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The Social Life of Civil Death: Medical Violence and Anti-blackness in the Captive
Prison

DISSERTATION

submitted in partial satisfaction of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

in Criminology, Law and Society

by

Ernest K. Chavez

Dissertation Committee:
Associate Professor Sora Han, Chair
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2022

DEDICATION

To all who have the courage to imagine a world without prisons.

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ABSTRACT OF THE DISSERTATION

The Social Life of Civil Death: Medical Violence and Anti-blackness in the Captive Prison

by

Ernest K. Chavez

Doctor of Philosophy in Criminology, Law and Society

University of California, Irvine, 2022

Associate Professor, Sora Y. Han, Chair

This dissertation examines how medical violence in prison operates as a life-extracting force necessary for the maintenance of anti-blackness as punishment. More specifically, it analyzes two prison sites—Louisiana and California—to illustrate how medical violence came to be normalized under mass incarceration. The Introductory chapter offers an overview of literature that situates mass incarceration at the intersection of medical violence and anti-blackness. Each subsequent chapter provides a closer analysis of how medical violence and anti-blackness are manifested through imprisonment.

The second chapter is a theoretical exploration of how a debate on civil death, as a theory about punishment, and social death, as a theory about slavery, are mobilized within Socio-Legal Studies to explain solitary confinement. By analyzing solitary confinement as both a form of medical violence and civil death, the chapter explores the slippage between racial captivity and carceral confinement.

The third chapter reconstructs a history of Louisiana State Penitentiary, Angola, from its antebellum origins as a slave plantation, up to its reconfiguration as a state

penitentiary during Reconstruction, to show how social death has always informed the prison's logics of extraction. The chapter argues that anti-blackness and medical violence has been essential to the prison-plantation, as demonstrated by the example of the Angola 3 political prisoners, as well as the prison's management of hospice care, death and dying, and burial practices.

The fourth chapter argues that, in the state of California, medical violence in prison is administered through policy reform. The chapter examines how Eighth Amendment litigation on inadequate medical conditions inside California prisons culminated in the construction of the state's first medical prison, California Health Care Facility. While this prison was designed to usher in an era of reform, it has instead, legitimized death in prison as a normative feature of the carceral state.

INTRODUCTION

Medical Violence, Racial Captivity, and Mass Incarceration

Liberty... I saw nothing without seeing it and I heard nothing without hearing it. I do not exaggerate when I say that it looked at me in every star, smiled in every calm, breathed in every wind and moved in every storm.

—Frederick Douglas, *Narrative of the Life of Frederick Douglas*

I haven't seen the night sky for a decade.

—George Jackson, *Soledad Brother*

When George Jackson was sentenced to one-year-to-life in prison in 1961, it was not known to him that his untimely death, which would come a decade later at the age of 29, would send shockwaves that pierced the borders of San Quentin prison, and would be felt by political prisoners and their supporters across the U.S. Jackson's death, which has been termed a "political assassination" carried out by San Quentin prison guards, is also remembered as one of the most violent prison rebellions. But Jackson understood that the force of violence was already operating within the prison long before he led the uprising of August 21, 1971. His political analysis of the prison system was developed through his study of both, black history, and neo-Marxist revolutionary principles. As such, Jackson came to understand political institutions, and the prison system in particular, as instruments of state-sanctioned violence—*politics as war*, or "war without terms"—and his own position within this matrix of domination, as a "neo-slave" (Jackson, 1970/*Soledad Brother*; 1972/*Blood in my Eye; Intolerable*; Heiner 2007; Rodriguez 2006).

Meanwhile, across the country, Albert Woodfox and Herman Wallace, political prisoners who would later come to be known as part of the Angola 3, had established the first official chapter of the Black Panther Party to be housed in a prison. The infamous

Louisiana State Penitentiary, also known as Angola, was formerly the site of several antebellum slave plantations, and was only converted to a state penitentiary in 1901. Here, Woodfox and Wallace would each spend decades confined to a 6-by-9-foot solitary confinement cell. And while Woodfox and Robert King of the Angola 3 would eventually be released from the prison after prolonged and hard-fought legal battles, Wallace only made it out on his deathbed. He was not only denied medical care by Angola staff in the face of undeniably clear symptoms of his terminal illness¹, but prison spokespeople maintained that all prisoners received adequate healthcare. Wallace's conviction was overturned on October 1, 2013, and he passed away 3 days later at a house in his hometown of New Orleans surrounded by friends. "The State may have stolen my life," he penned, "but my spirit will continue to struggle along with Albert and the many comrades that have joined us along the way here in the belly of the beast" (Woodfox, 2019, 357).

What the Angola Panthers shared with George Jackson was a recognition that they were, collectively, captives to an anti-black social order, maintained through the state and the prison system—but also, that they were a part of a long struggle for civil rights and freedom, waged against black captivity. Their shared political consciousness would not have been possible without a collective commitment to Panther philosophy. But where this political identity generated a rich intellectual analysis of the prison system as a form of slavery and warfare, it also made them targets of the state. As Angela Davis writes, "The political prisoner's words or deeds have in one form or

¹ Dr. Brie Williams who examined Wallace in July 2013, stated that no doctor could have missed his diagnosis of liver cancer. His bloodwork, along with a tumor "the size of a toy football" protruding from his abdomen and rapid weight loss were obvious signs (Woodfox, 2018, 354).

another embodied political protest against the established order and have consequently brought him into acute conflict with the state” (*Angela Davis Reader*, p. 41).

For Jackson, this conflict ended in his political assassination by the state. For Woodfox, the conflict took the form of a life sentence in solitary confinement. Although he eventually won his freedom from Angola in 2016, the prison administration fought his release at every step and sought to keep him incarcerated for the rest of his life. And as the case of Herman Wallace shows, medical violence in prison is not only an exercise of the prison’s sovereign power to punish, to deprive, and to kill, but it is also a political weapon, administered through a formal system of state-sanctioned punishment. In this way, medical violence creates further regimes of discipline, punishment, and suffering within the prison.

As political figures that connect Louisiana and California’s prison systems, the story of The Angola 3 and of George Jackson, builds upon the analysis of carcerality as an extension of anti-black captivity. And here, I am referring to a large body of scholarship that links the practice of “mass incarceration” to racial slavery. We can understand the emergence of formal punishment, mass incarceration, and the prison industrial complex as part of the unfinished work of the abolition of slavery (Davis, 1998); as a form of racial capitalist extraction (Gilmore, 2017 in *Futures of Black Radicalism*); as an extension of American slavery, convict leasing, and Jim Crow segregation (Haley 2016; Alexander, 2010; Blackmon, 2007); as a continuum of racialized political economic exploitation (Wacquant, 2009); and as counter-insurgent backlash against the long struggle for black civil rights (Camp, 2016). Each of these perspectives, in one way or another, situates the contemporary prison system within the

unsettled and unsettling temporality of “the afterlife of slavery” (Hartman, 2007, *Lose Your Mother*; Hartman 1997).

This dissertation traces the roots of medical violence in the modern prison to a longer history that extends beyond the dramatic rise of mass incarceration and the carceral state. I define medical violence in prison as an extreme form of civil death, marked by the paradoxical demand for the carceral state to perform both, punishment, and the provision of care. Medical violence in prison can take many forms, such as withholding medical care, sentences that span an entire lifetime, reforms that sanitize prison death, and symbolic performances of deathcare that propagate the illusion that prisons can *incarcerate with care* and that they can manage death in a humane way.

Throughout this project, I argue that the provision of medical care in prison cannot be separated from the prisoner’s social position of civil death. By civil death, I am referring to a form of punishment that removes the full range of legal protections for a prisoner, leaving them vulnerable to institutionalized forms of violence. In this way, civil death also sets the parameters of care that can be made accessible within a prison.

The provision of care under conditions of confinement is further complicated by Ruth Gilmore’s (2017) theorization of incarceration as a form of racial capitalist extraction. Gilmore argues that, in prison, human life is reduced to time, and time is mined as a resource necessary for building the punishment industry. Throughout this dissertation, I suggest that medical violence, as well as death in prison, *are intrinsic to this extractive practice*.

In this Introductory Chapter, I begin with a historical overview of literature discussing racialized medical violence. Rather than situating medical violence in the modern prison as an emerging feature specific to the era of mass incarceration, I offer a

longer history that moves through multiple temporalities. More specifically, I designate a periodization marked by racial slavery, followed by Reconstruction and Jim Crow-style racial segregation, the subsequent post-1965 rise of mass incarceration, and the present era of “late mass incarceration” (Seeds, 2018). While periodization demarcates historical boundaries for examining a particular temporal pattern or event, it also brings us to an analysis of the present. By deepening our historical knowledge of the present, I hope to show how we continue to be “locked in a centuries-long civil rights dance” (Han 2015, 28), evidenced by mass incarceration’s unresolved (and perhaps irresolvable) racial antagonisms.

Rather than articulating the long history of Angola Prison in Louisiana and the recent history of prison reform in California as two case studies separated by geography and temporality, this dissertation imagines the prison itself as a kind of border through which the knowledge of punishment travels across time and space (Dent and Davis). By studying these sites, my hope is to provide insight as to how a notoriously brutal regime of “southern punishment” (Wood and Ring, 2019; Chase, 2015; Haley, 2016; Lichtenstein, 2015; Perkinson 2010; Thompson, 2009) informs an emergent penal strategy in the western state of California. Here, I am referring to the extractive logics of racial capitalism in which life is harvested as a resource for capital gains, and discarded once it has been depleted (Gilmore, 2017). This mode of time theft, emanating from the structure of racial slavery, while crucial to the explosive development of mass incarceration, is growing increasingly unsustainable. Given this context, my dissertation traces how the medicalization of California’s prison system is an attempt—not to cure, but to reform—the extractive process.

Throughout this dissertation, I theorize medical violence in prison as an extreme form of civil death. While recent literature in socio-legal studies examines extreme punishment through Orlando Patterson's (1985) theory of social death, I suggest that we can trace a social life to punishment and civil death. The example of each prison site, California, and Louisiana, illustrates different modalities for exploring medical violence, anti-blackness, and a social life to civil death. If we understand the concept of civil death and its attending figure of "the slave of the state," as derivative of—but irreducible to—the paradigm of social death, then we can retain mass imprisonment's relationship to racial slavery, without fully collapsing and directly analogizing incarceration to slavery.

To seriously consider this provocation requires not only an engagement with socio-legal research on the historical transformation of punishment and prisons, but also, works within the field of Black Studies that illuminate a longer history in the struggle for freedom against captivity. Approaching a study of the carceral through this doubled framework requires a careful interrogation of, what Anthony Farley (2004, 229) calls, a world that is fundamentally constructed as *white over black*: This is a world in which "pleasures and desires follow the colorline," and "all institutions are ordered by a colorline." Farley's (2004, 226) insight that a social order rooted in slavery "perfects itself" through law, is also an abolitionist recognition that "everything must go... every law room, every great house, every plantation, all of it, everything." The entanglement between a world ordered by a colorline and the role of legal institutions in upholding this racial doctrine, reveals a deeper problem in which "the social usefulness of punishment becomes a question rather than an unstated value" (Han, 2015, 97). Here, carcerality and medical violence in the prison can be examined, not only as a mode of punishment, but also, as the unwritten law of race relations. This dissertation

project is an invitation to examine the unwritten law of anti-blackness, and its appearance as and through punishment, carcerality, and medical violence.

Given Gilmore's (2017) insight that carceral extraction is a technology of racial capitalism, this dissertation poses the following questions: What are the structural dynamics between anti-blackness, medical violence, and mass incarceration? In what ways can we understand civil death and solitary confinement as forms of medical violence? How has medical reform altered the crisis of mass incarceration today? What kind of knowledge of abolition becomes possible when we conceive of the prison as symptomatic of a deeper set of social relations and social problems? And what structural connections between Louisiana and California prisons are made legible when analyzed from the perspective of carceral extraction?

To answer these questions, I approach this study as a comparative study of racial capitalist extraction. In Chapter 2, I begin by tracing the social and historical context in which extraction takes root throughout Louisiana's antebellum period, and into Reconstruction. I then analyze how extraction shifts over time according to economic changes and political challenges confronting the institution of racial slavery. In Chapter 4, I examine how extraction operates today in California's prison system. I then develop a theoretical connection between the two sites in which California represents a modernized version of carceral extraction that emanates from the longer history of Angola prison.

In the remainder of this Introductory Chapter, I provide a historical overview of anti-black medical violence, periodized by major institutional adaptations to the changing racial structure of slavery and its afterlife. The overview brings us to the contemporary era of mass incarceration. Following the historical contextualization, I

then present a more detailed articulation of both, the research questions that frame this dissertation as well as the methodology I apply to address these inquiries. I conclude the Introduction with chapter summaries and a brief discussion of what is to come throughout the rest of the dissertation.

Historical Contextualization: Slavery, Segregation, Post-1965 Rise of the Prison, and Late Mass Incarceration

Slavery: Racial Captivity and Medical Violence

The origins of racialized medical violence in the U.S. are as old as the institution of racial slavery itself (Washington, 2006; Roberts, 1997; Bankole-Medina, 1998). In the antebellum south, captive female slaves were forced to reproduce and bear children. The term “human increase” describes this strategy in which sexual violence and forced reproduction enabled slaveowners to increase their property holdings, under conditions where persons were considered property (Morgan, 2005; Hartman, 2016, 1997; Dorothy Roberts, 1997; Bankole-Medina, 1998). In this context, medical violence operated through the black female slave’s womb, taking the form of sexual coercion, and forced procreation under conditions of bondage.

This form of medical violence—the planter’s power and control over the reproductive capacities of slaves, essential to the antebellum economy—will be analyzed more closely as part of a discussion of slavery in Louisiana, in Chapter 3 of the dissertation. However, the value of the fungibility of the slave—that is, an endlessly replaceable, disposable, and vulnerable structural position in relation to a master—also meant that there were no restrictions to the ways the body of a slave could be used

(Hartman, 1997). In addition to performing labor on the plantation, and giving birth under conditions of bondage, slave women were also forcibly subjected to abusive medical experimentation.

Medical practices in the antebellum south were heavily experimental. In *Medical Apartheid*, Harriet Washington (2006) carries out a historical study of these practices by investigating physicians' memoirs, medical journals, and planter records from this era. These documents demonstrate that slaves endured the worst of medical abuses, including experimentation in new medications, dangerous dosages, and invasive procedures such as spontaneous surgical experiments performed without anesthesia, all carried out in the name of scientific empiricism and expanding the plantation economy (Washington, 2006, 29).

One of the most notorious examples of horrific experimentation was carried out by James Marion Sims, who is often credited as “the father of modern gynecology” (Washington, 2006; Roberts, 1997). As a plantation physician, Sims performed dangerous experimental and even fatal surgeries on numerous slave women, men, and infants. Through his surgical explorations carried out against unwilling slave women, he developed a sutural treatment for vesicovaginal fistula, a condition in which poor nutrition and inadequate medical care during pregnancy leads to complications that damage the birth canal, resulting in painful and potentially fatal infections. And while some might argue that the medical abuses imposed onto captive slave women has served a utilitarian aim by saving the lives of countless other women, for Washington, forced experimentation is a blatant form of racialized medical violence:

“More than scientific racism, more than heroic purges, bleedings, and cathartics, and more than the punitive use of therapeutics, involuntary medical experimentation was the scientific personification of enslavement. Violence, pain,

and shame joined as physicians forced the enslaved body into medical service, not to cure, but for profit. Medical experimentation was profitable in terms of recovered health and life for whites, who benefited once the medical process had been perfected” (Washington, 2006, 54).

Here, enslaved black bodies, as “a racially distinct *and* a captive group” are put at risk and made to suffer, for the benefit of an other, racially dominant group. While Sims merely represents one example in which the practice of using enslaved bodies was justified by gains made in medical knowledge, a similar pattern can be identified in 19th century medical schools in the U.S (Nuriddin, Mooney, and White 2020; Berry, 2017).

In *The Price for Their Pound of Flesh: The Value of the Enslaved, from Womb to Grave, in the Building of a Nation*, Daina Ramey Berry (2017) uncovers a “domestic cadaver trade,” in which medical schools in both the South and North relied on the bodies of deceased slaves to advance anatomical research. Southern states in particular advertised this practice to recruit students into their medical schools, offering an “abundance of material furnished for dissection” (Berry 2017, 181). As Berry (2017, 176) explains, “...Physicians need material to teach their students, and the school’s reputations and recruitment often rested in these vivid solicitations.”

Where bodies were unable to be purchased, or where demand exceeded the availability of bodies that could be purchased, a number of southern medical colleges turned to grave robbing (Berry, 2017). For example, The Medical College of Georgia, as well as Virginia Medical College employed “resurrectionists” who, under the cover of night, stole freshly buried bodies from racially segregated Black cemeteries, to supply medical students with cadavers (Berry, 2017). In “The Art of Medicine: Reckoning with Histories of Medical Racism and Violence in the USA,” Nuriddin, Mooney, and White (2020, p. 949) summarize: “This practice was widespread in the 19th and early 20th

centuries. American medical education relied on the theft, dissection, and display of bodies, many of whom were Black.” Like Sims’ experimentation on enslaved women, the “cadaver trade” rationalizes anti-black medical violence as necessary for scientific progress.

As the following section on medical violence during racial segregation demonstrates, the formal abolition of slavery did not guarantee relief from medical experimentation. It also did not protect against patterns of excessive mortality and morbidity that existed under slavery (Nuriddin, Mooney, and White 2020). Experimentation and racialized health inequality would continue in different forms throughout the 20th century, and even into the present.

Racial Segregation: Reconstruction and Jim Crow

Following the Civil War, medical violence continued to develop alongside the changing racial structure of U.S. society, taking the form unchecked disease, sexual violence, and forced childbirth inside of southern convict labor camps (Haley, 2016); forced sterilizations accompanied by eugenicist theories of social inferiority (Roberts, 2006); as well as segregated medical facilities and the denial of care. In the decades following Emancipation, many newly freed black people in the South were left to dwell in conditions of abject poverty. Some would flee to the North, others would take up sharecropping, and many were criminalized through newly implemented Black Codes and forced into brutal convict labor camps under a renewed model of involuntary servitude (Hahn, 2022; Haley 2016; Blackmon 2008). Black Codes mimicked Slave Codes in attempt to assert social control over a newly freed Black population (Davis, 2003). These codes normalized forms of corporal punishment that were practiced under

slavery, criminalized a broad range of behaviors such as vagrancy, absence from work, insulting gestures, and practicing a skilled trade, while also denying Black people the ability to purchase property and to assert full legal protections in court (Hahn, 2022; Davis, 2003).

In No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity, Sarah Haley (2016) describes the convict labor camp as a space ruled by sheer force in which the sovereignty of the prison administration, overseers, and guards, operated through the power to harm and injure with impunity. The labor performed inside these camps was backbreaking and often deadly (Haley 2016; Blackmon 2008). But even the living conditions within these camps were unsanitary and a cause of disease and transmission. While medical and even mortality records were not consistently tracked, the limited archive demonstrates that scurvy, pneumonia, malaria, tuberculosis, and the flu were rampant throughout the camps (Haley 2016, 75-76).

Disease and unhealthy living conditions were not the only form of medical violence prevalent within the convict lease system. Haley (2016) documents how Black women who were sentenced to labor camps were made subject to a system of gendered and racial terror in which rape, forced childbirth, and forced separation from their children born inside the camps were institutionalized practices: “Rape, isolation, medical neglect, and whipping were all instruments in the management of a system of labor, the maintenance of which depended on the expendability of black life...” (Haley 2016, 115). While camp administrators rarely documented the sexual assault of Black women, records of children birthed inside the camps serve as euphemisms that mask instances of rape. For example, even though numerous Black women gave birth during prolonged periods of incarceration within Georgia’s convict camps, there is not a single

record of an investigation or prosecution into sexual assault (Haley 2016, 113). And whereas the law failed to protect Black women from having their children taken away after giving birth inside the camp and failed to protect Black children from being forced to labor inside the camp, women who engaged in infanticide as an attempt to protect their progeny from the same structures of violence they experienced, were criminally persecuted. Thus, Haley (2016, p. 55) writes, “Black life (the life of the child) becomes legible when it is deployed by white authorities in order to enact violence (imprisonment), but is illegible when deployed by black subjects to defend against violence (motherhood as a ground for pardon).”

