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By Amy M. Pommerening

Entitled

The Time of Liberation: Angela Davis's Prison Abolition and Giorgio Agamben's Coming Community

For the degree of Doctor of Philosophy



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7/19/2016

Date

THE TIME OF LIBERATION: ANGELA DAVIS'S PRISON ABOLITION AND
GIORGIO AGAMBEN'S COMING COMMUNITY

A Dissertation

Submitted to the Faculty

of

Purdue University

by

Amy M. Pommmerening

In Partial Fulfillment of the

Requirements for the Degree

of

Doctor of Philosophy

August 2016

Purdue University

West Lafayette, Indiana

For Dorothy

ACKNOWLEDGEMENTS

A multitude of people and departments offered intellectual, fiscal, and emotional support to bring this project to fruition. It is in the space that I would like to express my gratitude.

No amount or combination of words could adequately express how grateful I am for having the opportunity to learn from and work with Leonard Harris; he is one of the most brilliant, honest, compassionate, and creative people I have ever met. It has been an honor to work on various projects throughout the years. Also, I would like to express my gratitude to all the committee members and advisors of this project: Sandor Goodhart, Nancy Heitzeg, Shaun Hughes, Lee McBride, and Dan Smith. Additionally, I would like to thank the administrators and faculty who developed and supported the Philosophy and Literature program; intellectually unique and rigorous, the program itself allows for a more (academically) experimental experience – one that I value.

Many educators, artists, and scholars at institutions I previously attended were integral to my intellectual and social development. This project would not have been possible without their brilliance, encouragement, and patience: Junior Burke, Michelle Naka Pierce, Gabrielle Civil, William Meyers, and Robert Grunst. Most importantly, I would like to acknowledge the late Anselm Hollo who handed me a copy of Giorgio Agamben's *The Coming Community* in a meeting determining the reading list for an

independent study I was taking with him. I only wish I would have known the gravity of that gesture at that moment so I could have thanked him before he passed.

My time and Purdue University was financially supported through an assistantship at the Humanities, Social Science, and Education Library. Without this position, I never would have been able to attend Purdue University. In this regard, it is important to thank Kay Schurr, Linda Rose, Cindy Yeoman, and RaeLynn Boes. The School of Interdisciplinary Studies – namely Delayne Graham, Susan Curtis, and Venetria Patton – was also instrumental in securing teaching and research funding, which gave me the professional experience necessary as well as the time to complete the dissertation.

As key as all these people and departments have been, my family and friends are undoubtedly the fundamental scaffolding. My parents are the most selfless, understanding, hard-working, and loving people I know. I admire and love them and would be lost without them. They have sacrificed so much to give myself, my siblings, and their grandchildren a healthy, stable, well-rounded, and joyous life with many irreplaceable memories. I would like to thank Kentucky, Kate, and Laara (as well as Addison and Holden) for all the help, uncontrollable laughter, various forms of support, and patient understanding.

Finally, to my other family: Polkey, Annie, Addie, AJ, Adam, Ashleigh, Alex, Izalith, Lisa, Lance, and Tevin. It would be impossible to enumerate the reasons for why I am so grateful to have these people in my life. The wonderful experiences, physical and emotional support, belly laughs, and honesty are incalculable. They have shown me that love and loyalty comes in many (strange) forms and with many colorful expressions.

Hopefully, I can start leaning a little less on my family and friends and start supporting more.

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ABSTRACT

Pommerening, Amy M. Ph.D., Purdue University, August 2016. *The Time of Liberation: Angela Davis's Prison Abolition and Giorgio Agamben's Coming Community*. Major Professor: Leonard Harris.

The project explores the ethical, social, and political subject of incarceration. I investigate Angela Davis's multifaceted critique of the prison industrial complex – focusing primarily on the tenets of racism, classism, and capitalism – and take an interdisciplinary approach to advancing her call for prison abolition by way of Giorgio Agamben's radical adjustments to traditional discourses about ontology in his work *The Coming Community*. Agamben's rendering of ontology in terms of impotentiality and indifference, when put in dialogue with Davis, exposes latent and unexplored philosophic suggestions Davis is making – specifically regarding a non-normative interpretation of temporality and an operation of liberation best understood as indefinite rather than finite and attainable. Ultimately, the poetic re-thinking Agamben applies to ontology and its political consequences serve as one blueprint for the kind of cognitive re-orientation vital for the prison abolitionist project: abolishing the conditions which allow for the prison industrial complex to be an unquestioned, inevitable part of social reality. Experimenting with thinkers that have seemingly disparate concerns and styles creates a space for more imaginative approaches to potentially mitigating limited, oppressive modes of thought, practices, and institutions.

CHAPTER 1. INTRODUCTION

i. Imagining the unimaginable

The problematic – the what-is-at-stake – in the current investigation is another way of living: an alternative way of thinking, acting, communicating, and organizing ourselves within local and global communities. Though “alternative way of living” seems absurdly broad, in the context of the current project, it is quite specific. To purport the following investigation has at stake an alternative way of living implies that modes of living as they are unfolding now are worthy of critique and displacement. What follows is an investigation into prison abolition, and therefore, it is an investigation for a way of life that does not include the mechanisms and the use of the criminal justice and penal incarceration systems. Time and temporality play a major role in understanding the alternative way of living without prisons. The critique is not only of contemporary experience (personal, social, political, ideological) but also includes the dynamic of historical remembering (experiences of pastness which are and remain inseparable from the emerging now) as well as the dismissal of unimagined futures.

I argue that Agamben, in his book *The Coming Community*,¹ demonstrates one possible way to alter our conceptual framework that would assist in Davis’s goal of

¹ Agamben has written extensively in the fields of social and political philosophy, aesthetics, theology, and the history of philosophy; this project focuses primarily on one, often overlooked/ignored book, *The Coming Community*.

prison abolition. The (nearly) inconceivable idea that Davis is suggesting we imagine requires not only a complicated proposal but one which deals with some of our most fundamental concepts as human beings: existence as such, identity, community, and temporality. Alex Murray writes in *Giorgio Agamben*, “Agamben’s thought is characterized by the depth it provides in thinking through our contemporary moment, and on the importance that it places on imagining the world anew” (1). Agamben’s “world anew” defines ontology as impotentiality, and this becomes the basis for what he calls the *coming community*: a community not defined with respect to predicate criteria and, therefore, one that consequently would abolish the inclusion/exclusion dialectic. These alterations, occasionally supplemented by references to religious and philosophic traditions of Southeast Asia, offer one example of changes to our thinking that would allow us to begin to imagine Davis’s prisonless existence.

Though the problematic – the what-is-at-stake – is an alternative prisonless mode of existing, the practice of (criminal) imprisonment is not an isolated operation but is a segment of an immense constellation of oppressive and unjust practices. The notion of a constellation is fitting for helping readers understand the following project, and the thinkers it focuses on: Angela Davis (1944-present) and Giorgio Agamben (1942-present). A constellation is a grouping of stars that structures an imaginary figure traced on the face of the sky. It is an identifiable creation of the on-looker and is a product of the on-looker’s imagination. The constellation is one of an infinite number of possible constellations and is formed through a process of connecting: certain points are emphasized and then connected, or grouped, to make a figure. However, this connectedness is wholly unconnected; that is, when one looks at the sky and creates a

constellation or identifies one which has been previously imagined, there are no lines actually connecting the points. The Big Dipper does not have a real, tangible border; it is a series of unconnected points.

The constellation is pertinent to this project for a number of reasons. First, individually, Davis and Agamben draw on a number of discourses, events, and analyses to structure their respective critiques regarding current modes of thinking and living. Just as the stars and the on-looker are never static, so it is the case that the points which Davis and Agamben highlight (and their positions with respect to these points) are never static.

Davis asks in *Are Prisons Obsolete?*: “Why do we take prisons for granted?” and “Why should it be so difficult to imagine alternatives to our current system of incarceration?” (15, 105). Incarceration facilities are designations which unquestioningly populate the landscape. The truly revolutionary and challenging aspect of Davis’s prison abolition is to imagine existing in a world without prisons. She is attempting to create and introduce a never-before imagined constellation. In Chapter Two, we will see why and how Davis defends the importance of this task. The apparatuses that fuel the use and proliferation of the modern forms of criminal, social, and political imprisonment as well as the resultant social, economic, and political disappearance constitute and perpetuate unnecessary and indefensible human suffering. Eliminating the conditions that sustain the practice of imprisonment, then, could be conceived of as an alternative mode of existing with a decreased level of human suffering. Using the imagination in an unlimited, as opposed to limited, manner is the impetus to creating a prisonless society.

ii. Proceedings

The investigation of the problematic will begin with an explication of Davis's prison abolition and is organized around each term: *prison* and *abolition*. Both terms undergo a referential mutation in Davis. *Prison* is no longer "an isolated institution" but a "set of relationships that comprise the prison industrial complex" (APO 106). Davis demonstrates that there are other critical factors which need to be eliminated in order for prisons to truly be abolished.² Since these factors are inseparable from the way humans are currently living, prison abolition is thus only possible with broader perceptual and social transformations. Furthermore, *abolition*, for Davis, includes both negative and positive processes. She positively proposes the creation of an *abolition democracy* – an alternative, prisonless society.

Davis claims that we must think poetically in order to imagine a prisonless society and thus begin the process for organizing ourselves in a way to render prisons obsolete. She admits to not providing a comprehensive step-by-step plan as to how we can alter our conceptual framework in such a way in which humans can begin to imagine the possibility of experiencing life without prisons.

Chapter Three will outline one of Agamben's specific alterations to our patterns of thinking regarding ontology that has communicative and behavioral repercussions.

Ontology, politics and literature, and the relationships between them, are the crucial topics of Agamben's work...[and] arguably what emerges in

² Davis's critique of the prison industrial complex (PIC) largely focuses on racial and economic considerations in the United States. The feminist/gendered, imperial, and xenophobic aspects of Davis's analysis are given little to no attention. This is not to suggest race, gender, class, imperialism, culture, capitalism-neoliberalism are divisible in her works on the PIC. They coalesce on micro and macro scales for Davis.

Agamben is a move towards a ‘poetics,’ a form of thinking that is not tied to the limitations given to these areas, instead moving beyond the entrapment of thought. (Murray 5)

Though Agamben does not specifically address Davis nor the notion of prison abolition, Agamben supplements Davis in a way which provides an answer to Davis’s question of what conceptual changes could garner the type of re-orientation needed to begin to imagine a prisonless existence (i.e. *coming community*).

Using Agamben as an experimental aid to Davis’s prison abolitionism actually exposes some latent and unexplored philosophic suggestions in Davis regarding temporality, which are outlined in Chapter Four. In *Infancy and History: On the Deconstruction of Experience*, Agamben makes the claim that “the original task of a genuine revolution, therefore is never merely to ‘change the world,’ but also – and above all – to ‘change time’” (99). Davis asserts that prison abolition is both existent in the present and in the future. Scholars of Davis’s work have yet to adequately account for this non-linear temporality; it is a complicated philosophic claim. Agamben’s concept of the *coming community* gives us a way of thinking through Davis’s claim with a revised ontological lens grounded in impotentiality. Davis’s temporal assertions compliment and align with her claim that the struggle for liberation is indefinite.

Chapter Five focuses on modes of resistance. In Davis’s writings about political prisoners and her historical understanding of the struggles for black liberation, she gestures towards implicating the state as a potential locus to concentrate resistance. A mode of resistance that refuses to become placated or absorbed by changes in the law while simultaneously holding at the forefront the original target of the political

dissenter's criticism (i.e. the state) could be a viable route for realizing prison abolition and ultimately undermining what Davis describes as "the ravages of global capitalism" altogether (AD 89). Agamben uses the incident at Tiananmen Square as a paradigm for effective resistance against the state. Davis's own prison abolitionism opens up the potential for rendering the state inoperable – using Agamben's words – and prison abolitionists should consider the mode of resistance Agamben describes using Tiananmen to re-structure their own approaches to social justice activism.

CHAPTER 2. ANGELA DAVIS AND PRISON ABOLITION

i. Introduction

Davis claims that we must think poetically – that is, more complexly than our current conceptual frameworks allow – in order to imagine a prisonless society and thus begin the process for organizing ourselves (i.e. creating a community) in a way to render prisons obsolete. Davis’s prison abolitionism is a constellation of arguments and looks broadly at the issues which contributed to the creation and continued proliferation of prisons: capitalism, racism, sexism, gender repression, militarism, xenophobia, and nationalism. Davis critiques these institutions and ideologies and argues for their destruction. At the same time, prison abolition, according to Davis, is not exclusively a negative or destructive process. Positively, Davis proposes in *Abolition Democracy: Beyond Empire, Prisons, and Torture* the creative re-organization of “networks for resistance”³ and “communities of struggle” as a means for dismantling the existent conditions that allow for the inevitability of prisons (121, 108). Moreover, Davis positively proposes the creation of an *abolition democracy* – her term for the imagined, prisonless society. The destruction is accompanied by construction of alternative economic, governmental, and institutional forms.

³ Resistance will be discussed in detail in Chapter Five.

Prison abolition is fundamentally a struggle for liberation. However, liberation for the prison abolitionist is not reserved for incarcerated individuals. Rather, it is a more extensive existential human liberation with the imagination as the impetus for altering our modes of awareness and communication, which allows for radically different possibilities for being in the world.

ii. Prison abolition

On one level, what *prison abolition* denotes seems obvious: to abolish or eradicate prison. Though this is not technically incorrect, such an understanding is grossly incomplete if by *prison* one thinks only of a punitive architectural structure containing people accused or convicted of crimes and *abolition* as only a negative process. These associations are part of a multifarious network of meanings. In order to comprehend what Davis means by *prison abolition*, a detailed analysis of the terms *prison* and *abolition* are needed.

ii.a. Prison and the prison industrial complex

Prison, as it is used in *prison abolition*, refers to the prison industrial complex (PIC): the architectural sites of all types of punitive incarceration⁴ and surveillance as well as the economic, governmental, ideological, and cultural values that created, permit, and support the continual use of such facilities and the criminal justice system more

⁴ In the United States, the Federal Bureau of Prisons is overseen by the Department of Justice and includes public and private federal prisons. In addition, each state has a Department of Corrections in charge of correctional facilities including public and private local, county, and state jails and prisons. Juvenile detention centers are also part of the Department of Corrections. Immigration detention centers are under the jurisdiction of Immigration and Customs Enforcement (ICE), an agency of the Department of Homeland Security.

broadly. The PIC is not only about prisons proper but is meant to include multiple kinds of incarceration facilities and surveillance.⁵ For the United States, this includes: local and county jails, juvenile detention centers, state and federal prisons, work-release centers, military prisons and black sites, immigrant detention centers, Indian country adult and youth detention centers, wilderness camps, training-schools, psychiatric facilities, halfway houses, house arrest, parole, and probation.⁶ The term *prison industrial complex* itself is pejorative in tone and was first used in 1995 by Mike Davis for an article written in *The Nation*. It indicates a critical approach to interpreting the practice of incarcerating people for criminal punishment or while awaiting charge and verdict. According to Davis, PIC is used to shift the “attention from the prison, perceived as an isolated institution, to the set of relationships that comprise” the criminal justice system and society more broadly (APO 106).

The phrase *prison industrial complex* is a modification of an early term *military industrial complex* (MIC), which entered broad, public discourse when former President of the United States, Dwight D. Eisenhower used the phrase in his public farewell address on January 17, 1961. President Eisenhower said, “In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military industrial-complex.” One often cited manifestation of the MIC, according to Katherine A. Neill and Mathew J. Gable, is “the way in which military buildup during

⁵ Mechthild Nagel and Anthony J. Nocella II in their “Introduction” to *The End of Prisons: Reflections from the Decarceration Movement* define prison as “an institution or system that oppresses and does not allow freedom for a particular group” (3). Included for Nagel and Nocella in this definition are spaces/structures such as daycare centers and parks, among others.

⁶ In *Prison Privatization: The Many Facets of a Controversial Industry (Volume I: The Environment of Private Prisons)*, Anne Lee explains in “Private Prisons and Community Corrections” the term *community corrections* is sometimes used to indicate “probation and parole supervision as well as other intermediate sanction such as halfway houses, house arrest with electronic monitoring, community service and monetary fines” (223).

the Cold War has led to a situation in which the U.S. government is now almost compelled to sustain mass production of weapons and an enormous military infrastructure” (94). The MIC extends beyond the development and production of weapons and maintaining basic operations of the military. James Ledbetter, in *Unwarranted Influence: Dwight D. Eisenhower and the Military-industrial Complex*, adds, the MIC is “a network of public and private forces that combine a profit motive with the planning and implementation of strategic policy” (6). The idea is that multiple public and private apparatuses monetarily depend upon the military (e.g. defense contractors, military technology developers, military personnel) and thus have an interest in military policy and ventures for reasons other than threats to national sovereignty or humanitarian concerns.

The PIC adopts a structurally similar criticism and applies it to the criminal justice system, but it is important to keep in mind, as Davis explains, the “relationship between the military industrial complex and the prison industrial complex” could be called symbiotic since “these two complexes mutually support and promote each other and often share technologies” (APO 86). Though the particular operations of the PIC are contextual, central to the general critique is: 1) the role of capitalism, particularly the mechanisms of imperial capitalism of the 19th century and neoliberalism of the 20th and 21st centuries; 2) social control. In *The Prison Industrial Complex and the Global Economy*, Eve Goldberg and Linda Evans see the PIC as “an interweaving of private business and government interests” (7). Interests in profit, social and political power, and maintaining the status-quo, not the threat of criminal behavior to society, are aspects underlying the practice of incarceration. Recently, the term *corrections-commercial*

complex (CCC) has been introduced as an alternative to the PIC to further emphasize the profit interest of commercial enterprises involved in the practice of penal incarceration. In “The Corrections-Commercial complex: A High-Stakes, Low-Risk Business,” Neill and Gable define CCC as “a subgovernmental arrangement between three coalitions of interested groups: private corporations (the prison industry), corrections professional organizations, and government agencies” (89).

