

INTRODUCTION

A Critical Phenomenology of Solitary Confinement

Capture, imprisonment, is the closest to being dead that one is likely to experience in this life.

—George Jackson, *Soledad Brother*

THERE ARE MANY WAYS to destroy a person, but one of the simplest and most devastating is through prolonged solitary confinement. Deprived of meaningful human interaction, otherwise healthy prisoners become unhinged. They see things that do not exist, and they fail to see things that do. Their sense of their own bodies—even the fundamental capacity to feel pain and to distinguish their own pain from that of others—erodes to the point where they are no longer sure if they are being harmed or are harming themselves. Not only psychological or social identity but the most basic sense of identity is threatened by prolonged solitary confinement. As Jack Henry Abbott wrote in his memoir *In the Belly of the Beast: Letters from Prison*, “Solitary confinement can alter the ontological makeup of a stone” (1991, 45).

We have known this for almost as long as solitary confinement has been practiced. In the 1830s, just years after the establishment of Eastern State Penitentiary in 1829, reports were already beginning to emerge of a sharp increase in mental disorders among prisoners, including hallucinations, “dementia,” and “monomania” (Grassian 1983, 1450; P. Smith 2006, 457). While penal codes, theories of criminal justice, and psychological terminology have all changed over time, the symptoms of solitary confinement have remained strikingly consistent: anxiety, fatigue, confusion, paranoia, depression, hallucinations, headaches, and uncontrollable trembling (P. Smith 2006, 488). Similar symptoms

are reported in the United States, Canada, Denmark, Germany, and South Africa—wherever the psychological effects of solitary confinement have been studied.¹ Not only are these symptoms historically and geographically consistent, but they are also experienced by an overwhelming proportion of those who have undergone solitary confinement.² But despite numerous lawsuits and overwhelming evidence of its harm, solitary confinement continues to form a basic component of federal and state prison systems in the United States, especially in supermax penitentiaries, where all prisoners are kept in twenty-three-hour-a-day lockdown with almost no human contact.

Many prisoners describe their experience in solitary confinement as a form of living death. Harry Hawser, a poet and inmate at Eastern State Penitentiary in the 1840s, called his cell “a living tomb” (quoted in C. Smith 2009, 5).³ Angela Tucker, an African American woman held at California’s Valley State Prison for Women in the 1980s, said, “It’s like living in a black hole” (quoted in Shaylor 1998, 386).⁴ Jeremy Pinson, a prisoner at the U.S. Penitentiary Administrative Maximum Facility (ADX) in Florence, Colorado, said, “You feel as if the world has ended but you somehow survived” (quoted in Greene 2012). What does it mean to recognize, as the effect of a standard method of incarceration, the possibility of a suffering that blurs the distinction between life and death? What must subjectivity be like in order for these effects to be possible? Who are we, such that we can become unhinged from ourselves by being separated from others?

In the context of this inquiry, “becoming unhinged” is not just a colloquial expression; rather, it is a precise phenomenological description of what happens when the articulated joints of our embodied, inter-relational subjectivity are broken apart. Solitary confinement deprives prisoners of the bodily presence of others, forcing them to rely on the isolated resources of their own subjectivity, with the (perhaps surprising) effect of eroding or undermining that subjectivity. The very possibility of being broken in this way suggests that we are not simply atomistic individuals but rather hinged subjects who can become unhinged when the concrete experience of other embodied subjects is denied for too long. Even if the people in one’s life are not particularly sympathetic or supportive, it becomes difficult to bear the weight of existence in isolation from others. In this sense, solitary confinement makes even solitude impossible; isolated from social life, even one’s sense of individuated personhood threatens to dissolve. As a woman

who experienced pretrial solitary confinement in Denmark explained, “The person subjected to solitary confinement risks losing her self and disappearing into a non-existence” (quoted and translated in P. Smith 2006, 497).

How could I lose myself by being confined to myself? For this to be possible, there must be more to selfhood than individuality. Prisoners in a supermax unit may have everything that individual human beings need in order to survive; they may even have access to “extras” such as television or closed-circuit television (CCTV) video conferencing with visitors. And yet there is something about the absence of regular bodily contact with others, the absence of even the *possibility* of touching or being touched, that threatens to unhinge the subject. My thesis is this: solitary confinement works by turning prisoners’ constitutive relationality against themselves, turning their own capacities to feel, perceive, and relate to others in a meaningful world into instruments of their own undoing. This self-betrayal is only possible for beings who are complicated, whose subjectivity is not merely a point but a hinge, a self-relation that cannot be sustained in absolute solitude but only in relation to others.