In another prominent example of medical violence during the era of segregation, scientific racism in the form of eugenicist theories prompted both doctors as well as legislators to aggressively pursue a racialized program of forced sterilization. Eugenicists peddled ideas that social inferiority and superiority were genetically and racially determined and that reproduction amongst blacks led to biological degeneracy. They thus valorized the preservation of white racial purity and argued that the regulation of the poor as well as Black, Native American, and Puerto Rican women’s fertility through programmatic forced sterilization was necessary for advancing civil society (Nuriddin, Mooney, and White, 2020; Roberts, 2006).

In *Buck v. Bell*, 1924, the U.S. Supreme Court upheld a Virginia law that allowed the state-sanctioned forced sterilization of people considered eugenically debilitated. The ruling paved the way for the forced sterilization of some 60,000 people across the U.S. (Nuriddin, Mooney, and White, 2020). As Roberts (2006, 89) notes, “The demise of Jim Crow had ironically opened the doors of state institutions to Blacks...” Thousands of black women deemed “mentally deficient” were forcibly sterilized at state hospitals.

Others were exploited and targeted for a “Mississippi appendectomy”—an unnecessary forced sterilization performed without knowledge, informed consent, or a valid medical reason (Roberts 2006, 90).

While compulsory sterilization programs targeted indigent, disabled, and institutionalized people, the cruel procedure was disproportionately applied to women of color, and especially Black women (Nuriddin, Mooney, and White, 2020; Roberts, 2006). This was in part because eugenicists and their demagogues feared that the black population in the U.S. could rapidly increase and come to outnumber whites, even though the fertility rate of black women declined by nearly one-third between 1880-1910 (Roberts 2006, 71). Thus, Roberts (2006, 56) recognizes that “while slave masters forced Black women to bear children for profit, more recent policies have sought to reduce black women’s fertility. Both share a common theme—that Black women’s childbearing should be regulated to achieve social objectives” (2006, 56).

Even though eugenics was eventually discredited by social scientists of the time and fell out of favor as the world witnessed its trajectory during World War II, the logics of population control through forced sterilization would continue in other forms. In recent decades, Roberts (2006) points to how the marketing of certain contraceptives, Norplant in particular, has been aimed at black women. Through both, financial incentives offered by the government, as well as policy seeking mandatory implants of the contraceptive, lawmakers continued to develop the ongoing racial project of regulating black women’s reproductive capacities. Some thirteen states had proposed legislation to mandate Norplant for low-income women, though none were passed (Roberts 2006). Financial incentives such as offering \$500 to have the birth control implanted, and another \$50 per year for continuing its use, were also considered

(Roberts 2006, 109). While some proponents spoke openly about specifically targeting black women for contraceptive use, much of the debate occurred through colorblind and racially coded discourses of “welfare,” ultimately playing into old ideas of racial degeneracy proffered under eugenics, as well as racist notions about who receives welfare.

Whereas the convict labor camp operated through force and terror, and eugenics, through scientific racism, anti-black medical violence, especially during the Jim Crow Era, was also maintained through the denial of medical care to Black patients, and institutionalized racism that would restrict the development of Black physicians and desegregated hospitals. Black physicians faced a myriad of obstacles in the Jim Crow south. At an institutionalized level, they were constantly forced to compete with white physicians, who, as a group, held unequal access to medical schools, economic resources, and reputation (Kernahan, 2021).

Medical schools in the South were expensive and segregated, and the few Northern schools that admitted Black students limited their admissions to only one or two per year (Kernahan, 2021). Those who successfully graduated would struggle to find employment, financial opportunities needed to start their own practice, and would have their professional competency questioned simply by virtue of being Black. Even some Black patients preferred white doctors, and those with middle class resources often spent their money at the offices of white physicians, ultimately forcing Black doctors to charge lower fees (Kernahan, 2021). Thus, by 1940, while some 9.7 million African Americans lived in the south, only 1,751 Black doctors practiced in those states (Kernahan, 2021, p 67).

Not only did Black physicians face discrimination under Jim Crow society, but because they demonstrated Black professional prestige, upward mobility, and were perceived as community leaders, they became targets of white supremacist violence and racial terror. During the Tulsa Race Massacre of 1921 for example, Dr. A.C. Jackson, known as the top Black surgeon in the U.S. at the time, was killed by white vigilantes. During 1918 in Mississippi, a Black doctor named J.A. Miller was tortured by a white mob and run out of town, while three other Black professionals, including a dentist, a pharmacist, and a lawyer, narrowly escaped the same fate (Kernahan, 2021, 68-69). Others faced death threats from the Klan, and by the time the Civil Rights Movement was in full motion, physicians-activists who worked in the south learned to travel with armed bodyguards in anticipation of white supremacist and segregationist mob violence.

Physicians practicing in the North faced many of the same institutional and social obstacles as their southern counterparts. Professional medical education in the north was costly, Black physicians faced discrimination in opportunities for residency training and, because of a preference for white doctors, they charged lower fees and earned lower incomes compared to their white counterparts (Kernahan, 2021). Furthermore, as waves of African Americans left the south and headed north as part of the Great Migration, they were met with intensified discrimination and white hostility. In response to the influx of Black populations, some Northern hospital which were previously desegregated, reverted to segregated wards and placed caps on admitting Black patients (Kernahan, 2021).

The most pronounced effects of this general shortage of Black doctors, produced through both institutionalized discrimination and white supremacist violence,

ultimately fell onto the shoulders of indigent Black medical patients. For these patients, especially those who lived in the rural south, not only was it difficult to locate Black physicians, but they were also routinely denied medical care by deeply segregated clinics and hospitals. In a case study of Birmingham, Alabama's University Hospital, from 1950 to 1965, Charlotte Borst (2021) shows how racialized and gendered ideas of deservingness converged with financial incentives and white backlash, to deny Black women access to the hospital's maternity ward. The University Hospital made headlines in December of 1958, when a Black woman, referred to as Mary, was denied entry into the facility, and forced to give birth on the hospital's front lawn. Borst (2021) explains that while Mary was officially turned away for lack of medical documentation, there were other, underlying reasons tied to the social context of post-Jim Crow Alabama.

As the Civil Rights Movement gained traction across the U.S., white southerners felt threatened by desegregation. They resisted the idea of aiding Black upward mobility, including the provision of government-sponsored healthcare and welfare to indigent Black populations (Borst, 2021). Hospital administrators and county health officials played into racialized and gendered narratives about "unwed" Black mothers, framing them as a drain on public resources provided for indigent care: "Singling out unmarried Black mothers was an expedient means of demonstrating fiscal belt-tightening and was a potent symbol to the public of the medical center's willingness to accept prevailing white beliefs about Black women's unworthiness of care" (Borst, 2021, 490).

Framing indigent medical care as a form of welfare monopolized by undeserving single Black women, the University Hospital dramatically reduced funding to its maternity ward and reduced the number of indigent-care beds by 70 units in 1957. To distance itself from being perceived as a care provider for Black women, the hospital

boasted that “negro obstetrical care” is only allocated 7% of its total indigent care budget. On top of this, the hospital implemented bureaucratic obstacles, including the requirement of a hospital card validating three previous prenatal clinic visits before one can be admitted into the maternity ward, and a fee of \$75 for unmarried women, while married women paid \$25 (Borst 2021, 499). Ultimately, Mary was denied entry into the maternity ward under the technicality that she had not made three previous prenatal clinic visits.

According to Borst (2021), funding cuts and increased restrictions placed on Black women’s access to maternity care culminated in an infant mortality crisis. Birmingham’s healthcare administrators at the time were fully aware that many indigent Black women relied on the hospital’s services and had few alternatives available to them. Following the implementation of growing restrictions and funding cuts, the county witnessed a sharp increase in Black neonatal mortality rates, defined as death within 28 days of a live birth (Borst, 2021, 496). And while local newspapers placed the blame behind these infant deaths onto Black mothers, a county report suggested otherwise. The report, conducted by county health officer, Dr. George Denison showed a sharp increase in the number of unattended home deliveries, leading to a neonatal infant mortality rate that was more than double that of the hospital’s rate (Borst 2021, 495-495).

By 1964, the hospital had grown to the second largest employer in Birmingham, providing \$40 million a year to the city’s economy (Borst 2021, 501). And yet, this economic growth, made possible in part by cutting resources from some of the most vulnerable patients, did little to address the crisis faced by indigent Black mothers. While the University Hospital would eventually desegregate its facilities in 1965, the

decision was largely based on stipulations attached to Federal funding for the hospital as well as public relations concerns, rather than a commitment to the equitable delivery of medical care (Borst 2021). In 1972, the county opened a separate “charity” facility, Mercy Hospital, to provide indigent care. But as Borst (2021, 507) explains, these changes brought little to no relief for racialized neonatal mortality: “Perhaps due to the continued paucity of funding, neonatal mortality rates among Black infants remained high. From 1960 through 2013, the Black neonatal mortality rate was usually about double that of white babies in Alabama.”

Like the beneficiaries of both James Marion Sims’ experiments on black female slaves, and antebellum medical professionals trained by dissecting the stolen bodies of deceased slaves, anti-black medical violence during the era of Reconstruction and segregation continued to accumulate advantages for white civil society. The convict lease system operated as an institution for extracting Black labor through sheer violence, while also serving to rebuild the south’s economy and infrastructure that was destroyed during the war (Haley, 2016; Davis 2003). Eugenics, a pseudo-science of genetic and racial inferiority, provoked forced sterilization programs that sought to diminish the growth of Black populations (Roberts, 2006). And racial terror, supplemented by segregationist policies in both the training of Black doctors and the delivery of care to Black patients, not only imposed severe restrictions on the establishment of a Black healthcare community, but systematically disinvested from such practices, ultimately benefitting white care providers (Kernahan, 2021; Borst, 2021; Bailey, Feldman, and Bassett, 2021).

Still, dominant narratives of the era continued to place the blame of racialized health disparities onto Black populations. This segregationist narrative remained

principal, even as prominent Black sociologists such as W.E.B. Du Bois and his colleagues worked to re-frame health disparities as “an index of social conditions,” rather than innate racial differences (Du Bois, 1906 “The Health and Physique of the Negro American” in “Voices from the Past,” 2003, American Journal of Public Health). Du Bois’ research underscored the role of social and economic conditions (i.e., unsanitary living conditions, abject poverty, and a lack of educational opportunities) in establishing, what we could call in today’s parlance, the social determinants of “structural racism” that lead to “health disparities” (White, Thornton, and Greene, 2021; Bailey, Feldman, and Bassett, 2021).

Post-1965 Mass Incarceration and Medical Violence

As the historical discussion up to this point suggests, medical violence has always been structural anti-black racism. And while Civil Rights struggles toppled Jim Crow-style segregation, the promise of greater racial equality would be undercut by the exclusionary force of what would become, the world’s largest prison system (Pettit and Sykes, 2015). The rise of post-1965 “tough on crime” politics followed the immediate aftermath of hard-won civil rights legislation that formally ended segregation and established pathways toward social and racial equality (Lichtenstein, 2015). Like the racialized criminalization of newly freed black people through the convict lease system during Reconstruction, the emerging institution of mass incarceration, backed by a discourse that promised to deliver “law and order,” demonstrated “an escalation in the use of counterinsurgent solutions to domestic conflict...” (Camp, 2016, 42). It is through this historical contextualization of backlash against civil rights-era freedom struggles, that we can begin to understand the prison as a significant site for the continued

struggle against anti-black medical violence—or, following Alondra Nelson (2011), what we can think of as *war in the form of health politics*.

In *Body and Soul*, a study of the Black Panther Party’s healthcare politics and survival programs, Alondra Nelson positions racialized struggles for healthcare as part of the long Civil Rights movement. Under Jim-Crow style segregation, systematic disinvestment from Black neighborhoods resulted in under-resources and under-staffed medical facilities, leading to a shortage in experienced, well-credentialed Black physicians (Bailey, Feldman, and Bassett, 2021). According to Nelson (2011, p. 5), by the 1960s and 1970s, American medical institutions were phasing out Jim Crow segregation, and instead, an altered form of structural racism was taking root. During the post-civil rights era, the allocation of healthcare, like many other social programs at the time, was trending toward social abandonment, which further weakened already-insufficient welfare programs, and the unscaled proliferation of social control and security institutions—what would later come to be known as “mass incarceration” and the prison industrial complex.

In response to disappearing state provisions, the Black Panther Party created “survival programs,” including the People’s Free Medical Clinics, free groceries to counter malnutrition, and free health screening, all aimed at improving health disparities and providing access to medical care (Nelson 2011, 4). The Party also amended its Ten-Point Program to include free healthcare as a main element within its political platform. The demand for health services and the creation of survival programs are in line with what Nelson identifies as the party’s “social health” perspective: a healthcare perspective “oriented by an outlook on well-being that scaled from the individual, corporeal body to the body politic in such a way that the therapeutic matters

were inextricably articulated to social justice ones” (12-13). Echoing Du Bois’ assertion in 1906 that “[racialized] differences in mortality seem to be sufficiently explained by conditions of life,” (Du Bois, 1906), the Party’s social health perspective counters biological and epidemiological explanations for black health disparities through an analysis and inclusion of the role of social conditions in shaping health outcomes.

These survival programs, emergent in the post-segregationist Civil Rights Movement, are manifestations of struggles over power waged between the state of social abandonment and the Party’s political ideology of self-determination. The programs were designed to meet the material provisions necessary for survival and well-being (Nelson 2006). But they also served the political purpose of exposing the state of social abandonment and emphasizing black autonomy and collective determination (Heiner 2006). In this sense, the installment of survival programs was also framed by the state as a challenge to its political authority, which was perceived to be undercut by the Party’s provision of medical, economic, and social resources. According to Party leader, Bobby Seale, it was precisely because these survival programs empowered black communities, that they were criminalized and viciously sabotaged as part of the FBI’s Counter-Intelligence Program:

The more we’re successful with the programs, the more we’ll be attacked... The power structure metes this violence upon the Black Panther Party because we’ve implemented programs that are actually exposing the government, and they’re being implemented by a revolutionary political party (Heiner 2006, 326-327).

While such survival programs are reflective of Alondra Nelson’s opening statement that “Health is politics by other means” (p. ix), this phrase also echoes an essential analytic within Panther philosophy: that *politics is war by other means*. The phrase is meant to elicit several notions: that black people in the U.S. are part of an

“internally colonized” population; that claims to “law and order” legitimize state-sanctioned violence against black populations; that this social context necessitates self-defense in the form of survival programs, and that the American prison system is crucial and strategic to this war as well as the maintenance of social inequality (Heiner 2006, 322-323). The phrase was later popularized by Foucault (2003) to describe how state sovereignty and power are maintained through social institutions that oscillate between coercive and discursive violence. And following the Panthers’ analysis, Foucault also identifies carceral power as a primary mechanism for the preservation of civil society.

While the invocation that *politics is war by other means* might at first seem abstract, the example of the Attica Prison rebellion clarifies the connection between state-sanctioned violence, prisons, and the struggle for healthcare. In *Blood in the Water*, Heather Ann Thompson documents how a history of medical experimentation and medical neglect by Attica’s prison doctors created desperate and miserable living conditions. The prison rebellion which took place in September of 1971 was both, an organized display of solidarity responding to the assassination of George Jackson, as well as a staging ground for prison activists and organizers to expose the unlivable conditions of the prison, and specifically, the lack of medical care (Thompson, 2016; Nelson & Curry, 2021).

When prisoners first gained control of Attica’s D Yard, one of the most pressing demands they made upon the prison administration was access to medical care while incarcerated.² In “The Attica Liberation Faction Manifesto of Demands and Anti-

² While several different lists of demands were drafted by prisoners during the takeover, medical care remained a high priority. This was likely in part due to the prison’s abysmal healthcare conditions, as administrators only allocated 0.69% of the prison’s operating budget to medical supplies (Thompson, p 28).

Depression Platform,” prisoner organizers prioritized medical care as the second in a list of demands:

(2) WE DEMAND a change in medical policy and procedure, and in medical staff. The Attica Prison hospital is totally inadequate, understaff, prejudiced in the treatment of inmates. There are numerous “mistakes” made many times, improper and erroneous medication is given by untrained personnel. We also demand periodical check-ups on all prisoners and sufficient licensed practitioners 24 hours a day instead of inmate help that is used now (Freedom Archives).

When organizers took over the D Yard, one of the first actions they took was the establishment of a medical care station, and a request for an outside doctor who could provide medical attention for the hostages (Thompson, 2016). The prison administration reluctantly agreed and sent in Doctor Warren Hanson, who worked at a local hospital, into the prison. After examining the hostages, Dr. Hanson then held a sick call line at the request of prisoner organizers and provided examinations for not only injured prisoners but also those with chronic medical conditions who had been refused attention from prison doctors. Although Dr. Hanson could only provide a very basic level of medical care at the D Yard’s makeshift medical station, for many prisoners, this was the most medical attention they had received (Nelson and Curry, 2021). However, this brief moment of victory would be cut short as the entire state apparatus reacted to the rebellion (Thompson, 2016).

As a powerful display of the ability of prisoners to organize themselves across racial lines, to coordinate self-governance, and to broadcast their demands across through media outlets and expose the prisons’ miserable living conditions, the rebellion was narrated as a threat to state power. More specifically, the prisoners, especially those who led the rebellion, were racialized and construed as insurgent internal enemies of the state (Camp, 2016). Under the pretense of a counter-insurgency strategy, the retaking of

the prison was carried out by way of bloodshed and direct violence. Perched from the high ground of the prison walls above the D Yard, state troopers, prison guards, and local law enforcement dropped tear gas into the yard. Even as they were blinded by smoke, they wildly opened fire into the crowd of prisoners and hostages below, striking dead 9 guards and 30 inmates (Thompson, 2016; Nelson and Curry, 2021). When the smoke cleared and the state's security forces trickled down from the prison walls, media accounts document the armed men celebrating by shouting racial epithets and announcing, "white power!" (*Attica*, Showtime, 2021). The violence did not end there, as the security forces engaged in retaliatory acts of torture and murder after they regained control of the prison and entered the D Yard (Thompson, 2016; Nelson and Curry, 2021).

The use of lethal force in the retaking of Attica not only set a precedent for how the state would respond to social movements that challenged its authority, but just as important, its hegemonic effect conditioned society for "the extensive exercise of the repressive side of state power. It made this routinization of control normal, natural, and thus right and inevitable" (Camp, 2006, 72). The appeal to direct force, supplemented by discourses of radical insurgent prisoners whose very existence threatened the social order, would also be used to legitimize so-called colorblind justifications for the need to expand prisons, policing, and authoritarian forms of social control. This rhetoric framed the prisoner's resistance to state violence as illegitimate, while simultaneously procuring a certain level of nationalist consent that would help inaugurate the carceral state as a solution to social crisis. In doing so, the state's narrative concealed the racially motivated nature of the violent retaliation, as well as the unlivable conditions of the prison, the abuse, torture, and murder at the hands of prison guards, and the

normalization of medical violence, all of which prisoner-organizers were attempting to expose to the world.

In April 1972, roughly 7 months after the rebellion, Michel Foucault arrived at Attica to tour the prison. He described the institution as a machinery for elimination: “Attica is a machine for elimination, a form of prodigious stomach, a kidney that consumes, destroys, breaks up, and then rejects, and that consumes in order to eliminate what it has already eliminated” (Foucault and Simon, 1991, p. 27). Here, Attica is imagined as a space in which people are first removed from their communities and life opportunities through a form of social elimination, and then subsequently either psychologically eliminated, for those who go mad, or physically eliminated, for those who die inside the prison.

But Foucault also recognized that the American prison fulfilled multiple roles and state functions:

A role as a place of punishment... and a role of ‘concentration camp’... in the United States, there must be one out of 30 or 40 Black men in prison: it is here that one can see the function of massive elimination in the American prison. The penal system, the entire pattern of even minor prohibitions...serves as an instrument and as a pretext for this practice of radical concentration” (Foucault and Simon, 1991, p. 29).