Before addressing specific ways in which commercial, or profit, interests are fueling and benefitting from incarceration, it is important to briefly outline the role of neoliberalism. Rose M. Brewer and Nancy A. Heitzeg in their article “The Racialization of Crime and Punishment: Criminal Justice, Color-Blind Racism, and the Political Economy of the Prison Industrial Complex” state that “multinational globalization in search of cheaper and cheaper labor and profit maximization is part and parcel of the growth of the prison industrial complex” (625). In very basic terms, neoliberalism refers to globalization, or a global integration, of the economy. As business entities secured cheaper labor outside the United States, laborers and local economies reliant upon the skilled and unskilled jobs saw personal wealth, opportunities for economic security and social mobility, public funds to invest back into the community, and social safety nets rapidly erode. Moreover, in “Class, Race, and Hyperincarceration in Revanchist America,” Loïc Wacquant details how the “postindustrial economic transition...shifted employment from manufacturing to services, from central city to suburb, and from Rustbelt to the Sunbelt and low-wage foreign countries” (81). Immigration patterns of corporations in search of cheap labor abroad as well as domestic need for cheap labor are significant factors in the PIC.

There are many ways that commercial enterprises profit from incarceration. One example is the use of inmate labor. In “The High Costs of Profit: Racism, Classism and Interests against Prison Privatization,” Nancy A. Heitzeg documents a portion of the companies which use prison labor:

AT&T Wireless, Boeing, Compaq, Dell, Hewlett-Packard, Honeywell, IBM, Intel, Levy, Lucent Technologies, Macy’s, Microsoft, Motorola, Nordstroms, Nortel, Northern Telecom, Pierre Cardin, Revlon, Starbucks, Target Stores, Texas Instrument, 3Com, TWA, Victoria Secret, and more.
(38)

Inmate labor is not an employment training program; that is, companies that use incarcerated individuals as laborers do so with no intention of providing employment after release. Inmate labor reduces a company’s labor costs through low wages. The location and type of incarceration facility as well as the particular company using inmates as laborers are variables that contribute to the wage rate. Generally, wages range between “two cents to two dollars per hour” (Heitzeg 36).⁷

Commercial enterprises are not the only entities which benefit from cheap inmate labor.⁸ State and local municipalities use low-paid and unpaid inmates to maintain public parks and buildings; this is in addition to state and local municipalities benefitting from forced community service penalties of non-incarcerated people that serves no

⁷ Heitzeg later says, “[c]heap inmate labor, as low as twenty-one cents per hour, produces everything from blue jeans to auto parts, electronics and toys, computer circuit boards, and packaged plastic eating utensils for fast-food restaurants” (41).

⁸ Abe Louise Young, in an online article published on July 21, 2010 for *The Nation* titled “BP Hires Prison Labor to Clean Up Spill While Coastal Residents Struggle,” found that in Louisiana: “Prisons and parish jails provide free daily labor to the state and private companies like BP, while also operating their own factories and farms, where inmates earn between zero and forty cents an hour.”

rehabilitative or educational purpose.⁹ The Federal government also benefits monetarily; cheap inmate labor is “the major supplier for the U.S. military, ranking among the top fifty suppliers for the army alone” (Heitzeg 38).

In addition to low wages, commercial enterprises profit from using inmate labor in other ways. Inmates are not guaranteed the protection of federal labor standards.

Leslie Taylor-Gover and Robert T. Carey explain that businesses using inmate labor:

...do not have to pay for benefits...or work related injuries, and they do not have to negotiate with labor unions or federal agencies that regulate equal employment and discrimination. The companies are also protected from lawsuits that may be filed by prisoners. (82)

Companies do not have to provide health care or retirement benefits, do not have to pay worker compensation for injuries sustained while working, which would raise the company’s worker compensation insurance rates, and inmates are prohibited from forming unions or filing lawsuits directly against the companies.¹⁰

Private firms are also contracted to provide services within incarceration facilities. “These include food service (Sodexo is the largest provider), phone service,¹¹ privatized health care and treatment provided by managed care corporations...,conservative Christian religious programming,” drug testing suppliers, and security and surveillance

⁹ In the state of Tennessee, as outlined in the *Tennessee Comprehensive Driver License Manual*, individuals with no prior criminal record convicted of Driving Under the Influence (DUI), which applies to alcohol, illicit drugs, prescription drugs, and over-the-counter medications, are sentenced to mandatory jail time, must pay a fine, and are subject to loss of license and/or restricted license. Additionally, Tennessee also “requires as a condition of probation, litter pick-up for three eight-hour shifts. While removing litter, the offender has to wear a vest or other clothing displaying the message: ‘I am a DRUNK DRIVER’” (81).

¹⁰ Tax credits and subsidies such as Prison Enhancement Certification Program (PIECP) are further examples of the financial benefits for companies using inmate labor.

¹¹ “Phoning Home: Prison Telecommunications in a Deregulatory Age” in Volume II of *Prison Privatization: The Many Facets of a Controversial Industry* by Stephen Raheer gives an extensive account of the phone service “provided” for inmates.

services (Heitzeg 39). The goal for these service providers is to secure contracts with incarceration facilities in order to continue to remain in business and make a profit. The viability of such private firms relies upon the existence of incarceration facilities.

Finally, the most obvious profit-motivating feature of the PIC is the use of private, for-profit prison corporations.¹² Corrections Corporation of America (CCA) formed in 1983 as the “first contemporary corrections provider” (Neill & Gable 92). It sought to redefine the working relationship between private business and the government by proposing to manage incarceration facilities in a more cost-effective manner than facilities operated by the government. The timing of the creation of CCA is notable. Immediately after former President Ronald Reagan took office in January 1981, the start of a series of strict drug laws began being enacted. As incarceration facilities across the country rapidly filled, CCA formed as

...a response to a perceived need among states such as Tennessee for additional space to warehouse criminals in order to comply with court rulings declaring the conditions of [the state’s] overcrowded prisons unconstitutional. (Neill & Gable 92)

CCA is now the largest private, for-profit prison operator, a multinational corporation, and “has an annual revenue of \$1.7 billion” (Heitzeg 39). GEO Group (formerly Wackenhut) is the next largest private, for-profit corrections provider. It has operations globally, a bed capacity of 87,000, and reported revenues of \$1.69 billion in 2014. Both of these corporations are traded on the New York Stock Exchange and “boast of investors

¹² Public-run facilities are those managed by local, state, and federal government agencies and departments. The facilities are funded using money collected from taxes and other forms of government revenue. Private facilities are those managed by private firms. Privately-run facilities do not necessarily have to be for-profit; legally, nothing is preventing a private, non-profit entity from managing an incarceration facility.

such as Chevrolet, Exxon, Ford, General Motors, Hewlett-Packard, Texaco, UPS, Verizon, and Wal-Mart” (Heitzeg 39). GEO Group advertises its real-time stock exchange figures on the home page of its website. The existence and viability of private, for-profit incarceration management companies like CCA and GEO Group depend upon the usage of penal incarceration and also have a business interest in the expansion of penal incarceration in the United States and globally.

It is not only the participation of commercial enterprises which shape the understanding of the PIC. Recall that Goldberg and Evans stated that the PIC is “an interweaving of private business and government interests” (7). Campaign contributions from incarceration-related businesses,¹³ the employment opportunities incarceration facilities provide for a community, the popular appeal of government officials being perceived as tough on crime, and the claim of a reduction of government spending with the introduction of private, for-profit facilities¹⁴ are some of the government-related interests of the PIC.

More importantly, some of the aforementioned aspects of “government interests” lead into the broader idea of social control – the second identified critique of the PIC.

¹³ A section of Benjamin R. Inman’s “The Prison Doors Swing Both Ways: Elite Deviance and the Maintenance and Expansion of the Market of Prison-Industrial Complex” in Volume III of *Prison Privatization: the Many Facets of a Controversial Industry* specifically deals with campaign contributions by the various sectors of business with interests in the criminal justice and penal incarceration systems.

¹⁴ Neill and Gable explain that the cost-benefit/cost-savings argument used by supporters of private, for-profit incarceration facilities follows a typical line of reasoning: “full government control of prison operations leads to waste and inefficiency and...the private sector, free from procedural constraints and spurred by competition, can provide better outputs at a lower cost than the public sector” (94). However, there are complications with even making such comparisons between publicly and privately run facilities. Neill and Gable point out that the private facility cost-saving “rhetoric...has continued despite the difficulties of making adequate comparisons between public and private facilities and despite evidence suggesting that contracting out for the management of corrections does not save taxpayers money and can lead to even worse prison conditions for inmates” (94). In “Comparing Public and Private Prisons: The Trade-offs of Privatization,” Benjamin R. Inman discusses the complications with determining whether privately run incarceration facilities in fact save the government and tax-payers money.

Social control is “the means by which collectives secure adherence to ideational and behavioral norms and curtail disruptive deviance” (Soss et. al 536).¹⁵ Proponents of the PIC argue that marginalized populations – economic, racial, religious, ethnic, gender/queer, political – are systematically incarcerated or surveilled since they are likely to be perceived as challenging the established, hegemonic order. Terance D. Miethe and Hung Lu in *Punishment: A Comparative Historical Perspective* note:

civil and criminal laws have been widely used over time and across different countries to disrupt, harass, imprison, and/or eliminate particular individuals and social groups that represent a threat to the prevailing authorities. (200-1)

Again, critics of the PIC reject the reason for the global growth of the various means of imprisonment as a response to increased criminal activity threatening public safety.¹⁶ The incarceration of revolutionaries and political dissenters, non-gender conforming peoples, racially, ethnically, economically, and/or religiously marginalized peoples is not due the fact that these people are *essentially* more dangerous or transgress more laws within a given society than people who are not marked in these ways; it is because these people are *perceived* as threatening.

Davis is one among many critics of the PIC who points to the United States to highlight how social control of marginalized populations operate. At around two and a half million, the United States has the highest incarceration rate in the world – though

¹⁵ Ideational and behavior norms are not necessarily benevolent, equitable, or just. Racial, chattel slavery was at one point a norm in the United States. Deviance to this norm would include insurrections, escapes, and covert networks like the Underground Railroad.

¹⁶ Statistics in the United States have shown that “the population behind bars has kept on growing even as overall crime rate dropped precipitously for some fifteen years” (Wacquant 84).

countries like China and India have far more people. Adding the people who are under surveillance of some kind (e.g. parole, probation, and house arrest with electronic monitoring), the total is around seven million. “This is roughly one out of every thirty-two adults in the United States” (Neill & Gable 93). These adults (and children charged as adults) are disproportionately part of the economic underclass and particularly are people of color.¹⁷ Bryon E. Price and Richard Schwester in their article, “Economic Development Subsidies and the Funding of Private Prisons,” contend this occurs “because minorities are thought to ‘threaten the existing distribution of economic rewards and political power’” (111). Heitzeg explains, “Despite no statistical difference in rates of offending, the poor, the undereducated, and people of color, particularly African Americans, are overrepresented in these statistics at every phase of the criminal justice system” including the juvenile criminal justice system (46).¹⁸

ii.a.2. Dehumanization

For Davis, the PIC is an indefensible mechanism of violence and brutality, and more specifically, it is a mechanism which dehumanizes. Dehumanization is an act or acts which uncouples the humane consideration and treatment from a human being. David Livingstone Smith in “Dehumanization, Essentialism, and Moral Psychology” describes dehumanization as having and continuing to play “a significant role in facilitating and motivating episodes of genocide, war, slavery, and other forms of mass

¹⁷ In *The New Jim Crow*, Michelle Alexander finds: “One in three young African American men will serve time in prison if current trends continue, and in some cities more than half of all young adult black men are currently under correctional control—in prison or jail, on probation or parole” (9).

¹⁸ Heitzeg uses the case of drug offenses to support this claim: “African Americans, who are thirteen percent of the population and fourteen percent of drug users, represent thirty-seven percent of the people arrested for drug offences and fifty-six percent of the people in state prisons for drug offences” (46).

violence” (815). Looking at the practice of racial, chattel slavery in the United States helps to underscore what dehumanization means for Davis. A “slave is transmogrified from human subject into a physical object...reduced to moveable form of property known as ‘chattel’” (Best 25). Slave abolitionists “viewed the institution of slavery as inherently evil, corrupt, and dehumanizing, such that no [slave] in bondage – however well-treated by their ‘masters’ – could attain full dignity, intelligence, and creativity of their humanity” (Best 25).

Davis claims the PIC dehumanizes on multiple levels. Within the walls of incarceration facilities, mental and physical brutalities are integral parts of the environment. Inmates often describe the existence in an incarceration facility in terms of survival. Shaka Senghor spent nineteen years in prison and seven of those in solitary confinement. In his memoir, *Writing My Wrongs: Life, Death, and Redemption in an American Prison*, he states: “For the lowest of the inmates to the highest reaches of the prison staff, life in jail was a real-life human experiment of survival of the fittest” (28). One does not live in an incarceration facility; one tries merely to survive incarceration. Practices like solitary confinement, death row and the death penalty, sexual abuse, frequency of physical assaults and deaths among prisoners and officials, and medical neglect replace “living” with “survival.”

Davis believes dehumanization is an intrinsic aspect in the ideological components which define the PIC. She is a staunch anti-capitalist and considers capitalism to be inherently repressive and exploitive. In the course of being concerned with profit, capitalism “produc[es] the means to main and kill human beings and devour social resources” (AD 39). As previously discussed, the profit-motivated aspect of the

PIC shifts the interest from retribution and rehabilitation to economic viability. Market centrality allows for and encourages investment in architecture, technologies, and the proliferations of commodities prison populations consume and produce (AD 114). In this way, the practice of penal incarceration is viewed as an opportunity to make investors and companies more profitable, and inmates are considered non-human or objects – as was the case with racial, chattel slavery. People are seen as a means to an end with no regard for their physical, psychological, and social livelihoods.

Furthermore, as Smith rightly points out, if certain behaviors or actions are objected to on the basis that they dehumanize, there is simultaneously an implicit or explicit claim about what it means to be human (819). Davis does link the dehumanization of PIC to the erosion of “democratic rights and liberties” (AD 122). In a sense, one who is not dehumanized is one whose democratic rights and liberties have not been eroded on Davis’s account. Obviously, the function of incarceration is to restrict certain liberties as a means of punishment. Davis is not only referring to the act of incarceration but also to something much deeper than not being able to decide when or what one eats for instance. Instead, she believes prisons “constitute extreme sites where democracy has lost its claims” (AD 124).

There are certain features which characterize what democracy means. These features may change depending upon the context in which democracy is defined or what type of qualifier accompanies the word democracy (e.g. liberal democracy, direct democracy, etc.). A dominant, democratic, feature of the present-day United States is an adult citizen’s right to vote. One reason Davis believes incarceration facilities are “extreme sites” where democracy no longer operates is because they are sites of

temporary and/or permanent disenfranchisement. Not only are incarceration facilities actually the place where people are denied this democratic feature of voting,¹⁹ but this denial can be extended after people are released. Those on parole or probation are denied the right to vote in a number of states, and some are permanently disenfranchised. In other words, once someone has “served their time” or repaid their “debt to society,” the punishment continues. With the denial of the right and duty to vote, voting disenfranchisement is an explicit means for silencing and disappearing someone. Disappearance (physical and social) is a manner in which social control operates via the PIC. In a representational government, the ability to vote is the ability to be heard and recognized.

Formerly incarcerated individuals are continually stigmatized after their release in other ways. Social mobility is stifled not only through the problems surrounding unemployment post-release but also through laws that deny education loans to those convicted of certain felonies, and the “federal law forbid[ding] ‘veterans’ benefits, welfare payments, food stamps and disability support to anyone who is an inmate for more than 60 days” (Mendieta 306). All these taken together support Davis’s claim that incarceration facilities represent “state-sponsored terrorism against its citizens” (AD 67). The punishment that follows a formerly incarcerated individual is a type of violence that removes “citizens from the cycle of the production of social wealth, and contribute to their prolonged exclusion from such a cycle” (Mendieta 306). This is why in *Are Prisons Obsolete?* Davis speaks of the permanent social banishment of inmates and the formerly incarcerated.

¹⁹ Currently, only Maine and Vermont allow inmates to vote by absentee ballot.

ii.b. Abolition

What then would it mean to be a prison abolitionist given Davis's understanding of *prison* to mean the PIC? It means the abolition of broader ideological, economic, and behavioral systems. "The abolition of prisons is the abolition of the instruments of war, the abolition of racism, and, of course, the abolition of the social circumstances" that contribute to populating the prisons in the first place (AD 74).

Davis's use of the term *abolition* is meant to invoke pre-Civil War and Civil War era slave abolition movements. Davis reminds us that those subject to imprisonment are specifically excluded from the Thirteenth Amendment, which declares: "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 other place subject to their jurisdiction" (U.S. Const. amend. XIII, sec. 1). This is a crucial point for Davis in demonstrating the function of the term *abolition* in the context of prison abolition.

