>.

¹⁰⁹ Ibid.

American due to the legacy of the War on Drugs.¹¹⁰ In his memo, Barr stated: “While we have an obligation to protect BOP personnel and people in BOP custody, we also have an obligation to protect the public,”¹¹¹ once again reinforcing the idea that public safety and decarceration are opposing binaries. Using his recommended procedure, the government is essentially bolstering the idea that white men convicted of crimes are inherently less of a risk than black men convicted of crimes.

With rapid technological advancements being made in the past several years, artificial intelligence has made its way into the criminal-justice enterprise. These tools rely on statistical analysis and data mining to try and predict rates of recidivism.¹¹² Courts now use these tools to guide sentencing and parole considerations and some states even use such tools to help guide bail amounts. Despite bipartisan support for using risk assessment tools, several experts have raised critical issues with the process.¹¹³ Many of these tools rely on using existing data already available in the criminal-justice system, but much of this data does not exist in a void. Existing patterns and trends are reflective of centuries worth of racist and classist history. Former US Attorney General Eric Holder cautioned against the use of these tools as a guideline for sentencing because these tools may “exacerbate unwarranted and unjust disparities that are already far too common in our criminal-justice system and in our society.”¹¹⁴ The use of an untested AI tool in the middle of a pandemic to make important decisions on early release for vulnerable prisoners highlights an alarming pattern that experts of the American criminal-justice system know all too well- the

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Anna Maria Barry-Jester, Ben Cassleman and Dana Goldstein, "The New Science Of Sentencing", The Marshall Project, 2015, <https://www.themarshallproject.org/2015/08/04/the-new-science-of-sentencing>.

¹¹³ Ibid.

¹¹⁴ Ibid.

narrative of public safety, of *common sense* public safety, is constantly evoked and manipulated by the benefactors of the prison-industrial complex in order to garner widespread public support for their political campaigns even though the means and ends are often rooted in white-supremacy and classism.

It is evident that through the control of dominant narratives and implementation of harmful policies, the neoliberal state absorbs understandings of public safety into a broader market-driven, competitive, and profit-maximizing strategy. Hall, building on Antonio Gramsci's theories of ideology, argues that in tandem with this subtle-yet-dangerous notion of common sense, exists 'good sense'.¹¹⁵ Good sense allows us to critically examine the harmful manifestations of common sense and can provide the impetus for radical change. To challenge the ills of mass-incarceration and the carceral state, abolitionism functions as a form of good sense that contests the political and social consequences of carceral realism.

¹¹⁵ Stuart Hall and Alan O'Shea, "Common Sense Neoliberalism," 54.

Chapter IV: Moving Past Reform Through Organizing For Abolition

Despite the inextricable interconnectedness between the functioning of prisons and harmful ideologies, the existence of prisons seems organic and acceptable to a vast majority of the population. Michel Foucault argues in his seminal work *Discipline and Punish: The Birth of the Prison* that when prisons started to gain traction in the first half of the nineteenth century “it appeared so bound up and at such a deep level with the very functioning of society that it banished into oblivion all the other punishments that the 18th century reformers had imagined.”¹¹⁶ Despite several people problematizing the dangers of prisons, he further argues, many are “unable to see how to replace it” due to what he refers to as its “self-evident character.”¹¹⁷

The gap between recognizing prisons as inherently violent and oppressive versus critiquing their most tyrannical features allowed for the increasingly popular liberal rhetoric of prison reform. Foucault states that prison reform is “virtually contemporary with the prison itself; it constitutes, as it were, its programme.”¹¹⁸ The crux of prison reform movements is overwhelmingly to produce a “better prison system.”¹¹⁹ Many proposed prison reforms, such as the provision of in-house medical services, further solidify the permanence of the prison rather than challenge its very presence. The introduction of solitary confinement in American prisons itself was a ‘progressive reform’ but is widely condemned as inhumane under several domestic and international standards of humanity. “Reformist reforms,” as Marxist geographer Ruth Wilson Gilmore refers to them, reinforce the system.¹²⁰ According to Gilmore, the goal is not to “fix” mass incarceration, and

¹¹⁶ Foucault, *Discipline And Punish*, Pg 232.

¹¹⁷ Ibid.

¹¹⁸ Ibid, 234.

¹¹⁹ Davis, *Are Prisons Obsolete?*, Pg 20.