Through Foucault’s analysis of Attica prison, we can imagine how medical violence aids the “immense machine” of elimination. The denial of care, combined with poor living conditions, isolation, and abuse accelerates elimination in the form of sickness, psychopathology, and even death. Organized struggle against these conditions is met with the power to kill with impunity. And given Foucault’s recognition of the prison as a “concentration camp” for Black men, the various modes of carceral violence and elimination must always be understood as a racialized expression of power.

Conceptually speaking then, health as politics *is* war by other means. The prison is a battle ground where the antagonisms between coercion and care, freedom and captivity, and life and death are constantly generated. The weaponization of medical violence in various forms (i.e. denial of care, medical neglect, solitary confinement, and life imprisonment) carried out against political prisoners such as Herman Wallace, Mumia Abu-Jamal, Marilyn Buck, Hugo Pinell, George Jackson, and Assata Shakur, demonstrates how, from the post-civil rights era and into the present, the problem of medical care in prison continues to be symptomatic of a counter-insurgency backlash (Camp, 2016), or *war by other means* (Foucault, 2003; Jackson, 1970; Heiner 2007; Rodriguez 2006).

As this discussion suggests, at a material level, the prison neutralizes individuals, collectives, and movements that are deemed threatening to the state. The notion of threat is extended to include the demand for civil rights and social equality. At the level of ideology then, the prison proffers social control through confinement as a cure for problems stemming from structural inequality (Davis, 2003). And by doing so, it reconstructs the anti-black logics of corporeal violence, social control, and surveillance. As mass incarceration's excesses accumulate over time, medical violence, under the guise of humane punishment and prison reform, would come to promote another method for eliminating an ungovernable surplus population of prisoners and restoring stability to overcrowded and fiscally strapped state prison systems.

Late Mass Incarceration: Prison Healthcare and Life Sentencing in the Post-Plata Era

The present system of mass incarceration and its impact on health disparities can be contextualized as part of what Jared Sexton calls “the assault on Black public health” (Sexton, 2021; Sykes, Chavez, Strong, 2022 JAMA). This refers to both, “the racialized distribution of wealth, power, and resources” as well as “the accumulated effect of everyday racism, the variable of *chronic stress* produced by vigilance against myriad forms of racist violence and hostility independent of matters of relative material deprivation” (Sexton 2021, 10-11). The struggle over health and healthcare can be conceptualized as a composite of structural violence at the level of populations, institutions, and social control, as well as the quotidian, repeating, and deeply internal, though not necessarily individualized, experiences at the level of the psyche. How we choose to conceive of medical violence then, is itself a site of contestation.

At a structural level, mass incarceration creates and sustains various forms of health, economic, and racial inequality. Recent research in this area centers on health disparities experienced by both, the incarcerated, as well as their families and communities (Sykes and Pettit, 2015; Sykes and Pettit, 2014; Sykes and Maroto, 2016; Wakefield and Uggen 2010; Wildeman & Muller, 2012; Sykes and Piquero, 2009). Such studies demonstrate how incarceration engenders reduced lifespans, exposure to and transmission of infectious disease, early infant mortality, untreated medical conditions, as well as a pattern in which those most affected by carceral healthcare, or lack thereof, are forced to depend on state assistance programs in order to survive social inequities. Together, this body of research suggests that the prison system operates as both, a health-and-race-stratifying institution.

Brittany Friedman (2021, 697) stresses that “Given racial and ethnic minorities and Black people in particular are imprisoned at much higher rates than white people,

Black communities are hit especially hard by increased health disparities as wrought by the social organization of prison life.” Indeed, black people are incarcerated at 5-times the rate of whites, while in 12 states more than half of the prison population is black, and in seven states, the black-white disparity for imprisonment is greater than 9-to-1 (Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, 2021). These facts alone are disturbing, and yet, the link between racial inequality and the prison system has been, at best, simply overlooked by many as a research agenda (Binswanger, Redmond, and Hicks, 2012), and at worst, concealed and rendered invisible through manipulations of population level data (Pettit and Sykes, 2015; Pettit 2012, *Invisible Men*; Western and Pettit, 2010; Western 2007, *Punishment and Inequality in America*).

The current political context surrounding the COVID-19 pandemic has bolstered research that examines race and healthcare inside prisons. For Friedman (2021), the pandemic prison represents a disastrous social event for black communities whose experiences of mass incarceration, structural violence, and historically slow institutional responses, are felt on an intergenerational scale. But the problem of poor prison conditions which amplify the spread of the virus preceded the onset of the pandemic:

Scholars have long positioned prison as a physical death paradox for racial and ethnic minorities in the United States, long before the rapid transmission of COVID-19... Health consequences occur by institutional design as a result of legal deprivations in the name of punishment, ranging from unsanitary conditions of confinement and absence of specialized and advanced care to prolonged exposure to physical stressors and torture in the form of isolation (Friedman 2021, 697).

Because prisons are taken for granted “as necessary to the proper functioning of society...” (Friedman 2021, 697; Davis 2003), it is difficult to articulate the institutional environment itself as a form of degradation and deprivation that exceeds formal

practices of “punishment.” The harms they inflict, including exposure to infectious disease, health deterioration, and premature death, are rationalized as part of the punishment incurred. The impact of deadly conditions introduced into the prison by COVID-19 then, ought to be contextualized as the accumulation of pre-existing failures in carceral healthcare provisions (i.e., *Plata v. Newsome*, Emergency Motion), across an entire system of racialized mass incarceration.

Prior to the onset of the pandemic, overcrowded prisons, and the rapidly growing population of elderly, geriatric, and chronically ill prisoners, were already placing pressure on an insufficient carceral healthcare infrastructure (Silber, Shames, and Read, 2017, Vera Institute: “Aging Out”; Simon 2014). Geriatric prisoners often require specialized treatment, medicine, and care that is difficult to access in prison (Bedard, Metzger, and Williams, 2016; Simon 2014; Williams, Stern, Mellow, et al. 2012). Given that incarcerating an elderly person also costs twice as much as a younger person, or roughly \$60,000 - \$70,000 per year (Gottschalk, 2014, 27), it perhaps comes as no surprise that an already over-burdened and ill-equipped prison system has largely failed to protect this population from the pandemic.

Furthermore, research on “accelerated aging” suggests that poor prison conditions reduce life expectancy. Because prisons are high stress environments that lack basic provisions such as nutrition and adequate medical provisions, elderly prisoners tend to display physiological health characteristics that exceed their chronological age by roughly 10 years, thus indicating an overall reduction in life expectancy (Bedard, Metzger, and Williams 2017; Aviram, 2015; Cummings and Colling 2014; Human Rights Watch 2012, “Old Behind Bars”; Jefferson-Bullock 2015). Health inequalities incurred under incarceration seem to follow a person even after release. A

study on the mortality risk of parolees in New York State suggests that for each year lived behind bars, a person loses two years from their lifespan, and that 5 years in prison greatly increased the odds of death, while reducing the life expectancy of someone aged 30, by 10 years (Patterson, 2013).

However, research that focuses on the racialized impact of the criminal justice system on life expectancy and the risk for early mortality has produced what might seem like contradictory findings. This point requires careful explanation. In a recent JAMA publication, “Association of Incarceration with Mortality by Race from a National Longitudinal Cohort Study,” the authors found that incarceration increased the risk of early mortality for black people by 65%, while there was no effect for whites (Bovell-Ammon et al. 2021). They reason that incarceration is a “key mediator” between the life expectancies of black and non-black populations, and as such, requires policy intervention. However, in an earlier study conducted by demographer, Evelyn Patterson (2010), life expectancy for incarcerated black people was shown to increase, compared to their non-incarcerated counterparts. For Patterson, this finding does not suggest that incarceration is beneficial to black people, but rather, it indicates that health outcomes and life expectancy are both shaped by the social conditions within both, the prison and civil society. The distinct outcomes between the two empirical studies might be attributable to differences in periodization, sampling, and/or incomplete data (Sykes, Chavez, and Strong 2021). But they are both, nonetheless, demonstrating evidence of how racial inequality manifests in different social and institutional settings. In this sense, what initially appears to be a set of contradictory findings, are actually complimentary in the sense that, together, they reveal how anti-black violence is structural to both the prison institution, and to society more broadly.

Thus, mass incarceration has an intense adverse effect on the health of Black people in ways that are both direct and indirect. Incarceration not only harms the confined individual, but it is experienced indirectly by families and entire communities. While many prisoners are directly abused at the hands of prison administrators and guards, others experience an eventual decline in health and heightened risk for chronic illness and death. Even those who are released from prison face a greater chance of mortality soon thereafter. And most recently, carceral institutions have proven to be prime environments for the transmission of Covid-19.

Furthermore, today's massively racialized prison system converges with the proliferation of life sentencing, to intensify the prison's capacity for medical violence by normalizing what Seeds (2022) calls *death by prison*. Life sentencing however is not new to American punishment. It is preceded by different forms of "perpetual penal confinement," or "combinations of court sentences and penal practices that result in permanently holding people in state custody" (Seeds, 2019, 2). These practices are not fixed, but rather, perpetual confinement "is produced in many ways and... takes on different forms and serves different functions depending on the context" (Seeds, 2019, 21). And while we can in part, locate the origins of LWOP in the rise of the prison industrial complex (Yount, 2004), its rapid expansion is specific to the context of "late mass incarceration"—a period of carceral reform succeeding mass incarceration, but one in which the transforming penal landscape continues to grapple with the logics of mass incarceration (Seeds, 2017).

A "life sentence" includes life without the possibility for parole (LWOP), life with the possibility for parole (LWP), and virtual life, in which the length of a sentence will exceed the remainder of one's time left to live (Nellis, 2021). It is important to note here

that LWOP appears to be the most extreme form of a life sentence because it presumes that a person will die under confinement. The rise of LWOP is a relatively recent event within American punishment. While criminal justice reforms at the turn of the 20th century focused on reducing mandatory minimum and three-strikes sentencing, penal policies that expanded the use of LWOP intensified:

Between 2000 and 2013, more than 100 laws extended LWOP in over two-thirds of the states, along three lines: (i) new offenses with LWOP as punishment; (ii) punishments for existing offenses increased to LWOP; or (iii) extensions of criminal conduct or offender statuses qualifying for LWOP (Seeds, 2017, 598).

Nellis (2021) refers to life sentences as “the lifeblood of mass incarceration.” In this context, prisoner mortality, and in particular the deaths of black prisoners, is vital to the prison system. As of 2020, life sentencing in the U.S. has been more prevalent than ever, with one in seven prisoners, or 203,865 people sentenced—30% of whom are over the age of 55 (Nellis, 2021). Of this total number, two-thirds are persons of color, while one in five black prisoners is serving life (Nellis, 2021). The states of California and Louisiana are unique outliers in that they incarcerate more prisoners under LWOP sentences than any other state, except for Florida and Pennsylvania (Nellis, 2021). California incarcerates more people under a life sentence than any other state. Of its roughly 40,800 life sentenced prisoners, 5,134 are serving LWOP, and 33% (or roughly 13,000-14,000) are black (Nellis, 2021). While Louisiana’s total population of life sentenced prisoners is much lower at 5,997, 74% are black—the highest of any state other than Maryland. Of its total life sentenced population, Louisiana also has a higher rate of LWOP sentences (~73%), than California (~12.5), Florida (~69%), or Pennsylvania (~65%) (Nellis, 2021). Thus, what Nellis calls “the lifeblood of mass

incarceration” reflects a parasitic reliance upon life sentencing and prisoner mortality, and more specifically, a racially stratified dissemination of life sentences.

As Jonathan Simon (2014) suggests, the proliferation of life sentencing, alongside increasingly punitive policy changes accompanying the era of mass incarceration, has culminated in a “structural misalignment” between the scale of healthcare necessary for incarcerated people, and the design of prisons, which have proven to be severely inadequate to meet these needs. Incarcerating the chronically ill and elderly people introduces a whole range of challenges for prison institutions which are generally lacking in infrastructural arrangements necessary to meet specific needs such as specialized treatment, cognitive and physical decline, housing, and environmental modifications, as well as palliative care (Wolfe 2018). In this way, life sentences and lengthy sentences contributed to severe prison overcrowding, unconstitutional levels of medical and mental health care, and the subsequent U.S. Supreme Court case, *Brown v. Plata*.

Simon suggests that *Plata* revealed a particular pattern to mass incarceration in California, in which the state,

built prisons heedless of the humanity of those it planned to incarcerate, recklessly accumulated people with chronic illnesses in those prisons, and committed itself to an extreme penal philosophy that left the state unable to address the inevitable suffering and death. The results were atrocious enough to move even a Supreme Court long tolerant of mass incarceration (Simon 2014, p. 7).

How then, in the aftermath of *Plata*, would the state of California respond to the crisis of overcrowding and inadequate healthcare within its prison system? What kind of carceral reform will the state undergo to resolve the “structural misalignment” between prison design and the ability to deliver healthcare?

In this dissertation, I propose that we are currently amid a post-*Plata* era of prison reform (Chavez and Strong), patterned by medical transformations in the material infrastructure and discursive function of the prison. In other words, prisons are expanding the physical capacity to provide medical attention, while also advancing a rhetoric of care, which ultimately widens carceral capacity—not simply in terms of the number of medically vulnerable prisoners incarcerated, but also the symbolic capacity of the prison as a “caregiving” institution. And here, I want to suggest that if LWOP, as a mode of perpetual confinement, is specific to late mass incarceration (Seeds 2017), then we can also theorize the medicalization of punishment as an emerging strategy for managing the over-accumulation of the life-sentenced, and increasingly aging and ailing prisoner population.

I use the term medicalization to describe ongoing transformations to the material conditions and symbolic function of carceral institutions. At a material level, these changes can include the construction of new prisons specifically designed to incarcerate people with medical needs, evident in the example of California Health Care Facility. But this also includes the structural overhaul of prison policy, medical personnel who work inside, new methods for medical record-keeping, renovating existing cellblocks to include urgent care as well as palliative and hospice wards, and financial investment in improving the general healthcare infrastructure of prisons. At a symbolic level, the medicalization of prisons expands carceral capacity by shifting the state’s care-giving responsibilities to the prison under the ideology of humane punishment. In this way, reforms aimed at medicalizing the prison attend to symptoms of late mass incarceration’s over-accumulation problem, while preconditions that continue to drive the carceral machinery, such as LWOP sentencing more recently, but also the long durée

of anti-black medical violence which eventually became structural to the prison, are left intact.

The medicalization of mass incarceration then, can be understood as a recent attempt to reform and provide prescription for problems posed by medical violence within, but also beyond, the prison. The broad overview of literature offered in this introduction highlights key historical and sociological evidence of anti-black medical violence that appear under racial slavery and segregation and re-appear in the post-Civil Rights context as a system of mass incarceration and formal punishment. The emerging prison regime is a projection of reformist desires for a humane model of punishment imagined in *Plata*. The discursive shift toward humane punishment, however, has not put an end to medical violence inside prisons. Rather, medicalized reform sanitizes the way in which we conceive of prison healthcare as a site of struggle. For the critical observer of American punishment, if the pivotal task under mass incarceration was to refuse the normalization of some 2.2 million people abandoned to cages, then the urgency of late mass incarceration is to abolish the quotidian violence of carceral power and racial captivity masquerading as care.

Research Questions and Methodology

This dissertation is guided by two sets of questions, one pertaining to the development of medical violence inside the prison system, and the other, to a racial history of this institutionalized violence. The first set of questions asks, what forms of medical violence are operant within today's system of mass incarceration? And how did they become routinized within the structure of punishment?

Medical neglect in the context of mass incarceration refers to prison conditions that are grossly inadequate and detrimental to one's health, that they violate the Eighth Amendment prohibition against cruel and unusual punishment. As such, neglect appeals to constitutionally constructed notions of inadequate care, suffering, and death attributable to some variation of the following: failing constitutional healthcare provisions emerging from overcrowded facilities, rapidly increasing elderly prisoner populations whose needs go unmet by prison healthcare staff, and widespread chronic illness and infectious disease that go unchecked even as they are often generated by unsanitary and dilapidated prison conditions. In this way, neglect frames suffering and death as a policy problem in the application of punishment.

Medical violence is not simply the denial of care, but the manifestation of harm and suffering that exceed the legal definition of neglect, and which cannot be fully addressed by the Eighth Amendment—akin to what Colin Dayan calls the horror of “the palpable specter watching over its own perpetual degradation.” It escapes Eighth Amendment prohibition through “the limitless qualifications on ‘cruelty’” (Han 2015, p 110). This refers to an inversion of culpability in which the prisoner is burdened with demonstrating the subjective intent of prison authorities to act in a way that can be recognized by a judicial body as sufficiently culpable, unnecessary and wanton, deliberately indifferent, or maliciously sadistic (Dayan, *Legal Terror*, 62). This limitless burden of proof, necessary to demonstrating constitutional violations, operates as an endless legal maneuvering that conceals medical violence under the language of prisoner's rights. After all, as the example of *Plata* and California's recent prison healthcare reforms demonstrate, one strategy for preserving medical violence is by institutionalizing it. Sanitizing prison death makes it appear quotidian and mundane, as

if it were an inevitable aspect of imprisonment. In this way, the medicalization of prisons perpetuates medical violence while concealing it as a form of care.

Throughout this dissertation, I aim to explicate how solitary confinement, prison burial grounds, life sentencing, and even prison healthcare reforms function as exercises in medical violence. However, I also recognize that medical violence in the prison, as with the carceral state in general, it is rooted in a much deeper national history in which racial slavery was necessary to defining the boundaries of “American freedom” (Hernandez, Muhammad, and Thompson, 2015, 20-21). Following this line of reasoning, I engage the following as a second set of questions critical to this dissertation: How do historical forms of anti-black medical violence inform contemporary punishment? And if we understand medical violence as structural to slavery and its afterlife, what can we learn by tracing its development into the present system of mass incarceration? And what does this reveal about anti-blackness as punishment within today’s prison system?

To answer each set of these questions, I approach this dissertation as a comparative case study of different modes of racial capitalist extraction between Louisiana and California prisons. I am also influenced by state-specific regional analyses of punishment, which help us understand why punishment takes a specific form, according to a particular geographic and historical context (Seeds 2018; Lichtenstein, 2015; Lynch 2009). Why, for example, do several southern states exhibit a particularly harsh mode of punishment characterized by disproportionately high incarceration rates, felon disenfranchisement, and support for capital punishment? (Wood and Ring, 2019; Seeds 2018) Robert Perkinson’s (2010, p.7) state-level study, *Texas Tough*, suggests that a uniquely southern “calloused, racialized, and profit-driven style of punishment that

developed on slavery's frontier" set a precedent for post-civil rights mass incarceration. Other regional analyses similarly suggest that penal practices found across southern Sunbelt states are patterned by the residue of racial slavery and segregation, corporeal injury as punishment, and the disciplining of labor (Lichtenstein, 2015; Thompson, 2009).

As such, I approach this dissertation as a contribution to studies that examine the social and political remnants of mass incarceration's longer and more expansive history. Illuminating this past can, in turn, help us recognize its influence on the development of a particularly punitive ideology of punishment.

By examining the two distinct sites of Louisiana and California prisons, I aim to demonstrate how medical violence in prison today is rooted in a much longer history of anti-black violence and racial capitalist extraction. As Thompson (2009) argues, while southern punishment may be unique in its relation to racial slavery, anti-black violence itself is not unique to southern prisons. Following this insight, I seek to understand not only the unique and violent history of Louisiana State Penitentiary, but also how contemporary punishment in the western state of California executes its own mode of brutal confinement.