This late twentieth-century "abolitionism," with its nineteenth century resonances, may also lead to a historical recontextualization of the practice of imprisonment. With the passage of the Thirteenth Amendment, slavery was abolished for all except convicts – and in a sense the exclusion from citizenship accompanied by the slave system has persisted within the US prison system. (RC 72)

The Thirteenth Amendment permits slavery and involuntary servitude for those convicted of a crime; thus, the practice of slavery was never entirely abolished with the passage of the Thirteenth Amendment. Brewer and Heitzeg note that this "loophole" had "allowed for the conversion of the old plantations to penitentiaries" (632). Prison abolitionists are

continuing the same struggle as slave abolitionists – the struggle to end the practice of slavery in the United States. Moreover, prison abolitionists are insistent that white supremacy (and anti-black racism) was reinforced and codified in law – despite the Thirteenth Amendment. “The abolition of slavery did not result in the abolition of the essentialist racism in the law; it merely called for new methods of legally upholding the property interests of Whiteness” (Brewer & Heitzeg 631).

The connection, however, between slavery and criminal incarceration in American history existed well before the passage of the Thirteenth Amendment and extends back to the colonial period. Matthew T. King details: “In 1697, England introduced prison labor in the form of transportation to North America” (13). Transportation, in this context, refers to the process of sending individuals found guilty of a crime from England to North America for hard labor as indentured servants or permanent slaves. Prior to the practice of transportation being a formal law, “[c]onvicted felons could petition for a pardon on the condition that they agreed to be transported to an American colony for slave labor” (King 13). After transportation became a “formal law” with the Transportation Act of 1718, judges were able to “sentence offenders to transportation and avoid the process of allowing pardons in lieu of sentencing” (King 13).

After the Revolutionary War, transportation waned and eventually ceased. However, the connection between forced labor and criminal punishment continued in the penitentiary system in the eighteenth and nineteenth centuries. The comparisons between the practice of incarceration and the practice of slavery were drawn by both advocates and proponents of the use of penitentiaries. Adam Jay Hirsch in *The Rise of the Penitentiary: Prisons and Punishment in Early America* says, “A number of

publicists...explicitly termed their proposals for workhouses and hard labor by criminals as ‘slavery’ programs, and some advocates continued to describe inmates as slaves after penitentiaries went up” (74).²⁰ Davis notes that “some antislavery advocates spoke out against the new system of punishment during the revolutionary period” (APO 26-7). However, the shift from public corporal/capital punishment as the principle form of punishment to the penitentiary system – when incarceration became the punishment itself – “was generally viewed as a progressive reform” (APO 27).

Hirsch demonstrates well before the Civil War and the passage of the Thirteenth Amendment that “[a]mong the institutions that hovered about the penitentiary” slavery was the “one that stood out” in the discussion and writings from that period (71). Some formal similarities exist between the pre-Civil War penitentiary system and racial, chattel slavery. As Hirsch notes:

Both institutions reduced their subjects to dependence on others for the supply of basic human services such as food and shelter. Both isolated their subjects from the general population by confining them to a fixed habitat. And both frequently coerced their subjects to work, often for longer hours and for less compensation than free laborers. (71)

Inmates in pre-Civil War penitentiaries were subject to threats and endured physical violence and death as a form of discipline analogous to the experience of many slaves. The Slave Codes in the South “authoriz[ed] corporeal chastisement of slaves to the point of death” not to mention the torture, rape, murder, severing of familial ties executed with

²⁰ Hirsch also documents inmates’ own sentiments from this period that were “quick to draw such comparisons” (74).

impunity by slave owners (Hirsch 73). Rules within the penitentiary “prescribing corporal punishments that had disappeared outside the prison walls mirrored these [slave] codes” (Hirsch 73). Hirsch catalogs other formal similarities of the two institutions including a shared nomenclature. For instance, the “‘overseer’ sided in the penitentiary as well as the plantation, and he supervised the performance of ‘hard labor’” (Hirsch 72). Inmates and slaves used violent and non-violent means to “escape.” Prison officials and slave owners “expressed intense, even paranoid, fear of insurrection” (Hirsch 72). Both systems relied on marking people (uniforms and skin color) in order to distinguish people from the free population.

These formal similarities existed between the two institutions well before the end of the Civil War, and most penitentiaries during this time were located outside of the states which formed the Confederacy – where racial, chattel slavery was most prominent. In the Northern and deep Southern states prior to the end of the Civil War, penitentiaries were mainly populated with marginalized immigrant (referred to as “foreign-born”) peoples.²¹ Southern states that were closer to the free states did have a disproportional representation of freed black people in their penitentiaries.

The rise of the black prison population – and prisons more generally – happened after the Civil War and was concentrated in the former states of the Confederacy. Davis aligns her view of the modern U.S. prison system, as it has developed post-Civil War, with W.E.B. DuBois, who saw the rise of criminalization and incarceration of black people as a continuation of racial slavery. After the Civil War:

²¹ People of these “foreign born” communities were racialized – considered racial “others” through associations with essential characteristics – and the racialization operated on ethnic, linguistic, religious, and physical grounds.

White legislators mandated a series of laws²² that forced black freed men to become indentured servants by criminalizing them...Once in prison, convicts were leased or rented for absurd fees to the private entrepreneurs.

(AD 9)

Holding DuBois's account to be accurate, Davis claims that prisons are "the persistence of some of the deep structures of slavery" – such as access to cheap, forced labor and institutionalized violence – and a non-racist U.S. prison system is an oxymoron (AD 96).

Though Davis focuses on the connection between racial slavery and the modern prison system in the United States, if one looks at the operation of penitentiaries, prior to the Civil War, connections between criminal incarceration and slavery are more complex than the present-day, disproportionate representation of people of color in the criminal justice system. Since Davis recognizes that our contemporary situation is different from that of the antebellum era, she expands the notion of race and harms of racialization so as to move beyond a black/white dichotomy. She explains:

Although the hegemonic struggle against racism has definitely been a contestation with anti-black racism, through the history of this country, there have been other racialized histories and other forms of assault on indigenous populations. I think it is extremely important to acknowledge the mutability of race and the alterability of the structures of racism. (AD 56)

The "mutability of race" allows Davis to demonstrate that anyone can suffer at the hands of a racist construct like the PIC or slavery. It permits her to show how "the workings of

²² These laws were known as Black Codes.

contemporary structured racism...can injure white people as well as people of color” in terms of incarceration and the death penalty (AD 35). Any person who is part of the economic underclass has a higher likelihood to get caught in the system.

iii. Imagination and prison abolition

The limitation of human imagination, according to Davis, can be seen in historical and contemporary behaviors, discourses, and institutions of society. Davis critiques the human imagination but also claims that the imagination is the impetus for opening up the possibility for an alternative way of living that would not include the PIC.

Davis offers historic examples of how this imaginative limitation has shown itself in racial slavery, the abolitionist movement, and in the civil rights movement. In terms of racial slavery, the limitation of human imagination created the conditions for chattel slavery. The reduction of human beings to “raced” peoples, the erasure of people’s autonomy and dignity, and the understanding of human life as commodity were caused by and sustained through the limitation of the human imagination. As for the abolitionist movement, in Davis’s “Introduction to the City Lights Edition of *Narrative of the Life of Fredrick Douglass, An American Slave*,” she begins with the doubt white abolitionists had regarding Frederick Douglass’s status as a former slave. She explains that “white audiences were often so impressed by his literacy and eloquence as a speaker that they assumed he must have been a free black person who was formally educated” (ICL 21). They could not imagine the case could be otherwise. On the issue of the civil rights movement, in a talk given in 2008, Davis spoke of present-day people’s collective cognitive reduction of the U.S. civil rights movement to Martin Luther King, Jr. She says

that those in the United States “can’t imagine that movement could have been created by a huge number of people whose names we do not even know” (Ruggiero 14-5). For instance, the Montgomery bus boycott “would not have been possible had it not been for black women domestic workers,” and “we can’t imagine that they were agents of history that gave us this amazing civil rights movement” (Ruggiero 15).

Davis’s criticism of the imagination are not only external; that is, she is not only critical of other individual and collective usages of the imagination. Davis also criticizes her own thinking and analysis and admits to being embarrassed that her early lectures in the late 1960’s and early 1970’s on Fredrick Douglass “relied on an implicitly masculinist notion of freedom” (ICL 28). Through a combination of the social norms and collective consciousness of the era and her own personal imaginative limitations, she failed to be more critical of the gendering of the material and her presentation of it.

As Davis identifies the imagination as the device for the implementation and continuation of uncritical ideas and language as well as acts of dehumanization, she also believes the imagination is the impetus for developing the possibility to transcend limitations; it can open paths to alternative ways of being in the world. After Davis admits to her own imaginative limitation regarding Douglass, as noted above, she then offers a way to engage with this limitation in order to create new possibilities of interpretation and understanding. In terms of Douglass’s own masculine narrative of “freedom” and “manhood” and his *Narrative’s* “abundance of images of enslaved, thrashed, and battered black women,” Davis believes critics should not want to exorcise these images – a popular contemporary approach (ICL 34-5). Instead, “we should try to develop a framework that foregrounds both the complexities of gendered violence under

slavery and possible gendered strategies for freedom” (ICL 35). As is clear, the limited imagination contributed to the era which Douglass lived and his own masculine-centric ideologies, but this limitation becomes the place of creation and possibility for Davis. Why not try and imagine a framework that is able to sustain multiple realities at the same time? Why not complicate our interpretation of the *Narrative* itself, slavery, and our own notions of gender and violence?

The imagination plays this type of crucial role in prison abolition. For Davis, it is the limitation of the imagination preventing people from taking serious the notion of prison abolition. One of the first questions which arise in the discussion of abolishing the prisons and jails is “what will replace them?” (APO 105). Instead of answering with a determinate alternative, Davis counters with a question: “Why should it be so difficult to imagine alternatives to our current system of incarceration?” (APO 105). Those who oppose prison abolition, or are hesitant in giving it meaningful consideration, want an answer to the what: what will stand in the prison’s place? This question indicates a problem for Davis. Davis says “if we focus myopically on the existing system...it is very hard to imagine a structurally similar system capable of handling such a vast population of lawbreakers” (APO 106).

The question, “What will replace the prisons?” indicates that one is already beginning from a non-imaginative orientation. It demonstrates an inability to radically re-conceptualize accepted ideas about criminal behavior and punishment. Davis claims, then, a need to revise existing conceptual prisms and reframe how it is we think about and organize our social and personal worlds. For example, it is our limited way of defining the prison system which contributes to our lack of ideas and solutions regarding

this problem. Davis believes that if we expand what the prison system entails then we would put ourselves in a better position to imagine radical alternatives – not replacements. “If...we shift our attention from the prison, perceived as an isolated institution, to the set of relationships that comprise the prison industrial complex, it may be easier to think about alternatives” (APO 106). Rather than limiting the scope of what “prison system” means and proposing a one-to-one ratio solution – i.e. replacing the prison system with some other system which punitively deals with “criminals” – for Davis,

the first step...[is] to let go of the desire to discover one single alternative system of punishment that would occupy the same footprint as the prison system...An abolitionist approach...would require us to imagine a constellation of alternative strategies and institutions, with the ultimate aim of removing the prison from the social and ideological landscapes of our society. (APO 106, 107)

Instead of taking on too much, Davis believes “a more complicated framework may yield more options than if [people] simply attempt to discover a single substitute for the prison system” (APO 106). She truly does complicate the framework – speaking of economic exploitation in global capitalism and universal forms of racism, state-sponsored murder, sexual violence, religious intolerance, homophobia, military and media industrial complexes, and disappearing communities physically and socially through voting, employment and educational disenfranchisement (AD 57).

Though Davis offers a negative critique of the institutions and ideologies which comprise the PIC, she follows in the footsteps of DuBois and believes a positive aspect or structure with a radically different intent must be proposed as well. “When a system is

abolished there is a danger that other systems with the same goals would arise to fill the void left by the abolished system” (Ben-Moshe 85). In terms of U.S. slavery, Du Bois believed that “abolition [is] not...a mere negative process, one of tearing down. It is ultimately about creating new institutions” (Ben-Moshe 85). “New institutions” in this sense would not be replacements having the said function of confinement.

Just as Davis identified the imagination as the problem and solution regarding the broader ideologies and practices of oppression and brutality, she uses imagination as a casual variable when speaking of the PIC. The lack of imagination has made incarceration facilities permanent fixtures of society, but human imagination opens up the possibility of an alternative way of living which does not need to involve incarceration facilities or the institutional and ideological structures that have created and sustained their use. In “Race and Criminalization: Black Americans and the Punishment Industry,” Davis explains:

Raising the possibility of abolishing jails and prisons as the institutionalized and normalized means of addressing social problems in an era of migrating corporations, unemployment and homelessness, and collapsing public services, from health care to education, can hopefully help to interrupt the current law-and-order discourse that has such a grip on the collective imagination, facilitated as it is by deep and hidden influences of racism. (RC 72)

The imagination allows for the conceptual expansion from the prison system to the PIC and also allows us to unhinge incarceration facilities from inevitability.

One area, which Davis is admittedly apprehensive, is the development of “an

academic field that goes by the name of critical prison studies” (CR 431). Davis’s “ambivalen[ce] about the formation of prison studies as a field” is due to what it could “mean to constitute a field that foresees and, indeed, strives for its own abolition along with the abolition of its defining object?” (CR 431). Despite Davis’s concerns over the formation of an academic field of prison studies, the creation of the academic field at the very least indicates a growing critical interest into a deeper engagement with the PIC.

In terms of prison abolition, speaking of Eric A. Stanley – the coeditor of *Captive Genders: Trans Embodiment and the Prison Industrial Complex* – Davis explains that “[h]e and other authors write about the important role that transgender politics can play in furthering prison abolition and, vice-versa, how prison abolition can further the cause of eliminating transphobia” (CR 430). As more people begin to take the notion of prison abolition seriously, more and more creative analyses and poetic/experimental approaches will be developed. Regarding the writings about transgender politics and prison abolition, Davis says, “Twenty years ago, it would have been impossible to imagine such an approach” (CR 430). Now such an approach has become possible because the human imagination went beyond the cognitive limitations which closed off certain possibilities.

iv. Abolition democracy: positive aspect of prison abolition

For Davis, contemporary United States is a *capitalist democracy*. It is not only ... fundamentally distorted by the market and by the industrial/commercial system but...it is also racist, patriarchal and, an associated characteristic, arbitrarily violent, a combination in which each infects and drives the others. (Catterall 250)

Davis's prison abolitionism seeks to untangle the notions of capitalism and democracy from each other. Ultimately, Davis finds value in democracy as a way for organizing society, but instead of a capitalist democracy, Davis argues for an *abolition democracy*.

An *abolition democracy* is as close to egalitarian as possible. And here, again, we see Davis returning to DuBois. He used the term "abolition democracy" in *Black Reconstruction* to refer to the "host of democratic institutions...needed to fully achieve abolition" (AD 96). For DuBois, the legal abolition of slavery in the United States was accomplished only in the negative sense. Though certain practices of racial, chattel slavery were rendered illegal, the exploitation of black people and the practices which kept a disproportionate number of black people from economic independence and social mobility continued. According to DuBois:

New institutions should have been created to incorporate black people into the social order...[S]lavery could not be truly abolished until people were provided with the economic means for their subsistence. (AD 95)

Davis uses this formulation when thinking about prison abolition. She says that "new institutions and resources [must be] made available to those communities that provide, in large part, the human beings that make up the prison population" (AD 97). Instead of simply freeing all incarcerated peoples as a means for abolishing prisons, Davis argues that more individual and community resources are needed in order to stop the supply of people who populate the prisons. Clearly, thinking about prison abolition in these terms means it is *not* a matter of "wielding axes and literally hacking at prison walls" (AD 76). Thus, Davis believes that people thinking poetically about the supposed necessity of prisons will be able to "propose the creation of an array of social institutions that would

begin to solve the social problems that set people on the track to prison thereby helping to render the prison obsolete” (AD 96). The proposal of and struggle for implementing such a sweeping set of social institutions would indicate the transformation from a capitalist democracy to an abolition democracy.

CHAPTER 3. GIORGIO AGAMBEN AND THE COMING COMMUNITY

i. Introduction

In order to understand the complexities and implications of Giorgio Agamben's *The Coming Community*,²³ and eventually how it advances Davis's prison abolitionism, it is important to note the conversation Agamben is entering in this book. Leland de la Durantaye in *Giorgio Agamben: A Critical Introduction* explains that one dominant discussion Agamben engages is the "communal conceptions and experiences of Georges Bataille"²⁴ which, prior to the publication of *The Coming Community*, Jean-Luc Nancy and Maurice Blanchot were debating (157).²⁵ "It is against the backdrop formed by this debate that Agamben published his less despondently titled *The Coming Community*" (de la Durantaye 159). The specifics of the Nancy and Blanchot debate about Bataille far exceed the project at hand, but generally speaking, these thinkers (Agamben included) are attempting to think through the issues of belonging – of inclusion and exclusion – that arise in philosophic investigations of community. As de la Durantaye summarizes:

²³ Original Italian edition published in 1990; English edition was published in 1993.

²⁴ In *Georges Bataille: The Sacred and Society*, William Pawlett describes Bataille as seeking "a powerful sense of community, one that could not be reduced to notions of culture, identity or 'thingness,'" and the "recognition of the radical 'insufficiency' of the individual is the vital condition for intense communication between beings that would build the spirit of community" (xix).

²⁵ These publications include: Jean-Luc Nancy's article "The Inoperative Community" (1983), Maurice Blanchot's book *The Unavowable Community* (1983), and Nancy's book *The Inoperative Community* (1986).

communities have always had criteria for belonging and have always organized themselves around these criteria – whether national, geographical, racial, religious, or other. Even when the conditions of belonging have been liberally formulated and flexibly interpreted, the result has nonetheless routinely involved exclusion and isolation, and sooner or later the purity of identity and the protection of real or symbolic resources has become a subject of violent contention. (159)

The problem is: the method utilized most often for undermining the “violent contention” caused by the inclusion/exclusion dichotomy is to redefine the criteria for inclusion. This approach, however, does not eradicate the “violent contention;” that is, the revision of who counts as included does not simultaneously eliminate exclusion altogether. Though such a process is sometimes done under the guise of eliminating the brutalized or oppressed status excluded individuals or groups experience, the “new” inclusive identity both values a set of criteria and, whether intentionally or not, vilifies a set criteria which is defined as not like it. Thus, the predominate means of undermining oppressive realities experienced by those who are excluded from full access and use of “real or symbolic resources” – using a different or modified list of characteristics to define the inclusive group – still dichotomizes people into included/excluded groups, and the process to overcome the problem begins again.