¹²⁰ Rachel Kushner, "Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind", *The New York Times Magazine*, 2019, <https://www.nytimes.com/2019/04/17/magazine/prison-abolition-ruth-wilson-gilmore.html>.

make it more palatable to our collective imaginations, but rather to reduce the scope of the carceral state.¹²¹

These arguments lead to the conclusion that our goal should not focus on incremental measures that do not actually shrink the carceral archipelago, but on transformative measures that render the need for and use of carceral measures nonexistent. An example of this is that the abolition of the death penalty in many states has simply been replaced with life without parole—another kind of death sentence, nevertheless. Another example of a reformist reform is the call for using electronic monitoring under house arrest instead of incarceration. Not only does such kind of monitoring increase the frequency of contact between the prison-industrial complex and members of a household, it renders the home a space of incarceration, policing the individual's every action or movement, and does not allow for people to build communities and networks.¹²² It also widens the reach of the carceral state by allowing people who otherwise would not have gone to prison to be monitored and controlled in some way or form and exacerbates existing feelings of being policed in the wider community. Non-reformist reforms, on the other hand, can have a positive effect on the goals of decarceration without enabling the power of carceral structures. Reforms such as eradicating life-without-parole for juvenile prisoners, eradicating cash bail, and defunding budgets of prisons and jails are good examples of actions that improve the current situation of incarcerated people without strengthening or expanding the reach of the carceral state. Instead, these actions free up critical resources that can now be allocated to providing crucial services to those who harm and are harmed.

¹²¹ Ibid.

¹²² Critical Resistance, *Reformist Reforms Vs. Abolitionist Steps To End Imprisonment*, image, 2021, http://criticalresistance.org/wp-content/uploads/2021/02/CR_abolitioniststeps_antiexpansion_2021_eng.pdf.

Reimagining a world without prisons and jails can be quite difficult, but like Gilmore argues in striking words, “Abolition is a presence, not an absence.”¹²³ This means that abolition does not simply entail a solution such as shutting down physical structures of incarceration that we know as the prisons, but rather focuses on reinvesting resources in community well-being. This includes reinvesting in universal health-care, accessible housing, community-driven mental health initiatives, income assistance, education, living wage legislation, and several other avenues that enhance social thriving. This also involves eliminating the market-based profit maximization motive from these welfare services. Abolitionists are concerned with how to move towards building a society that deals with inequalities and violence as social issues that require attention to its root causes. For many abolitionists, a legitimate justice system should be guided by the aims of restorative and transformative justice, not punishment or retribution. While our societies as they exist today may not possess the capacity for such a vision, a central component of the abolition movement is the implementation of the symbiotic relationship between theory and praxis. State resources are applied to imaginative solutions to repair harm that does not further create more harm, and we implement them. The abolitionist movement involves people from a variety of professions and backgrounds working, debating, and learning together to create a world that nourishes the seeds for transnational solidarity.

Some solutions, such as restorative justice, for example, provide a solid foundation for healing and holds space for an individual to repair the harm they have caused.¹²⁴ Under these pathways to justice, abolition does not advocate for lack of responsibility, in fact, it promotes true

¹²³ Ibid.

¹²⁴ Sujatha Baliga, "A Different Path For Seeking Justice For Sexual Assault", Vox, 2018, <https://www.vox.com/first-person/2018/10/10/17953016/what-is-restorative-justice-definition-questions-circle>.

accountability for its practice is grounded in cooperation and community health. Abolitionists advocate for solving the problems that we as a society contribute to that enable individuals to cause harm in the first place, rather than locking them up for an arbitrary amount of time without addressing issues such as mental health, drug abuse, interpersonal violence, etc. Abolition, at its core, brings back attention to colonial, imperial, capitalist, and hetero-patriarchal structures that plague our collective society, rather than locate the problem within individual behavior that exists in a void. As this thesis has demonstrated, the prison as an institution has not demonstrably increased public safety but has instead contributed to the sociological instability that enables violence and crime.