At Louisiana State Penitentiary, memories of racial slavery and black liberation struggles imbue the cultural life of the prison. Where in the past, medical violence was essential to the maintenance of racial slavery and the development of the convict lease system in Louisiana, today, it is both weaponized against political prisoners, and normalized through life sentences, prison hospices, as well as deathcare and burial practices in the prison. In contrast, the state of California frames incarceration around narratives of progressive prison reform and fantasies of humane punishment. Here,

medical violence is administered through reformist projects, as exemplified by *Brown v. Plata*. Following *Plata*, California embarked on the most comprehensive overhaul of healthcare inside its prison system. But this reform project, ongoing since 2006, has resulted in an expansion of the state's carceral capacity under the guise of providing medical care.

Yet, across both prison systems, we can identify a political economy based in carceral extraction at work. As Gilmore (2017) states, carceral extraction exhausts human life in order to achieve capital gains. Chapter 3 offers an analysis of the historical modes of racial capitalist extraction that have always been present in the creation of Louisiana State Penitentiary, Angola. Chapter 4 examines how, in California, medicalized prison reform generates the infrastructure necessary for legitimizing a system in which bodies are abandoned to the prison and slowly exhausted of life.

And finally, between both sites, we can identify a critical knowledge shared amongst black political prisoners. At Louisiana State Penitentiary, a struggle for freedom waged by the Angola Three, helps us situate the significant role of the prison's racial history in defining its present. And while California's history is uniquely distinct from that of Louisiana's, contemporary narratives of penal progress conceal the role of the state prison system in the political repression of Civil Rights-era black liberation figures such as Angela Davis, and the assassination of George Jackson. Across both sites, political prisoners share a critical knowledge that recognizes the prison system as a key institution for anti-black violence within a social terrain where *politics is war by other means*. This knowledge gives way to a strange form of social life, rooted in a collective desire for black liberation and abolitionism. This recognition takes shape both, *despite*

captivity (or against captivity) and *because* of captivity (or within captivity). Social death as a theory of incarceration then, is contradicted by a social life within civil death.

Here, I want to clarify two points significant to the historical and regional study of punishment, and specific to this dissertation (Wood and Ring, 2019). This dissertation does not claim that southern punishment is somehow worse than the penitentiary system of the northeast, the west, or any other region. As Heather Ann Thompson (2009) argues in “Blinded by a ‘Barbaric’ South,” fetishizing southern punishment as exceptionally cruel obscures a “hidden” history of deeply racialized terror, medical experimentation, and torture that constituted penal practices in northern and western states. The violent repression of the Attica prison rebellion, discussed earlier, is a prime example (Thompson, 2009).

Second, while I work to connect the anti-black and extractive logics of slavery to the modern prison system, I am cautiously guarded against assuming a “direct trajectory” from slavery to Jim Crow to mass incarceration (Wood and Ring, 2019). Rather, the point of referencing regionalism and southern punishment in particular, is to identify how the unique “ebbs and flows of historical change” (Wood and Ring, 2019) within the context of a state like Louisiana—wherein the largest penitentiary today sits directly atop the site of what were several antebellum slave plantations—can shape our understanding of how and why penal practices within today’s system of mass incarceration take the form they do.

Methodology: A Comparative Study of Racial Capitalist Extraction as Punishment

As a comparative study of different modes of racial capitalist extraction between two prison sites, this dissertation is an attempt to demonstrate, first, how a longstanding history of extraction in Louisiana became institutionalized within its penitentiary system. In my historical analysis of extraction at Angola Prison, from the antebellum period and into Reconstruction, I identify how anti-black medical violence has always been a key structural component to the prison's extractive scheme. Second, by shifting to an analysis of California, I suggest that contemporary prison reform and the demand for better prison healthcare is creating largely symbolic changes that sanitize death in the prison system, while also expanding the carceral apparatus. In other words, the logics of extraction found in Louisiana's racial and penal history inform an institutionalized version of medical violence in California's prison system under the guise of carceral progress and humane punishment.

While my research primarily takes shape as a comparative case study of extraction, I am also influenced by state-level historical studies on penal development, such as Seed's (2018) study on Florida sentencing laws, Lynch's (2009) *Sunbelt Justice*, Perkinson's (2010) *Texas Tough*. State-level studies provide nuance into how various political, social, and economic contexts affect the development of penal policy at the local level, but also how they contribute to analyzing broader trends in punishment: "While [state-level studies] speak definitely only to happenings in a particular locale, they illuminate general knowledge and understanding of penal phenomena, and encourage thinking about penal change with greater complexity" (Seeds, 2018, p. 176).

Lynch's (2009) work for example, engages in a culturally-specific analysis of Arizona's political context—drawing heavily on the influence of legislative and budgetary debates as well as the adoption of law-and-order politics by specific penal actors—to

demonstrate how penal trends and practices shift over time, within the geographic region of the sunbelt. My dissertation research is less attentive to the role of regionally-specific culture, as well as legislative and budgetary debates, on the development of penal practices. Rather, I trace how extractive practices shift and adapt during slavery and its afterlife, and the role of punishment within these changes. Nonetheless, similar to Lynch's work, I seek to reconstruct a historical narrative about the development of punishment within a particular place at a particular time, as well as its influence over other regions. Specifically, I seek to understand how the logics of extraction emergent within Louisiana's slave trade and Angola prison's antebellum life, help to explain present-day carceral practices in California, in which prisons continue to extract life in order to sustain and grow the punishment industry.

Using insights gained from state-level studies, this dissertation engages in a comparative case study of both Louisiana State Penitentiary, Angola, and California Health Care Facility, with particular focus on state-specific political and historical contexts surrounding the development of each prison. As part of my case studies, I examine various government reports, historical documents, periodicals, and prisoner memoirs to identify key historical moments within each state that create the conditions of possibility for each prison to develop in a particular way. To make sense of these various texts and documents for each case study, I first took detailed and descriptive notes on the historical, political, and social context in which the development of each prison took place. Bracketing the contextual setting in this way allowed me to narrow down a vast universe of knowledge on the topic, to key historical moments.

To examine Louisiana's antebellum period and subsequent changes following the abolition of slavery and culminated in the creation of Louisiana State Penitentiary,

Angola, I rely on sources primarily consisting of historical works on the development of Louisiana's antebellum plantations, as well as a collection of *The Angolite*, a prisoner-run periodical out of Louisiana State Penitentiary. Historical texts written on the antebellum period such as Walter Johnson's *River of Dark Dreams*, Edward Baptiste's *The Half Has Never Been Told*, Mark Carleton's *Politics and Punishment*, Joshua Rothman's *The Ledger and the Chain*, Sublette and Sublette's *American Slave Coast*, and Jennifer Morgan's *Laboring Women* provide broad social and historical context for understanding the prison's antebellum life as a plantation. These works are supplemented by a special collection of *The Angolite*, which I accessed at the Edith Garland Dupre Library at the University of Louisiana, Lafayette. While this collection provides several details about Angola prison, I focused my reading on roughly 20 periodical stories directly pertaining to the prison's history of managing medical care, hospice, death, funerals, and burial sites. I also include Wilbert Rideau and Ron Wikberg's (1992) work, both of whom are former editors of *The Angolite*, titled *Life Sentences*, which provides another collection of historical insights into the prison from the perspective of the incarcerated.

In addition to these two main sets of sources, I also draw inspiration from Albert Woodfox's (2018) memoir, *Solitary*, which describes Angola today as a "slave plantation" run by the prison officials. Woodfox's memoir also describes deficiencies in medical at Angola, as well as a painfully detailed discussion of how prison officials withheld medical care from Herman Wallace leading up to his death. I include other sources that contribute important details for framing the larger narrative, such as a U.S. Army Corps of Engineer report which maps out the prison's antebellum plantations. As an additional layer of analysis, I include personal observations I made during two trips

(one in 2019, and another in 2021) to the prison's on-site museum, where I examined the institution's historical narrative of the prison.

In my case study of Angola prison, I began by reading through issues of *The Angolite*, and grouping and organizing information into topics such as medical care, prison death, and burial practices, that were central to my research questions. Early into my research, I learned that prior to the establishment of cemeteries at Angola, the prison-plantation contained a mass gravesite where slaves and convict workers were buried. This prompted me to seek out greater detail on the prison's burial sites. Studying the past and present of these gravesites provided a key conceptual insight that could link the plantation and prison through their shared practices of racial capitalist extraction and elimination. Analyzing the social setting of the plantation as well as its extractive processes, helped me to construct a narrative about how slavery informs contemporary punishment in a way that is unique to Angola prison.

In my case study of California's prison system in Chapter 4, I rely heavily on caselaw records, government-generated oversight reports, and written media accounts to examine the lead-up to and aftermath of *Brown v. Plata*, a 2011 U.S. Supreme Court decision which kick-started the most comprehensive prison reform project in the history of the state. For this portion of the dissertation, I focus on three types of court-mandated compliance reports: "The Federal Receiver's Tri-Annual Report," the annual "Analysis of Inmate Death Reviews," and the Office of Inspector General's (OIG) "Medical Inspection Cycle Results." These reports were first mandated by Judge Thelton Henderson in 2006 to track and document the timely implementation of prison healthcare reforms in the state of California. The Federal Receivership reports outline step-by-step procedures for overhauling medical care in each of California's 33 state

prisons. The documents published by the OIG are based on cycles of in-person prison visits, in which OIG personnel inspect the quality of medical infrastructure and the delivery of care. The Inmate Death Reviews provides general metrics on the cause of death for all in-custody mortalities. For a more detailed description of these reports, please see the Methodology section of Chapter 4.

As part of this documental analysis, I approached my set of caselaw records and government-generated reports as the state's paper trail, demonstrating the foundational logic and implementation behind California's prison medical reforms. I focused on a period ranging from 2006, when the California Department of Corrections was placed under a federal receivership, through 2013 when California Health Care Facility (CHCF) first opened, and up to the present moment in which CDCR continues to struggle with its response to the Covid-19 pandemic. As I worked through these documents, I noted how, early into the litigation, as much as the receiver, the court, and even the State, quibbled with one another's authority, they also seemed to share a key assumption that the solution to CDCR's inadequate healthcare system was to construct a brand-new high-capacity medical prison which would eventually become California Health Care Facility. Throughout subsequent reports, I traced debates surrounding the capacity, funding, and medical services that this prison would provide. The reports also revealed a kind of logistical blueprint for the structural overhaul of existing state prison institutions, including proposed dates and deadlines for fulfilling these adjustments.

I supplemented these reports with news stories and local periodicals from Stockton, California, that discussed construction bids, employment opportunities, collaboration with a local medical school, and other plans for building the prison. While reading through this collection of periodicals, I also learned that while CHCF was

announced as a state-of-the-art medical prison, it encountered resource problems, preventable death, and an infectious disease outbreak soon after opening. To paint a clearer picture of recurring problems within the institution, I turned to the OIG reports which provided detailed assessments and performance metrics on the prison's compliance with a level of medical care mandated by the court.

As with any data source, no archive is ever total or complete. There is always additional detail that could be included, or more empirical evidence waiting to be uncovered. Add to this, the challenge of investigating the restrictive and often inaccessible institutional setting of the prison, and one can begin to understand the strategic value of exploring its internal documents to gain knowledge into the function of the prison system (Lynch 2015).

Chapter Summaries

As I will demonstrate throughout this dissertation, medical violence is a crucial part of the afterlife of slavery in the following ways. First, if we understand mass incarceration as an elaboration of racial captivity—that is, as unfinished emancipation, as backlash against the long Civil Rights movement, or as a mode of racial capitalist extraction—then for the black political prisoner, extreme punishments such as solitary confinement and life-long incarceration, are forms of medical violence, weaponized within a war waged at the margins of civil society.

Second, because black people are incarcerated at an exponentially higher rate than other demographics, the problem of health conditions inside penal institutions is also a racialized problem. Incarceration worsens a person's health profile through chronic stress, medical neglect, a lack of basic medical equipment, nutrition, and health

screenings to name just a few examples. But it also intensifies other forms of inequality such as economic earnings, educational attainment, and familial and community networks, which are part of the “social determinants” of health (Sexton, 2021; Nelson 2011).

Third, medical violence serves the political economic purpose of legitimizing death in prison under the pretense of care. Normalizing life sentences and prison death as a carceral practice enables the state to eliminate surplus populations warehoused across overcrowded institutions. While such strategies essentially save the neoliberal state from investing in social programs and welfare infrastructure that would be needed to care for mass incarceration’s surplus, they also reveal a crucial connection to the longer history of institutionalized medical violence and punishment. These forms of confinement and captivity, emanating from the logics of racial slavery and convict leasing, become routinized as the past-present of carceral extraction.

This introductory chapter has offered an overview of literature that situates mass incarceration at the intersection of medical violence and anti-blackness. Each subsequent chapter provides a closer analysis of how medical violence and anti-blackness are manifested through imprisonment. The second chapter is a theoretical exploration of how a debate on social death, as a theory about slavery, and civil death, as a theory about punishment, are mobilized within Socio-Legal Studies to explain solitary confinement. By analyzing solitary confinement as both a form of medical violence and civil death, the chapter explores the slippage between racial captivity and carceral confinement. Throughout the chapter, I argue that punishment and civil death are derived from racial slavery and social death—but in a way where the civilly dead slave of the state is not analogous to the socially dead racial slave. While the slave of the state is

positioned through constitutional law, the racial slave's life is an extension of the private law of slavery (Han, 2015), and positioned as an object of fungibility and accumulation (Hartman, 1997).

The third chapter reconstructs a history of Louisiana State Penitentiary, Angola, from its antebellum origins as a slave plantation, up to its reconfiguration as a state penitentiary during Reconstruction, to show how social death has always informed the prison's logics of extraction. The chapter argues that anti-blackness and medical violence has been essential to the prison-plantation, as demonstrated by the example of the Angola 3 political prisoners, as well as the prison's management of hospice care, death and dying, and burial practices. The chapter also demonstrates how formal punishment and civil death are derived from slavery and social death, through extraction. Here, extraction under slavery is the historical precedent that informs carceral extraction.

The fourth chapter argues that, in the state of California, medical violence in prison is administered through policy reform. The chapter examines how Eighth Amendment litigation on inadequate medical conditions inside California prisons culminated in the construction of the state's first medical prison, California Health Care Facility. While this prison was designed to usher in an era of reform, it has instead, legitimized death in prison as a normative feature of the carceral state. I argue that this case study shows yet another iteration of carceral extraction, wherein incarceration to the point of death is increasingly seen as normal and legitimate, because it is medicalized.

I will conclude the dissertation with a theoretical framing that illuminates how the logics of racial capitalist extraction, rooted in slavery, serve as the ideological

architecture for the development of an emerging post-*Plata* medical prison regime. As such, the dissertation contributes the historical lead-up to this prison regime as one scene in the afterlife of slavery which signifies the unfinished work of abolition.

CHAPTER 2

Civil Death: Solitary Confinement as a Form of Medical Violence

In *Discipline and Punish*, Michel Foucault (1995, p. 30) writes that “the soul is the prison of the body.” The insight draws from a critique of Enlightenment philosophies of punishment, in which isolation seeks to kill the soul of the punished, while leaving the body intact, above all, for the purpose of moral resurrection (Smith, 2009; Foucault, 1995). If prisons operate on the logic of suffering for the sake of restoration, then the soul is the object of punishment; that is, disciplinary power might transform the abnormal or the deviant into a governable subject. What Foucault calls “subjectivation” then is not simply limited to direct force, but rather, encompasses a discursive violence operating at a deeply internal and psychic level, and which is concerned with the creation of a self-surveilling and self-governing subject. As a corrective measure and form of punishment, Foucault understood that disciplinary power was aimed, not simply at the body, but more significantly, as a forced targeting the mind (Reiter, 2016). This core function, to purify, transform, and restore the maleficent individual, would profoundly shape not only the 18th and 19th century penitentiary system, but also what is perhaps the most terrifying development in carceral technology emerging from its ruins: the “super-max” style solitary confinement prison, which operates through powerful domination, and a violence that “permits the suffering of the soul before the death of the body” (Dayan, 2001, p. 20).

But how do we understand the terror of this material practice? What happens to a subject, abandoned to solitude in a space between individualized life and carceral being? And is there a possibility for overcoming the relentless psychic and social destruction

which resembles a state of living death—the transformation of mind into tabula rasa?

As a disciplinary practice, solitary confinement draws from a long history that precedes its use as a form of punishment (Reiter, 2016; Smith, 2009; Haney & Lynch, 1997; Foucault, 1995). Its origins can be traced to 5th century Christian monasteries, in which withdrawal from the world in the form of self-imposed solitude was believed to provide healing, and a means for attaining religious wisdom. But living alone in deserts, caves, tombs, and anchorite cells, monks who engaged in the most severe degrees of isolation in order to practice penance and commune with sacred forces, seemed to experience disturbing symptoms of abnormality and madness: “Hermits and anchorites began to seem less like the most devout adherents to faith, and more like renegades, freakish and perhaps dangerous...” (Smith 2009, p. 94). Understanding the socially devastating effects of prolonged withdrawal from the world, monasteries began to regulate the practice of self-imposed isolation. Severe solitude became a form of punishment for those who transgressed monastical codes. The underlying logic here suggested that controlled isolation could discipline and correct corrupt or otherwise flawed individuals by restoring their relation to a religious order.

Penal reformers of the 18th and 19th century who embraced solitary confinement as a restorative punitive concept, did so under the guiding presumptions of “the individualism of the age” which “underscored the hope that criminals could be compelled to change internally, especially when kept isolated from each other and from the influence of the outside social world” (Haney & Lynch 1997, p. 482). In the U.S., penitence through solitude became the guiding logic behind the construction of 19th century prisons in which isolation takes two dominant forms. Either the prisoner would be forced to endure prolonged isolation and idleness in a cell, as exemplified through

Pennsylvania's Eastern State Penitentiary, built in 1829; or the prisoner would labor under conditions of complete silence amongst others during the daytime, and then return to a cell for complete isolation at night, as exemplified through New York's Auburn Prison, built in 1818 (Foucault, 1995; Melossi and Pavarini, 2018).

However, as with the advent of monastical codes regulating the use of severe isolation, the destructive power of solitary confinement became the focus of penal reformers during the early 1900's, leading to the widespread—though not total—abandonment of long-term isolation practices (Haney, 2020; Smith, 2009; Lynch & Haney, 1997). As early as 1833, Beaumont and Tocqueville (1833. P. 5), after having visited Auburn Prison in New York, famously declared, "...this absolute solitude, if nothing interrupts it, is beyond the strength of man; it destroys the criminal without intermission and without pity; it does not reform, it kills." Although the use of solitary confinement saw a temporary reduction throughout the 20th century, its technologies continued to be sharpened and intensified, as it promised to deliver a higher level of security and segregation. The reduction did not last long, and new experimentations in severely isolated conditions continued throughout the rehabilitative era and well into the rise of mass incarceration.

The rise of "super-max" style punishment in prisons such as Alcatraz, San Quentin, Marion Control Unit, ADX Florence, and Pelican Bay to name a few, appeared alongside a discourse on "new breeds" of "dangerous" and "gang-related" prisoners, manufactured to justify their expansion (Haney, 2020; Reiter, 2016; Haney & Lynch, 1997). These new control units were framed around targeting and neutralizing "the worst of the worst" prisoners, many of whom were in reality, political prisoners, placed under the label for refusing to accept submission to prison authorities (Reiter, 2016;

Rodriguez, 2006). The label itself operates as an instrument for the institution to categorically designate certain prisoners to conditions of isolation and torture.

The architecture of solitary confinement is designed to facilitate the absolute minimum human contact possible, over a prolonged period (Reiter, 2016, 2015; Guenther, 2013; Rhodes, 2004; Haney & Lynch, 1997). Present-day super-max prisons make use of state-of-the-art surveillance and control mechanisms, earning the title, “the prison of the future” (Haney & Lynch, 1997). Prisoners who live inside of solitary confinement units are deprived of interactions with other people, contact with the outside world, and social stimuli through a series of repressive and technological measures: continuous lockdown for 23 hours each day, constant video surveillance, frosted windows that prevent seeing in or out, mechanically operated doors and gates that are managed from a primary control room and circumvent human contact, the regulation of how natural light enters each cell, and the use of bright fluorescent lights inside the cell that never turn off.