Agamben attempts to resolve the inclusion/exclusion problem in *The Coming Community* by “formulat[ing] an idea of community that would be immune to hostile takeover...a community without criteria for belonging” (de la Durantaye 159-60).

Agamben does so by way of re-interpreting the history of (Western) philosophy's understanding of ontology via impotentiality.

ii. Foundation: Aristotle and impotentiality

Agamben draws upon Aristotle's notion of existing/effective potentiality to orient his ontology of impotentiality, which informs what he means by "a community without criteria for belonging" (de la Durantaye 160). In the essay, "On Potentiality,"²⁶ Agamben says, "In both his metaphysics and his physics, Aristotle opposed potentiality to actuality, *dynamis* to *energeia*" (177). But Aristotle also claims there are two modes of potentiality (*dynamis*): generic potentiality and existing/effective potentiality (P 179). This means, as de la Durantaye specifies, "the relation of potentiality to actuality can be articulated in two modes" (5). Generic potentiality and existing/effective potentiality are distinguished by Aristotle on the basis of how each potentiality relates to actuality.

Generic potentiality for Aristotle is the "easiest to grasp: *the potentiality to be*. For a thing to be, it stands to reason that it must have first been possible (for if it had been *impossible* it could never have come to be)" (de la Durantaye 5). According to Aristotle, generic potentiality operates via possibility; that is, the relation between potentiality and actuality expressed in the mode of generic potentiality is characterized by possibility, and possibility is understood through change. In "Capacity and Potentiality: Aristotle's Metaphysics Θ . 6-7 from the Perspective of *De Anima*," Thomas K. Johansen says change in this sense refers to the "capab[ility] of initiating or undergoing a change" (209). When Aristotle speaks of change, he has something particular in mind. Change refers to

²⁶ The essay can be found *Potentialities: Collected Essays in Philosophy*.

changes in/of attributes (or “ordinary changes” as Johansen calls them); “change involves the replacement of an attribute by its opposite” (Johansen 213). For instance, light turning to its opposite dark or big shrinking to its opposite small.

According to Aristotle, generic potentiality is a particular mode of potentiality that expresses the relation between potentiality and actuality in terms of possibility. Agamben cites Aristotle’s example: “a child can potentially become the head of State” (P 179). The child can possibly become the head of State. The change here is the transformation of a child into a head of State. As Tyson E. Lewis explains: “a generic conceptualization of potentiality explains how a child is able to grow up to be a particular type of person with a particular occupation” (587). This mode of potentiality depends upon “fully actual[izing] this potential” (Lewis 588). That is, it can be said that the child has the potential to become head of State when the child actualizes/realizes this potential. We know the child had the potential to become the head of State because that is in fact what the child became. Therefore, generic potentiality is completely determined by actuality.

In this schema, potentiality...becomes subordinate to actuality – it is in some sense what makes the actual possible but also what must be eliminated in order for the passage to the act to be complete and thus for the subject to rightfully take his or her place within the allotted order of things. (Lewis 588)

Generic potentiality is fully realized, or known, only after the fact of actualization when potentiality has already converted into actuality.

The other mode of potentiality which Aristotle refers is existing/effective potentiality. Agamben uses passages in his essay “On Potentiality” from Aristotle’s Book Theta of *Metaphysics* to highlight Aristotle’s purpose for distinguishing this particular mode of potentiality. Jessica Whyte in *Catastrophe and Redemption: The Political Thought of Giorgio Agamben* summarizes:

Aristotle suggests that to ensure the independent existence of potentiality, and prevent it passing immediately into actuality, all potentiality must also be *potentiality not to* (*adynamia*). “What is potential,” Aristotle writes, “can both be and not be, for the same is potential to be and not to be.” (C 106)

On Agamben’s account, Aristotle believed that impotentiality (*adynamia*) – the potential to not be – belongs to all potentiality (*dynamia*) and uses this to maintain a mode of potentiality that is not subordinate to actuality. Existing/effective potentiality has a non-binding relationship with actuality. “The key figure of potentiality,” Agamben says, is “the mode of its existence as potentiality” (P 179). Potentiality, as potentiality, exists and sustains itself through impotentiality. The “‘potentiality to not-be,’ or ‘impotence,’ is not to be understood as...an actual weakness or incapacity, for the reason that it is not to be understood in the context of actuality *at all*” (de la Durantaye 5).

The second mode of potentiality, existing/effective potentiality, can be best highlighted in terms of knowledge. According to Aristotle, knowledge in general is “already possessed in potentiality or capacity in virtue of being a human being” (Johansen 213). Humans can *have* knowledge or abilities independent of whether they are actualized. Agamben, in concert with Aristotle, uses the examples of the architect

and poet to show what is meant by existing/effective potentiality. He says, “someone [already]... has knowledge or an ability” – the architect “has the potential to build” and the poet “the potential to write poems” (P 179). Existing/effective potentiality is potential “on the basis of which [one] can also *not* bring [one’s] knowledge into actuality (*mē energein*) by *not* making a work, for example” (P 179). In *The Coming Community*, Agamben uses Herman Melville’s character Bartleby as an exemplar figure in this regard. “Bartleby [is] a scribe who does not simply cease writing but ‘prefers not to’” (CC 37). Bartleby has (possesses) the potential to write but chooses not to actualize this potential. Existing/effective potentiality “is not...the potential to do this or that thing, but potential to not-do, potential not to pass into actuality” (P 180).

Though there is an absence of actualizing the potential knowledge and/or ability, existing/effective potentiality is not a pure absence. “[P]otentiality is not simply non-Being, simple privation, but rather the *existence of non-Being*, the presence of an absence” (P 179). Since existing/effective potentiality is not subordinate to actuality, it preserves its own existence as potentiality. Consequently,

[c]ontrary to the traditional idea of potentiality that is annulled in actuality, here we are confronted with a potentiality that conserves itself and saves itself in actuality. Here potentiality, so to speak, survives actuality and, in this way, *gives itself to itself*. (P 184)

It is impotence or impotentiality – the potential not-to – as it belongs to all potentiality that allows the mode of existing/effective potentiality to “survive actuality.” Whyte uses the terms “complete potentiality” and “perfect potentiality” to reference existing/effective potentiality and states: “Such perfect potentiality remains capable of the act in

withdrawing from it, and so ‘maintains itself in relation to the act in the form of its own suspension’” (C 106). Said another way, de la Durantaye explains that impotentiality “denotes the possibility for a thing not to pass into existence and thereby remain at the level of mere – or ‘pure’ – potentiality” (5). Crucial for the following discussion of *The Coming Community* is “the view that potentiality must ‘constitutively be the potentiality not to,’” and this “provides the ontological underpinning” in *The Coming Community* (C 106).

iii. Coming community

iii.a. Whatever being: overview

Agamben focuses upon the aspect of the to “not-be” contained in Aristotle’s second mode of potentiality (existing/effective potentiality) as an opening for rethinking Western discourse about ontology and the history of Western philosophy. In *Agamben and Theology*, Colby Dickinson explains:

In essence, and as will determine Agamben’s fundamental rethinking of

Western ontology in its entirety, the ‘division of division’ itself ultimately indicates that the representations we depend so much upon for the comprehension of our world are ‘not all’ there is to reality. (90)

According to Agamben, the constant presence of an absence, the impotence, has been passed over, forgotten, or misunderstood. It is with this impotentiality Agamben is able to think through the inclusion/exclusion dichotomy of community and the “violent contention” associated with it. “The binaries (dichotomies) which govern Western representations...are the central targets which Agamben hopes to dismantle, especially

their metaphysical foundations” (Dickinson 99). Understanding ontology through impotentiality renders the inclusion/exclusion dichotomy inoperable for Agamben and thus the “violent contention” associated with community/community formation disappears.

An ontology of impotentiality Agamben terms *whatever* in *The Coming Community*. For Agamben, *whatever* does not carry the tone of indifference it has in more recent usages. *Whatever* – the term *quodlibet* – is not “‘being, it does not matter which’ but rather ‘being such that it always matters’” (CC 1). Being *whatever* thus amounts to a special or exemplary singularity; it always matters. The indifference accompanying *whatever* is that of concerned indifference. As Agamben explains:

The Whatever in question here relates to singularity not in its indifference with respect to a common property (to a concept, for example: being red, being French, being Muslim), but on in its *being such as it is*. (CC 1)

Whatever is not singular due to concerned indifference with respect to an identification or property (actualization). William Watkin in *Agamben and Indifference* says, “Whatever-being here is indifference not because difference is suspended but because being as-such is foregrounded and put in play by indifference” (67). Being *whatever* is special or singular because it is what it is. The radical consequence of the concerned indifference of *whatever being* in terms of inclusion or belonging is:

such-and-such being is reclaimed from its having this or that property, which identifies it as belonging to this or that set, to this or that class (the reds, the French, the Muslims) – and it is reclaimed not for another class

nor for the simple generic absence of any belonging, but for its being-*such*, for belonging itself. (CC 1-2)

The influence of Aristotle's distinction between generic potentiality and existing/effective potentiality is clear. In terms of generic potentiality, potentiality is apprehended via the possibility of a change of properties. On the other hand, just as existing/effective potentiality is not subordinate to actuality (actual properties), *whatever being* is not subordinate to actual properties.

If potentiality passed immediately into the act, then each act would be necessary. Humans could therefore be defined by vocation, a fact, a biology that was our destiny...[H]umans, Agamben argues, are also capable of our own impotentiality, which ensures that we are capable of being other than what we are – that we are beings of pure potentiality, irreducible to biology, identity, or vocation. (C 110)

Being *whatever* is being *as-such*. *Whatever being* indicates an ontology that is pure belonging – belonging itself – not an ontology based upon belonging to this or that identity or group. In *Agamben and Politics: A Critical Introduction*, Segi Prozorov describes whatever as “a being that appears solely in its existing, subtracted from all its positive predicates, be they gender, colour, profession, political or sexual preferences” (77). A thing is what it is such as it is.

iii.b. Whatever being: Irreparable

Agamben ends *The Coming Community* with an Appendix titled “The Irreparable.” It starts with a short, three sentence Preface in which Agamben explains that the previous

chapters or “fragments” can be understood “as a commentary on section 9 of Martin Heidegger’s *Being and Time* and proposition 6.44 of Ludwig Wittgenstein’s *Tractatus*” (CC 89). Section 9 of *Being and Time* addresses the who-ness of *Dasein*²⁷ as differentiated from a present-at-hand what-ness. 6.44 of Wittgenstein’s *Tractatus* reads: *Nicht wie die Welt ist, ist das Mystische, sondern dass sie ist* [Not how the world is, is the mystical, but that it is.] According to Agamben, “[b]oth texts deal with the attempt to define an old problem of metaphysics: the relationship between essence and existence, between *quid est* and *quod est*” (CC 89). In other words, *The Coming Community* is a meditation on the relationship between essence and existence, and hence, the “fragments...will be clear only if one can situate them in this context” (CC 89). It is only after the reader has read the previous chapters, or fragments, that we are given the inspiration or context with which to understand *The Coming Community*.

The Heidegger and Wittgenstein references both address the sheer facticity of Being. Heidegger in *Being and Time* attempted to ground *Dasein* ontologically. *Dasein* is a being for who Being is an issue. *Dasein* is an agent that can interrogate what Being means and therefore, for Heidegger, has access to the disclosure of Being itself; *Dasein* can move beyond conflating Being with a being. Similarly, Wittgenstein, in the passage noted by Agamben, is commenting that it is not how beings exist but that there is existing at all which is “mystical.”

Like Heidegger, Agamben believes that the history of Western philosophy has dealt with the question of Being as if it were a being. In *Being and Time*, Heidegger says, “The Being of entities ‘is’ not itself an entity” (BT 26, H 6). For Heidegger, the question

²⁷ Defined below.

of the meaning of Being requires a methodology – phenomenological analysis – as a means of uncovering the meaning of Being. Of course, as indicated by the term phenomenology, the meaning of Being is uncovered by looking at phenomena, and for Heidegger, the particular phenomenon he uses for his investigation is *Dasein* – the being which can ask the question about the meaning of Being.

Agamben in *The Coming Community* does not follow the specific trajectory of Heidegger regarding an investigation of *Dasein*, but the influence cannot be denied.

“[W]hatever beings” do not discard or destroy their positive predicates, just as the ecstatic character of the existence of *Dasein* in Heidegger consists in “exiting” from itself without “abandoning” itself. (Prozorov 77)

With the concept Irreparable, Agamben is trying to conceptualize *whatever being* – the fact that *there is* as opposed to how beings exist. Heidegger states, “Being lies in the fact that something is, and in its Being as it is” (BT 26, H 7). The Irreparable means without remedy or without repair; it is as it is.

The Irreparable is that things are just as they are, in this or that mode, consigned without remedy to their way of being. States of things are irreparable, whatever they may be: sad or happy, atrocious or blessed.

How you are, how the world is – this is the Irreparable. (CC 90)

Entities are, I am, and the world is, as Agamben states, irreparable; just as they are.

Agamben sees the Irreparable as a way to destabilizes the “old problem of metaphysics” – of the relation between essence and existence (CC 89). *Whatever being* as Irreparable means Being is not predetermined. Entities do not have to be this or that but are as they are. If entities had to be this or that, they could be remedied to be as they

should. Irreparable does not assume a prior-to-existence essence or prescription. At the same time, the Irreparable is also not an existence – a predicate actuality. As Agamben asserts:

The Irreparable is neither an essence nor an existence, neither or a substance nor a quality, neither a possibility nor a necessity. It is not properly a modality of being, but it is the being that is already given in modality, that *is* its modalities. It is not *thus*, but rather it is *its* thus. (CC 92)

Being *whatever* is Irreparable but not in the way something exists (i.e. “a modality of being”). The Irreparable of Being is always “already given” in modality; it is the is-ness (or the more action orientated is-ing) of its modalities.

iii.c. Whatever being: Thus

. In section II of the Appendix, Agamben elucidates the *thus* mentioned at the end of section I.

Being thus is not a substance of which *thus* would express a determination or a qualification. Being is not a presupposition that is before or after its qualities. Being that is irreparably thus *is* its *thus*; it is only its mode of being. (The thus is not an essence that determines an existence, but it finds its essence in its own being-thus, in its being its own determination.) (CC 93)

Through this obscure passage, Agamben is furthering his discussion about the misguided discourse found in the history of Western philosophy regarding the essence/existence

dichotomy. Watkin depicts Agamben's *thus* in the following way:

Thus-ness therefore is not an abstract quality that links all species of being, that is, every being, to a general genus Being, namely, what possesses quiddity, but is always a specific what-ness, that which saves particularity and generality from their traditional paradoxical relationship by the insistence of a disseminating singularity... (96)

Two critical points need to be made here. First, being-thus is not a general what-ness that all entities share. "Since, in Kant's famous expression, 'being is not a real predicate,' ...the subtraction of a being from all real predicates leaves it with nothing but its being itself, the sheer facticity of its existence" (Prozorov 77). Thus-ness is not the quality which places all entities in the category (or genus) Being. "[B]eing-thus is not simply that it is but also that it is something in its singularity" (Watkin 96). Second, the singularity of the *thus* is not singular in the sense that it is defined against or in opposition to all other entities.

Agamben classifies that the term "thus" is an anaphora – a word used as a substitute for a preceding word or group of words. Therefore, "only through this preceding term does it [the *thus*] (which, in itself, has no meaning) identify its proper referent" (CC 94). The *thus* in Being-thus operates unconventionally. Since Agamben is trying to destabilize the "old problem of metaphysics" of the relationship between essence and existence, Agamben claims that "we have to conceive of an anaphora that no longer refers back to any meaning or any referent, an absolute *thus* that does not presuppose anything, that is completely exposed" (CC 94). Exposure, a showing, is an important idea for Agamben. Rather than the *thus* referring to a preceding term, and

hence a predicate identity, the *thus* of Being-*thus* is complete exposure and therefore abandoned.²⁸ “The general features of any given being are...prominently, though precariously, on display to the world, ‘exposed,’ as [Agamben] will term it, to every other being” (Dickinson 101).

I am *thus*, the world is *thus*, you are *thus*; I, world, you, each is “such as it is” (CC 93). In other words, I, you, world are not otherwise. For Agamben, “not otherwise negates each predicate as a property (on the plane of essence), but takes them up again as im-proprieties or improprieties (on the plan of existence)” (CC 93-4). Being *whatever* is an irreparable singularity for Agamben. “Singularity here can be taken to mean lacking particularity and yet not being subsumed under another one-identity” (Watkin 68). Singularity is not a particular identity nor is its being analogous to the being just like everything else.

iii.d. Whatever being: outside as transitional space

In the chapter “Outside,” Agamben attempts to describe how pure exposure is the singularity of being *Whatever*. Rather than an ontology determined by identity – a belonging to this or that group – whatever singularity is “determined only through its relation to...the totality of its possibilities” (CC 67). And, according to Agamben, it is

...[t]hrough this relationship, as Kant said, singularity borders all possibility and thus receives its *omnimoda determinatio* not from its participation in a determinate concept or some actual property (being red, Italian, Communist), but *only by means of this bordering* (CC 67).