Critical Phenomenology

My aim in this book is to develop a critical phenomenology of hinged (inter)subjectivity by tracking the effects of solitary confinement in the U.S. penitentiary system from the mid-nineteenth century to the present. By critical phenomenology I mean a method that is rooted in first-person accounts of experience but also critical of classical phenomenology’s claim that the first-person singular is absolutely prior to intersubjectivity and to the complex textures of social life. The critical edge of this approach emerges through an engagement with the work of Frantz Fanon, Maurice Merleau-Ponty, and Emmanuel Levinas—each of whom could be considered postphenomenologists, given the degree to which they challenge the basic concepts and methods of phenomenology—as well as with other discourses such as history, sociology, anthropology, and critical race theory.

These discourses are not just relevant to what Edmund Husserl would call the “lifeworld,” understood as a level of social meaning that is ultimately founded on the transcendental condition of absolutely singular and nonworldly first-person consciousness. Rather,

these discourses show, in different and sometimes divergent ways, how embodied subjects have been racialized through (for example) the colonization of the Americas, the trans-Atlantic slave trade, the practice of plantation slavery and its partial abolition, followed by the hyperincarceration of black men and women in what is now the United States. This history, and the stories interwoven in this history, affect the formation of subjects in such deeply constitutive ways that the contemporary phenomenologist is compelled to rethink basic concepts and methods in order to do justice to the social life—and social death—of consciousness. This demand for critique is particularly intense where the breakdown of meaningful experience is concerned, as in prolonged isolation. While phenomenology provides a rich conceptual language for describing the ontological, epistemological, and even ethical effects of solitary confinement, classical phenomenology alone is not enough to explain why some subjects are more likely targets of this violence than others, nor to launch a sufficiently radical political critique of solitary confinement.

Critical phenomenology raises thorny methodological questions, not all of which will be resolved in this book. It is not clear, for example, where critical phenomenology ends and postphenomenology begins. Nor is it clear which particular social and cultural analyses do justice to the testimony of prisoners, nor even whose testimony should be taken as exemplary of *the* experience of solitary confinement. Some prisoners have written memoirs; others have been interviewed by psychologists, anthropologists, lawyers, and other researchers, each having distinct agendas. Countless others have left no record of their experiences—if we can even call what happens in isolation “experience.” Access to the written word, as well as access to interview opportunities or any other form of interaction, is shaped by race, class, gender, and geographic location. Most of my sources in this book are men, and many are white men whose relative privilege still makes a difference, even in spaces of civil and social death. My way of interpreting the testimony of these prisoners is shaped by my own social and intellectual formation as a white feminist, a phenomenologist, a volunteer prison educator, and a Canadian (not necessarily in that order, and no doubt in ways that have escaped my own awareness). Time and again while writing this book, I have run into conflicting desires and investments: Is it wrong to spend so much time thinking about solitary confinement, when arguably the more urgent problem is the mass incarceration of nonviolent

drug offenders and the criminalization of poverty and addiction? Why write about living death when the majority of U.S. states still have the death penalty? How critical can “critical phenomenology” become, given its constitutive commitment to the first-person singular as an absolute starting point, prior to the “levels” of race, class, sex, and other dimensions of social subjectivity? How has my own intellectual and social formation shaped my tendency to reflect on certain testimonies at length and to exclude others or consign them to footnotes?

Confronting these questions, and without claiming to have solved them, I have sought to develop a method of critical phenomenology that both continues the phenomenological tradition of taking first-person experience as the starting point for philosophical reflection and also resists the tendency of phenomenologists to privilege transcendental *subjectivity* over transcendental *intersubjectivity*. In the spirit of Merleau-Ponty, I have engaged in what I hope will be a fruitful, non-reductive dialogue between phenomenological analysis and concrete social scientific research in fields such as psychology and anthropology. The work of Levinas and Fanon has been indispensable for my attempt to address the ethical and political dimensions of the lived experience of solitary confinement, and of social and civil death more generally. For me, what is most valuable about the phenomenological tradition is the insight that there is no individual without relations, no subject without complications, and no life without resistance. Persons who are structured as intentional consciousness but are deprived of a diverse, open-ended perceptual experience of the world, or who are structured as transcendental intersubjectivity but are deprived of concrete relations to others, have the very structure of their Being-in-the-world turned against them and used to exploit their fundamental relationality. This is the worst form of torture and the principle upon which all more determinate forms of torture are based.

Three Waves of Solitary Confinement in the United States

The book has two trajectories. The first is phenomenological; it moves from Husserl’s account of transcendental subjectivity and intersubjectivity, through Fanon’s account of racialized embodiment and Merleau-Ponty’s account of intercorporeality, to Levinas’s account of solitude, ethical temporality, and the investment of freedom as responsibility and social justice. The second trajectory is historical and political; it