While anecdotal and historical evidence suggests that solitary confinement is both psychologically and physically harmful, ongoing empirical research supports and elaborates this claim (Haney & Lynch, 1997). Hans Toch (1992) coined the term “isolation panic” to describe how prisoners in these settings experience the symptoms of the harm they are exposed to. Such symptoms include emotional volatility, rage, despair, panic, loss of control, breakdowns, psychological regression, and self-mutilation. More recently, Strong et al. (2020) report three categories of physical symptoms—skin irritation and weight fluctuations, un-treated and mis-treated chronic illness, and musculoskeletal pain—associated with the deprivations of solitary confinement. Other recent studies reaffirm the psychological harm of living in carceral

isolation (Reiter et al. 2020), and document the institutional obstacles faced by solitary confinement prisoners when attempting to access medical care (Barragan et al. 2022). This body of knowledge, dubbed “the science of solitary” by Craig Haney (2020), continues to grow and uncover new depths of knowledge about the harm incurred by forced solitude.

Although such studies demonstrate the psychological and corporeal suffering produced under prolonged solitary confinement, it is important to consider how this body of knowledge is limited in what it can describe about the perils of institutionalized life (Haney & Lynch, 1997). Some of the most severely affected prisoners refuse to talk about the traumatic experiences they have endured, while others have become so detached from reality that they cannot reasonably take part in empirical studies (Haney & Lynch, 1997). In this context, a recognizable symptom represents one manifestation of the harm endured, but the suffering which conditions the symptom is impossible to fully know through empirical assessment. And yet, it is remarkably clear that solitary confinement is a unique and extreme form of punishment, intended to be cruel by design.

Here, we can begin to understand the practice of solitary confinement itself as a form of medical violence. While perhaps originating as a restorative idea—“a virtual destruction of self in order to be born again; a necessary evil for rebirth” (Smith 2009, p. 83)—the practice of solitary confinement has in turn, come to normalize torture. For, what else do we call the repetitive corporeal and psychological suffering endured, night in and night out, by the isolated prisoner whose life is confined to the supermax setting?

A Genealogy of Civil Death

Socio-legal scholarship continues to grapple with the question of how to make sense of life as it is lived under solitary confinement. Here, I want to suggest that solitary confinement, medical violence, and extreme punishment more generally, are founded in civil death. As a form of punishment, civil death removes the full range of legal protections from a person once they are incarcerated. The status of civil death not only means that one is made vulnerable to institutionalized violence, including bodily and psychological deterioration. It also implies that one is socially and legally positioned as a “a slave of the state” (Dayan, 2011). A genealogy of civil death suggests that its manifest forms of violence—including solitary confinement— is derived from racial slavery and social death.

From its 18th century roots, life in solitary has been conceived as a living death, a premature death, or being buried alive. These metaphors and concepts continue to be relevant as “civil death” and “social death” emerge as crucial analytics for interpreting the unthinkable scale of violence attendant to solitary confinement. That is to say, the structure of suffering engendered inside the isolated cell is often deciphered through the social relations of slavery.

Colin Dayan’s (2011) work, *The Law is a White Dog: How Legal Rituals Make and Unmake Persons*, provides invaluable insight into this framework. For Dayan (2011, p. 70), the solitary cell is a tomb, and the certain horror of solitude is animated by the killing of the soul that precedes the death of the body:

When the state decided to punish criminals psychically without executing them, a bold reimaging occurred. Hell came into this world. The criminal was circumscribed by the walls of a cell, condemned to solitude, locked in torment. This second death, psychic and in a sense unnatural—for now, let us call it ‘soul death’—is brought about without the death of the body... In the fiction of civil death, broadly understood, the state reinvents what happens after literal

death...thus masking the concrete object of punishment: the *mind's unraveling*. Here, civil death and social death are explored as paradigmatic conditions for making extreme suffering legally permissible. In doing so, Dayan situates the destructive force of the supermax prison as a logical extension of the stigmatization and dehumanization of racial slavery, extended into the present.

By tracing a genealogy of civil death to its antecedent medieval doctrine of attainder, which would later become incorporated into English common law and American property law, the social death of slavery sets the “ideological fulcrum” behind the figure of the civilly dead prisoner (Dayan, 2011, p. 49). Attainder laws declared that criminal subjects carried “tainted” or “corrupted” blood, and as such, punishment would take the form of disinheritance, stripping the offender of the capacity to both transmit property to an heir, and to inherit property from forbearers. Forfeiture of property and suspension of civil rights also accompanied attainder laws as forms of punishment and incapacitation. Contained within this legal sanction which aims to sever one’s claim to kinship ties and to degrade their social status, are early iterations of civil death and the power to make one “dead” in law. Dayan (2011, p. 45) introduces these feudal attainder laws and the stigmatization they carried, to underscore their applicability as “historical residue” that would reappear in new forms of “discrimination and containment” in both British colonies and the post-Civil War period in the U.S.

Across the colonized world, racial taxonomies rooted in white supremacist theories about genetics, blood, and biology appeared to organize the social order. One’s position in colonial society was established through their proximity to Black ancestry, creating legal categories such as Mestizes, Quadroons, and Mulattoes, to signify inferiority. “Blood flows into enslaved bodies and racially marks them,” writes Dayan,

“granting them legal recognition according to degrees of mixture: either advancing toward white or regressing toward black” (Dayan, 2011, p. 50). These classifications served the dual purpose of defending racial purity by marking and degrading visible traits of blackness, within a colonial context where one’s race determines the conditions of freedom or enslavement.

Emancipation in the colonies failed to undo the social order that has been reified under the logic of “blood = race” (53). The marked and degraded status of blackness would retain the implication that social inferiority was genetically rooted, but it would also become divorced from strict adherence to the notion of “tainted” blood. In this sense, blackness would become a “concept”—one that is both limited to racial subordination, but also exceeding racial boundaries and thus effecting “the continuation of enslavement in other guises” (Dayan, 2011, p. 52).

Focusing on Reconstruction following the American Civil War, Dayan builds upon the genealogy of attainder laws and the marking of “tainted” black blood. Refusing narratives of racial progress in the wake of emancipation, Dayan turns to statutory law and civil death as legal fictions that mask the continuation of the social relations of racial slavery. According to Dayan (2011, p. 63), across the New South, one can see an array of slavery’s institutional practices restored in different forms: under convict leasing, prisoners were used for plantation labor and rebuilding the southern infrastructure destroyed during the war; slave codes once used to surveil the master’s property reappeared as “Black codes”; plantations operated as convict camps and prisons; and “chains, dogs, whips, and other forms of corrective torture” once reserved for slaves were imported as forms of penitentiary punishment. The legal capacity to

dispossess a person of some or all of their rights is, for Dayan, what gets replenished through the merging of slave with felon under civil death.

Here, civil death is used to address the 13th Amendment and its “loophole” problem which assigned the status of “the slave of the state” onto convicted felons. When the 13th Amendment formally abolished slavery, it did so with the exception of punishment for a crime. In his doctrinal interpretation of *Ruffin v. Commonwealth* (1871), Justice Christian announced that “convicted felons and men civilly dead...have some rights... but not the rights of freemen. They are the slaves of the State undergoing punishment for heinous crimes committed against the laws of the land.” For Dayan, this negation of rights is the continued expression of the relics of attainder laws and racial slavery used to define the contingencies of captivity and freedom. With this concept of the slave of the state, “the conversion of slave into prisoner and prisoner into slave” would be complete (Dayan, 2011, p. 61).

If the 13th Amendment successfully protected the institution of slavery in an evolved form, then to what extent does solitary confinement and mass incarceration in the present produce and maintain social death, and not the mere civil death resulting from being made a slave of the state through criminal punishment? Afterall, civil death, according to Dayan, is a liminal position, somewhere between slave and citizen (Dayan, 2011, p. 60). Under these conditions, the full rights of citizenship are suspended and replaced with a set of limited carceral rights. Positioning the civilly dead prisoner as a “slave of the state” then, renders the very meaning of racial slavery to legal fiction.

However, the constitutional guarantee of nominal protection for the civilly dead, such as the 8th Amendment, even if only formally or symbolically recognized, suggests that the domination of the prisoner by the state is not the same as the absolute

domination of the master over the socially dead slave. Dayan, in other words, locates the source of structural violence constituting slavery and the figure of the slave in law, and in particular, the common law tradition of attainder and its translation into the American property law of racial slavery. And yet, the making of the slave was as much a legal enterprise as it was a social enterprise of the master's dominion under social death.

In the absence of an analysis of the type of gratuitous violence that is structural to racial slavery, the conceptual precision necessary for aligning social death with solitary confinement becomes less clear. The violence of imprisonment and civil death—even the extreme forms of solitary confinement and medical violence—is formally legible as a consequence of a criminal act (actual or alleged). And precisely because it can be construed as formal punishment at the hands of the state suggests that no matter how extreme, it is not the type of gratuitous and private violence attending social death.

In the coming pages, I will provide a reading of solitary confinement and civil death through the prism of social death. Here, I suggest that what Punishment and Socio-legal scholars have been developing as a theory of “social death,” is in fact an extreme representation of the civil death of the prisoner, made possible through the logics of alienation and confinement. Social death within punishment literature then is a curious misrepresentation of substantive deprivation embodied by the race-neutral figure of the prisoner. Instead, social death lies beyond the civil life afforded through law. It operates through a different kind of law—the private law of slavery (Han, 2015) and anti-blackness (Martinot & Sexton, 2003)—which authorizes civil death as punishment.

Social Death and the Prison within a Prison

Recent Socio-Legal scholarship has produced a surge of literature suggesting that social death—a theory of slavery introduced by Orlando Patterson’s (1982) text *Slavery and Social Death*—can be extended by way of analogy to various modes of subjugation under the carceral state: the unraced prisoner placed into solitary confinement (Guenther, 2013), families forcibly separated under the authority of state institutions (Price, 2015), and the “disintegrating subject” whose position of legal exclusion is exemplified through deportation or isolation within the supermax prison (Reiter & Coutin, 2017). According to such interpretations, social death is constituted through alienation and confinement. Lisa Guenther’s *Solitary Confinement: Social Death and its Afterlives* has emerged as a prevailing text within sociolegal studies that approaches the study of solitary confinement through social death. As such, it represents a grounding point for the field’s engagement with this particular theory of racial slavery.

“There are many ways to destroy a person, but one of the simplest and most devastating is through prolonged solitary confinement,” declares Guenther in the opening pages of *Solitary Confinement* (Guenther, 2013, p. xi). The violence of prolonged solitary confinement is what, for Guenther, constitutes “social death.” This theorization of social death is heavily steeped in the language of phenomenology. The destruction of personhood according to Guenther, first assumes a Husserlian phenomenological composition of the subject. Subjectivity here is first and foremost defined as experience. Experience begins with the transcendental ego, a fundamental form of consciousness, which reflects the most basic capacity for awareness. Without the transcendental ego, there would be no such thing as conscious experience. The most basic of sensations such as touch—coming into contact with an external object in order to recognize it as “other” in relation to self—is rooted in the singular and isolated

transcendental ego. Each transcendental ego precipitates a subsequent personal history of experience, culminating in a personal ego. Unlike the isolated transcendental ego, the personal ego is co-constituted in relation to the world of objects and other egos. It is created through relationality in the presence of others.

This relationality with others is what enables the highest level of consciousness within Guenther's phenomenological framework to emerge: concrete personhood (Guenther, 2013, p. 29). Although the transcendental ego is still the basis for the personal ego, the transcendental ego, according to Guenther, requires relationality to become "concrete." Hence, the phenomenological subject is constituted simultaneously, outward from the self to the other, and inward, from the other to the self. Relationality, as lived experience, inaugurates the basic coordinates of the phenomenological subject:

For Husserl, persons do not exist as such without a world to which they belong; they are not solitary individuals but rather selves among others, where those others are both encountered within the world and co-constitutive of that world's objective reality (Guenther, 2013, p. 25).

Thus, the central question of *Solitary Confinement* could be phrased as follows: What happens when these basic coordinates of the human experience are removed, and the phenomenological subject left to contend with the terror of alienation and confinement? The answer, stated simply, is a breakdown in the cognitive and psychic functions: the boundaries of reality begin to come undone, the prisoner begins to hallucinate, the cell walls begin to bend and distort, the cell door pulsates, it is completely dark, but the prisoner sees flashes of light—and this psychic decay, for many, becomes the harbinger of madness. Although Guenther frames this experience through the language of phenomenological discontinuity, the description offered here more closely reflects a pattern of psychological trauma and damage, documented throughout

existing research on solitary confinement (Haney, 2020; Reiter, 2016; Haney, 2018; Haney & Lynch, 1997; Toch, 1992).

Elucidating the disembodied terror of solitary life is indeed a crucial task for the study of punishment as state-sanctioned violence. But the argument that the psychic trauma of solitary confinement is akin to social death seems to make the claim that social death is itself a form of lived experience. The forced isolation of a prisoner reflects a lived experience based in loss: the loss of legal freedom, the loss of intersubjective touch, and the loss of psychological grounding. However, loss is not absence. Loss holds out the possibility of redress, or that what has been lost can be recovered in some form or another. Herein lies the contention: under conditions of social death, relationality for the slave is not lost, but is barred at the level of existence. The “true horror” of the unsovereign life of the slave is, according to Sexton, the loss of any self that can experience loss—an absence of self, structured by the deracination and natal alienation of social death. Here, the language of “loss” in the form of lived experience echoes “the human need to be liberated *in* the world,” which is not the same as the slave’s need to be liberated *from* the world (Wilderson, 2011, p. 145). Social death, in this reading, suggests a structure of violence that cannot be fully expressed through even the most terrifying instances of carceral being.

What, then, do we make of the genealogy of social death that is tethered to the long *durée* of racial slavery? (Sexton, 2021). By what assumptive logic is the grammar of suffering attending social death and slavery (Wilderson, 2010), rearticulated to explain the violence of solitary confinement? On what terms can slavery, a condition of “fungibility and accumulation” (Hartman, 1997) be made to explain the alienation and deprivations of extreme punishment? How is the psychic life of colonial race relations,

structured by a racial-epidermal schema (Marriott, 2011) made to reappear as the force at play between imprisonment and madness? And in what way does the private law of slavery and social death (Han, 2015a; 2015b) authorize the foundation of civil death and carceral terror?

Social Death, Slavery, and Anti-blackness

According to *Slavery and Social Death*, Orlando Patterson's (1982, p. 13) foundational text, slavery can be defined as "the permanent, violent domination of natively alienated and generally dishonored persons." The three constitutive elements—excessive violence, alienation from kinship and all filial bonds outside of the master-slave relation, and degradation that fixes the powerlessness of the slave in relation to the master—operate together to situate the structural position of the slave through social death. The theoretical starting points at which Guenther (2013) takes up a phenomenological interpretation of Patterson's work is limited in at least three directions: social death is framed as a "social practice" rather than a structural antagonism between master and the slave; social death is discussed as an experience of suffering that can be resisted through the establishment of relationality; and third, the over-emphasis on natal alienation results in an analysis that is imperceptive to the role of how anti-Black violence structures civil society.

To the first point, Guenther (2013, p. xx, emphasis in original) begins the discussion of social death by announcing:

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*.

However, social death is more than a practice that involves the production of a personhood that lacks “social meaning.” Or, if it is indeed to be understood as a practice, who sets the practice into motion; how is it enabled; and what kind of social meaning emerges from it? Patterson (1982) states that the capacity of the slave to achieve social relationality was denied through repeated acts of direct violence, genealogical isolation, and personal violations meant to produce dishonor. The enactment of these constitutive elements of slavery culminates in something more than a performance of exclusion and domination. Rather, they enable the structuring force of social life by defining the boundaries of the “human” and what it means to have human capacity. Human capacity here is signified through opposition to the non-capacity of the enslaved (Wilderson, 2010). According to this reading, social death facilitates a parasitic relationship between master and slave, that forms the social structure of civil society. The subject of civil society recognizes herself as a free subject precisely through the negation of the enslaved. It is not that social death renders the slave’s life meaningless, as Guenther suggests, but instead, the slave’s social death becomes the lifeblood of both the master’s and civil society’s recognition and capacity for social life (Wilderson, 2010).

To the second point, whereas social death illuminates social structures of anti-blackness, *Solitary Confinement* deploys the analytic as a generalizable concept to describe human suffering, and as such, it presumes particular modes of resistance.

Guenther (2013, p. xxiv, emphasis in original) writes:

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.

But what form of *life against death* is being raised here? In making this argument, Guenther reverts to intersubjectivity as resistance: the capacity to touch, communicate, and form connections with another person. This basic premise, that phenomenological relationality can protect and restore social life, constitutes a principal point throughout *Solitary Confinement's* chapter, "The Racialization of Criminality and the Criminalization of Race."

Here, the capacity for resistance appears at the site of forced labor performed either by the slave or convict laborer:

To work until one is *dead tired* [...] is a form of social death. It is *social*, and not 'merely' physical, because the body is both the site of lived experience as first-person consciousness and also the site of inter-subjective relations with others as the embodied 'there' to one's own embodied 'here' (Guenther, 2013, p. 53, emphasis in original).

Labor interrupts the body as well as social relationality. The body of the laboring subject, dead tired, is left unable to engage with the consciousness of the other.

Guenther suggests that the directive to labor and the arrangement that bars sociality can be circumvented and resisted: "[c]onvict work songs did not only make it possible for workers to coordinate with each other... they helped them support and rebuild the world of social life, even on this terrain of social death" (Guenther, 2013, p. 52). Work songs then constitutes resistance to social death because they establish a line of communication through which experiences of suffering can be expressed and shared against natal alienation. Guenther goes on to connect the broken body and the dictate against free association under conditions of forced labor, to the present-day solitary confinement unit in which prisoners too are denied social relationships and embodied phenomenological experience. In this way, social death is offered as a lived experience of subjugation, and not a structural condition to society. This enables Guenther to argue

for intersubjectivity as a mechanism for resistance, and one that holds out the possibility for restoration.

Furthermore, while Guenther's study of social death engages the concept of natal alienation, insights regarding the critical role of gratuitous violence in the making and maintenance of social death are neither foregrounded nor made apparent. This is rather curious considering there is an extensive body of literature from within Black Studies which theorizes the repetition of anti-black violence within both, the political economy and libidinal economy of social death, as a fundamental force in the preservation of civil society (Marriott, 2011; Wilderson, 2010; Martinot & Sexton, 2003). Such readings begin with Patterson's analysis of violence under social death.

For Patterson, the hegemonic violence of capitalism which subjugates the worker, departs from the repeated enactments of direct violence that constitute the structural position of the slave. In other words, the mode of violence inflicted as a necessary part of enslavement fundamentally differs from the violence needed to maintain political economy and wage labor under capitalism:

However, organized force and authority—what Welskopf calls “spiritual force”—usually obviated the need to use violence in most developed class societies where non-slaves made up the dominant class. The problem in a slave-holding society, however, was that it was usually necessary to introduce new persons to the status of slaves because the former slaves either died out or were manumitted... Thus it was necessary to continually repeat the original, violent act of turning free man into slave. This act of violence constitutes the prehistory of all stratified societies, Welskopf argued, but it determines the, “prehistory and (concurrent) history of slavery” (Patterson, 1982, p. 3).

In this reading, the ideological forces of capital compel the worker to consent to their own exploitation, predicated by the idea that they labor for themselves. But this logic holds little to no bearing for the socially dead slave. Rather, direct violence is understood as necessary to the structure and reproduction of slavery. Reflecting upon

Patterson's critique, Wilderson (2010, p. 13) writes, "if workers can buy a load of bread, they can also buy a slave." While this statement might read as provocative to some, Wilderson is homing in on a crucial distinction. On the one hand is capital's subject of exploited labor for whom violence oscillates between hegemony and direct force. On the other is social death's subject of "accumulation and fungibility," perpetually open to the violence, desires, and fantasies of a slave master (Wilderson 2010, p. 89; Hartman 1997, pp. 21-26). The intervention here is between the contingent violence of labor exploitation or even the unthinkable violence of state-sanctioned punishment in form of solitary confinement for that matter, and a violence that is gratuitous precisely because it is anti-black.