²⁸ “Being-*thus* is not a substance of which *thus* would express a determination or a qualification” (CC 93).

For Agamben, a border is not an absolute, impermeable limit that demarcates an inside from an outside. It is “a threshold (*Grenze*), that is, a point of contact with an external space that remains empty” (CC 67). To be in relation to the totality of possibilities means whatever singularity is “...the relation to an empty and indeterminate totality” (CC 67).

Being *whatever* is not being this or that for which all things this are not like that. *Whatever being* is Being-*thus* recalling that *thus* is anaphora that does not refer back to any referent. Being *whatever* is the taking-place of the border but a border which is exposed to the totality of possibilities.

As Agamben often does, he gives an etymological reading for drawing this conclusion. “[T]he notion of the ‘outside’ is expressed in many European languages by a word that means ‘at the door’ (*fores* in Latin is the door of the house, *thyrathen* in Greek literally means ‘at the threshold’”) (CC 68). The Latin word *fores* and Greek word *thyrathen* are cognates of the Sanskrit *dvār*; these words share the same Indo-European root *dhwer. The *napumsaka linga* (neuter noun) *dvāra* means door, gate, passage, entrance, opening, aperture (of the human body), and medium. The Sanskrit word reinforces the point that Agamben is making about what outside means. It is not something independent and removed from the inside. “The outside is not another space, but rather, it is the passage, the exteriority that gives it access – in a word, it is its face, its *eidōs*” (CC 68).²⁹

The relation between “outside” and “face” is one which Agamben makes throughout *The Coming Community*. The face is another way for Agamben to convey the

²⁹ Thomas Wall compares Agamben’s use of the “face” with Immanuel Levinas’s central notion of the “face” in *Radical Passivity: Levinas, Blanchot, and Agamben*.

idea of bordering’s exteriority – of exposure. The relation between “outside” and “face” via the threshold or door is explicitly present in the *Bhagavad Gītā* in the usage of *dvār*. Various forms of the word occur in six passages. Three out of these six passages use the word *dvār* in context to the human body. The first of these happens in “Book V: The Yoga of Renunciation” *śloka* thirteen:

sarvakarmāni manasā
samnyasyāste sukham vaśī |
navadvāre pure dehī
naiva karvan na kārayan ||

Having renounced all actions with the mind,
 the embodied one, as ruler, sits
 happily in the city of nine gates –
 indeed not acting nor causing to act (causing action).³⁰

The form of *dvār* used here is *dvāre*, the *pumlinga* (masculine), *saptamī* (locative), *ekavacana* (singular) form that very basically translates to mean in, on, or at the gate/door. The term nine (*nava*) modifies or accompanies the word *dvāre*. As Winthrop Sargeant footnotes in his translation of *Bhagavad Gītā* for this passage: “The ‘city’ is the body. The ‘nine gates’ are the two eyes, the two ears, the two nostrils, the mouth and the organs of excretion and generation” (BG 255). Significant for our purposes, is as mentioned, the connection between “outside” and “face” in Agamben. That which is outside – according

³⁰ My translation

to Agamben – is not wholly beyond and separate from the inside. Outside is a threshold or a passageway – never a static space that occurs beyond an absolute limit. Agamben poetically refers to this border, this threshold, as the face; it is pure exteriority or exposure – “‘showing’ itself as a singularity” (Dickinson 101).

iii.e. Whatever being: community

Whatever being is not something reducible to empirical/corporeal properties which generally determine it as a kind (essence) of a thing. Recall in the “Introduction” to this chapter the discussion about inclusion/exclusion. An attempt to revise the dynamics of inclusion/exclusion of community is done so via a redefinition or modification upon the predicate criteria of what constitutes the included and excluded groups. However, the violent contention accompanying the inclusion/exclusion dichotomy does not cease but rather continues with this method. For Agamben, what replaces this traditional means of classification of kinds in relation to properties is not another property/kind classificatory scheme nor is it nihilism where the thing does not belong to anything at all. Agamben is trying to render the problem associated with inclusion/exclusion of community inoperative through proposing an ontology of *whatever being*.

Commonly, a perceived community or group exists by virtue of a property or set of properties which is found among the individual entities that populate the group. Inclusion depends upon discrimination (i.e. discerning *this* from *that*) in two respects: 1) it presupposes the identification of a discernable property or properties and 2) identification of entities which either contain or do not contain the discernable property

or properties. At every step of the way, beginning with language, inclusion depends upon discrimination and thus exclusion.

Agamben undermines this entire process of continual inclusion/exclusion by demonstrating the ontology of the coming community is *whatever being*. This means belonging itself “not by any condition of belonging (being red, being Italian, being Communist)” (CC 85). All national, racial, gendered, linguistic, ethnic, class, or political party predicates are not the impetus for the coming community. At the same time, Agamben is not proposing the dissolution of predicate criteria. The coming community is not grounded “by the simple absence of conditions (a negative community, such as that recently proposed in France by Maurice Blanchot)” (CC 85).

The shift in Agamben regarding identity is not one towards absolute nihilism but does require a revised understanding and use of individual-community identity. Jessica Whyte in “‘A New Use of the Self’: Giorgio Agamben on the Coming Community” says the individual would no longer be “an instance of a particular identity” (2). Therefore, the coming community implies “a new use of the self...[that] entail[s] the denaturalization and desacrilization of the self” (Whyte 2). This is another area that non-Western texts and traditions, including the *Bhagavad Gītā*, can inform the transformation of conceptions of individuality and/or self. One example occurs in Book Two, *śloka* seventy-one:

viḥāya kāmān yaḥ sarvān
pumāñścarati niḥsprhaḥ |
nirmano nirahamkāraḥ
sa śāntim adhigacchati ||

The man who abandons all desires
 acts free from longing.
 Indifferent to “mine-ness,” free from egotism,
 he attains peace.³¹

The passage speaks to the abandoning the sense of I, which is understood through the act of possession. The term *ahaṃkāra* is the “cognitive faculty of ego-consciousness” and comes from the Sāṃkhya tradition (Malinar 78). The function of the *ahaṃkāra* is attachment to the sense objects and appropriation of the world by relating to it through the word ‘I’. As a consequence, it is held that renouncing all desires means to rid oneself of ‘egotism’ (*nirahaṃkāra*) and possessiveness (*nirmama*). This results in a ‘brahman-like’ condition, which means that all attachment is gone and an impersonal state of being has been obtained. (Malinar 78)

Rather than equating identity with predicate criteria (“sense objects”/“appropriation of the world”), Agamben wants to undermine this sense of self-community. Human ontology is one of impotentiality; we cannot be attached or dependent upon identity. Predicate characteristics do not vanish. *Whatever beings* “retain their predicates, [but] they are no longer definable through them” (Prozorov 77). Dickenson puts it the following way: “In effect...‘whatever beings’ hold open the empty place of identity without yet constituting one as such according to a reductionistic logic of exclusion” (101).

³¹ My translation.

iv. Identity: Agamben and Davis

One very clear area that Davis and Agamben inform one another is in terms of identity. Both challenge us to unhinge political and social identities from the notion of essence. In “Coalition Building among People of Color: A Discussion with Angela Y. Davis and Elizabeth Martinez,” Davis says “it is more productive...not to adhere to rigid categories, to the idea that there is something called ‘African-American woman-ness,’ some essence of what constitutes ‘African-American woman’” (304). This sentiment, the essentializing of identity based upon predicate characteristics is exactly what Agamben is (in part) challenging in *The Coming Community*. When such identities are thought of as being essential, energy is spent defining and making rigid those identities. Instead, Davis believes it is “important to fight on and not about political terms” (CB 304). Use the identity – *whatever* it is – as the ground for which to situate the discussion toward larger social justice issues.

Davis unequivocally thinks that identity is an ineffective way to organize communities of struggle.³² In *Abolition Democracy*, Davis explains:

Identity, by itself, has never been an adequate criterion around which communities of struggle could be organized – not even during those periods when we imagined identity as the most powerful engine of movements...Even during the period when black unity was assumed to be the *sin qua non* of struggle, it was more a fiction than anything else. The class, gender, and sexual fissures that lurked just beneath the construction

³² Communities of struggle, resistance, and approaches to political goals (by Davis and Agamben) will be discussed in further detail in Chapter Fiver.

of unity eventually exposed there and other heterogeneities that made
'unity' an impossible dream. (100-1)

Rather than using identity to be the site around which to build communities of struggle, Davis proposes the use of political goals. She claims it would be "futile to try and create a single black community today. But it does make sense to think about organizing communities, not simply around their blackness, but primarily around political goals" (AD 101). Agamben proposes we recognize our ontological condition, *whatever being* – being as-such, not being this or that. Identity is not erased; predicate characteristics do not simply disappear. They are no longer essential attributes to categorize and fix our understanding of ourselves, others, and the world.

CHAPTER 4. TIME AND LIBERATION

Part I: Temporality

i. Introduction

The purpose of this chapter is to compare the explicit and implicit temporal structures of Agamben's *coming community* and Davis's prison abolition. When – temporally – does prison abolition and the *coming community* occur? When – at what time – is liberation achieved, if ever? Moreover, what alterations to our classification and thinking about time are needed to recognize these liberatory existences?

I will demonstrate that Agamben's rendering of ontology in terms of impotentiality and indifference, when put in dialogue with Davis, exposes latent and unexplored philosophic suggestions Davis is making – specifically that the operation of liberation is best understood as indefinite rather than finite and attainable. Ultimately, the poetic re-thinking Agamben applies to ontology, temporality, and its political consequences serve as examples of the kinds of cognitive re-orientations vital for the prison abolitionist project: abolishing the conditions which allow for the prison industrial complex to be an unquestioned, inevitable part of social reality.

Agamben and Davis first complicate the colloquial discourse and understanding of time in their outlines of the *coming community* and prison abolition respectively. Both confuse the relationship between occurrence and linear temporality, and this posture ultimately influences the function of determinacy and achievement of liberation. More specifically, Agamben and Davis speak as if these notions (i.e. coming community and prison abolition) are not things that will occur in the future but already exist now – in the present – and extend indefinitely into the future.

ii. Time

Before examining the specifics of how temporality operates in Agamben and Davis, some opening remarks about time are needed to ground this discussion. The concept of time is a highly complex and contested notion. Time has a litany of definitions and associations which vary across disciplines and cultures. How time is expressed in language via linguistic structures also varies among language groups. For example, how would English speakers lived experience change if we had no past tense? The ontological and structural questions of time are fundamental to discussions in theology, psychology, philosophy, and physics. The normative, everyday concept of time is generally described as passing. In *Time and Space*, Barry Dainton explains that “what we mean when we say that time passes, the following formulation encapsulates the essentials: What is future will become present; what is present will become past; what is past was once present” (7). For example, the Haitian slave revolt, from a contemporary perspective, is an event in the past. During the actual revolt, the event was considered present, and prior to the event, it was in the future. All events “start off in the future,

become present and then recede into the past. This process is often called ‘temporal passage’” (Dainton 7). For our purpose, the following discussion of Agamben and Davis will describe how each thinker deviates from the normative concept of time as temporal passage.

iii. Time of liberation

iii.a. Agamben: archaeology/genealogy of Western conceptions of time

Agamben gives a genealogy of the Western conceptions of time in his essay “Time and History: Critique of the Instant and the Continuum” in *Infancy and History: On the Destruction of Experience*. This essay helps explain the implicit critique of time that the temporal underpinnings of prison abolition addresses but it will also speak to the importance of temporality in relation to theories of political and social change. Agamben traces some predominant themes and interpretations of time within the Western canon, which has contributed to our modern experience of time. For Agamben, “[s]ince the human mind has the experience of time but not its representation, it necessarily pictures time by means of spatial images” (IH 100). It is through these spatial representations that Agamben is able to locate features of time that characterizes certain dominant ideologies crucial for understanding how the (Western’s) current experience of time developed via the Greeks, Christianity, and secularization/modernization.

Agamben claims that the dominant image-concept of time in the Graeco-Roman period is “basically circular and continuous” (IH 100). Whether with reference to “the cyclical revolution of the celestial spheres” as in Plato’s *Timaeus* or “human affairs and

those of all other things that have natural movement” as in Aristotle, (Western) Antiquity can be said to see or think of time as a circle (IH 100).

Time may have been spatially represented as circular for the Greeks, but it is not the case that through the experience of natural change and human events, there was no sense of a before and after. If time was only and absolutely circular, then the experiences of beginning, middle, and end, would be unintelligible. Properly speaking, it would be impossible, according to Aristotle, “to say whether we are before or after the Trojan War” (IH 101). In order to account for this, Aristotle quantified time. As Agamben explains, “Aristotle thus defines time as ‘quantity of movement according to the before and after,’ and its continuity is assured by its division into discrete instants...analogous to the geometric point” (IH 101). The instant, or the *now*, paradoxically divides and creates continuity. “The instant in itself is nothing more than the continuity of time...a pure limit which both joins and divides past and future” (IH 101). With the Greeks, then, the notion of the now-instant being a now-point which is continually passing is introduced. “[T]he fundamental character of the Greek experience of time – which, through Aristotle’s *Physics*, has for two millennia determined the Western representation of time – is its being a precise, infinite, quantified continuum” (IH 101). Not only does the Greek conception of time, according to Agamben, include the notion of these “precise fleeting instants” but also that “[t]ime is something objective and natural, which envelops things that are ‘inside’ it as if in a sheath...as each thing inhabits a place, so it inhabits time” (IH 102).

After the Greeks, the next predominant image-concept of time is the Christian account. According to Agamben, “While the classical representation of time is a circle,

the image guiding the Christian conceptualization of it is a straight line” (IH 103). The image of the straight line aligns with the Christian narrative and meaning of human existence – having a specific start (i.e. God’s creation) and a specific end (i.e. God’s final judgment). The change from the circle to the straight line demonstrates a change in the directionality of time.

[I]n contrast with the directionless time of the classical world, [Christian] time has a direction and a purpose: it develops irreversibly from the Creation to the end, and has a central point of reference in the incarnation of Christ, which shapes its development of a progression from the initial fall to the final redemption. (IH 103)

The Christian worldview posits time as trajectory; it is moving in a linear fashion from creation to redemption. On this account, the purpose or goal is the final redemption. Since it is linear, every moment which passes is a moment further from creation and the fall and closer to redemption; therefore, a sense of progress – or teleology – is introduced.

The Christian conception of time takes the nature-inspired (external) time of the Greeks and places the experience of time within humans and human history – spiritually understood. Agamben says that “Christianity resolutely separates time from the natural movement of the stars to make it an essentially human, interior phenomenon” (IH 104). Given what humans are considered to be according to Christianity – that is, creations of God endowed with a divine spark or soul meant to reside with the creator after the death of the body – it is understandable how time becomes something that does not encompass natural phenomena and movements but rather is internal to human beings and human history. One of the consistencies, however, from the conception of time in Antiquity to

the Christian conception of time is “the continuous succession of precise instants of Greek thought” (IH 104).³³ The present is considered to be an instant or point that separates that past from the future.

The shift from the Christian representation of time to what Agamben calls the modern representation of time is small but significant. Whereas the change from Antiquity to the Christian spatial representation of time was a change from the circle to the straight line, the modern representation still remains as a straight line (or “rectilinear”) but is secularized; it is “sundered from an notion of end and emptied of any other meaning but that of a structured process in terms of before and after” (IH 105). This experience of time “derives from the experience of manufacturing work and is sanctioned by modern mechanics” (IH 105). The repetitive motion associated with industrial work – both the motion of the machines and that of the human workers (i.e. the repetition of beginning of task to end of task to beginning again *ad infinitum*) – is not an indication of “circular motion” for Agamben; it is an indication of “uniform rectilinear motion” (IH 105). Again, the modern notion of time re-establishes Antiquity’s continuous, infinite notion of time, but rather than picturing it as a circle, it sees it as an endless straight line. From the prospective of the modern concept of time “a semblance of meaning can be saved only by introducing the idea – albeit on lacking any rational foundation – of a continuous, infinite progress” (IH 106). The modern conception of time does hold onto the sense of progress, which was a defining feature of Agamben’s characterization of the Christian conception of time. Instead of progress being understood in religious terms of

³³ Agamben cites Augustine’s *Confessions* as evidence.

the final redemption, it is understood in improving technological and quality-of-life terms.³⁴

iii.b. Temporality and the coming community

Though the purpose of Agamben's essay – to propose a complementary theory of temporality to Marx's historical materialism – will not be explored here, the reasons for him to propose such a theory will help the understanding of the temporal situatedness of the *coming community*: a community whose ontological condition is not determined via predicate characteristics. At the beginning of "Time and History: Critique of the Instant and the Continuum," Agamben says:

...every culture is first and foremost a particular experience of time, and no new culture is possible without an alteration of this experience. The original task of a genuine revolution, therefore, is never merely to "change the world," but also – and above all – to "change time." (IH 99)

As the previous chapter demonstrated, Agamben in *The Coming Community* proposes an ontology of impotentiality, which would render the inclusion/exclusion dichotomy inoperable and therefore dissolve the continual "violent contention" associated with this dualism. The argument of whether Agamben's proposal was in fact radical (or revolutionary) can be paused in order to acknowledge his intention in *The Coming Community* (and many of his other works) is to usurp and radicalize traditional philosophic interpretations. It stands to reason, then, that given what Agamben says

³⁴ In the chapter "Contemporary Challenges to the Idea of History" in *Knowledge and Human Liberation: Towards Planetary Realizations*, Ananta Kumar Giri gives a comparative reading of the experience of time and human history between Indian/Southeast Asian culture and Western culture.

above, altering our experience of time is key for such a revolution. As Watkin says, “What is at issue is nothing less than a ‘new culture’ and the ‘revolutionary’ politics that might bring it about” (Watkin 95).³⁵

By virtue of the term alone, *coming community* would seem to indicate that Agamben is proposing a community to come – one that is not existent in the present and will, at some moment in the future, become present. However, (as we see with Davis and prison abolition) this assumption is misguided. As Agamben makes clear, the *coming community* is not one which will become present in the future. In the essay “Quodlibet: Giorgio Agamben’s Anti-Utopia” Carlo Salzani explains:

The ‘coming’ of the coming community is devoid of the tension toward something that lies ahead, in the *future*, devoid of a linear understanding of time that sees it as a cumulative progression. (223)

Coming must be disconnected from a linear context or association. It does not mean to come in the future; it means something closer to “presencing” or “becoming.” The *coming community* is present for Agamben here and now. Agamben is giving an ontological account of a form of “singularity without identity that he terms ‘whatever being’ and in the...community he terms the ‘coming community’” (C 144). Alex Murry in his book *Giorgio Agamben* characterizes the *coming community* as “always in the process of coming, [it] is here in the present, yet whose potential hasn’t been grasped” (51). The parameters for Agamben are about recognition and use not about present non-existence and future existence.

