Angela Y. Davis is known by many as the face on t-shirts metonymically, and iconically through her afro, standing in for a whole oppositional and generational attitude. Some even remember her as one of the top ten enemies of the state, hunted by FBI throughout the United States for her alleged participation in the killing of some cops. Others know her as the former vice-presidential candidate of the Communist Party of the United States, while others known her as a major feminist thinker who has written some of the most transformative and enduring texts of feminist thinking of the last quarter of a century. Few, however, recognize in Angela Y. Davis one of the most original philosophers in the United States during the last four decades. As a philosopher, Davis bridges Marxist inspired historical materialism, through the mediation of Marcusian critical theory, Foucauldian genealogies of punishment and confinement, Black feminist analysis, the intersectionality of race, gender, and class, and a century old American autochthonous Black critical political philosophy.

Few also know that Angela Davis has been a long time prison activist, and that one of the most important and constant themes in her work has been prisons, imprisonment and racialized punishment. Vladimir I. Lenin claimed that prisons are the universities of revolutionaries, and while Angela Davis was already a revolutionary by the time she became an inmate in US prisons and was labeled a terrorist and an “enemy of the state,” her work was indelibly marked by her experience of imprisonment. Some of Davis’s earliest published works were written while she was held prisoner at the Marin County Jail. Already in these writings from the early seventies, Davis establishes the link between surplus repression and punishment with the racial violence at the heart of white supremacy in the United States. Her activism around the “prison industrial complex” has also made her one of the most important public intellectuals of the last two decades.

When one turns directly to Davis’s work on punishment, prisons, and penalty, one is immediately struck by its sources. There we find critical engagements with the pioneering work of Georg Rusche and Otto Kirchheimer, two Frankfurt School associates, Michel Foucault’s own classic Discipline and Punish, as well as the more recent internationally generated literature on prisons. Yet, one of the most evident sources of Davis’s concern with prisons is her own experience as a Black Woman political prisoner. Another salient source is her continuous engagement with the canonical figures in what one can call a tradition of Black critical political philosophy that has found two towering figures in Frederick Douglass and W. E. B. DuBois. This engagement in fact harkens back to her early seventies Lectures on Liberation, in which we find a neo-Marxist, or Frankfurt School engagement with the thought of Douglass. In one of the essays that Davis wrote while she was in the Marin County Jail, she turned to DuBois, for it is in him that she found the most severe and explicit critique of the prison system in the United States. It is in DuBois, furthermore, that she discerned the historical links between slavery, the failed reconstruction, the turn of the century lynchings, the emergence of the KKK, Jim Crow, the riots of the post-civil war period, and the rise of the racial ghettos in all major US cities.

It is extremely important to underscore Davis’s engagement with Douglass and DuBois’s work. These thinkers and public intellectuals stand in for two philosophical approaches in Davis’s work, approaches that must be juxtaposed against one another. On the one hand, Douglass represents a phenomenological-existential concern with freedom that easily translates into a gospel of deference to politi-
cal liberty in terms of voting rights. Indeed, in a 1995 essay entitled “From the Prison of Slavery to the Slavery of Prison: Frederick Douglass and the Convict Lease System,” Davis developed a devastating critique of Douglass’s myopia and inability to both speak out and mobilize around what was obviously a betrayal of the political freedom won by Blacks. It is in this essay that Davis argues that the post-Civil War convict system in the south “transferred symbolically significant numbers of Black people from the prison of slavery to the slavery of prison.”

Shortly after the Civil War the south underwent a process of democratization that was awe inspiring and utopian, although tragically short lived. Union troops were stationed in the South to make sure that Blacks could be protected when going to the voting polls. Blacks were elected as senators. Schools were opened. A vibrant Black public sphere began to emerge. This short-lived period came to be known as the “Reconstruction.” Within a decade, however, the reconstruction had been halted and a process of retreat back towards slavery had begun. White legislators mandated a series of laws that took Black freed men and turned them into indentured servants by criminalizing them. The prerogatives of former white master were legislated and legalized in the infamous “Blacks Laws.” In this way the exploitation of the plantation became the exploitation of the prison, or as neo-Abolitionist Joy James put it: “The old plantation was a prison; and the new prison is a plantation.”

Once in prison, convicts were leased or rented for absurd fees to the private entrepreneurs of the new south. This system became known as the convict leasing system, and historians of it have gone so far as to say that it was “worse than slavery.”