To further elaborate, gratuitous violence under social death is not an analytic used to explain the occlusion of intersubjectivity or even lived experience, but instead, it illuminates how the banality of a sociality rooted in anti-blackness hides in plain sight of civil society (Martinot & Sexton, 2003). Legally sanctioned police shootings for example emphasize the kind of gratuitous violence exercised over Black life through the state. Like a circuitous and even compulsory ritual, this form of violence endlessly re-positions civil society's mastery over Black life, and as such, its very repetition constructs "the practice of whiteness" (Martinot & Sexton, 2003). This is because anti-black violence produces feelings of security and social order by defending civil society as "the domain of the Humans," (Wilderson, 2010, p. 55) against "those whose human being is put permanently in question" (Martinot & Sexton, 2003, p. 174). Perhaps the most significant aspect of anti-black violence under social death is that it is structural to society, and therefore the spectacle of "hyper-injustice" disappears as the quotidian (Martinot & Sexton, 2003).

Natal alienation matters greatly here. But how do we read its intervention as a theory of violence under social death? According to Guenther, (2013, p. xxi), natal alienation hinges on the loss of kinship and filial capacity:

To be social 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 other in the present but also to the heritage of the past and the legacy of the future beyond one's own finite, individuated being.

While Guenther is correct in naming the master's control over familial relations and kinship bonds as aspects of this form of alienation, natality under social death extends beyond such bonds. According to Patterson (1982, p. 7, emphasis added), natal alienation "also has the important nuance of the loss of native status, of *deracination*. It was this alienation...that gave the relation of slavery its particular value to the master." The deracination of the slave then, must be thought of as a form of violence that penetrates beyond the loss of kinship or the distortion of racial, ethnic, and cultural heritage. Rather, as Jared Sexton intimates in "The Vel of Slavery," it can be understood as the occlusion of any possibility of recovery, resurgence, or restoration of natal capacity:

Slavery is not a loss that the self experiences—of language, lineage, land, or labor—but rather the loss of any self that could experience such loss. Any politics based in resurgence or recovery is bound to regard the slave as 'the position of the unthought' (Sexton, 2016, p. 591).

Guenther's commitment to reading social death through natal alienation is symptomatic of a reliance on kin, social relations, and the other, that conditions the framework of phenomenological intersubjectivity. In other words, the framing assumes that natality is held together through intersubjective capacity in first instance, and its severing, a form of social death. This begins to explain the argument that "the hallmark

of slavery is this replacement of a whole social network with a single ‘fictive’ kinship relation to the master” (Guenther, 2013, p. xxi). However, a slave could have family ties and even share community. And while such relations were mediated through the master’s violence, the problem of deracination is not limited to the master’s dominion. Rather, as demonstrated in the thought of David Marriott and Frantz Fanon, the “libidinal” violence of natal alienation under social death unfolds as racial pathology, as psychic splitting, and as parasitic sociality, that ultimately undercut the conditions for a sovereign subject, or a “self” that is grounded in the world of Humans.

Phobic Relations: Racial Antagonisms and Social Death

In an attempt to construct a critical phenomenology of race, Guenther (2013) draws upon the thinking of Frantz Fanon. But Fanonian theory, as Marriott (2018) observes, is often treated as if it were offering a prescriptive gesture: a resolution of racial antagonisms that could be achieved through a mutual recognition of humanity between the white colonizer and the black colonial subject. Guenther posits a Fanonian framework which assumes political liberation of the colonies and the establishment of national sovereignty would resolve fundamental racial antagonisms. Although Fanon’s writing indeed reflects a desire to redefine the social order of the colonies, he was also deeply concerned with the lasting effects of colonial violence on Black psychic life—a paradigm explicated throughout *Black Skin, White Masks*. As a psychiatrist, Fanon worked with patients suffering from the trauma of colonial warfare. Several of his case studies appear at the end of *Wretched of the Earth*. But he also witnessed first-hand, the limits of revolutionary potential, as national liberation fronts competing with one another, vying for political control over territories undergoing decolonization. Both, his

medical practice, and his political activities in the Algerian liberation movement, led him to question the limits of sovereignty, and informed his theories of race relations and decolonization (Cherki, 2006).

To what extent then, is Fanon's engagement with the psycho-politics of the colony, reconcilable with phenomenological intersubjectivity, and revolutionary humanism? And, assuming that Fanon never dismissed the uncertainties involved in decolonization throughout his study, what can be discerned of social death if one were to analyze its structure through these very psycho-political dynamics? In other words, does a phenomenological account of Fanonism and social death hold up against his own critique of the libidinal violence of anti-blackness?

Guenther's (2013, pp. 54-61) "critical phenomenology of race" notes the failure of traditional phenomenology to account for the experience of racialized embodiment. Fanon's theory of decolonization is leveraged in service of the argument that social death is a lived experience based in racialized embodiment. As such, Guenther advances a reading in which national sovereignty and dialectical humanism can unite blacks and whites in the post-colony. From the subsection of *Solitary Confinement*, titled "Fanon's critical phenomenology of social death," Guenther (2013, p. 55) writes:

For Fanon, not only black but also whites are imprisoned by the logic of colonization...Both races are "sealed" in their particularities, which for all their parallelism still bear asymmetrical meaning... And yet, these positions are mutually defining: the colonized cannot exist without the (coerced nonbeing) of the colonized, and when a colonial regime is violently overthrown, both the colonized and the colonized will be destroyed as such. This destruction is the "No!" that makes possible the "Yes!" of a new, postcolonial humanity.

But how does this argument square with the urgency that Fanon places on psychoanalysis and his own clinical practice? And although Guenther recognizes that both whites and blacks are positioned through colonial relations, and that the brunt of

these relations is carried by the colonial subject, why, one might ask, is there virtually no discussion of the devastation at the level of the psyche, resulting from this racial antagonism?

The “mutually defining” positions between colonized and colonized referenced in Guenther’s reading above, can more accurately be discerned as “bonding over phobia” (Marriott, 2007, p. 207). This is a social bond embedded in the antagonisms of recognition. On the one hand of the antagonism is the colonial subject, forced to experience a psychic splitting between self and imago (a fragmented image of self), imposed through antiblack cultural fantasies; and on the other, the colonizer whose self-image is dependent, if not parasitic upon, the degradation of the other:

The experience of being taken over by a racial *imago*—of being intruded upon, displaced, and fixated by an imaginary double—recurs in many accounts of black identity and identification. The disorientation and trauma this displacement produces suggests that an unconscious that seems to be “white” has displaced a conscious black identity. A number of difficulties arise from this too hasty account of racial intrusion, however, though the most crucial is also the most banal: the commonplace but no less intractable phenomenon of having a phantom unconscious which appears to hate you, because it undermines your psychic well-being (Marriott, 2007, p. 209).

Marriott is describing a black imago that operates as a phantom unconscious, and one that is imagined and mediated through white cultural fantasies. And while this is a bond formed between blacks and whites, it produced through “a violent intrusion that does not cut both ways” (Wilderson, 2011, p. 32). The interpretive move by Guenther to forego any discussion of the psychoanalytic conditions of this intrusion, inevitably reduces the complexity of racial antagonisms, as if they could be resolved through a conscious commitment to anti-racism.

The racial drama of Fanonian psychoanalysis, for Marriott (2018), is itself political and fundamental to the framework of colonial relations. The unconscious of

both subjects and masters, are perverted by the colony's material and psychic violence. This point is clarified by the following passage—one of the most oft-cited scenes from this racial drama that takes place between Fanon and a white child seated on a passenger train:

“Look, a Negro!” It was an external stimulus that flicked over me as I passed by. I made a tight smile.

“Look, a Negro!” It was true. It amused me.

“Look, a Negro!” The circle was drawing a bit tighter. I made no secret of my amusement.

“Mama, see the Negro! I'm frightened!” Frightened! Frightened! Now they were beginning to be afraid of me. I made up my mind to laugh myself to tears, but laughter had become impossible.

I could no longer laugh, because I already knew that there were legends, stories, history, and above all historicity, which I had learned about from Jaspers. Then, assailed at various points, the corporeal schema crumbled, its place taken by a racial epidermal schema. In the train it was no longer a question of being aware of my body in the third person but in a triple person. In the train I was given not one but two, three places. I had already stopped being amused. It was not that I was finding febrile coordinates in the world. I existed triply: I occupied space. I moved toward the other . . . and the evanescent other, hostile but not opaque, transparent, not there, disappeared. Nausea...
(Fanon, 1967, pp. 111-112)

Here, violence operates at the level of being. The white child's gaze fragments Fanon's self-image, and instead, he sees and experiences through the child's racialized imago—or as projection of the child's fear of the black figure. This racial epidermal schema, with all of its symbolic attachments based in phobia and hatred, is what bonds the child to Fanon. As Marriott (2007, p. 211) writes:

It is cultural fantasies that allow Fanon and the boy to form a bond through racial antagonism. This invokes in Fanon an initial state of confusion regarding what the object of loss he is experiencing actually was: Fanon's inability to escape this fear that imprisons, overwhelms, and designates him...produces a state of confusion as to what exactly he has lost.

The cruelty lies in the deprivation for Fanon to express hurt at the exchange. The racial epidermal schema facilitates a phobic bond which distorts the internal life of the psyche and removes the capacity for Fanon to express injury, while also enacting fear and anxiety in the white subject. But these unconscious determinants emerging from the phobic bond and pivotal to Fanon's work, are side-stepped by Guenther's analysis. The emphasis is instead placed on racialized embodiment, and in a way that leaves the repercussions of this colonial violence unclear:

This negation and dislocation is experienced by the Black man at the level of the bodily schema... the unlivable structure of racialized embodiment shatters the ease of comportment for colonized subjects; they are given only a racial-epidermal schema that leaves them no place to be, and yet no avenue of escape. The racial-epidermal schema is also a pattern, but a pathological one: a pattern that does not support, but, rather thwarts and disrupts any attempts to make sense of the world. It is constituted not by a web of interconnecting visual, tactile, kinesthetic, and other perceptions experienced in the first person, but "by the other, white man who had woven me out of a thousand details, anecdotes, and stories" (Fanon 1967, p. 111). The racial-epidermal schema imprisons Blacks in a pattern of traumatic repetition rather than an open, dynamic gestalt.

In this interpretation, the colonized subject is barred access to a bodily schema, and is instead positioned through racialized embodiment, which produces a pathological understanding of one's place in the world, which, in the colonial arrangement, is no place at all.

But if the black colonial subject is given over to the symbolic machinations of the white world, how, exactly, is this pathology experienced? What gets repeated through the trauma of racialized embodiment? At this point in the text, rather than engaging such questions which seem to be crucial to Fanon's project, Guenther quickly transitions away from the racial drama of *Black Skin, White Mask*, and pivots to *Wretched of the Earth*, where the discussion takes an abrupt turn into the sector of the colonized as an imprisoning space. If Guenther appears ambivalent to such questions, this is perhaps

because, for phenomenological analysis, the denial of the bodily schema—gestures, movement, acting, and being—are what constitute the substance of critique. But to take the analysis a step further, what happens to the imago when it is subverted by the psychic violence of negrophobia?

The colonial subject's determination to escape this violence and to be emancipated from racialized subjugation develops into a disavowal of one's own imago, and brings forth an unconscious desire for whiteness, through which the black subject is left "at war" with oneself (Marriott, 2000). Fanon names this clinical condition arising out of negrophobia, "hallucinatory whitening." The figure of the hallucinatory subject is based in Sartre's figure of the *pour soi*:

But it is Sartre's description of the *pour soi* as a being 'always in abeyance, because its being is a perpetual deferring' that Fanon analyses most fully in his reworking of this motif (Being and Nothingness, p. 713). Fanon identifies in the colonial subject a void-like nothingness-of-being which is also linked to the problem of self-deception [*mauvaise foi*] in Sartre (a link that will allow him to develop thoughts on how the Black subject is always belated and dispersed; who is *irrealized* and yet forever haunted by its non-appearance, and who can only acquire a certain density of being by taking on the tragic neurotic role (of an imaginary whiteness)—which is also why phenomenology can never be grounded in the experience of this subject for its truth is literally void) (Marriott, 2011, p. 46).

Here, the ruptured unconscious of the colonized subject, generated through the machinations of anti-black world, leaves the ego in a state of "perpetual deferral," unable to establish an authentic identity. Rather than self-realization then, self-deception haunts the unconscious: "like the actor he is, he can only reveal himself as a (black) subject via the oblique confirmation of an imaginary whiteness whose power and culture he wants to acquire" (Marriott, 2011, p. 47). This recursive deception leaves the distinction between self and mask unresolvable. The mask is not simply a hallucination or illusion created through racist culture, but it also functions to protect the ego, even at

the expense of identifying with whiteness. In this sense, the mask is both violent intrusion as well as armor—an invention of the fragmented ego, caught between the force of nothingness and a desire for infinity (Fanon, 1967, p. 108).

Fanon's theory of the hallucinating unconscious helps elucidate the structure of psychic violence attending social death. It also reveals a significant limitation to Guenther's critical phenomenology of race marked by its reading of the Fanonian unconscious, or lack thereof. Hallucinatory whitening and disavowal of one's own unconscious is precisely why the racialized subject cannot be healed or assimilated into the structural position of the Human—a subject of its own experiences and capacities. The play between the forces of recognition and unconscious desire (Marriott, 2011) altogether removes the conditions required by phenomenology in order for relationality and intersubjectivity to materialize.

Another point that complicates Guenther's reading of Fanon's political commitments, centers on the notion of decolonization and national liberation. Guenther's (2013, p. 59) central argument on this point seems to be that although decolonization necessitates a certain level of violence, the creative force that emerges from liberation can successfully inaugurate a more unified society. That is, liberation can and will establish "a new humanity, and a new humanism" that births a national culture based in "collective subjectivity." According to Guenther (2013, p. 59), this collective subjectivity "offers a suggestive starting point for a critical phenomenological account of embodied social life, in resistance to the disinheritance of the natal alienation and social death." This curious capacity for a "social life" that resists social death can only be brought to fruition through a world in which racial antagonisms dissolve into inclusivity: It [Fanonian decolonization] engenders a new sense of humanism that is

rooted in the particular struggles of decolonizing peoples, but it expands the scope of solidarity to include anyone who wants to join in the struggle, and ultimately to anyone at all” (Guenther, 2013, p. 60).

Marriott warns against hasty readings of Fanonian decolonization as a teleological project seeking redemption and recovery. We can instead, return to the opening pages of the first chapter of *The Wretched of the Earth*, titled “Concerning Violence,” in which Fanon (1963, p. 35) declares:

[D]ecolonization is always a violent phenomenon... It is true that we could equally well stress the rise of a new nation, the setting up of a new state, its diplomatic relations, and its economic and political trends. But we have precisely chosen to speak of that kind of *tabula rasa* which characterizes at the outset all decolonization.

This passage marks an analysis of post-colonial national sovereignty that is anything but secure. Fanon makes clear that sovereignty is itself, deeply contradicted by possibilities that cannot be imagined from within the structure of psycho-political violence. The dialectical movement between the forces of colonialism and its unfree subjects is theorized in tandem with sheer uncertainty: a *tabula rasa* with no telos, but which at the same time, holds open, the meaning of a freedom that exceeds political sovereignty (Marriott, 2011).

Furthermore, the analysis of decolonization proffered by *Solitary Confinement* assumes that the colonial subject’s lost humanity can be restored. But how is restoration imagined to be possible when the very paradigm of phenomenology, either misses or dismisses the complexity of the hallucinatory subject? On this point, Marriott (2011, p. 52) writes:

[T]he argument that the essential humanity of the colonized has been concealed or repressed seems to encourage the idea that this is Fanon’s only view of [the] subject, while discouraging one pivotal aspect of the Fanonian story: and that is

quite simply the concern with the unconscious, which precisely involves positing a subject that is irreducibly alienated from itself.

The problem of imagining liberation lies with the fundamental entanglement between the political and the psychoanalytic. Put another way, if desires and hallucinations obstruct psychic life and therefore psychic liberation of the subject from its own unconscious, then how do we construe the attainment of political liberation? Perhaps there is no reconcilable subject, and no affirmation of a renewed post-colonial humanity to be found in Fanon.

Rather than a revolutionary subject, Marriott (2011, p. 53) proposes Fanon's subject as a "vertiginous" one, haunted into psychosis and vertigo by the material and libidinal violence of colonial domination. Fanon's own clinical works describe several case studies in which the psyche is disrupted "indefinitely," and in a way that "no amount of emancipation can ever make up for" (Marriott, p. 2011). If the colonial subject is beyond restoration and instead occupies a "zone of non-being" it then follows that the *tabula rasa* imagined through decolonization is itself a "void-based invention" rather than a clearly articulated concept (Marriott 2011, pp. 47-48). Perhaps decolonization is better understood as always uncertain and unfinished: "the endless interruption of the political as such" (Marriott, 2011, p. 49).

This reading of Fanon, motivated by the thought of Marriott, Wilderson, and Sexton, demonstrates a radical break from Guenther's framework of social death. Whereas Guenther begins with a framework of intersubjectivity that celebrates the possibility of connection between persons through touch and physical proximity, Fanon's notion of subjectivity is maintained through a phobic bond between whites and blacks. That is to say, Fanon locates the fundamental problem in society's racial

antagonisms, while Guenther approaches alienation as an institutional imposition of separation and confinement. And whereas Guenther sees the possibility for race relations to be sutured through national liberation and shared autonomy within the new state, Fanon sees the phobic bond as one in which the psychic life of whiteness pursues a parasitic enjoyment on the incoherence and instability of blackness. For these reasons, the racial antagonism comes with no guarantee of synthesis. The missed encounter between Guenther and Fanon then, is one that arises from analyzing social death as a form of punishment, as opposed to an internal psychic war—a war against the other within the self.

While Guenther seeks to expand Husserl's framework, through a reading of Fanon and in the hopes of introducing a critical phenomenology of racialized subjectivity, the analysis actually de-racializes social death. This is because *Solitary Confinement* takes the crux of social death to be a form of relationality—the capacity to touch another person and to facilitate intersubjectivity—that becomes disrupted through the alienation of the prison cell. The problem with this application of social death is that it assumes that any individual isolated within the depths of the solitary prison cell can become socially dead. But if we understand social death as the structural position of the slave, experienced through the intrusions of anti-blackness into the material and psychic life of society, then the experience of touch and physical connection falls to the wayside of this structural violence. Rather, in this Fanonian reading of social death, racial antagonisms are rooted at the level of the unconscious.

On this point, Sora Han's (2015) essay, "Racial Profile, White Shields," in *Letters of the Law* addresses the intrapsychic tension built into Fanon's phobic bond. Drawing upon Cheryl Harris' critique of whiteness as a form of property that affirms personhood,

but always through a form of denial, Han theorizes whiteness as a protective force, or a kind of racial “shield” that secures one, not only from the material deprivations attached to blackness, but also from the recognition that whiteness as identity is procured through an unconscious anti-blackness. What is shielded for the white subject is personhood, and what is disavowed within the white psyche is the fact that self-possession is carved out of an unconscious psychopathology. Harris’ analysis of whiteness, according to Han (2015, p. 88), is “also an implicit analysis of the fantasmatic sense of threat, anxiety, and defensiveness crucial to white cultural life...The shield of whiteness is inalienable, personal; it can be used and enjoyed; it is a marker of standing; and it is a mode of self-possession.” Like Fanon’s analysis of how phobic fantasies of blackness condition both, white culture, but also black desire, Han’s reading reveals how the refusal, conscious or not, to relinquish whiteness as both property and shield, makes redress impossible.

The insight shared between Marriott, Fanon, and Han then, is not simply that subjectivity is mediated through the white gaze, but perhaps, what’s more significant is the conclusion that racial antagonisms necessitate black suffering and social death for the constitution of whiteness. In other words, we can speak of a relationality within social death, but it is not the kind of relationality imagined under phenomenological inquiry. Instead, it is rooted in fear, anxiety, and anticipation of the other. The phobic bond is key here to understanding the racial significance of the argument. Blackness is always filtered through the anti-black gaze of the white. This psychic violence is built into the relationality shared between blacks and whites, and which unfolds within Fanon’s clinical diagnosis of hallucinatory whitening. But within this same process, the white ego appears trapped in its own predicament of relying on the social death of the

black subject for its own social coherency. In this sense, subjectivity is a deeply internal experience, one that has nothing and everything to do with an other, external subject.