moves through three waves of solitary confinement in the United States (Shalev 2009, 23–25). The first wave was led by moral and religious reformers in the 1850s; it gave rise to the penitentiary system as a site of redemption through prolonged solitude. The aim of this first wave was to transform the criminal into an upright citizen or, in Benjamin Rush's words, a "republican machine." The second wave took place in the 1960s and '70s and was led by behavioral scientists who applied the principles of behavior modification developed in the wake of the Korean War to domestic prisoners in the United States. Their aim was not to redeem but to rehabilitate criminals, to treat and recondition their antisocial behavior, and to turn them into productive members of society. The third wave of solitary confinement began in the 1980s and was led by prison administrators who sought less to redeem or rehabilitate criminal subjects than to isolate and control prison populations in ways that best suited the needs of wardens, prison staff, legislators, planners, and other stakeholders in the political economy of crime and incarceration. The aim of this current policy is not to enable prisoners to adapt to a new, noncriminal life beyond prison but, rather, to adapt to the rules and structures of the prison itself. We are living in the era of the control prison, where the immobilization of inmates has become an end in itself rather than a way of breaking through to the inwardness of criminals' souls or even the outwardness of their abnormal behavior. Prisoners have become risks to be managed, resistances to be eliminated, and organisms to be fed, maintained, and even prevented from taking their own lives.

These three waves of solitary confinement in the United States cannot be understood apart from the broader context of mass incarceration and the hyperincarceration of people of color. Today, the United States has less than 5 percent of the world's population but more than 25 percent of the world's prisoners (Liptak 2008b). We have both the highest rate of incarceration in the world and the largest number of prisoners in the world.⁵ In 2007, there were 7,225,800 adults in prison, jail, or on probation or parole; that is more than 3 percent of the total adult population. Another 86,927 children were held in juvenile detention that year, some in solitary confinement.⁶ A hugely disproportionate number of these prisoners are people of color. A young black man between the ages of twenty and thirty-four has a 1 in 9 chance of being incarcerated (Public Safety Performance Project 2008). While it is difficult to say exactly how many prisoners are being held in solitary

confinement, most researchers agree on a figure between 25,000 and 80,000 (Solitary Watch 2012a). A disproportionate number of these isolated prisoners are people of color (Arrigo and Bullock 2008, 633).⁷

We cannot account for this hyperincarceration and hyperisolation of young men of color without tracking the material and symbolic legacies of slavery in the U.S. prison system. As Angela Davis and others have pointed out, the Thirteenth Amendment only partly abolished slavery in the United States, making an exception for convicted criminals: “Neither slavery nor involuntary servitude, *except as a punishment for crime whereof the party shall have been duly convicted*, shall exist within the United States, or any place subject to their jurisdiction” (emphasis added). Even today, prisoners in Georgia and Texas are not entitled to compensation for their labor, and every able-bodied prisoner is required to work (Mayeux 2010). Joy James argues that, by leaving open a loophole for the enslavement of convicted criminals, the Thirteenth Amendment did not abolish slavery; rather, it

resurrected social death as a permanent legal category in U.S. life, yet no longer registered death within the traditional racial markings. Breaking with a two hundred-year-old tradition, the government ostensibly permitted the enslavement of nonblacks. Now not the ontological status of “nigger” but the ontological status of “criminal” renders one a slave. (2005, xxviii–xxix)

As long as this loophole remains open, the work of abolition will be incomplete, and the social death of slavery will continue to haunt us.

Basic Concepts: Civil Death and Social Death

Michel Foucault’s brilliant account of the production and surveillance of the prisoner-subject in *Discipline and Punish* and in his later accounts of biopower and governmentality are indispensable for understanding the disciplinary logic of the penitentiary system and the neoliberal logic of the control prison. But they do not quite capture the feeling of living death described in many prisoners’ accounts of their *experience* in solitary confinement. The isolated prisoner may be a docile body, an industrious worker, and a member of a targeted population, but none of these concepts speaks directly to the problem of feeling like a ghost in one’s own life or losing one’s ability to see straight after ten years in solitary confinement. Giorgio Agamben’s account of *homo sacer*, or bare life, comes closer to articulating the sense of living

death in prisoners' testimonies, but I find his account of resistance so insufficient and his invocation of the *Muselmann* so problematic that I have not relied on his concepts or methods for my own analysis.⁸ Rather, I have found rich and relatively unexplored resources in Colin Dayan's account of the civil death of slaves, prisoners, and detainees in the War on Terror and Orlando Patterson's account of the social death of slavery.

Civil Death

Civil death is a legal fiction; it refers to someone who has been (legally) positioned as dead in law. Their body may be alive and their mind sharp, but they have been deprived of the legal status of a person with civil rights such as the rights to own or bequeath property, to vote, to bring a legal case to court, and so on.

English common law allowed for the application of civil death for four cases: entrance into a religious order such as a monastery; abjuration, or permanent flight from punishment; banishment or exile; and the more radical form, attainder, or "corruption of blood" ("Civil Death Statutes" 1937, 969), resulting from a conviction on charges of felony or treason. Attainder deprived convicts not only of their property, income, and civil status but also of the right to pass down these goods as an inheritance. In effect, one's blood was corrupted, or deemed legally incapable of bequeathing an estate to future generations. The meaning of physical death was thus altered by attainder; death became final, individual, and permanent, bearing no fruitful seeds for a (civil) connection to life beyond death. Attainder renders the civil dead both dead in life and dead beyond life; convicts are declared both prematurely and posthumously dead, even if, from a different perspective, they are arguably too alive to be dead in the first case and too dead to die again in the second case.