³⁵ Ontology and politics are inextricably linked for Agamben, and this is discussed at the end of this chapter.

iii.c. Temporal structure of Davis's prison abolition

Davis's use of the term *abolition* is meant to invoke the slave abolition movements of Western Europe and the Americas and thus keep at the fore the connection between prison abolition to liberation.³⁶ Temporality offers one way of distinguishing between two predominant slave abolitionist tactics: gradualism and immediatism.³⁷ Generally speaking, gradualists saw advantages to a slow and measured transition from legal, chattel slavery to emancipation.³⁸ Some abolitionists, like William Lloyd Garrison, grew frustrated with this approach and believed it to be complacent to the brutal system of chattel slavery. As Steven Best in *The Politics of Total Liberation: Revolution for the Twentieth-Firth Century* details, Garrison, "a former indentured white servant, started a prominent abolitionist newsletter, the *Liberator*, on January 1, 1831, which he published for 35 years" (27). As Garrison made clear in the first editorial, "the philosophies of gradualism" were "complacenc[ies] of reform," and he "called for the 'immediate and complete emancipation of all slaves'" (Best 27). In "William Lloyd Garrison at Two Hundred: His Radicalism and His Legacy for Our Time," David Blight explains that those in agreement with Garrison "converted to immediatism, [which is] the argument that slaves had the inherent right to their freedom instantly" (5).

³⁶ Liberation is addressed in the next section of this chapter in further detail.

³⁷ There are other ways of distinguishing among the tactics of the slave abolition movements (e.g. militant/non-militant). David Walker and Henry Highland Garnet were among the "most militant voices advocate[ing] the use of force as a necessary or legitimate tactic of struggle and self-defense" (Best 26).

³⁸ In the 2nd edition of the *Thoughts on civilization, and the gradual abolition of slavery in Africa and the West Indies* (1791), the author is sympathetic to gradualism on the basis that non-European peoples, "natives" and "Africans" in this case, are barbarous and would be incompatible with living in a civil society which has the rule of law. Referring to Africans, the author states: "I will show that the reformation of habits and manners must be gradual, and that the world is not yet ripe enough for its emancipation. I firmly believe, that a *sudden* and *unqualified* abolition of slavery everywhere would in many respects, be accompanied with evils which would make us wish, for a time, for the return of slavery itself" (3).

Both gradualism and immediatism purported to have the same social and political goal: to abolish the system of slavery. However, each faction differed with respect to the temporal notion of duration. For the gradualists, an extended or longer duration between the present situation at hand (slavery) and the future goal (emancipation) was accepted and embraced as a tangible, effective approach. On the other hand, immediatists believed that moderation and incremental steps only prolonged the unjustified misery of enslaved human beings. Immediatists perceived any extended duration between chattel slavery and emancipation as unacceptable. For some immediatists, like Garrison, gradualism became interpreted as merely reforming the system of slavery and not the abolishment of slavery. As can be seen, the interpretation of the temporal notion of duration of the gradualists and the immediatists had significant consequences in the discussion and struggle for abolition. Whether warranted or not, the acceptance and promotion of an extended duration by the gradualists caused the immediatists to call into question the gradualists' stated commitment to slave abolition.

Thinking about the slave abolition movements in terms of duration offers a basis of comparison for Davis's prison abolition. Stephan J. Hartnett attempts to distinguish Davis from the gradualist and immediatist approaches. It is very much the case that "abolition' in the postmodern sense does not mean what it meant in the antebellum slavery debates" (Hartnett 511). Hartnett says quite plainly, and accurately, that Davis's "abolition'...does not mean the immediate...abolition of the prison system" (511). This is true to the extent that Davis is not advocating for the release of every inmate at this precise now-instant.

After this, Hartnett's comparison and attempt to distinguish Davis's abolition temporally from immediatism and gradualism breaks down. He says that Davis's abolition means a "long-term radical transformation, its dramatic downsizing, its eventually being turned into something else" (Hartnett 511). To begin, this description in no way differs on the basis of duration substantially from gradualism (i.e. "long-term" and "eventually"). Similar to the criticism of the gradualists by the immediatists – the gradualists were complacent to the slave system by advocating measured reforms – prison abolitionists tend to be critical of the focus on prison reform. Davis explains that the public discourse about prison expansion and prison conditions emphasizes "generating changes that will produce a *better* prison system," and "frameworks that rely exclusively on reforms help to produce the stultifying idea that nothing lies beyond the prison" (APO 20). I agree with Hartnett's motivation to differentiate Davis's prison abolition on temporal grounds from the gradual and immediate methodologies of the slave abolition movement, but this particular description of Davis's abolition does not do the work it needs to make clear the difference between Davis's abolition and gradualism.

Hartnett argues that the "course of action" pursued by Davis and other prison abolitionists is "in terms that are less immediatist or gradualist than futurist" (511). The problem with this classification is it confuses the understanding of futurism and misplaces Davis's temporal elasticity for a future-only goal. Futurism is most commonly associated with the artistic movement of the late nineteenth and early twentieth centuries. Anne Simon says, for the Italian futurists like F.T. Marinetti, the "most virulent article in the Credo of the Futurists is their attack on tradition. They have a horror of all that is old and known. They reject all antecedent forms" (738). It is clear that Davis's use of the

term *abolition* – which is what Hartnett is trying to situate – is precisely the opposite of what it means to reject all antecedent forms. Davis revises the usage of *abolition*, but she is very clear that it is supposed to invoke former slave abolition movements.

Furthermore, even if Hartnett is not drawing upon the principles of the artistic movement Futurism, labeling Davis a futurist connotes that prison abolition adopts a future-only orientation; that is, Hartnett’s classification of Davis’s prison abolition as futurism assumes there is a rigid distinction between present conditions and future conditions and with an implicit futural favoritism. This understanding mischaracterizes Davis and other prison abolitionists. As Eric A. Stanley explains in the “Introduction” to *Captive Genders: Trans Embodiment and the Prison Industrial Complex*,

For [prison abolitionists], abolition is not simply a reaction to the [prison industrial complex] but a political commitment that makes the PIC impossible. To this end, the time of abolition is both yet to come and already here. (8)

According to this description, prison abolition is part of present conditions and future conditions. Stanley further explains,

Abolition is not some distant future but something we create in every moment when we say no to the traps of empire and yes to nourishing possibilities dreamed of and practiced by our ancestors and friends. (36)

Prison abolitionists, like Davis, do not hold the occurrence of prison abolition to be in-existent in the present, and at some point in the future, will be existent. Moreover, to “nourish possibilities dreamed of and practiced by our ancestors” demonstrates the connectivity and elasticity of prison abolition’s temporal underpinnings. The past is not

rejected or dismissed. Time is not constituted by complete or absolute, separable moments of past, present, and future.³⁹

Part II: Liberation

iv. Liberation

The brief outlines of Davis and Agamben in the previous section (iii. Time of liberation) describe how each deviate from the normative understanding of time as temporal passing in a similar manner. To think of Agamben's coming community as an occurrence in the future that the present is moving towards would be a fundamental misconception. The *coming community* is actively presencing. Similarly, to relegate prison abolition to the status of being non-existent in the present and as something which will come to be existent at some future moment in time is to ignore the temporal nuance of prison abolition; that is, it is already an existent in the here and now and in the future. The next step is to look more closely at how Davis and Agamben uses of time inform, influence, and complement each thinker's conception of liberation.

iv.a. Prison abolition and indefinite liberation

As we have seen, Davis can be differentiated from the slave abolitionist movements of immediatism and gradualism by undermining the normative conception of time as temporal passing with which those movements were operating. The temporal assertions by both slave abolition movements and Davis has further implications

³⁹ In an interview with Frank Barat, Davis says: "It is essential to resist the depiction of history as the work of heroic individuals in order for people today to recognize their potential agency as a part of an ever-expanding community of struggle" (Q 5).

regarding how liberation functions. The struggle for the abolition of slavery – as well as revolts, insurrection, and escapes – were struggles for liberation. Slave abolitionists called for and fought for the emancipation of slaves: the end of the practice of racial, chattel slavery. This goal was, on these terms, accomplished with the Emancipation Proclamation and the adopting of the Thirteenth Amendment. The struggle for liberation was achieved when the legal, racial system of slavery became illegal.

However, Davis claims that prison abolition exists already and in the future, and this temporal assertion has consequences on the understanding of an *abolition democracy*: the political and social organization absent of the PIC. Prison abolitionists, like Davis, describe the PIC as repressive, violent, exploitive, and dehumanizing. Abolishing the PIC would therefore have a liberatory effect; it would be the alleviation of the forces identified as causing or perpetuating a condition considered oppressive and brutal. Davis specifically addresses the importance of the “creation of communities of struggle,” which actively opposes the PIC as a means for bringing about communities of liberation (AD 108). The question at hand is what do Davis’s temporal claims about prison abolition (i.e. the inability for it to be thought of in terms of duration as gradualism and immediatism of slave abolition) indicate about the struggle and achievement of liberation?

First, prison abolition is already present due to the fact that the conception itself has already been imagined; it is something that people are actively engaged in creating. The abolition of the PIC may not be an existential global accomplishment, but the reality of the idea of prison abolition is very much present. Second, there are processes underway that currently seem unrelated to prison abolition or criminal justice but are contributing to the prison abolitionist project. More significantly, in terms of achieving

or reaching a goal, there never reaches a moment in time when liberation is ultimately or absolutely achieved in the sense it was for the slave abolition movements. As Davis explains in an interview on February 25, 2015:

I think the idea that there is a particular point in time where all our dreams are fulfilled is sort of an anathema to the whole notion of liberation, which I see as becoming larger and more capacious as we struggle... Why can we not imagine this happening indefinitely? (ILH)

If the struggle for liberation is indefinite, the achievement of liberation never comes to full fruition in traditional terms. Davis did gesture at this idea in *Abolition Democracy*: “what we manage to do each time we win a victory is not so much to secure some change once and for all, but rather to create new terrains for struggle” (21). Prison abolition is thus a continuous becoming and should not be classified or represented in final or complete terms. Given this interpretation, Davis at the very least obscures the notion of purpose in regards to prison abolition. There is a lack of purpose in the sense that even if a prisonless existence, an abolition democracy, is a global reality, the struggle for liberation continues in currently unimagined ways.

Continuous struggle and the non-achievement of liberation works for Davis given the object of her critique, those who are to be liberated, and the dual movement (negative and positive) of abolition. We can again go back to slave abolitionism as a basis for comparison. The practice of racial, chattel slavery in the United States was a practice of bondage. Slaves were considered property⁴⁰ and had no authority over their own bodies,

⁴⁰ The 1830 pamphlet “On slavery, and the duty of the religious public with reference to the question of immediate or gradual abolition,” the author notes that one argument for the continued use of slavery was

their familial ties, their expressions, and their movements. Slave abolitionists often critiqued other systems or practices which contributed to the desire for such a brutal and degrading practice – most notably the desire for cheap labor to perform physically intensive work for the purpose of maximizing profits/wealth.⁴¹ However, slave abolition concentrated on ending the system of racial, chattel slavery.

Davis's object of critique is much more complex. Davis is not solely, nor even primarily, focused on the legal use of incarceration facilities as such. Davis is more concerned with the conditions that allow for incarceration facilities to be considered an inevitable part of society. Since the abolition of the practice of incarceration does not map directly onto the abolition of the practice of slavery, the people for whom liberation is necessary is more expansive. For slave abolitionists, slaves were in need of emancipation. The liberation at stake is not limited to incarcerated peoples or those under criminal supervision. For Davis, the imagination of the greater population must also be liberated in order to abolish the conditions that perpetuate the PIC.

And finally, as discussed in Chapter Two, prison abolition is both a negative and positive process. Inspired by DuBois who believed that “abolition [is] not...a mere negative process, one of tearing down. It is ultimately about creating new institutions,” Davis believes abolition must include creations of social structures and institutions with radically⁴² different intent (Ben-Moshe 85). The expansion of the object of critique from

related to this issue of property. “But, say friends of this system, the Slaves are the private property of individuals; and would [abolitionists] interfere with the sacredness of private property?” (4).

⁴¹ The pamphlet “On slavery, and the duty of the religious public with reference to the question of immediate or gradual abolition” (1830) notes that “slavery is advocated on the plea of necessity – there were we to abandon the system, we should strike a fatal blow at the prosperity of our West Indian Colonies, so intimately connected with the commercial interests of the country” (4).

⁴² This is explained in the next chapter.

prison to the PIC, those who are to be liberated, and the negative and positive aspect of abolition compliments the temporal structure of Davis's prison abolition. Davis is proposing an existential alteration – a transforming which is always on-going, and the struggle for liberation is indefinite.

iv.b. Agamben and religious traditions

An issue with looking at Agamben's *coming community* in terms of liberation proper is that, unlike Davis, Agamben rarely uses the term. However, Agamben, taking aim at the "violent contention" of the inclusion/exclusion dichotomy of community formation, is implicitly criticizing current paradigms of thinking and modes of human organization. "Violent contention" is a contingent, mutating force affecting excluded individuals negatively so rendering that force inoperable can reasonably be interpreted as a liberating act or having a liberating effect.

Agamben does speak in religiously coded language of salvation, redemption, and the messianic – forms of religious liberation – throughout his corpus. As we have seen, the *coming community* does not operate using the normative conception of time as linear temporal passing. It causes us to dismantle the idea of the present being prior to salvation or redemption at some point in the future. Matthew Abbott in *The Figure of the World* explains, "redemption for [Agamben] would constitute not some exceptional event of salvation, but rather a suspension of the dialectic of danger and salvation" (3).⁴³

⁴³ Agamben also uses the Tiananmen Square incident of 1989; this is discussed in Chapter Five, which focuses on forms of resistance.

iv.b.1: Catholic limbo

“From Limbo,” the second chapter in *The Coming Community*, Agamben cites the Catholic notion of limbo as an example where this suspension already occurs; in other words, limbo offers an example, or paradigm, where the dialectic of condemned/saved is rendered inoperable. According to Catholicism, everyone is born with the mark (or guilt) of original sin as a result of Adam’s and Eve’s transgression against God’s commandment; they ate fruit from a forbidden tree. Francis A. Sullivan, in “The Development of Doctrine about Infants who Die Unbaptized,” explains, “infants can be freed from this guilt only through the redeeming grace of Christ, which they would receive in the sacrament of baptism” (3). Augustine argued that if infants or young children die before receiving the sacrament of baptism, and the mark of original sin is not erased, these infants and young children are condemned to hell. The Catholic Church rejected this Augustinian model. As Sullivan documents,

Pope Innocent III...declared in 1201 that the penalty for original sin is deprivation of the vision of God, while the torments of hell are suffered by those guilty of actual sin...and the term ‘limbo’...was adopted as the name of the state for infants who died unbaptized. (4)

Though limbo is not, nor ever has been, a part of the official teaching of the Catholic Church, limbo became an exceedingly popular notion as the place for souls of unbaptized infants and young children.

According to Saint Thomas, “the punishment of unbaptized children who die with no other fault than original sin cannot be an afflictive punishment, like that of hell, but only a punishment of privation that consists in the perpetual lack of the vision of God”

(CC 5). It is precisely the “punishment of privation” which, according to Agamben, renders the terms of the damned/saved dialectic inoperative. As Agamben explains:

The inhabitants of limbo, in contrast to the damned, do not feel pain from this lack [of the vision of God]: Since they have only natural and no supernatural knowledge, which is implanted in us at baptism, they do not know that they are deprived of the supreme good, or, if they do know (as others claim) they cannot suffer from it. (CC 5)

The souls in limbo are not suffering; God has not abandoned or forgotten them – like the damned who suffer with the knowledge they are outside the light of God. Agamben says that “God has not forgotten them, but rather they have always already forgotten God” (CC 5-6). Since the souls of limbo were never exposed to the divine in the first place, the punishment of privation is a joyous experience. “Neither blessed like the elected, nor hopeless like the damned, they are infused with a joy and with no outlet” (CC 6).

In order to understand how the damned/saved dialectic is suspended altogether in Agamben’s conception of limbo, we need to recall his discussion about the Irreparable covered in the Chapter Three. The Irreparable, being-*thus*, is pure exposure; it is beyond repair and is as it is. The souls in limbo are irreparable; they are beyond repair. Salvation is useless because the souls in limbo were never included within the damned/saved dialectic.