The Social Life of Civil Death

Our resistance gave us an identity. Our identity gave us strength. Our strength gave us an unbreakable will. My determination not to be broken was stronger than any other part of me, stronger than anything they did to me.

—Albert Woodfox, *Solitary*

Of course, the enemy within is far more dangerous than the enemy without, and a black enemy within is the most dangerous of all.

—Angela Davis, *Race and Criminalization*

We do not have to analogize solitary confinement to social death and slavery in order to convey its horror. “Breaking a prisoner,” is the specific purpose of solitary confinement, argues Woodfox (2018, p. 175):

Nothing relieved the pressure of being locked in a cell 23 hours a day...Every day is the same. The only thing that changes is whatever you can construct on your own. The only way you can survive in these cells is by adapting to the painfulness.

Solitary confinement deploys isolation and degradation to reduce one’s material existence to the prison cell. It advances a structural position within the prison, marked by an isolated life lived at the brink of madness, or what Woodfox (2018, p. 300) describes as “the fear that I might start screaming and never stop.” But its function as a legally sanctioned practice of violence, is conditioned by civil death, which is law’s capacity to suspend rights, save for a limited set of carceral protections, often functioning at merely a symbolic level. In short, prolonged, and severe solitude as punishment is an extreme form of civil death. And civil death, even under conditions of solitary confinement, retains a certain form of social life.

But, what, if anything, escapes the repressed sociality of civil death and forced isolation? Here, I want to suggest that we can track a sociality shared amongst political prisoners. This is not the phenomenological intersubjective relationality discussed in the previous section of this essay. But rather, it is a sociality that emerges between those who recognize the prison as a form of racial captivity. This recognition is made possible by an intimate knowledge of social death that extends beyond the individual figure of the political prisoner, and develops through a collective desire for abolitionism.

When Woodfox emerged from 44 years and 10 months of incarceration at Angola prison, he smiled, raised his fist in the air, and left the prison in a car with his brother. He appeared, at least from the outside, neither psychologically nor mentally unhinged. Woodfox had been wrongfully imprisoned, along with Herman Wallace and Robert King. The “Angola 3,” as they are known, were framed for the murder of a prison guard at Angola in 1972 and sentenced to life in prison. His incarceration and torture under solitary confinement was politically motivated, as the prison administration sought to put an end to the first official prison chapter of the Black Panther Party, started by Woodfox and Wallace. As such, he is a political prisoner whose captivity was the result of a political act—the refusal to submit to the prison’s regime of violence (Davis, 1998). Since his release from Angola, he remains committed to practicing Panther philosophy, engaging in speaking tours and public appearances, in which he calls for the abolition of solitary confinement.

Woodfox’s memoir, *Solitary* is marked by intense moments of violence brought about at the hands of prison guards and administrators, deeply internal encounters with hopelessness, brushes with madness, and all-too-clear memories of shared struggle and social intimacy. The underlying heartbeat of the text lies within a powerful political

consciousness that survives every attempt at its destruction. This political consciousness also operates like a social grid, connecting him to a larger network of political prisoners, such as Herman Wallace and Robert King at Angola, but also, to those whom he had never met before, such as George Jackson, who he knew only through his writing and a shared political struggle. A series of moments from Woodfox's memoir situates a sociality born of political consciousness as the contradicting force to political repression in the prison.

When Woodfox faced trial in 1973 for the murder of an Angola prison guard, the verdict was predicated on an abundance of faulty and manufactured evidence: a known "prison snitch" acting as the state's star witness, clearly inconsistent testimonies from the state's other witnesses, and forensic evidence which includes a bloody fingerprint that failed to match Woodfox or Wallace, but which was nonetheless used against them (Woodfox, 2018). He was judged guilty and sentenced to life in prison. Back in his cell, Woodfox (2018, p. 140) recalls

I'd been framed for murder, persecuted at my trial, and wrongfully convicted. But I didn't feel like a sacrificial lamb. I felt like a member of the Black Panther Party. If anything, I had become more of a revolutionary than I was before.

Here, refusal parallels and contradicts subjugation. Even as prison administrators took steps to extinguish the Black Panther Party at Angola, Woodfox only grew more resolute.

If refusal evolves out of consciousness, then it is important to recognize how Woodfox's knowledge as a political prisoner is shaped by more than his individual development. When Herman Wallace faced trial the following year for the same crime (the murder of Angola prison guard, Brent Miller in 1972), the state presented the same set of evidence consisting of sham witnesses and forensic information that held no

connection to Wallace or Woodfox. Herman was found guilty and sentenced to life in prison at Angola, and while he was returned to solitary confinement, he was placed on a different tier from Woodfox. This act of separation was another strategy designed by the unrelenting prison administration, to break their shared political struggle:

That year, and for decades, they tried to come between me and Herman. They tried to break our connection. What they didn't realize was that with every action they took against us, the stronger we became... After being railroaded and lied about, after our unjust trials and wrongful convictions, we knew we were in this for life. That knowledge gave us a determination, a new strength, and a new sense of dedication to our cause... They could put us wherever they wanted, and they did, but they could not come between us (Woodfox, 2018, p. 149).

The intimate knowledge shared between Woodfox and Wallace, that they were “in this for life” demonstrates how individual life is wagered in the struggle for a freedom that extends beyond the self. Under civil death, the prison exercises an asymmetrical and overwhelming authority over its subjects. And yet, as Woodfox shows, it could not disrupt the critical knowledge, vision, and practice that he, Herman, and others shared, as political prisoners. This determination materializes out of a shared philosophy and practice that aspires toward the abolition of the very conditions that make this particular form of racialized state violence possible in the first place.

The pursuit of freedom from captivity is developed as a collective desire not only between Woodfox, Wallace, and other political prisoners who supported their organizing efforts, but also across a vast time-space continuum marked by a knowledge of captivity and anti-blackness. For black political prisoners such as Woodfox, Wallace, George Jackson, Angela Davis, Assata Shakur, and others, imprisonment and criminalization more generally, are understood as merely one historical mode of captivity aimed at controlling black life.

According to Angela Davis, the recognition of state-sanctioned captivity as an extension of colonial and anti-black violence is integral to the radicalization and conscious awakening of the political prisoner (Davis, 1998). Here, sociality is foregrounded in a desire to abolish the mechanisms and conditions for captivity, which is part of what makes the political prisoner so threatening to the state, and so necessary for collective survival. This shared vision also means that the organizing that occurs at one prison matters for the events that take place at another. To clarify this point, we can think of the assassination of George Jackson as an event that generated a political consciousness that pierced the social borders of prisons across the U.S. and helped to mobilize a “counter-hegemonic discourse” against a system that conceals anti-black violence as formal punishment (Davis, Dent, Meiners, & Richie, 2022, p. 34).

George Jackson’s political assassination at the hands of San Quentin prison guards on August 21, 1971, set off a chain of events that would hold profound implications for prison organizing across the country (Davis et al., 2022). While there are conflicting narratives about how, exactly, Jackson died that day, most accounts that deny Jackson was set up, seem to have emerged from narratives manufactured by San Quentin prison administrators and mass media accounts (Reiter, 2016). But those who worked closest with Jackson maintain that his murder was a political assassination, and a part of a federal counterintelligence or counter-insurgency program (Poor et al., 2021; Camp, 2016). This is because he produced powerful critical insights that were well-circulated and embraced within a larger collective network of political prisoners and abolitionists. His assassination is what sparked the Attica Prison uprising of 1971 (Thompson, 2016). Its reverberations set off a series of subsequent prison uprisings across the U.S. (Davis et al. 2022). These collective political mobilizations indicate the

significance of Jackson's individuated life as a black political prisoner, but also the widespread impact of his analysis. His death is part of a greater genealogy of prison organizing that animates the past and present of abolitionism (Davis et al, 2022).

At Angola prison, Jackson's assassination held its own significance for Woodfox. In August of 1971, Woodfox was placed into the dungeon-like cell block known as "The Red Hat"—the oldest and most miserable cell block at Angola at the time. The Red Hat was originally built in the 1930s and was closed by federal officials in the 1970s. A description of the conditions found in the Red Hat solitary cells are worth quoting at length:

In the Red Hat you could stand in the middle of your cell and touch the walls on either side of you. The cells were three feet wide and six feet long. The ceiling was low. The door was solid steel halfway up, with bars from the ceiling to waist level. The bunk was concrete. There was no mattress. There was a toilet in the cell but they kept the water turned off, so it didn't work. You had to use a bucket in the corner which could only be emptied when you were let out every few days for a shower. They wanted you to smell the stench of your own body waste while eating. All the prisoners in the Red Hat were served the same food, which amounted to slop. The cell was suffocating, hot. It was dark. It was a coffin... (Woodfox, 2019, p. 43).

It was here, within the destructive depths of the dungeon that Woodfox would come to recognize himself as a political prisoner. And though it would be hasty to suggest that this recognition is the direct result of Jackson's assassination, I nonetheless want to situate the significance that this event held for Woodfox (2019, pp. 88-89):

Outside the temperature was in the 90s. Inside the three-by-six foot cell in the Red Hat, it felt double that. I sat on the concrete bunk. I stood and sweat ran off me from thinking. Sometimes I felt cheated, knowing that being born black pretty much determined where I'd wind up... What helped me was that I knew I wasn't a criminal anymore. I considered myself to be a political prisoner. Not in the sense that I was incarcerated for a political crime, but because of a political system that had failed me terribly as an individual and a citizen... This crystallized within me in the Red Hat.

I remember the day I was released [from the Red Hat], August 21, 1971, because it was the day George Jackson, field marshal for the Black Panther Party, was shot and killed by guards at San Quentin prison in California. After being locked in the stinking coffin of the Red Hat for three days I didn't think my resolve to uphold the principles of the Black Panther Party could get any stronger. When I learned of George's murder, my commitment only grew.

In this scene, Woodfox experiences Jackson's assassination as a politicizing force. The assassination only amplifies his political consciousness, and as such, it reveals a collective desire for freedom that takes flight beyond the territorial boundaries of the prison. Woodfox's experience of a change in consciousness and of self-recognition, from criminal to political prisoner, is the result of a political analysis which situates the prison as an institution for racialized captivity within an expansive anti-black world—the same kind of recognition critical to Jackson's thought. Ultimately, the state's assassination of Jackson only served to heighten the stakes of the antagonism for Woodfox: *When I learned of George's murder, my commitment only grew.*

As a founding member of the Black Panther Party chapter at Angola prison, Woodfox shared many aspects with Jackson's political analysis. He read Jackson's writing and discusses passages throughout his own memoir. Perhaps the most crucial aspect of their shared politics is the knowledge that even the destructive power of captivity could not determine the totality of their lives. If this is the case, then what, exactly, does Jackson's analysis entail?

In the racial imaginary of the state, Jackson symbolized a threat to social order. This is because he understood himself as an inheritor of a radical intellectual and political movement for black liberation against neoslavery and fascism. "Politics is violence," writes Jackson (1994, p. 225). And again, "Politics and war are inseparable in a fascist state" (Heiner, 2006, p. 313). According to Jackson's analysis, the fascist state

operates through social institutions, enacting violence under the guise of maintaining order and civil peace. This same insight would later lay the groundwork for Michel Foucault's (2003) theory of carceral power and the notion that "politics is war by other means" and "peace itself is a coded war."³ But unlike Foucault, for Jackson, normalized warfare took the form of both economic exploitation and also, the anti-black machinations of civil society: "Black men born in the U.S. and fortunate enough to live past the age of eighteen are conditioned to accept the inevitability of prison. For most of us, it simply looms as the next phase in a sequence of humiliations." (Jackson, 1994, p. 4). The prison in particular represented a frontline in a fascist war against racial captivity.

The racial dimensions of Jackson's political analysis of incarceration are critical to understanding the sociality of abolitionism shared between himself, Woodfox, and others engaged in the civil rights movement for black liberation. The conditions of slavery, according to Jackson (1994, p. 234), predicate his life of captivity:

My recall is nearly perfect, time has faded nothing. I recall the very first kidnap. I've lived through the passage, died on the passage, lain in the unmarked, shallow graves of the millions who fertilized the Amerikan soil with their corpses; cotton and corn growing out of my chest, 'unto the third and fourth generation,' the tenth, the hundredth. My mind ranges back and forth through the uncounted generations. And I feel all that they ever felt, but double. I can't help it; there are too many things to remind me of the 23½ hours that I'm in this cell. Not ten minutes pass without a reminder. In between, I'm left to speculate on what form the reminder will take.

³ See Lecture 1 and Lecture 3 of Foucault's *Society Must Be Defended* (Lectures at the College de France 1975-1976). Here, Foucault provides an inverted reading of Clausewitz's aphorism—from "war is politics by other means," to "politics is war" by other means. While Foucault does not provide any citation to the influence of George Jackson on his own thinking, he belonged to a small group of French intellectuals interested in prison abolition. Subsequent scholarship demonstrates the profound impact of Jackson's writing as well as the black freedom movement of the Civil Rights Era, on Foucault and the Groupe d'Information sur les Prisons, GIP (Heiner, 2007; Foucault et al., 2021).

In this imagined memory of the Middle Passage, Jackson situates black captivity as the repetition of the structural violence of slavery, enacted across oceans, all throughout American plantations, and felt by generations. For the black political prisoner, this vast temporality—the time and space of racial slavery—is rendered and compressed into an existence conditioned by the claustrophobic reality of the cell. This is a form of violence that is gratuitous because it cannot be fully explained through imprisonment, but rather, signifies the *always already* temporality of anti-blackness operating in past, present, and future, but also within and beyond the physical exteriority of the prison. What Jackson recognizes as the continuation of war through racial captivity is made possible through political, civil, and social institutions that include, but are not limited to carcerality.

While the prison system signifies one symptom of a greater structure of racial violence within Jackson’s framework, like Fanon, it is really the whole social world, consolidated through the relations of slavery, that he rejects:

I have a young courageous brother whom I love more than I love myself, but I have given him up to the revolution. I accept the possibility of his eventual death as I accept the possibility of my own. Some moment of weakness, a slip, a mistake, since we are the men who can make none, will bring the blow that kills. I accept this as a necessary part of our life. I don’t want to raise any more black slaves. We have a determined enemy who will accept us only on a master-slave basis. When I revolt, slavery dies with me. I refuse to pass it down again. The terms of my existence are founded on that (Jackson, 1994, 250).

Here, Jackson identifies how a “master-slave” relation structures his own social reality as well as his brother’s. Where familial bonds should function to protect kinship, the anti-black fascist state demands submission or violence, which is why Jackson writes of giving up his brother, rather than giving *in* to a life as a slave. Under social death, natality is not necessarily denied, but it is circumscribed under the master’s dominion.

The result is not the erasure of natality, but a peculiar form of familial capacity that is constantly interrupted by violence. In this sense, Jackson is showing us that what is inherited of slavery by its descending generations is a continuous state of captivity. As such, he helps us think about how the black political prisoner is positioned through both social death and civil death. And whereas civil death and its figure of “the slave of the state” is derived from social death and the racial slave, the opposite does not appear to be true: social death is irreducible to incarceration. This is all to say, for George Jackson, the prison must be abolished, not necessarily because it engages in extreme forms of punishment, but to be more precise, because it is symptomatic of the relations of slavery, at least for the black prisoner.

This analysis of racial captivity, shared between Woodfox and Jackson, and which is generated from within the void of isolation and life-long incarceration, finds its expression in an uncompromising pursuit of freedom. If the prison operates as a border separating the cell block from the free world (Davis & Dent, 2001), then perhaps we can speak of a political consciousness that makes possible a form of social life that transcends the borders of Angola, San Quentin, and Attica. But the concept of *freedom* here is not simply a legal ideal in the form of relief from incarceration, but rather, the abolition of solitary confinement, or the dismantling of the carceral state as we know it. Vital to this concept of freedom from racial captivity is a philosophical commitment to abolishing the very conditions that veil anti-black violence and social death behind the illusion of formal, state-sanctioned punishment.

This theoretical analysis of punishment, understood through the prism of social death and slavery, is generative in the sense that it puts the authoritative power of civil death into question. After all, “the slave of the state,” as the embodied subject position of

civil death, is an abstraction derived from the figure of the racial slave. “Freedom” then, is an aspiration to abolish civil death, not simply because it is inhumane or an extreme practice of punishment, but rather, because punishment is itself authorized by social death. The abolition of social death, if we can imagine such a radical concept, is perhaps the point of departure, or the theoretical presupposition that introduces the possibility of bringing Fanon’s *tabula rasa* into existence.

Conclusion: The Labor of Survival

To survive does not necessarily mean to live a life; and yet, survival is necessary for generating social life. In *Abolition. Feminism. Now* (2022, pp. 13-14) Angela Davis, Gina Dent, Erica Meiners, and Beth Richie reflect upon abolitionism as a form of unrecognized labor, necessarily forged out of collective struggle: “This work is never a solo project. Individuals tire, fade. Movements deepen and continue...Collectivism is a throughline across generations, peoples, and mobilizations—undervalued and unrecognized but key to freedom-making.” This collective labor, undervalued, unrecognized, and beyond the individual, but key to freedom-making, is reminiscent of a kind of labor imagined by Angela Davis in her essay, “Reflections on the Black Woman’s Role in the Community of Slaves” (Davis, 1998). These reflections, written during her 16-month long incarceration at Marin County Jail and originally published in *The Black Scholar* during December of 1971, constitute a starting point for theorizing a tradition of resistance and self-defense that emerges specifically from the labor of black women. At the core of the essay is an argument for the creative capacity of the black female slave to secure the conditions necessary for survival, and survival, as the essential condition for the possibility of social life.

For Davis (1998), whether it takes the form of escape, maroonage, killing a master, or setting the plantation ablaze, acts of resistance, rebellion, and uprising, are structural to the antagonisms of racial slavery. And if resistance was organic to slave life, then it needed to be nurtured, thought of, and dreamt up, within a social space hidden away from the master's gaze. This space, removed from the eyes of the overseer, was only made possible by the unique labor of the black female slave:

...in a very real material sense, it was only in domestic life—away from the eyes and whip of the overseer—that the slaves could attempt to assert the modicum of freedom they still retained, it was only there that they might be inspired to project techniques of expanding it further by leveling what few weapons they had against the slave-holding class... (Davis, 1998, p. 115).

The social dynamics within slave living quarters complicates the master's field of domination precisely because it is the only site in which labor is performed, not in the service of the plantation economy, but to provide for the immediate needs of one another. In this sense, the utility of domestic labor within this space could exceed the demands and desires of the planter. This responsibility of looking after and caring for the living quarters of slaves was, almost always, hurled onto slave women. And while this gendered division of labor might be read as affirmation of an inferior status assigned to domestic work, for Davis this is not the case. Rather, the female slave held a powerful role, for she performed "the *only* labor of the slave community which could not be directly and immediately claimed by the oppressor" (Davis, 1998, p. 116 emphasis in original).

In its most fundamental form then, the potential for rebellion, or even simply establishing community within the context of slavery, began with this labor: "She was, therefore, essential to the *survival* of the community" writes Davis. "Not all people have survived enslavement; hence her survival-oriented activities were themselves a form of

resistance. Survival, moreover, was the prerequisite for all higher levels of struggle” (Davis, 1998, p. 116). By providing the material conditions for survival, the black female slave created the foundation for something more. Her labor initiates a social capacity for the collective imagining of escape, rebellion, and freedom. And without it, there would be no material conditions for advancing higher forms of survival such as community and social life, in the struggle against slavery.