While attainder is forbidden by the U.S. Constitution, various forms of civil death persisted in many states well into the twentieth century, and they arguably persist today in the form of felon disenfranchisement.⁹ The author of a 1937 *Harvard Law Review* article called civil death a "medieval fiction in a modern world":

With living men regarded as dead, dead men returning to life, and the same man considered alive for one purpose but dead for another, the realm of

legal fiction acquires a touch of the supernatural under the paradoxical doctrine of civil death. (“Civil Death Statutes” 1937, 968)

In her most recent book, *The Law Is a White Dog*, Colin Dayan elaborates the consequences of this “paradoxical doctrine” for slaves, prisoners, and detainees:

In the fiction of civil death, broadly understood, the state reinvents what happens after literal death. In a secular world, the enthusiastic embrace of something vague like the *soul's salvation* allowed reformers to point to an abstraction, thus masking the concrete object of punishment: the *mind's unraveling*. (2011, 70)

Dayan tracks the remarkable traces of civil death and attainder in antebellum southern case law, including Judge Joseph Henry Lumpkin's claim in *Bryan v. Walton* (1853)¹⁰ that “social and civil degradation, resulting from the taint of blood, adheres to the descendants of Ham in this country, like the poisoned tunic of Nessus” (quoted in Dayan 2011, 155), and Judge Roger B. Taney's ruling in *Dred Scott v. Sandford* (1857)¹¹ that “no black had been or could be a citizen of the United States” (cited in Dayan 2011, 134; Dayan's phrasing). After the (partial) abolition of slavery, the burden of civil death shifted from the slave to the convicted criminal. For example, in *Ruffin v. Commonwealth* (1871),¹² Judge J. Christian ruled that the bill of rights did not apply to convicts:

The bill of rights is a declaration of general principles to govern a society of freemen, and not of convicted felons and men civilly dead. Such men have some rights it is true, such as the law in its benignity accords to them, but not rights of freemen. They are the slaves of the State undergoing punishment for heinous crimes against the laws of the land. (Quoted in Dayan 2011, 61)

And in *Avery v. Everett* (1888),¹³ Judge Robert Earl offered this dissenting opinion:

As the convict could no longer discharge any of his obligations to society, he was to possess no civil rights whatever. As he could not discharge any of the duties of husband or father, the family ties were severed. As he could have no use for property and no power to manage or possess the same, that was to pass away from him. He became civilly dead in the law, and the law ceased to know or to take any notice of him. He no longer possessed any rights growing out of organized society or depending upon or given by law. As to all such rights he was in law dead and buried. (Quoted in Dayan 2011, 56)

Just as persons are made in law, they can be unmade in law. But as Dayan's analysis suggests, the *meaning* of personhood is not fully captured by legal constructions and destructions. In this book, I trace the social–phenomenological constitution of personhood and its unraveling up to the point where “personhood” becomes too narrow a term to account for the constitutive relationality of living beings. I look to Husserl, Fanon, Merleau-Ponty, and Levinas for ways of accounting for this relationality without assuming that individual persons precede their relations with others and can persist without them. In resistance to legal constructions and destructions of personhood, I propose a range of terms—“intercorporeality,” “interanimality,” “hinged (inter)subjectivity,” “the creature”—to describe the texture of this constitutive relationality in a way that does justice to the testimony of prisoners exposed to civil death but also engaged in creating their own this-worldly afterlives of resistance.

Social Death

Social death is the effect of a (social) practice in which a person or group of people is excluded, dominated, or humiliated to the point of becoming dead to the rest of society. Although such people are physically alive, their lives no longer bear a social meaning; they no longer count as lives that *matter*. The social dead may speak, act, compose symphonies, or find a cure for cancer, but their words and deeds remain of no account.

Orlando Patterson defines the social death of slavery as “*the permanent, violent domination of natally alienated and generally dishonored persons*” (Patterson 1982, 13). Positioned at the edge of social life, neither included nor expelled, the slave is “in a permanent condition of liminality and must forever mourn his own social death” (60). Patterson calls the slave's relation to the master a “peculiar mode of reincarnation on the margin of his master's society” (66). Socially dead but maintained as a living being in order to render services to the master, slaves are inclusively excluded in the master's world as “non-born” or “born outside birth” (Meillassoux 1991, 40, 107, 121).¹⁴ As such, they can be represented as “social nonperson[s]” (Patterson 1982, 5), or “*pro nullo* [for nothing]” (40).