Agamben works from within the Western religious and philosophic tradition and re-interprets notions, like limbo, to render traditional problems inoperative. In the discussion of limbo, Agamben is not arguing for or against the theological or rational existence of limbo. Instead, he took this existent idea and existent writings about limbo

and exhibits how the concept of limbo suspends the dialectic of unsaved/saved or condemned/redeemed. If the dialectic is suspended, then the complications associated with it, or which come from it, (e.g. questions like who is damned, and who is saved?) dissolve. Agamben is establishing an alternative way of interpreting in order to open up new possibilities.

iv.b.2: Buddhism and *nirvāṇa*

Though Agamben's references to non-Abrahamic religious traditions are sparse in his corpus, two brief – almost identical – statements occur in *The Coming Community*. The first reads: “There is nothing new about the thesis that the Absolute is identical to this world. It was stated in its extreme form by Indian logicians with the axiom, ‘Between Nirvana and the world there is not the slightest difference’” (CC 53). Then, in the Appendix, Agamben writes,

This is why Indian logicians said that *sicceitas*, the being-thus of things, was nothing but their being deprived of any proper nature, their vacuity, and that between the world and Nirvana there is not the slightest difference. (CC 103)

Since Agamben supplies no citation, the identity of the Indian logicians and therefore the specific school or discipline the logicians were working from remains speculative.

Steven DeCaroli in “The Idea of Awakening: Giorgio Agamben and the Nāgārjuna References” believes Agamben is invoking Nāgārjuna – “the principle founder of the *Mādhyamika*, or Middle Way, school” of *Mahāyāna* tradition of Buddhism (DeCaroli 126). One reason for this is cursory; Agamben briefly mentions Nāgārjuna by name in

one of his other books, *Idea of Prose*. The other reason is much more substantial.

DeCaroli says,

Whereas in earlier forms of Buddhism, awakening was equated with a complete escape from *saṃsāra* (the everyday lived world of fixation, habit, and suffering), the teaching of emptiness in the *Mahāyāna* tradition, and especially within the stanzas that comprise [Nāgārjuna's] *Mūlamadhyamakakārikā*, brought about a radical change by collapsing the distinction between *saṃsāra* and *nirvāṇa*. (130)

Very early traditions of Buddhism maintained a separation between normative, embodied existence and *nirvāṇa* – a state or place of transcendence. Setting aside whether DeCaroli's characterization of Nāgārjuna's writings and intellectual effect are accurate, it is the case that later forms of *Mahāyāna* tradition of Buddhism did begin to speak of *nirvāṇa* as not independent from *saṃsāra*. If there is no difference between the world (*saṃsāra*) and *nirvāṇa*, as Agamben states twice in *The Coming Community*, then the problem of how to get from one place (the world) to another place (transcendence/salvation/liberation) is rendered inoperative. As DeCaroli says:

But what, in fact, needs to be done does not involve the reclamation of a lost world, or the establishment of a new one, but rather the adoption of a new mode of perceiving and inhabiting the one we are now in. *Nirvāṇa* is not a place but a way of being, a manner of awareness characterized by the vulnerability of letting go of that which we never had. (131)

The micro-analyses of limbo and *nirvāṇa* help us to see how liberation functions with respect to the *coming community*. The world is as it is, for Agamben, and to focus on

changing the world in order to create a new, liberated world in the future repudiates the temporality of the *coming community* discussed in section iii. “How, after all, can only look forward to a moment one already occupies?” (DeCaroli, 123).

Davis makes a similar claim. In an opening address at the 2011 conference of the International Herbert Marcuse Society, speaking of the open letter Tahir Square dissenters wrote to Occupy Wall Street protesters, Davis said she was reminded of the last line of June Jordan’s “Poem for South African Women”: *we are the ones we have been waiting for* (CR 434). Davis believes this line to be particularly crucial for understanding the nature of liberation struggles – including prison abolition. Davis then says this line to the audience as a declarative statement: “we are the ones we have been waiting for” (CR 434). What does it mean for “us” to be the ones we have been waiting for? It means that those who are participating in struggles for liberation are actively bringing to fruition the type of communities, ideologies, and practices they have been waiting for. In other words, prison abolitionists take the abolition of the prison industrial complex – a condition which is not-yet – and do not relegate it to a moment in the future but make it present now. The alteration is one of perception and cognition; it is the potential not-to – to render assumed, conceptual frameworks inoperable by undermining the cognitive and linguistic scaffolds employed to perpetuate such frameworks.

v. Imagination revisited

Prison abolition is a necessary feature of Davis’s *abolition democracy*. As outlined in the chapter on Davis, the imagination plays a crucial role in Davis’s critique of the PIC and in the possibility for its eradication of the PIC. Davis’s *abolition*

democracy signals less a series of policy reforms and more a conceptual shift – a much broader and more complicated goal and one which is difficult to try and predict or plan. Moreover, Davis and Agamben both propose that a conceptual shift or change needs to occur in order for us to recognize an already existent *abolition democracy* for Davis and *coming community* for Agamben. Davis locates the imagination as being that which can prompt (and impede) this conceptual shift. For Agamben, it is clear that how humans think needs to be altered in order to render inoperative cognitive misunderstandings that affect such notions as resistance and the state.⁴⁴ In *The Coming Community*, Agamben does not say that the “imagination” would be that which prompts this alternative way of thinking. The context in which Agamben speaks about the imagination is a bit different than Davis, but it is nonetheless just as important for thinking about the conceptual shift needed in order to recognize the *coming community*. Agamben in his “Essay on the Destruction of Experience” in the book *Infancy and History* links the “resulting reversal of the status of the imagination” to “the change that has taken place in the meaning of experience” (IH 27). Prior to unpacking how Agamben understands imagination, we must first understand the claims Agamben makes about the transformation of the meaning of experience.

Agamben begins the “Essay on the Destruction of Experience” by stating: “The question of experience can be approached nowadays only with an acknowledgement that it is no longer accessible to us” (IH 15). Referencing and expanding on Walter Benjamin’s notion of the *poverty of experience*, Agamben claims that experience for modern people has been destroyed. “As long ago as 1933 Benjamin had accurately

⁴⁴ These are addressed in Chapter Five.

diagnosed this ‘poverty of experience’ of the modern age; he located its origins in the catastrophe of the First World War” (IH 15). Agamben agrees with Benjamin about the diagnosis but claims that for “[t]oday, however, we know that the destruction of experience no longer necessitates a catastrophe” (IH 15). Agamben believes that everyday occurrences still cannot be “translated into experience” (IH 15). No matter how “entertaining or tedious, unusual or common place, harrowing or pleasurable” the day’s events are “none of them will have become experience” (IH 16). As Catherine Mills in *The Philosophy of Giorgio Agamben* explains: “Agamben claims that the contemporary age is marked by the destruction or loss of experience, in which the banality of everyday life cannot be experienced *per se* but only undergone” (23). For Agamben, then, one does not experience things like going to work, eating lunch, and reading the news but undergoes these moments as a process. The purpose of Agamben’s essay is to recover a forgotten meaning of experience and attempt to render a new conception of experience, and unlike Benjamin who connects the destruction of experience to the First World War (i.e. a catastrophe), Agamben “argues that this condition is in part brought about by the rise of modern science and the split between the subject of experience and of knowledge that it entails” (Mills 23).

For Agamben, the shift from the meaning of experience in the “traditional sense” (i.e. Antiquity/classical thought) and the meaning of experience that “was implicit in the founding project of modern science” is marked by a change in the understanding of the subject (IH 19). Experience, for Antiquity (via the Greek philosophers Plato and Aristotle), was understood as separate from knowledge whereas “in its search for certainty, modern science abolishes this separation and makes experience the locus – the

‘method’; that is, the pathway – of knowledge” (IH 22). With the birth of modern science, the response to experience as being uncertain was to “displac[e] experience as far as possible outside the individual: onto instruments and numbers” (IH 20).

Experience became that which could be measured, known, and certain. Agamben claims that “[t]raditional experience...remains faithful to this separation of experience and science” and does so by pointing out that experience and science were attached to different subjects for classical thought (IH 21). “The subject of experience was common sense, something existing in every individual...while the subject of science is the *noûs* or the active intellect, which is separate from experience, ‘impassive’ and ‘divine’” (IH 20). In modern science, these different subjects become one. The subject of experience and the subject of knowledge transform into a single subject “which is none other than their conjunction at an abstract Archimedean point: the Cartesian *cogito*, consciousness” (IH 22).

Returning to the imagination, we can begin to see what Agamben means when he says: “Nothing can convey the extent of the change that has taken place in the meaning of experience so much as the resulting reversal of the status of the imagination” (IH 27). The imagination for classical thought had authority, and unlike modern science, was not thought of as unreal. “For Antiquity, the imagination which is now expunged from knowledge as ‘unreal’, was the supreme medium of knowledge” (IH 27). Agamben names the importance of dreams in classical thought as evidence for this connection between the imagination and knowledge.

And since, according to Antiquity, it is the imagination which forms dream images, this explains the particular relationship to truth which

dreams have in the ancient world...and to efficacious knowledge. (IH 27)

Rather than the imagination being the way or mode of knowledge, experience is placed outside of the subject and considered measurable. For classical thought, the imagination “[a]s the intermediary between the senses and the intellect, enabling, in phantasy, the union between the sensible form and the potential intellect, it occupies in ancient and medieval culture exactly the same role that our culture assigns to experience” (IH 27).

Though Agamben’s main concern in this essay is experience, his comments about the imagination are important. If the purpose of Agamben’s essay is to recover and then attempt to rethink the concept of experience, then it is clear that implicit in this attempt is a recovering and rethinking of the concept of the imagination. Like Davis, Agamben gives high weight to the imagination both negatively and positively. Davis critiques the imagination for being limited and obstructing human possibilities. Agamben traces how the West currently thinks of the imagination. The way the imagination is considered is as an obstruction. It is a subtle difference, but they are interconnected. Davis’s critique is focused on use: how is the imagination used as a tool in the act of thinking. Is it limited and preventing possibilities, or is it expanding possibilities/generating creative approaches and conclusions? Agamben is focused on the explicit and implicit meanings a culture has about the concept of the imagination: how is the term “imagination” defined, and what is its relationship to knowledge – if any? Agamben is focused upon the use of the concept of the imagination and its development within a culture over an extended period of time.

In terms of the positive aspect, Davis believes the imagination is the impetus for opening up possibilities to think in new ways and ultimately for helping to create the

possibilities for change. Agamben's entire corpus is filled with similar moves; that is, "it is typical of his thought [that] the site of danger or destruction is also the site of salvation" (Mills 23). For Agamben, it is the concept of experience that is both the problem and the solution not the imagination as it is for Davis. However, as we have seen, the meaning of the imagination is integral to the understanding of experience, and thus an alteration in the meaning of the imagination would affect the understanding of experience.

vi. Political Ontology

Political and social action motivated by discourse of creating a "new world" adopts the normative conception of time as temporal passing. The focus is how to get from the present world to the new (future) world. For Agamben, according to DeCaroli,

the problem is in the way we occupy this world, the way we comport ourselves toward it, our disposition, or more philosophically speaking the way our ontological commitment, which shape how we conceive of ourselves and the world, become political commitments. (129-30)

For this reason, ontology is political for Agamben. Proposing a re-interpretation of ontology as impotentiality is not an inconsequential, abstract thought experiment.

Matthew Abbott in *The Figure of this World: Agamben and the Question of Political Ontology* defines Agamben as a political ontologist. According to Abbott, political ontology posits

...the inextricability of theory and practice (thought and politics)...: the

task for thought is not to prescribe action, but to practice a thinking that tracks the conditions of the possibility of radical change. (188)

The description of political ontology is particularly helpful in considering not only Agamben's work but Davis's as well. From what we have discussed about Agamben's *The Coming Community*, (e.g. *whatever being*, irreparable, limbo), prescriptive action is clearly not his focus. Abbott goes on to say that for the political ontologist, "the political task is not to put theoretical or philosophic ideas 'into practice' but to think practically by experimenting with new political forms" (Abbott 188). Davis clearly experiments with new political forms, but she does not address nor demonstrate effective means of complicating the discourse to advance the prison abolitionist project. Agamben's rendering of ontology in terms of impotentiality and its political consequences on self and community is a demonstrative practice of imaginative thinking that preserves Davis's non-linear temporality and her claim regarding the struggle for liberation as indefinite. Thus, Agamben offers a possible blueprint for where to begin the cognitive re-orientation vital for the prison abolitionist project: abolishing the conditions which allow for the prison industrial complex to be an unquestioned, inevitable part of social reality.

CHAPTER 5. RESISTENCE, LAW, AND THE STATE

i. Introduction

Herman Wallace, Robert King, and Albert Woodfox are known as the Angola Three. They were imprisoned in the early 1970's in a maximum-security Louisiana State Penitentiary, known simply as "Angola" – named for the African country of many of its earlier enslaved occupants. The sprawling prison is on the grounds of a former slave plantation and to this day inmates work in the prison's fields picking cotton overseen by armed guards on horseback. Wallace first went to prison in 1971 for armed robbery. Wallace, along with Woodfox and King, formed one of the first prison chapters of the Black Panther Party – organizing inmates to oppose the systemic violence and sexual slavery that pervaded the institution.

Wallace and Woodfox were convicted for the 1972 murder of a prison guard, Brent Miller. No physical evidence linked the men to the crime. A bloody fingerprint at the scene, which belonged neither to Wallace nor Woodfox, was ignored by authorities. Wallace and Woodfox believe they were targeted by officials because of their political organizing work. After their conviction in 1974, they were put in solitary confinement along with King, who was being punished for another crime. King's conviction would be overturned twenty-nine years later; all twenty-nine years served in solitary confinement. Woodfox's conviction was overturned three times, but each time the state either

successfully appealed the judge's decision or convened a grand jury to indict Woodfox and try him again. Woodfox was finally released on February 16, 2016 after spending over forty-three years in solitary confinement.

On October 1, 2013, a Federal Judge ordered Wallace's release and overturned his conviction due to an improperly chosen grand jury that excluded women jurors in violation of the Fourteenth Amendment. Wallace was suffering with advanced stages of liver cancer and was given days to live by the time of his release. The state appealed the ruling, but the judge quickly responded with another order that said failure to release Wallace from custody would result in a judgment of contempt. So, at 7:30 p.m., the night of October 1, seventy-one year old Wallace was released from prison – after nearly forty-two years in solitary confinement – and left in an ambulance that took him directly to a New Orleans' hospital. Attempts at gaining compassionate release were denied as early as July 2013 when Wallace's condition became extremely grave.

Fifty-eight hours after his release, on the morning of Friday, October 4, 2013, Wallace died in the hospital. Family, friends, and supporters feared the advanced stages of his illness would prevent him from even knowing he was released from prison. The people surrounding Wallace said he uttered these words in the hospital before he died: "I am free. I am free."

At the time of his death, Wallace served more time in consecutively solitary confinement than any other U.S. inmate. Within the first forty-eight hours of his release, District Attorney Sam D'Aquila was able to get a grand jury to re-indict Wallace. The swiftness the state of Louisiana moved to re-indict Wallace, who was hours away from death, without any physical evidence linking Wallace to the crime as well as the wife of

the prison guard who was killed publicly supporting Wallace's claims to innocence was excessively cruel. On October 5, 2013, D'Aquila responded to an email I had sent to him⁴⁵ in the following way:

[G]lad for your input. [H]e was a murderer and it's sad he could not fulfill his obligation to the state of Louisiana. Sam

What does it mean to have an obligation to the state? Why was nearly forty-two years of solitary confinement considered to be unsatisfactory for the state? Why did the district attorney, a representative of the state of Louisiana, move so quickly to re-indict Wallace?

The purpose of this chapter is to contextualize the state's overreaction to Wallace's release using Davis's analysis of the political prisoner, the history of the struggle for black liberation as it relates to the law, and Agamben's characterization of the incident at Tiananmen Square in 1989 as offering a display, or gesture, of the coming community. The district attorney's actions towards Wallace and his insistence that Wallace had an obligation to the state is a micro-level example of Agamben's re-interpretation of the resistance at Tiananmen Square. In the previous chapters, Agamben offered a way to alter our cognitive framework about ontology that would aid in the imagining of a prisonless society. This chapter ends with a suggestion of a strategy for resistance that would align and advance the prison abolitionist project by undermining the racial and economic inequality and oppression that define the PIC.

⁴⁵ District Attorney Sam D'Aquila: The decision to re-indict Herman Wallace before he died perpetuates the most ubiquitous kind of violence - far more pervasive and far more violent than any act a person you have prosecuted may have committed. The tragedy for you, however, is that you do not realize how this could be the case. A. Pommerening

ii. Political prisoners and the state

The goals accompanying Davis's aforementioned "networks of resistance" and "communities of struggle" are political, and the target of criticism is most often hegemonic practices believed to be unjust and are often enshrined with the blessing of the state. The state is the apparatus of governance of a particular geo-political collective generally associated with a nation and has identifiable – though malleable – borders. Laws are articulated, applied, and enforced through the state or one of its sanctioned apparatuses. Laws are neither just nor unjust and do not necessarily apply in the same manner to all individuals that constitute members (or residents) of a particular state. Davis rightly points out that "we naturally assume that justice and equality are necessarily produced through law. But the law on its own cannot create justice and equality" (AD 92).

The political prisoner, for Davis, has a unique relationship to the law and therefore also to the state. Prior to apprehension, the political prisoner is a political dissenter. In the essay, "Political Prisoners, Prisons, and Black Liberation," first published in 1971, Davis writes, that the dissenter's "words or deeds have in one form or another embodied political protests against the established order and have consequently brought [the dissenter] into acute conflict with the state" (41). The movement from political dissenter, or activist, to political prisoner can happen whether or not the dissenter has broken any laws. Regardless of whether a criminal offense was committed, ...the political prisoner has violated the unwritten law which prohibits disturbances and upheavals in the status quo... This unwritten law has been contested by actually and explicitly breaking a law or by using

constitutionally protected channels to educate, agitate, and organize the masses to resist. (PP 41)

Though the political prisoner becomes incarcerated for an alleged criminal act (i.e. transgressing a written law), the transgression, Davis argues, is actually the dissenter's political act, which directly challenges the hegemonic order. Therefore, "[t]he offense of the political prisoner is political boldness, the persistent challenging – legal or extra-legal – of fundamental social wrongs fostered and reinforced by the state" (PP 42).