The Black laws of the south turned Black free men into criminals so that their labor could be exploited even more pugnaciously and rapaciously than when they had been slaves. The convict leasing system became one of the most lucrative mechanisms for the simultaneous control, gerrymandering of Black free labor, and extreme exploitation of the politically disenfranchised Black freedmen. DuBois put it this way:

This penitentiary system [the prison leasing system] began to characterize the whole South. In Georgia, at the outbreak of the Civil War, there were about 200 white felons confined at Milledgeville. There were no Negro convicts, since under the discipline of slavery Negroes were punished in the plantation. The white convicts were released to fight in the Confederate armies. The whole criminal system came to be used as a method of keeping Negroes at work and intimidating them. Consequently there began to be a demand for jails and penitentiaries beyond the natural demand due to the rise of crime.

According to historians, precious little is known of Douglass’s views on the “convict leasing system.” Davis is correct to focus on the loud silence on Douglass part as it concerned what was surely an institution that most Blacks in post-Civil War America lived and experienced as a metamorphosis of slavery into something perhaps even more dehumanizing than slavery itself. Douglass, in Davis’s view, may have been blinded to this reality because he was so thoroughly focused on getting the ballot for Blacks that in the process he entirely neglected the economic and actual physical well being of Blacks. For Davis, “convict leasing was a totalitarian effort to control black labor in the post-Emancipation era and it served fully as a symbolic reminder to Black people that slavery had not been fully disestablished.” Davis also faults Douglass for his overconfidence in the law, as an allegedly dispassionate and impartial tool that could not be used to roll back the gains of the post-emancipation period. As an enlightenment thinker, Douglass saw law as a mechanism to bring about justice and democracy for Black Americans. Douglass’s blind faith in the law led him to fail to see how it was that the law itself that branded the Black human being as criminal. As citizens, they were free, as Black citizens, they were criminals, as criminals, they were slaves of the state. And it was the law itself, and the amended constitution that negotiated and legitimated these transactions and transitions. In contrast, Davis turns to DuBois as the exemplar political thinker, even as Davis also ac-
knowledges the pioneering work of D. E. Tobias and Mary Church Terrell, two other Black scholars who studied and documented the devastating effects of the prison leasing system. In DuBois, Davis found a critique of Douglass’s naïve trust in the economic and political independence of Blacks in the post-slavery South. In DuBois Davis also found a pointed and direct critique of the ways in which the state was direct party to preservation and mutation of slavery, now under a new legal cover. In DuBois, Davis also found a radical critique of the idea that punishment and crime are correlated. In fact, DuBois saw clearly how the state participates in the criminalization of Blacks so that their labor then could be extracted through the mechanism of the prison leasing system. As DuBois put it in his monumental Black Reconstruction, “In no part of the modern world has there been so open and conscious a traffic in crime for deliberate social degradation and private profit as in the South since slavery. The Negro is not anti-social. He is no natural criminal. Crime of the vicious type, outside endeavor to achieve freedom or in revenge for cruelty, was rare in the slave south. Since 1876 Negroes have been arrested on the slightest provocation and given long sentences or fines that they were compelled to work for as if they were slaves or indentured servants again. The resulting peonage of criminals extended into every Southern state and led to the most revolting situations.”

For DuBois, Black labor was neither economically free, nor politically self-determining. Thus, Blacks could not enter as equals into the public sphere of American democracy. Democracy for Blacks had been abolished at the very moment of the abolition of slavery, for with the abolition of slavery Blacks ceased to be slaves, but became immediately criminals, and as criminals, they became slaves of the state. Thus, DuBois represented and still represents for Davis an anti-capitalist, anti-statist, anti-law perspective that is simultaneously profoundly attentive to what we can call the social imaginary, or what we can also call civic imagination.

Davis, however, is neither an exegete nor historian. She is herself an original radical thinker, whose contributions to an emerging radical theory of penality merit greater attention from philosophers. Precisely at this moment in history when the United States claims for itself the label of exemplar democracy, the one that claims for itself the historical burden of granting it to others, at this very moment when the white men’s civilizing mission metastasizes into the imperial burden to spread democracy throughout the world, precisely at this historical juncture it is when the United States has the largest prison population in the democratic and industrialized world. This prison population, furthermore, is disproportionately made up of racial and ethnic minorities. Thus, in the age of the alleged triumph of democracy, democracy finds itself abridged and suspended for a large number of Black and Latino citizens. At the dawn of the twenty-first century, perhaps the age of democracy to come, we face the disturbing contradiction that the metonym of democracy, the U.S., is de facto a penal democracy, one that has become the largest and first racialized carceral society in world history, precisely because it has its roots in a slave democracy that has never repudiated completely its origins in a slave state.