It takes a whole network of interconnected obligations, both in the present and extending into the past and future, to create and sustain social personhood, and it takes a whole network of exclusions, inter-

ruptions, and violations, not only against individuals but against the social and temporal horizons of their lives, to destroy that personhood. Patterson writes:

Not only was the slave denied all claims on, and obligations to, his parents and living blood relations but, by extension, all such claims and obligations on his more remote ancestors and on his descendants. He was truly a genealogical isolate. Formally isolated in his social relations with those who lived, he also was culturally isolated from the social heritage of his ancestors. He had a past, to be sure. But a past is not a heritage. Everything has a history, including sticks and stones. Slaves differed from other human beings in that they were not allowed freely to integrate the experience of their ancestors into their lives, to inform their understanding of social reality with the inherited meanings of their natural forbears, or to anchor the living present in any conscious community of memory. (1982, 5)

To be socially dead is to be deprived of the network of social relations, particularly kinship relations, that would otherwise support, protect, and give meaning to one's precarious life as an individual. It is to be violently and permanently separated from one's kin, blocked from forming a meaningful relationship, not only to others in the present but also to the heritage of the past and the legacy of the future beyond one's own finite, individuated being. Of course, slaves *did* manage to form strong ties with one another, both vertically (between the generations) and horizontally (along the lines of language group, geographic proximity, friendship, and so forth).¹⁵ But these relationships were formed and sustained precisely in resistance, and even in opposition, to the structures that deliberately and systematically sought to foreclose them. The families of slaves could be broken apart at any moment: parents separated from children, siblings dispersed, lovers separated with no way of finding one another again. Even relationships that were respected by the slave master were different from ordinary kinship relations in that their legal and social legitimacy was contingent upon the consent of a single person, which could be withdrawn at any moment without warning or justification.

Patterson argues that the hallmark of slavery is this replacement of a whole social network with a single "fictive" kinship relationship to the master (66). Even if the master does not explicitly abuse his power, the exclusivity of this relationship is itself a form of abuse.¹⁶ Slavery reduces the range of possible responses to the child's question, Where do I come from? with a single answer: You owe your life to the master.

To the extent that you have any relation to a legitimate social world, it is through him. The point of this replacement is to delete and suppress any countergenealogies that might challenge the legitimacy of the transaction by which one was bought and sold. Not only does this threaten to block or interrupt one's relation to concrete others—to *this* mother, *this* lover, *these* children, *this* friend—but it also affects one's relation to *possible* others and to the fecundity of time. Our embodied relations to others in a shared but contestable world create and sustain the sense that the present moment is open to new beginnings and is not merely the culmination of the past. These relationships hold open the promise of an escape route from present domination and exclusion, a sense that things could be otherwise, that the future is not always already determined by the master's intervention. This book is an extended argument for the insight, which I learned from Levinas and continue to relearn through my conversations with prisoners, that an intercorporeal, ethical, and political relation to time and to others is the condition for the possibility of a meaningful life.

Consider the ethical implications of reducing all of slaves' (legitimate) social relations to a single, nonreciprocal relation to a master. This reduction not only circumscribes slaves' personal freedom and exposes them to radical domination by the master, since they are no longer protected by a network of kin who would intervene on their behalf, but it also bans slaves from interceding on behalf of others. Patterson cites Callicles's definition of the slave in Plato's *Gorgias* as one who is "unable to help himself, or any other about whom he cares" (cited in 1982, 8). This ban on helping others is confirmed by an American ex-slave, Mr. Reed, interviewed by Ophelia Settle Egypt of Fisk University around 1930:

The most barbarous thing I saw with these eyes—I lay on my bed and study about it now—I had a sister, my older sister, she was fooling with a clock and broke it, and my old master taken her and tied a rope around her neck—just enough to keep it from choking her—and tied her up in the back yard and whipped her I don't know how long. There stood mother, there stood father, and there stood all the children and none could come to her rescue. (Quoted in Patterson 1982, 8)

There are countless examples like this from the history of antebellum slavery, all of which testify to the importance of the power not only to help oneself but also to help and defend others. This is the power of social life: not (just) the autonomy of a sovereign subject, but the mu-

tual support of a concrete but open-ended network of protective relationships.¹⁷ Not everyone with access to kin is guaranteed this kind of support; families can be abusive or overprotective. But the structure of natal alienation attacks the very *possibility* of mutual support among kin. The social death of slavery blocks and even criminalizes slaves' capacity to respond to the others who matter most to them. As such, it seeks to undermine the social, ethical, and political subjectivity of slaves right at the very site of its emergence.

What makes social death different from milder forms of exclusion is its intensity, its pervasiveness, and its permanence. The social dead are not just excluded from this society; they are excluded—in principle, though not necessarily in fact—from belonging to any society whatsoever. This is not to imply that a society that produces the social death of others always notices what it is doing. The social dead may be subject to explicit disregard and disrespect, but also to casual indifference; they may appear as abject others whose constant threat of pollution helps reinforce the boundaries of the social world, or they may not appear at all. This invisibility does not diminish the intensity of social death; rather, it may intensify it.