Agamben reinforces Davis's point about the gravity of the political dissenter's challenge to the state. For Agamben, law is already inscribed with considerations for the fact of the matter; that is, the rule of law is not nor ever has been transcendent. Since antiquity, it has contained exceptions for particular circumstances. In *Agamben and the Politics of Human Rights*, co-authors John Lechte and Saul Newman explain, "the law as such, for a very long time, made way for its own suspension in light of an arising situation (for example, a state of emergency)" (3). Law allows for circumstances which actually halt the rule of law. In a state of emergency, the facts of the matter are such that the rule of law is suspended. Law is not transcendent; there is no pure or ideal form of law.

The example of the state of emergency highlights the predominant consideration for suspending the rule of law: security. If the security of the nation-state is threatened, "[t]he law, in such a situation, is viewed as an ideal that must be suspended in light of the real state of affairs" (Lechte and Newman 4).⁴⁶ The political dissenter embodies this threat to the state as Davis described. At some point along the political dissenter's

⁴⁶ On a global, geo-political scale, Agamben sees instances of this suspension accelerating since modernity.

activities, the rule of law is suspended and forms of illegal or extra-judicial surveillance, detainment, assassination, disappearance, and imprisonment are all used to mitigate the threat to the hegemonic order.

Ultimately, for Agamben, the threat to the security of the state is constant. As Lechte and Newman summarize:

The “situation” is what a state of emergency is intended to address. But if the situation is always prevalent, when it coincides with the norm – as is the case with the security of the state – law, in a fundamental sense, is continually suspended. (4)⁴⁷

In the aftermath of attacks on the World Trade centers on September 11, 2001, warrantless surveillance, bulk collection of data, the Fisa court, President Obama’s command to assassinate U.S. citizens in a foreign country with drones without charge, and ethnic and religious profiling are instances in which the suspension of law in the United States has impacted citizens. Such states of exception are also, as Agamben describes with reference to the camp, accompanied by horrendous violence. Torture, disappearing people, war, mass executions, violent suppression of demonstrations, indefinite detention, medical neglect, and forced starvation are the means in which the state (any nation-state or localized sovereign entities) maintains itself in the name of security when the rule of law is suspended.

Security, on multifarious levels, centers on protection from *perceived* threats. People install home security systems in their homes to protect themselves and their

⁴⁷ This reasoning is behind the often cited, and contested, claim by Agamben in *Homo Sacer: Sovereign Power and Bare Life* that the camp used by Nazi Germany *signals the political space of modernity itself*.

belongings from threats. Individuals may have or carry weapons, like mace or guns, for protection from potential threats of attack. Persons or communities may seek ways of protecting themselves from the violent threat of law enforcement or vice-versa. The military is used for the purposes of security of the nation-state. Threat, in most of these cases, is thought of in direct terms, whether ideological (e.g. political dissenters) and/or physical (e.g. bodily harm). Davis claims:

One of our main challenges is to reconceptualize the notion of “security.” How can we help to make the world secure from the ravages of global capitalism? This broader sense of security might involve debt relief for Africa; it would mean an end to the juggernaut of privatization that threatens the new society people in South Africa have been trying to build. It would involve the shifting of priorities from the prison industrial complex to education, housing, health care. (AD 89).

iii. Resistance: Black liberation and the law

Such social wrongs, in the context of the United States, have and continue to be perpetuated through the law: inscribing practices and behaviors legally permissible as well as explicitly defining those that are prohibited. For example, it was the case that racial, chattel slavery was legally permitted; however, it was not the case that all citizens (at the time, narrowly defined) were required by law to own slave/s. There was no state-sanctioned punishment for those, who by law, were permitted to own slaves but did not. The law allowed for slave ownership but did not use punitive means to discourage the practice of not owning slave/s. The Fugitive Slave Law of 1793 and the Fugitive Slave

Act of 1850, on the other hand, explicitly deemed certain actions unlawful. The fugitive slave laws were enacted to dissuade the practice of willfully or complacently aiding a slave's escape through punitive means. Speaking of the Underground Railroad, in the essay "Political Prisoners, Prisons, and Black Liberation," Davis describes it as operating in "flagrant violation of the fugitive slave laws; those who were apprehended were subjected to severe penalties" (40).

Continuing in this essay, Davis notes the struggle for black liberation (from anti-slavery resistance to the Twenty-first century) used both extra-legal and legal modes of resistance. Violence and arson, escape, the Underground Railroad, were examples of extra-legal modes of resistance while abolitionist publications and organization, legislative efforts, purchasing one's own or another's freedom were legal modes of resistance to the lawful practice of chattel slavery. As discussed in Chapter Two, not only is slavery still legally permitted, but new laws were created to ensure the continuation of anti-black racism and white supremacy. The Black Codes being one instance of this and another being that "in the presence of now freed Black labor, the vote was offered to unpropertied White men" (Brewer & Heitzeg 631). The terrain for the struggle for black liberation evolved from emancipation to a focus on equal access to social and economic opportunities/resources; in addition, the struggle continued for an end to physical, verbal, and psychological intimidation as well as being tortured and killed, with impunity, for spectacle or sport. During this period,

White supremacy in the laws was accomplished by the introduction of a series of segregationist Jim Crow laws, a new model for essentialist racial paradigm that was legitimated by so-called biology; the laws did not

mandate that Blacks be according equality under the law because nature – not man, not power, not violence – has determined their degraded status.

(Brewer and Heitzeg 631).

The post-slavery and civil rights era are defined by their struggle against this adapted form of white supremacy – which existed across the United States, not just in the segregationist South. The extra-legal and legal modes of resistance during this era included: sit-ins, violence, community education and health care, protests, court cases, legislative efforts, self-empowerment and expression, boycotts,⁴⁸ and working within existing law.⁴⁹

Without question, the activism and resistance efforts of the civil rights era had positive impacts on legal, social, and cultural fronts. However, as was the case with the passage of the Thirteenth Amendment, there were unforeseen and unintended consequences of the changes linked with the civil rights era. Davis says, “The focus of the civil rights movement was precisely one effecting change in prevailing laws. But at the same time, the law produced the limits of these possible changes” (AD 93). Whether through extra-legal or legal modes of resistance, the success of changing prevailing laws need not lead to racial equality and equal protection under the law.

The grand achievement of civil rights was to purge the laws of its reference to specific kinds of bodies, thus enabling racial equality before the law. But at the same time this process enabled racial inequality in the

⁴⁸ Though boycotts, in the United States, seem to be legal action, Martin Luther King, Jr and other organizers had warrants issued for their arrests during the Montgomery Bus Boycott for obstructing business operations.

⁴⁹ Huey P. Newton, co-founder of the Black Panther Party, learned, while taking classes at San Francisco Law School, it was legal in the state of California to carry guns in public as long as the guns were visible.

sense that the law was deprived of its capacity to acknowledge people as racialized, as coming from racialized communities. (AD 93)

Prior to the civil rights movement, the enforcement and application of the law and punitive consequences could be enacted in a blatantly racist manner. Aspects of the civil rights movement sought to make the enforcement, application, and punitive consequences for breaking the law equal for all people.

Rather than ending legalized racial discrimination, the criminal justice system in the post-civil rights era has actually become the predominant means for continuing racial (and economic) hegemony.

The essentialist racist paradigm [has given] way to the new color-blind racism where race and racism are ostensibly absent from the law and all aspects of its enforcement. The criminal justice system provides a convenient vehicle for physically maintaining the old legally enforced color lines. (Brewer & Heitzeg 633)

Laws, and the criminal justice system more broadly, may be absent of references to race (and class) but its application and execution is targeted. The hyper-policing of poor communities of color, over-loaded and sometimes professionally negligent public defenders, the corrosive use of plea deals, mandatory minimums, and felony three-strike laws have accelerated the incarceration rate in the post-civil rights era.

Though the term “mass incarceration” has gained popularity in academia and popular media, Wacquant takes issue with the term because it ignores the targeted use of the criminal justice system. For Wacquant, “mass incarceration suggests that confinement concerns large swaths of citizenry....implying that the penal net has been

flung far and wide across social and physical space” (78). The United States does have the highest incarceration rate in the world, but for Wacquant, “mass” denotes “broad and indiscriminate” (78). However, “the expansion and intensification of the activities of the police, courts, and prisons...[has] been *finely targeted*” by class, race, and place. The appropriate term for Wacquant is *hyperincarceration*, and the “cumulative targeting has led to the hyperincarceration of one particular category” – lower class African American men from crumbling urban centers (78). Trends in police activity are disjointed from trends in crime, mandatory minimum sentencing have been applied racially (e.g. crack vs. cocaine), the use of the legal system to remove children from school for behavioral reasons or charge them as adults are some of the ways that colorblind racism targets poor communities of color. Given the direct line from racial, chattel slavery to free/cheap inmate labor discussed in Chapter Two, the “exploitation of Black labor continues, made permissible, indeed possible with the law” in the era of colorblind racism (Brewer & Heitzeg 638).

Davis acknowledges that racial and class-based exploitation and inequality have been able to continue – in different forms – despite changes in the law. She believes that legal and/or extra-legal modes of resistance “need to find ways of contesting the absolute authority of the law” (AD 92). She goes on to add, “This requires a dual strategy of taking up the law and recognizing its limitations in order to address that which the law cannot apprehend” (AD 94).

iv. Resistance: Tiananmen and moving prison abolition forward

The issues which Davis raises about the challenges of the legal and extra-legal modes of resistance that ultimately see law as being the recourse for combatting social wrongs is significant. Law, as previously discussed, is written and executed by the state. The state and the PIC are not separate entities; they are intimately blended. Prison abolition must rectify “the multifaceted role of the state in producing and entrenching marginality” (Wacquant 75). As Davis has shown in the example of the civil rights movement and as Agamben has reinforced in his discussion of the state of emergency, law need not ensure equality and social justice – no matter how just the law appears to be written. A mode of resistance that refuses to become placated or absorbed by changes in the law while simultaneously holding at the forefront the original target of the political dissenter’s criticism (i.e. the state) could be a viable route for realizing prison abolition and ultimately undermining what Davis describes as “the ravages of global capitalism” altogether (AD 89). Agamben re-interprets the incident at Tiananmen Square as a mode of resistance that extended from an example of the coming community. The ways in which Agamben identifies it as being radical, or revolutionary, offers a potential strategy for Davis and other prison abolitionists.

Agamben begins the final chapter of *The Coming Community* with the following question:

WHAT COULD be the politics of whatever singularity, that is, of a being whose community is mediated not by any condition of belonging (being red, being Italian, being Communist) nor by the simple absence of

conditions (a negative community, such as that recently proposed in France by Maurice Blanchot), but by belonging itself? (CC 83)

Agamben claims to have found “elements of a response” in the Tiananmen demonstrations (CC 88). Prior to discussing what elements Agamben sees in the Tiananmen demonstrations that exhibit a “politics of whatever singularity,” it is important to reiterate Agamben’s rejection of Blanchot’s “negative community” (CC 88). As de la Durantye clarifies, “The ‘negative community’ that Blanchot invoked is, for Agamben, insufficient because it takes only the first step toward revisiting the idea of community; it knows what to reject but not what to put in its place” (170). Mirroring Davis’s commitment to the negative-positive aspects of abolition, Agamben positively identifies in the Tiananmen Square incident as an extension of the coming community.

For Agamben, resistance which existentially challenges the authority of the state is an action, event, movement, or demonstration that is absent of a list of demands; that is, there is no determinate political goal at all. In other words, using Agamben’s discourse of impotentiality, “what Agamben found exemplary about the demonstrations in Beijing was not what they demanded but what they did *not* demand” (de la Durantye 170).

Agamben says of Tiananmen:

[w]hat was most striking about the demonstrations of the Chinese May was the relative absence of determinate contents in their demands (democracy and freedom are notions too generic and broadly defined to constitute the real object of a conflict, and the only concrete demand, the rehabilitation of Hu Yao-Bang, was immediately granted). (CC 85)

This absence of political demands threatens the very existence of the state as such by undermining the state's legitimacy as the mechanism for granting such political demands.

A society whose central strategy for control is observation and localized containment sees its greatest threat in that which it cannot identify. Such seemingly disorganized and unmotivated resistance is, from this point of view, the very last thing but anodyne. (de la Durantye 171)

Davis believes political goals, not political identities, are how we should form communities of struggle, and she also correctly admits that “once one becomes integrated into state structures, it becomes increasingly difficult to think about ways of developing radical oppositional practices” (CB 311). This is why Davis takes an abolitionist approach to the PIC rather than a reformist approach. A reformist wants to change particular aspects of a system – in this case the criminal justice system – but still assumes the validity of the system. An abolitionist challenges the validity of the system itself.

Davis never explicitly states that a lack of political demands is a potential strategy to advance the prison abolitionist project, but Davis's dismissal of non-essential identity and focus on political goals in concert with her concept of continuous struggle makes Agamben's suggestion (i.e. lack of political demands) a plausible strategy. Demands and goals are not equivalent. To think of the individual-community in creative and experimental ways for the purposes of forming networks of resistance is already a political goal.⁵⁰ A list of demands expressed to the state gives the impression that if the listed conditions were met, struggle for liberation would no longer be necessary. In Tiananmen, Agamben sees the lack of political demands as an instance when the

⁵⁰ The end of Chapter Four talked about the connection between ontology and politics.

protesters preferred not to; they preferred not to act in the expected way. For Agamben, if nothing is demanded, the state is rendered inoperable. That state no longer has validity if it is not being engaged.

The danger to the hegemonic order of Davis's notion of liberation is less about economically, racially, politically, and/or ethnically oppressed peoples uniting to somehow overthrow capitalism or end racial and economic segregation. Davis's notion of liberation, as Agamben shows us, challenges the very existence of "political" as we have come to know it. Agamben ends *The Coming Community* with an ominous remark that encapsulates the response of the state to the existential threat Tiananmen posed.

Whatever singularity, which wants to appropriate belonging itself, its own being-in-language, and thus rejects all identity and every condition of belonging, is the principal enemy of the State. Wherever these singularities peacefully demonstrate their being in common there will be a Tiananmen, and, sooner or later, the tanks will appear. (CC 87).

The brutal response of the state at Tiananmen offers a way to explain the actions of the state of Louisiana with respect to Herman Wallace outlined at the beginning of this chapter. Wallace was not demonstrating, and he, himself, was physically unable to participate in the legal fight for his release. However, hours away from death – slipping in and out of consciousness – the state of Louisiana's legal apparatus was of no consequence to Wallace. Wallace, because of illness, simply stopped engaging and validating the authority of the state. As Agamben said, this is the greatest threat to the state. The district attorney, acting on behalf of the state, moved with such resolve and viciousness to get Wallace back in its custody only so Wallace could die under state

control. Wallace did not die in prison and inexplicably his “freed” status and the location of his death means he did not “fulfill his obligation to the state.”

To take prison abolition serious is to take serious radical alterations in thinking, communicating, and acting. The understanding and use of being, self, community, time, imagination, resistance, liberation is all part of the fodder of the transformation. Prison abolition presents the same type of threat to the state as Tiananmen. A prison abolitionist cannot create a list of demands to ask of the state. Prison abolition threatens the state in a similar way that Tiananmen did, and as Agamben stated: “sooner or later, the tanks will appear” (CC 87). And so the struggle continues.

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York: Routledge, 2010. Print.

VITA

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Curriculum Vitae (partial)

EDUCATION

Ph.D., Philosophy, Purdue University, August 2016

Advisor: Leonard Harris

Dissertation: “The Time of Liberation: Angela Davis’s Prison Abolition
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M.F.A., Writing & Poetics, Naropa University, 2008

Advisor: Steven Taylor

Thesis: “‘Waves of the dead around you in flesh uniforms’: C.S. Peirce
and Armand Schwerner in the Context of Tradition”

B.A., College of St. Catherine (now St. Catherine University), 2006

CONFERENCE PRESENTATIONS

“Prison Abolition, Giorgio Agamben and Angela Davis,” Invited Session on Prison
Abolition, Philosophy Born of Struggle Conference, October 2013

“‘Of the helpless constellation:’ Armand Schwerner’s The Tablets and Spacetime
Relativity,” The Louisville Conference on Literature & Culture since 1900,
February 2013

“Radicalizing Us: Angela Davis and the Poetics of Prison Abolition,” Invited Session

Africa and African American Studies, Philosophy Born of Struggle Conference,

October 2011

“Ontological Foundations: Poetry and (non)Ethics in Levinas,” Greater Lafayette

Holocaust Remembrance Conference, April 2010

DEPARTMENT AND UNIVERSITY SERVICES

Assistant Technician, Philosophy Born of Struggle Conference, University of

Connecticut, November 2015

Assistant Coordinator, Philosophy Born of Struggle Conference, Purdue University,

October 2013

Assistant Coordinator, UNESCO Conference: Philosophical Dialogue Between Africa

and the Americas: *Africa and its Diaspora*, Purdue University, April 2011

Philosophy and Literature Department Representative, Interdisciplinary Graduate

Program Convocation, Purdue University, September 2010

Jack Kerouac Festival Volunteer, Summer Writing Program, Naropa University, June

2007

Grant Assistant, Gabrielle Civil, S.A.S.E. Community and Poetry, Minneapolis, July

2005