For this reason, Angela Davis’s work on a radical theory of penality, one that is directly linked to a positive and critical political theory of democracy, is supremely and urgently relevant. Here, however, I have space and time only to present the general shape and main lines of argument in Davis’s theory of critical penality and abolition democracy. These, I think, can be discussed in terms of ten main theses or themes:

1. Disenfranchisement—For Davis, one of the functions of the prison industrial complex is to withdraw the vote from African Americans. Fifty states, or in other words the entire official United States, bar former inmates from acquiring state licenses. This means that they are de facto excluded from many, if not most, jobs. A total of seven states permanently disenfranchise formerly incarcerated persons. Seven additional states also disenfranchise certain types of former incarcerated persons (which is determined according to the type of crime they allegedly committed), thirty-three states disenfranchise persons on parole, and forty-eight state disenfranchise persons in prisons, the sole exceptions being Maine and Vermont.

2. Capital extraction—The prison is a mechanism of wealth extraction from African
Americans not just through exploitation of prison labor, but also by appropriating Black social wealth. By social wealth, Davis means the wherewithal of Black Americans to sustain their communities: schools, churches, home ownership, etc. At any given moment, given the exorbitant amount of Blacks in Prisons, social wealth does not return to the Black community, or it is withdrawn through political and economic disenfranchisement and exclusion.

3. Mechanism for social branding that marks some with a negative stigma that accumulates as negative symbolic capital. Once a Black American has been in prison, that record brands them permanently. As recent studies have shown, it is more difficult for former Black prisoners to regain entry into society than it is for their White counterparts.

4. Psycho-social racial contract: the U.S. political contract is a racial contract which is facilitated by a psychic cathexis, in which it is better to be white than Black, and all social norms are de facto whiteness norms. But at the same time, social punishment is accepted because it is done primarily to Blacks. So, we tolerate a highly punitive society because its punishment is performed on them, and not to us. For Davis, the prison industrial complex is both a material and socio-psychic apparatus that contributes to the domination of racial minorities by also domesticating the imaginary of White Americans.

5. Ritualistic violence that cleanses and expiates the present order. The prison system naturalizes the violence that is enacted against racial minorities by institutionalizing a viciously circular logic: Blacks are in prisons because they are criminals; they are criminals because they are Black, and if they are in prison, they deserved what they got. Prisons in more than one-way institutionalize the ritualized lynchings of the turn of the twentieth century, when Jim Crow was at its most crudest and violent.

6. Sexual coercion and surplus sexual violence. The prison is a sexualized dispositif or mechanism for social control. The hyper-masculinity of the inmate is matched by the sexual coercion enacted by the guards and wardens in prisons. In this way the prison system is a regime that is predicated on sexual violence that is at the same time highly racialized. This violence is in tandem racialized because it is sexualized.

7. Surplus repression by what Loïc Wacquant has called the first “carceral society” in world history. The institutionalization of the prison regime as an industry-military complex instills in the minds of citizens that prisons are both inevitable and desirable. They are assumed to be the logical and evident way to deal with crime. We have so many prisons, because we build them, and so many sectors of society are invested in their perpetuation. Citizens, however, are not allowed to ask: Is imprisonment the only way to deal with crime and social dysfunction? And, is crime really dealt with by prisons? Are the long term costs of imprisonment worth the momentary benefits of putatively deterring crime?

8. Historical continuity of punishment and prisons in American history: What Angela Davis’s work on prisons demonstrates so eloquently is the continuity in what can be called the racial geographies of the carceral archipelago of American society.11

9. The symbiotic relationship between the Prison and military industrial complexes. In her work on Prisons, Davis has focused on this insidious relationship between the Prison industrial complex and what has been called historically the “military industrial complex.”

10. Topographies of terror and penality: the regimes of confinement in American geography. In Davis’ work we encounter an analysis of how the American prison industrial complex offers a unique social topography that maps a racial and racializing geography.