Social death excludes not only individuals but also their descendants. Patterson calls this “natal alienation”; it involves the systematic separation of individuals from their kin, including from past and future generations. Only the stain of social death remains transmissible. In this sense, social death is less a matter of being denied the natural rights and freedoms of an individual than of being *isolated in one's individuality*, confined to one's separate existence and blocked from a meaningful sense of belonging to a community that is greater than oneself. Without a living relation to past and future generations, who am I? Do I still have a stake in historical time? If the meaning of my life is confined to my biological existence, then it amounts to almost nothing; one swift blow to the head, and it could all be over.

And yet, we must remember that social death is a distinctly *social* phenomenon, just as civil death is a distinctly legal exclusion from legal status as a full citizen. It is produced and sustained by a range of social practices and institutions, including the law; police surveillance; arrest and confinement; the court system; economic exchange; norms of gender, race, and sexuality; and so forth. In this sense, the social dead are not merely nonpersons but rather, in Dayan's words, “depersonalized persons” (2011, 32). They are persons whose social significance

has been crossed out, as if they were *no longer with us*. But precisely as crossed-out persons, the social dead bear a resemblance to persons, and this resemblance can be exploited if necessary, for example, to hold socially dead slaves accountable for criminal violations of the law, even while they remain dead in law as anything but criminals. This opportunistic ambiguity with respect to the personhood of slaves can also be exploited by the slaves themselves, for example by deliberately transgressing the law in order to assert legal personhood. But this is not the only, or even the primary, source of resistance against social death; the bond between criminal and slave is too tight in this country to support Hannah Arendt's claim that the criminal is better off than the stateless person, whose status has been reduced to the merely human.¹⁸ Today, as much as 50 years ago or 250 years ago, a death penalty hangs over the social dead and the civil dead, like Poe's swinging pendulum.

As we will see, both slaves and prisoners have engaged in creative ways of resisting social death and mutually supporting social life. The testimony of slaves and prisoners bears witness not to the utter annihilation of the person, not to an absolute indifference of life and death, but to a *life against death* that is more than bare survival, a relationality that is exploited but not annihilated. This book is dedicated both to those who have managed to find and sustain an afterlife of resistance and to those who have not.

A Ghost of the Civil Dead

I conclude these introductory remarks with the testimony of a prisoner who both survived and succumbed to civil death in prison: Jack Henry Abbott. In his memoir, *In the Belly of the Beast*, Abbott describes himself as a "state-raised convict" (1991, 3). The son of a Chinese American prostitute and an Irish sailor, he grew up in a series of foster homes, juvenile detention centers, industrial schools, and prisons. Throughout his life, he refused to "adjust" to these institutions or to accept the blame for the way they shaped his habits and desires (10, 14–18).¹⁹ Abbott's worst crime before entering prison at the age of eighteen was passing a bad check; for this, he received an indeterminate sentence of up to five years. While in prison, Abbott killed another inmate in a fight; he was given another indeterminate sentence of three to twenty years. In the late 1970s, Abbott began exchanging letters with Norman Mailer, who

was researching violence in prisons for his book *The Executioner's Song* (1980). Mailer was moved by Abbott's brilliant capacity to analyze and articulate his experience in prison; he supported Abbott's successful bid for parole in 1981 and introduced Abbott to the New York literary scene. Six weeks after his release from prison, Abbott stabbed and killed a man in a dispute over access to a restroom; he was sentenced to fifteen years to life for manslaughter. In 2002, after his parole application was denied, Abbott committed suicide in his prison cell. Less than a year of his life since the age of twelve had been spent out of prison or some other form of detention.

Abbott's name is often invoked by those who wish to expose and undermine the starry-eyed liberal fantasy that convicted killers can be rehabilitated. But what does Jack Henry Abbott have to say for himself?

He who is state-raised—reared by the state from an early age after he is taken from what the state calls a “broken home”—learns over and over and all the days of his life that people in society can do anything to him and not be punished by the law. . . . In *any* state in America someone who is state-raised can be shot down and killed like a dog by anyone, who has no “criminal record,” with full impunity. (10–11)

In the American judiciary, anyone who is sent to prison suffers *civil death*. . . . There is no legal *relationship* between prisoners, and *any social* relationship among prisoners [that is] not monitored directly—a “forced” social relationship—by the pigs is in violation of the rules. It is insubordination. (114)

When they talk of ghosts of the dead who wander in the night with things still undone, they approximate my subjective experience of this life. (4)

In his lifetime of incarceration, Abbott spent between fourteen and fifteen years in solitary confinement. Some of this time was spent in blackout cells that isolated him in complete darkness for weeks at a time (26–27). Some of it was spent in a strip cell with no running water and no bed, only a toilet hole in the middle of the concrete floor (27–29). I will discuss Abbott's account of the perceptual, cognitive, emotional, and even ontological derangement that he experienced in isolation later, in chapters 2, 6, 7, and 8. For now, I want to address Abbott's broader claim that “anyone who is sent to prison suffers civil death” and that the “subjective experience” of this civil death is like the half-life of a ghost.