In order to grapple with an institution such as the prison that is inherently oppressive, both in its genealogy and in its functioning, Hall's proposal to use good sense to radically confront the harms of neoliberal common sense allows us to rethink the way we organize our communities.¹²⁵ One of the principal ways in which the neoliberal state guarantees its dominance is through resisting resistance itself. Carceral realism mimics learned helplessness, a concept in psychology that refers to a state of being where someone stops trying to make their situation better because of the belief that nothing that they do will have an effect on mitigating their grievances.¹²⁶ I argue that neoliberalism fosters exactly this kind of attitude, a political learned helplessness. Once the neoliberal state privatizes public goods and once the relationship between the state and the capital owning class is solidified, it becomes extremely difficult at the grassroots level to permeate through this arrangement and create widespread, impactful change. This is yet another reason why

¹²⁵ Stuart Hall and Alan O'Shea, "Common Sense Neoliberalism," 54.

¹²⁶ Sivakumar Nuvvula, "Learned Helplessness", *Contemporary Clinical Dentistry* 7, no. 4 (2016): 426, doi:10.4103/0976-237X.194124.

neoliberalism as a governing rationale is so threatening to democratic ideals. A healthy society thrives when there are transparent and accessible channels of accountability and responsibility. Radical spaces of advocacy and activism exist to hold the government and state responsible when it fails to serve the interests of the community. When these channels are no longer viable means of expressing dissent, when resistance is so closely linked to retribution, and when companies and corporations monopolize government level decision making, it erodes the legitimacy of democracy.

Under neoliberalism, organizations and groups created with the aim of challenging the status-quo too can fall prey to adopting capitalist profit-maximization goals. This is not to say that individual actors or local NGOs and activists have had no impact. On the contrary, these groups have played a crucial role in bringing to light issues that the neoliberal regime has made easy to ignore. Grassroots organizations have not failed at their duty to hold the state accountable nor have they failed to bring promising and significant changes to the communities that have been most impacted by unification of state and capital. The number of advocacy groups and organizations have been steadily rising- and this is precisely a symptom of the problem. But this is also part of the problem. As the neoliberal state privatizes public goods, nonprofits and NGOs are having to fill the gap by providing alternatives to social welfare. When the state sends out the message that individual level actors cannot change the foundation of the neoliberal regime, political learned helplessness sets in and people no longer try to dilute the relationship between state and capital by working within democratic institutions. Instead, they are forced to create alternative spaces where local organizations bear the burden of providing social welfare for their communities.

The problem inherent in the neoliberal governing rationality, therefore, is not the lack of state resources, but rather the misallocation of these resources. Furthermore, it is not a question of

political capability, it is one of political will. This allows the state to continue its project of diluting welfare programs and maximizing profits, while at the same time maintaining a cohesive network of organizations that provide social services independent from the state. According to the authors of *The Revolution Will Not be Funded*, a new symbiotic relationship between capital and social organizing has developed known as the nonprofit-industrial complex.¹²⁷ This phenomenon has led to the professionalization of nonprofit work, including the heavy influence of corporations on nonprofit management and functioning.¹²⁸ This situation reveals how neoliberalism thrives off of vicious cycle. The cycles inflict themselves on to every aspect of social functioning. For these reasons, the mere creation of alternatives spaces of resistance and reform is neither sufficient nor sustainable. The push for change must involve a much more radical transformation of the very principles of governance.

While the COVID-19 pandemic has further worsened the harms caused by a neoliberal governing rationality, a movement for radical change has also emerged out of this moment. On May 25th, 2020, police officers from the Minneapolis police department arrested George Floyd, a 46-year-old African-American man, after a call was made to 911 alleging that Floyd had tried to make a small purchase using a counterfeit \$20 bill.¹²⁹ As soon as police arrived on the scene, three officers pinned Floyd, first rendering him unconscious, and then dead, after one of the officers knelt on Floyd's neck for at least eight minutes.¹³⁰ This senseless murder of Floyd was one of 987

¹²⁷ Erica West, "Beyond The Non-Profit Industrial Complex", Truthout, 2018, <https://truthout.org/articles/beyond-the-non-profit-industrial-complex/>.

¹²⁸ Ibid.

¹²⁹ "How George Floyd Was Killed In Police Custody", The New York Times, 2020, <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

¹³⁰ Ibid.

officer-involved deaths in the U.S. in 2020.¹³¹ Demands to defund police departments spread alongside protests all over the U.S., and evolved into growing demands to dismantle other weapons of the carceral state including prisons, surveillance, and other forms of institutionalization that have ravaged Black, Indigenous, and racialized communities for decades, but especially in a year of exceptional grief and loss caused by the pandemic.