As can be gathered from this list, which is not exhaustive, Angela Davis’s work on a radical theory of punishment is not exhaustive. Angela Davis’s work on a radical theory of punishment both synthesizes and supersedes the gains made by the classic figures in penal theory, such as Georg Rusche, Otto Kirchheimer,12 and Michel Foucault. In Davis’s work we find the synthesis of a historical materialist analysis of punishment, with a psychosocial insight into the ways in which prisons fulfill an important role in the social imaginary of the United States. At the same time, Davis offers a genealogical analysis, in a Foucauldian vein, but one that does not eschew historical and geographical specificity. For Davis, an anatomo-politics and genealogy of biopolitical subjects must attend to the intersectionality of race, class, and gender, as it
is most eloquently and visibly displayed in the U.S. prison industrial complex.

Angela Davis’s radical critique of penality, however, is not just a critique of the ways in which the ideological construct of crime and an exorbitant deployment of punishment are racially inflected in the United State. Davis’s contributions to a radical critique of penal theory are also, and perhaps principally, a contribution to a radical theory of democratic empowerment that preserves while going beyond the work of Rusche, Kirchheimer and Foucault, on the one hand, and the works of Douglass and DuBois on the other. Her philosophical political contribution to democratic theory is characterized by her project of an “abolition-democracy,” by which Davis means at the very least two things.

Abolition democracy is the democracy that is to come, namely the democracy that is promised by the abolition of slavery. Abolition democracy is the democracy that would be possible if we continue with the great abolition movements in American history: slavery, lynching, and segregation. So long as the prison system remains, American democracy will continue to be an abolished democracy. For the democracy to come, a new abolition must be enacted, the abolition of prisons. For this reason, when Angela Davis speaks of a new abolitionism, she is referring to the abolition of an institution that stands in social, logical, and racial continuity with the other institutions of American society that sought to preserve white privilege and racial violence at the price of the abolishment of democracy. Abolition democracy, therefore, is also the name for that democracy that was de facto abolished at the very moment of its inception because of its very legal foundations. In this violent act of juridification, in which the force of the law establishes a new order, Black life was reduced to bare existence, what Giorgio Agamben called homo sacer. As DuBois put it: “The wage [labor power] of the Negro worker, despite the war amendments, was to be reduced to the level of bare subsistence by taxation, peonage, caste, and every method of discrimination.” This bare existence describes human life that has been reduced to the barest biological subsistence because it is outside the law and the polity. This bare life is one that can be extinguished with impunity precisely because it is the law that renders it extinguishable and sacrificial. Abolition democracy, qua abolished democracy, lives off the legal reality that brands Blacks as criminals, and that as alleged “criminals” condemns them to be slaves of the state. In tandem, punishment is chromatically indexed through the law: punishment must be deployed against the human body as though it were a Black body. Indeed, to be accepted de jure in the jus publicum Americanum, the Black person must enter or be granted admission but as a criminal body. For this reason, the death penalty survives not as the ultimate punishment, but because it was primarily a form of punishment against the Black flesh and Black freedom. And this is what is so indelibly announced in the thirteenth amendment to the constitution. As James, to quote her again, put it: “The Thirteen Amendment ensnares as it emancipates. In fact, it functions as an enslaving anti-enslavement narrative.”

To close I would like to quote from a letter that Herbert Marcuse wrote to Angela Davis in 1971. He writes: “Frederick Douglass one day hits back, he fights the slave-breaker with all his force, and the slave-breaker does not hit back, he stands trembling; he calls other slaves to help, and they refuse. The abstract philosophical concept of a freedom which can never be taken away suddenly comes to life and reveals its very concrete truth: freedom is not only the goal of liberation, it begins with liberation; it is there to be ‘practiced.’ This, I confess, I learned from you!” Marcuse then closes the letter with the following sentence: “But you fought for us too, who need freedom and who want freedom for all who are still unfree. In this sense, your cause is our cause.” Davis’s cause was Marcuse’s and today it is urgently our cause, and surely even more urgently than in early seventies when Marcuse wrote those words. If democracy is to survive its abolition through the perpetuation of white racial supremacy and the emergence of a racialized carcerial system, then we must take the abolition of the prison system that Angela Davis advocates.
ENDNOTES

4. Ibid., 75.

Stony Brook University, Stonybrook, NY 11794

PRISONS, TORTURE, RACE

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