Abbott argues that an open social relationship between prisoners is undermined in advance by the prison system, not only because prisoners are deprived of their individual freedom but also—more importantly—because the web of their legitimate social relations has been reduced to a single “forced” relationship to the “pigs.” The same institutional structure that enjoins Abbott to accept personal responsibility for his own lifetime of incarceration also blocks his attempt to assume responsibility for other prisoners: “No prisoner can claim an obligation to other prisoners without declaring war” (114). According to Abbott, prisoners cannot obligate or be obligated to each other, except in the specific ways that are sanctioned by prison wardens and correctional officers. This constriction of legal and social relationships to a single legitimate relationship structurally undermines the possibility of meaningful relationships between prisoners, to the point of civil and social death.

To illustrate this point, Abbott recounts his own attempt to initiate a legal inquiry into the apparent suicide of a fellow inmate named Blackie, who was found dead in his cell under suspicious circumstances. No autopsy was performed, and the same guards who allegedly discovered Blackie’s corpse also wrote the official report on his death. Blackie had no living kin, no one with a recognized legal claim on his life and death. In order to establish his own right to demand an autopsy, Abbott argued that Blackie owed him money and that he therefore had a legal and financial interest in determining the circumstances of Blackie’s death. This is a brilliant appropriation of the language and assumptions of a legal system that supports capitalism against the interests of the chronically poor state-raised convict. If financial interest consistently trumps ethical responsibility and justice, then why not use the claim of financial interest as a vehicle for one’s ethical and political demands? But the court blocked Abbott’s counterstrategy; it ruled that “no prisoner can have obligations of any kind to other prisoners” (115). Without some sort of legally recognized and socially supported relationship and without the legal and social obligations that make this relationship concrete, the circumstances of Blackie’s death cannot be questioned in anything but a personal, private, and ultimately ineffective way.

Abbott is condemned, in a sense, to be free; he is removed from the thicket of legal and social obligations that bind one person to another in civil society. But this freedom from obligation casts both Abbott and Blackie into a limbo of meaningless death and meaningless life.

Blackie's death is rendered permanent and individual: a closed case, no longer open to question or critique. In turn, Abbott's life becomes a living death: the wanderings of a ghost whose words, actions, and relations are no longer effective or meaningful to others. Abbott asks, "How am I going to get [Blackie] out of his grave? How am I going to get justice for him? As long as I am nothing but a ghost of the civil dead, I can do nothing" (115).

Without obligations, social relations can become meaningless; and without social relations, individual lives can become unhinged. This is Abbott's analysis of his own experience in prison, but it is also the basic point of Levinas's ethics. In order to reflect on the full significance of this point for the U.S. prison system, we need to develop the ethical implications of Abbott's memoir, to expand the political dimensions of Levinas's thought, and to situate both within the concrete social context of mass incarceration and the hyperincarceration of racialized subjects. But the basic insight is clear: the civil and social dead are excluded from full participation in life, like ghosts who can still speak and act but whose speech and actions no longer make an impact on the world. They can neither intervene on behalf of another nor receive the help of others who come to their aid. All of their social relations run through the mediation of an official power invested with the right to grant or withhold their civil and social legitimacy.

What is it like to be exposed to this sort of death-in-life as a prisoner in the U.S. penitentiary system? Who is more likely to face social and civil death, and why? How has the situation of living death shifted from the early penitentiary system where inmates were targets of redemption, to Cold War penitentiaries where they were targets of rehabilitation, to contemporary supermax prisons where they are targets of management and control? What forms of resistance have emerged for the creation and mutual support of (social and civil) life after (social and civil) death?

Social Death and Its Afterlives

This book is organized into three parts: the early penitentiary system, the modern penitentiary, and the postmodern penitentiary or supermax.

Part I takes a critical look at the early penitentiary system and its implicit understanding of personhood, offering an alternative

phenomenological account of what it means to be a person. Chapter 1 examines eighteenth- and nineteenth-century arguments in support of solitary confinement and against it. It focuses in particular on advocates such as Benjamin Rush, who believed that the health of both the individual and the body politic depended on the proper functioning of “republican machines” characterized by self-discipline, emotional restraint, and industrious habits of work, study, and prayer. I argue that the humanitarian impulses of nineteenth-century penal reform worked against prisoners’ well-being precisely to the extent that their advocates endorsed a vision of human beings as separate, autonomous individuals who thrived best when they could support themselves without depending on others.