The increasing realization that the state prioritizes investing its limited resources into policing and punishment over social welfare reignited the already growing abolitionist movement both in the U.S. and across the world. According to the grassroots organization Critical Resistance, "Communities across the world are fighting for change with embodied knowledge that radical, life-affirming infrastructure and support along with a flowing stream of resources are what creates safe, secure, healthy, sustainable and equitable communities—conditions that allow us to not only survive but thrive. Policing drains our communities' capacity for self-determination. The only solution to the epidemic of policing and its inherent violence is abolition."¹³² Since May 2020, organizers have successfully divested over \$840 million from police departments in order to reinvest at least \$160 million into community-driven initiatives across the United States.¹³³ In addition, 25 cities cut contracts with police departments that allowed them to operate in schools and universities, reclaiming another \$35 million from the reach of the carceral state.¹³⁴ These outcomes are proof that the abolitionist vision for a just world is no longer out of reach, but is

¹³¹ "Police Shootings Database", The Washington Post, accessed 26 March 2021, <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>.

¹³² Critical Resistance, "Our Communities, Our Solutions: An Organizer's Toolkit For Developing Campaigns To Abolish Policing", 2020, http://criticalresistance.org/wp-content/uploads/2020/10/CR_Abolish-Policing-Toolkit_2020.pdf.

¹³³ Interrupting Criminalization, "The Demand Is Still #Defundthepolice", 2021, <https://static1.squarespace.com/static/5ee39ec764dbd7179cf1243c/t/600f6d25490d377ae207e407/1611623735064/%23DefundThePolice+Update.pdf>.

¹³⁴ Ibid.

actively and aggressively gaining traction. Activists approach abolitionism with a wider agenda of progressive social justice that is inclusive of a plethora of social-ills, all closely connected to criminalization and systemic racism. A deeper commitment to the abolition of the prison-industrial complex begins with creating a demilitarized world where race, ethnicity, gender-identity, sexual-identity, disability, and class status is not criminalized and punished but cherished and respected. This involves a broader reconfiguration of the structures of capitalism and neoliberalism. A system of justice that aims for the reinvigoration of the common good with the aims of reconciliation is not only possible but is one of profound moral urgency.

Chapter IV: Conclusion

On 29th April 2020, Andrea Circle Bear, a Native American woman, died of COVID-19 one month after giving birth to her newborn child on a ventilator.¹³⁵ Bear had been sentenced to prison on a drug charge earlier that year. Even though she was considered high risk for the virus due to her preexisting medical conditions and pregnancy, she did not qualify for release under BOP guidelines.¹³⁶ Bear, like William Garrison and hundreds of other individuals who have faced injustice during this pandemic, highlight the shortcomings of a democratic system that revolves around the needs of business and corporations while neglecting the rights and needs of minorities and the lower-class. While many Americans are struggling to pay for rent, food, and healthcare during this pandemic, American billionaires saw an increase of \$282bn in combined wealth after the start of the crisis, including Elon Musk who enjoyed an increase of about \$5bn in net worth due to his companies role in producing ventilators.¹³⁷

Analyzing neoliberalism as a governing rationality shines a light on the injustices within the American criminal-justice system that are driven by a thirst for profits. Disenfranchisement of incarcerated and formerly incarcerated individuals, weak familial ties, unemployment, and lack of education are conditions that weaken the fabric of a democratic state. In times of crisis, rather than reinforcing existing power dynamics, states should reconsider what kind of narrative they wish to be part for the future and what kind of rule they wish to offer in the present. By redrawing the contours of the way we organize and value labor, by affording more civil and human rights to

¹³⁵ Lois Beckett, "US Inmate With Coronavirus Dies Weeks After Giving Birth On A Ventilator", The Guardian, 2020, <https://www.theguardian.com/world/2020/apr/29/coronavirus-andrea-circle-bear-federal-prison-death>.

¹³⁶ Ibid.

¹³⁷ Ibid.

workers, and by resisting the lure of punitive policies that negatively impact public safety, we can reintroduce community well-being at the grassroots as the core driver of decision-making at the macrolevel. To paraphrase Angela Davis, one must no longer accept the things they cannot change, but must instead change the things they cannot accept.

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