Chapter 2 develops an alternative phenomenological account of personhood and its destruction. What must a person be like in order to experience his or her life as a “living death” as a result of prolonged solitary confinement? If we were really autonomous individuals, then there would be no reason to expect a wholesale derangement of personhood in solitary confinement. Through a reading of Husserl’s classical phenomenology of consciousness, embodiment, and intersubjectivity, I argue that the sense of concrete personhood relies essentially upon embodied relations to other embodied consciousnesses in a shared world. The world is not just the “environment” of an organism that responds to stimulation; rather, it is the ultimate horizon of meaningful experience. The sense of the world is coconstituted with others, even if its ultimate condition of possibility is first-person consciousness. Husserl offers a convincing critique of the sort of mechanistic naturalism upon which Rush based his defense of solitary confinement, and yet Husserl’s own insistence on the absolute priority of first-person consciousness produces a certain ambivalence toward the role of others in coconstituting the world. How far down does transcendental intersubjectivity go, and to what extent can we account for the social dimensions of personhood by starting with the singularity of first-person consciousness? I argue that classical phenomenology must become critical by engaging with social and political analyses of particular, historically situated social relations.

In chapter 3, I develop such a critical analysis of social death from plantation slavery to postabolition plantation prisons and beyond. While white male offenders were being targeted for redemption through the “humane” punishment of solitary confinement in the peni-

tentiary system, black men and women continued to be held as slaves and punished with physical violence, sexual assault, forced separation from loved ones, and death. Even after the partial abolition of slavery, African Americans were subject to judicial and extrajudicial execution, disproportionate punishment for an expanding range of offenses outlined by the black codes and the later Jim Crow laws, and unpaid work in a convict lease system that was, by some accounts, “worse than slavery” (Oshinsky 1996). This chapter explores the racialization of crime and the criminalization of race in the wake of the Thirteenth Amendment, drawing on the work of Frederick Douglass, W. E. B. Du Bois, and Frantz Fanon. Fanon’s work in particular helps address the lived experience of criminalized racial embodiment and helps develop a preliminary outline of critical phenomenology.

Part II looks at the modern penitentiary, beginning with Cold War behaviorism and its influence on twentieth-century penal policy. In chapter 4, I trace the connections among Cold War research on sensory deprivation, the development of behaviorist training programs and coercive interrogation techniques for use on noncitizens, and the application of these and other techniques to U.S. domestic prisoners in the mid-to-late twentieth century, in particular to Black Muslims, Latino/a activists, Puerto Rican *independentistas*, and other politically active prisoners. By tracing the application of behaviorist research in military contexts (the SERE [Survival, Evasion, Resistance, and Escape] program and the KUBARK manual) and domestic prison contexts (START [Special Treatment and Rehabilitation Training], Asklepion, and other behavior modification programs), I offer a critical analysis of the intersections among psychiatry, prisons, and global politics in the mid-to-late twentieth century.

In chapter 5, I build on the work of Merleau-Ponty to develop a critical phenomenology of behavior, not as a set of causal mechanisms but, rather, as patterned structures of interaction between self-organizing living beings in the context of a shared world. Merleau-Ponty’s approach also resists classical phenomenology’s focus on pure transcendental consciousness; his account of intercorporeality and interanimality offers a rich conceptual language for articulating the ontological structure of the constitutive relationality that is exploited by solitary confinement and sensory deprivation.

Chapter 6 develops this critical phenomenology of behavior in relation to two specific sites of intensive confinement: the factory farm

and the supermax prison. I argue that the discourse of human rights, while important for strategic reasons, ultimately rebounds against both prisoners and nonhuman animals who are harmed by intensive confinement not merely as rational human beings but also—perhaps even more fundamentally—as sensible, affective, corporeal, and intercorporeal living beings. I follow the political implications of my argument by critically analyzing the discourse of “dehumanization” and “human dignity” in *Madrid v. Gomez*, a 1995 Eighth Amendment case concerning the treatment of prisoners at California’s Pelican Bay State Prison, a supermax penitentiary.²⁰

Part III turns to contemporary supermax prisons, which both reflect and accomplish a shift in U.S. penal policy from the goal of redemption and rehabilitation to the task of perpetual control. Chapter 7 explores the experience of space in supermax confinement by drawing on Merleau-Ponty’s account of spatial depth in *Phenomenology of Perception*. Chapter 8 reflects on the temporality of supermax experience by drawing on Levinas’s account of ontological solitude, in which the existent’s relation to impersonal being, or the *il y a*, feels like an unbearable weight that threatens one’s sense of identity precisely by riveting one too closely to the burden of having to be (oneself). Finally, chapter 9 develops a critique of the rhetoric of “accountability” in supermax prisons by drawing on Levinas’s account of responsibility as the investment of one’s own arbitrary and potentially meaningless freedom as ethical responsibility for the other and political solidarity (or fraternity) with a community of others. An important part of my critique is a discussion of Levinas’s own account of rhetoric as “anti-language,” where language is understood as an ethical orientation toward the other who commands one to respond. For Levinas, the task of philosophy is to perform an ethical reduction of rhetoric; in other words, to trace anti-language back to the ethical responsibility that it both presupposes and denies. In each of these chapters, I engage with prisoners’ own reflections on the meaning—and the meaninglessness—of their experience.