While political struggle is manifested through black female slave’s domestic labor, Davis’ argument also complicates the very concept of “survival” as neither the affirmation nor rejection of social life, but instead, a threshold for its very possibility. The question, “how did you survive 44 years and 10 months of solitary confinement?” presumes that there is no social space beyond captivity. And perhaps for many living in solitary confinement, this is in fact the case. But for Woodfox, survival was not simply a struggle between biological life and death. Enduring weaponized isolation is itself, a form of labor that directly contradicts the prison’s desire to break its captive subjects. As a political prisoner then, he understood the prison as a political institution for *war by other means*; but also, that his individual life in solitary confinement was entangled with a greater social movement for black liberation. Like the labor performed in the slave quarters, survival here has no use-value for the prison. But without it, the political struggle shared amongst Woodfox, Jackson, Davis, the prisoners of Attica, and the radical vision for an abolitionist future that they labor towards, would be lost to the prison.

Perhaps what is most striking about Woodfox’s memoir is neither simply the length of time he served in prison, though he served one of the longest sentences in solitary confinement; nor the torture he endured, which the reader can only know at the

limits of narrative. Rather, it is the fact that he found a way to survive against every act of unabashed violence inflicted by the prison administration, designed to break his will. In fact, his memoir is scattered with scenes of social life, lived against and within the machinations of carceral violence. The collective desire for abolition, shared between black political prisoners and the liberation movements that they vitalize, crystallizes around the labor of survival.

Solitary confinement then, has little to do with social death, although anti-black violence is manifested through the formal mechanisms of incarceration and punishment. We might better think of solitary confinement as advancing a theory of extreme punishment under civil death, in which the unraced prisoner is confined to the solitary cell as a slave of the state. If we can conceptualize a “social life” to social death (Sexton, 2011), or better stated, a sociality that cannot be fully determined through social death, then perhaps this life originates in the labor of the black female slave. The paradoxical figure of the black political prisoner then, inherits a strange form of life lived as the contradiction between a particular sociality that exists in social death, and a social life live against civil death.

CHAPTER 3

Extracting Life: Louisiana State Penitentiary, Angola in the Afterlife of Slavery

Upon his arrival to Louisiana State Penitentiary, Angola, political prisoner Albert Woodfox (2019, p. 24) recalled “Angola looked like a slave plantation, which it once was...the legacy of slavery was everywhere. It was in the ground under our feet and in the air we breathed, and wherever we looked.” As part of the “Angola 3,” a group of political prisoners who were framed for the murder of a prison guard in 1972, Woodfox was persecuted for his commitment to Black liberation and Panther philosophy, and subsequently spent over 43 years and 10 months in solitary confinement. Throughout his memoir, Woodfox (2019) discusses the remnants of slavery’s past that are alive and well in the prison today including: the hard labor performed by prisoners who are forced to pick cotton by hand, the racial composition of the prisoner population, and former Warden Burl Cain’s comments that if it were up to him, he would keep Woodfox in solitary confinement for believing in “Black Pantherism” even if he were not guilty of the murder.

Woodfox is correct to situate the prison within a long struggle for liberation against slavery and anti-black violence. After all, the 18,000-acre penitentiary sits atop several former slave plantations in a deeply rural region of Louisiana where it incarcerates roughly 6,300 prisoners—75% of whom are Black and a vast majority of whom are serving life sentences and are expected to die in prison. But this vivid racial violence is covered over by the state’s narrative of racial progress. In the drama of Angola’s history, the state presents a discourse about militant black radicals who

murder prison guards, while also evoking racialized notions of criminality, punishment, and public safety, each of which justifies its anti-black doctrine. The prison's parasitic reliance on Black suffering is repressed, and its racial antagonisms are disavowed as relics to an antebellum history that is understood to have been redressed by emancipation.

It is in this sense that Angola prison today constitutes part of what Angela Davis (1998) calls *the unfinished work of black liberation*. That is, while the prison announces itself as a cultural and historical institution that emerges out of formal abolition, it cannot be disambiguated from the perpetually bloody archive of slavery. The form of liberation imagined here is not simply an aspiration for higher degrees of legal freedom, but rather, a move toward a gratuitous freedom and a different social order altogether (Han, 2015). The many vestiges of slavery, including those described in Woodfox's memoir, compose this unfinished struggle. Hidden from view then, the prison's essentially anti-black punitive function signals Angola as the horizon of an incomplete abolition.

Today, it is the use of life sentences combined with the hyper-incarceration of Black prisoners that gives away the penitentiary's anti-black structure. The capacity to impose death through incarceration demonstrates what Ruth Wilson Gilmore (2017) calls *racial capitalist extraction*. Through captivity and premature death, the fundamental resource of life—*time*—is extracted from the bodies of prisoners, allowing the state to fulfill racial capitalism's desire to put surpluses back into circulation. As I attempt to demonstrate in this chapter, the extraction and abandonment of these bodies is necessary for both, the prison's political economy today as well as its antebellum life.

Thus, this chapter analyzes how a logic of extraction emergent under racial slavery in antebellum Louisiana is structural to the prison today.

Angola then, is not simply a spectacle of extreme punishment, but rather, extreme punishment is precisely what camouflages its operative anti-blackness (Martinot & Sexton, 2003). At roughly the size of Manhattan, the carceral juggernaut that is Louisiana State Penitentiary makes possible the incarceration, extraction, and elimination of thousands of people, a vast majority of whom are Black, serving life sentences, and expected to die in prison. This elimination of life under the guise of “natural death” presents one paradigm through which we can articulate punishment’s anti-black violence. As such, Angola ought to be understood, not as a site of punishment, but as a monument to racial slavery.

The continuing fantasy of racial progress, or of past as past, is increasingly untenable in a world where anti-black violence, mass incarceration, and the reach of racial capitalism saturate the historical and social imaginary. Rather than narrating a history of Angola as a prison caught in the past, in this paper I am interested in thinking through the prison’s anti-black function in the present, and what it reveals to us about the future of mass incarceration. This historical analysis is guided by the following set of questions: What does the afterlife of slavery reveal about Angola prison’s present and future world-making capacities? How does its socio-historic backdrop trouble chronological narratives surrounding the abolition of chattel slavery and the plantation system? And how, within this remote corner of the deep south, do anti-blackness and capital circulate together to sustain the logics of what Ruth Gilmore calls, *racial capitalist extraction*?

In the following section, I examine how the life and afterlife of slavery is implicated in constructing a framework of “southern punishment.” I understand southern punishment to be more than a highly punitive, coercion-centered style of confinement particular to prisons located in the south. Rather, it is reflective of an altered structure of antebellum terror permanent to anti-black racial antagonisms. In my subsequent discussion of “Extractive Economies,” I aim to trace how the logics of extraction shift according to a series of political-economic crises that transpired throughout antebellum Louisiana. I conclude this chapter by reflecting on Angola prison’s graveyards and what the institutional byproducts produced through centuries of extraction might teach us about the future of mass incarceration.

Southern Punishment: Redistributing the Master’s Power

The story of American punishment is often told through a history of northeastern penitentiaries, such as New York’s Auburn Prison and Pennsylvania’s Eastern State Penitentiary. While these model prisons diverged in their attendant strategies—one based in isolation and the other in silent assembly—together, they define an Enlightenment-era commitment to the ethos of reform and humane punishment, against the terror of sovereign rule. Each system is understood as an emergent site for disciplinary and rehabilitative penology, foundational to America’s subsequent penal landscape (Rubin, 2021; Foucault, 1995).

In *Texas Tough*, Robert Perkinson (2010) offers an alternate narrative as to the foundations of American punishment. While Perkinson’s study centers the influence of Texas in establishing southern punishment, the analysis scales up and down between the particularities of Texas and the “lifeways” of slavery embedded across the entire

south, but especially within its plantation land. The book's central claim is that since the late 20th century, American prisons have failed to evolve toward more humanitarian modes of punishment. Rather, they have become "harsher, more regimented, more racially divisive, and markedly less rehabilitative," taking on a model of subjugationist discipline (Perkinson, 2010, pp. 7-8). Put another way, American punishment has grown *more southern*. For Perkinson (2010, p. 9), this intensification of punishment contradicts racial progress:

Despite the historic victories of the Civil Rights Movement—culminating with the election of the first black president in 2008—the criminal justice patterns set during slavery and segregation have not faded away...Even as segregationist barriers to equal opportunity and achievement have crumbled in the free world, we have fortified the racial divide in criminal justice. Denied a place in society at large, Jim Crow has moved behind bars.

Perkinson is right to identify the problem of freedom as one that is rooted in the plantation, and not as a promise to be fulfilled by Enlightenment's rejection of sovereign terror in pursuit of more democratic forms of punishment. However, in the state of Louisiana as well as the south in general, racial barriers in the free world neither crumbled nor were they simply fortified into criminal justice. Rather, they continue to subtend civil society and the free world as a form of terror that cannot be articulated without nuancing the very definition of punishment through a history of anti-black violence. Framing punishment as a formal criminal justice procedure and process of incarceration simply equates immobilization with anti-blackness. Likewise, demonstrations of economic, spatial, and social mobility are taken as evidence of racial progress, rather than the shifting surface of a more fundamental structure.

Thinking of punishment as part of a linear development from captive enslavement in the south to carceral immobilization is a tempting theoretical

framework. Michelle Alexander (2010) for example, argues that a series of successive eras—the death of slavery and the birth of Jim Crow; the death of Jim Crow and the rise of mass incarceration—determines the relationship between slavery and incarceration. As Alexander argues in “The Death of Slavery,” the end of the American Civil War introduced a crisis for white supremacy, in which southern redeemers panicked over economic collapse, interracial amalgamation, and a destabilized racial order. Emphasizing the deployment of Black codes, thinly disguised as criminal vagrancy laws by southern elites to restore racial order, Alexander (2010, pp. 26-27) writes, “after the death of slavery, the idea of race lived on.” Jim Crow society was “the new racial order” that would emerge in the place of slavery (Alexander, 2010, p. 35).

Criminalized under these Black Codes, former slaves were incarcerated and sentenced to deadly labor conditions under a burgeoning southern convict lease system. The convict leasing system enabled those who were convicted of crimes, including violations of the codes, to be considered “slaves of the state,” meaning that they would be made subject to incarceration and deprived of the full rights of citizenship. For Alexander, this system of convict leasing, combined with Jim Crow racial segregation laws that maintained white supremacy, established a new form of racialized social control. But as the Civil Rights Movement and the Second Reconstruction forced a national reckoning against formal segregation laws, Jim Crow proved unsustainable. What the existing social order required, according to Alexander, was an institution that would appear race-neutral:

Jim Crow eventually replaced slavery, but now it too had died, and it was unclear what might take its place. Barred by law from invoking race explicitly, those committed to racial hierarchy were forced to search for new means of achieving their goals according to the new rules of American democracy” (Alexander, 2010, p. 40).

The “birth of mass incarceration” then succeeds from both, the death of slavery and of Jim Crow.

Following the Civil Rights Movement of the 1950s and 1960s, Alexander argues that mass incarceration makes a “sudden and dramatic” emergence in the 1970s as a new form of racial segregation, with the “war on drugs” representing its single most important factor. In this most recent era, the politics of “law and order” must displace “segregation forever,” thus establishing a racial ideology that appears race neutral. For Alexander, these law-and-order politics and the stigma attached to criminalization enables a re-deployment of Jim Crow era discrimination. The denial of a whole range of rights of citizenship, including employment, housing, voting, and jury service replicates the institutional relations of racial segregation under Jim Crow: “As a criminal, you have scarcely more rights and arguably less respect than a Black man living in Alabama at the height of Jim Crow” (Alexander, 2010, p. 2).

But is this to suggest that prisoners of all races today experience and occupy the same position of social inferiority imposed upon African Americans during Jim Crow? At Angola’s prison-plantation, this analogy does not hold. The initiation of criminal stigma is preceded and displaced by a structure of racism and anti-blackness. Under this structure, one is not simply stigmatized, degraded, or symbolically dishonored because of their criminal status, but for a Black prisoner, race positions one within a matrix of symbolic and material violence. The very social terrain which makes questions of criminality, punishment, and incarceration possible in the first place is already organized through the anti-black logics of accumulation and social death entrenched within the depths of the plantation prison. This racial structure cannot be reduced to

any single moment of criminal justice crackdown or punitive governmental strategy such as the War on Drugs. And neither was its emergence “sudden and dramatic”—the history of Angola as the largest maximum-security prison in the U.S. was centuries in the making, and its emergence long precedes Jim Crow society. Without racial slavery, Angola could not have materialized in its current form.

While it is undoubtedly true that Louisiana’s criminal justice system—and Angola prison in particular—constitute a living, breathing monument to racial slavery, the persistence of structural inequality in “free” society also feeds the carceral machine, resulting in an endless production of an anti-black world. Thus, Jim Crow—or rather the master—did not simply move behind bars. In the wake of the formal abolition of slavery, the master’s power and resources are re-distributed across the social world, animating not only the penitentiary and the state, but also civil society as we know it (Sexton, 2017). Here, the formal abolition of slavery did not restructure the meaning of freedom according to the demands of the manumitted ex-slave, but rather, freedom was shaped according to the visions of nearly everyone other than the ex-slave. (Sexton, 2017). And as Sarah Haley (2016) notes in *No Mercy Here*, the violence necessary to making the “New South” possible was not a departure from the Old, but an elaboration of the modes of captivity and abjection structural to slavery. Whether through the public institutions of prisons, policing, and surveillance; privately run convict lease systems and chain gangs; the private domestic sphere of the white household; or even the interiority of the white psychic imaginary that perceives absolute racial difference, anti-blackness would find timeless expression throughout the social landscape (Haley, 2016, p. 252).

Angola then, does not reveal a series of evolving eras of racialized social control animated by crisis, intervention, and reform, but rather, such a framing is the logical

consequence of positioning Angola in the present. The prison represents a temporality in which past, present, and future become indiscernible under an endless and enduring notion of *time* that is structured by the constants of slavery and anti-blackness (Wilderson, 2011). Such is the historiography from which Angola prison emerges as a regime of racial slavery and terror that is past but far from over.

Approaching the genealogy of U.S. prisons and the relationship between slavery and mass incarceration from the standpoint of the antebellum plantation is a longstanding practice established by abolitionist, Black liberationist, and feminist critique (Davis, 1998). In the antebellum south, captivity and unfreedom is guaranteed through racial and gendered terror as well as the force of direct violence wielded as the prerogative of a plantation master or a slave trader. In fact, as Sexton and Lee (2020, p. 274) argue, the very practice of American incarceration is constituted by this ordered terror:

Thus we offer that the societal derogation of the imprisoned draws its principal affective power, and its strictest ideological cast from the deep wells of anti-blackness, and that the “prisonization” of the U.S. is more accurately discussed as a reverberation or derivations of the social death implanted at the heart of black existence, the quintessence of racial slavery and the principle legacy of its afterlife in altered structural modalities.

Perhaps then, the dynamics of American punishment are better understood as *essentially* “the antagonism between Blacks and the world,” as opposed to evolving notions of racial progress or reformed punishment (Wilderson, 2020, p. 174). In fact, the very idea of “racial progress” remains an unrealizable project within this antagonism. The symbolic and piece-meal articulations of progress are necessary for the reproduction of the antagonism, which otherwise offends the liberal sensibilities of those who insist that the United States has transcended the history of slavery. The story

of Angola prison, shrouded in racial slavery, is one in which freedom never takes root, precisely because it cannot (yet) take root.

Throughout the remainder of this chapter, I trace Angola's historical emergence as a penitentiary-plantation. Rather than re-narrating a progressive history between slavery, Jim Crow, the Civil Rights Movement, and mass incarceration, I instead focus on the shifting logics of extraction which can be read across different periods of Louisiana's antebellum life. I begin with a discussion of Louisiana's sugar plantations and the extraction of labor from African captives held as slaves. In the face of the 1808 Act Prohibiting the Importation of Slaves, the logics of extraction are recalibrated onto the reproductive capacity of female slaves and "human increase" as a method for establishing massive lines of credit and financializing debt toward the expansion of the south's slavery-dependent economy. And finally, formal emancipation and Reconstruction introduce a shift in extraction toward convict leasing. What survives of the master's power through the incomplete abolition of slavery is a kind of extractive solution that can serve the needs of a master and the state for whatever crisis appears on the horizon. The point of this analysis then, is not to periodize extraction, but instead, to demonstrate Angola Penitentiary's lineage as a continuous past and future of racial capitalist extraction.

Extractive Economies: From Slavery to Reconstruction

Ruth Wilson Gilmore (2017) argues that the contemporary system of mass incarceration fundamentally operates through an extractive economy. The prisoner, whose body is spatially and temporally coerced into *inactivity*, is the source of a stolen time that is ultimately recirculated as a form of capital. At Angola however, extraction is

not only a part of the configuration of mass incarceration, but it is also built into the very form of slavery that took root in antebellum Louisiana. Following Gilmore, one can trace how the logics of extraction have always been a part of slavery and convict leasing—institutions in which time, life, and death are ruthlessly ordered beyond the pale of what time is supposed to mean for a life.

Like mass incarceration, which requires a state of forced inactivity for extraction to take place (Gilmore, 2017), accumulating wealth under Louisiana's system of slavery relied upon fungibility and human captivity. As such, a historical analysis of Angola plantation unearths the persistence of slavery's extractive logics. To be clear, this is not an argument for evolutionary progress or cycles of reform, but rather, a representation of antebellum society's dependence upon different uses of an extractive economy. While the form that extraction takes shifts according to different historical moments, the structure of violence is fundamentally anti-black. What follows are fragmentations of slavery's bloody archive that document the essential role of social death and captivity necessary to sustaining anti-blackness.

Slavery in Louisiana began during the early 18th century under French colonial rule. The United States acquired the territory in 1803 from a desperate Napoleon Bonaparte through the Louisiana Purchase. American colonists recognized that the land adjacent to the Mississippi River contained rich alluvial soil which could be used to cultivate not only cotton, but the substantially more lucrative commodity of sugar cane, also called "white gold" (Muhammad, 2019). Louisiana, like other southern states at the time, relied on a massive slave economy, not only for its agricultural production, but also for its financial security. Propertied slave owners used their human commodities to

secure extensive lines of credit, ultimately freeing up capital which could then be re-invested into the antebellum economy (Sublette & Sublette, 2015).

Louisiana was late to the commercial enterprise of sugar cane. While sugar was a major cash crop in the colonies of Saint-Domingue and Cuba, cane could not be produced in the state of Louisiana because of freezing winter temperatures which disrupted the 13 to 15-month growth cycle necessary for cultivation (Sublette & Sublette, 2015, p. 332; Louisiana State Museum Online Exhibits, “Antebellum Louisiana II—Agrarian Life”). It was not until 1795 that Etienne de Boré, a French planter living in then-French-controlled territory of Louisiana, supplied funding, equipment, and labor toward uncovering a new method for producing granulated sugar. De Boré employed the knowledge of two planters—Antoine Morin and Antonio Mendez—who were each involved in the sugar industry of Sainte Domingue but escaped the island during the Haitian Slave Revolt of 1791 (Buman, 2013). Together, they devised a novel method for converting cane juice into granules that could be easily packaged and shipped. This move alone transformed the entire commercial market, not only for sugar cane, but also in the demand for labor productivity.

Through De Boré’s discovery, these “death camps of sugar” cleared a path for Louisiana to further expand its slave economy (Sublette & Sublette, 2015). The economic consequences of the innovation were enormous, as “white gold” drove up the value of land within the Louisiana region adjacent to the Mississippi (Muhammad, 2019; Louisiana State Museum Online Exhibits, “Antebellum Louisiana II—Agrarian Life”). Southern Louisiana farmland became some of the most expensive in the South, as mansions and slave labor camps were erected all throughout the region. Following 1796, new sugar plantations emerged almost immediately on both sides of the

Mississippi River, and within a year, 10 sugar refineries were operating in the area (Sublette & Sublette, 2015, p. 332). Within 50 years, Louisiana would provide roughly one quarter of the entire world's sugar supply (Muhammad, 2019).

The newly uncovered methods of granulation, combined with the Louisiana Purchase of 1803, resulted in American colonists swarming the region, buying up land, establishing plantations where they could, and importing slaves in droves (Sublette & Sublette, 2015). Harvesting cane and converting it into granulated sugar required intensive and dangerous labor. The granulation process required sugar mills to operate for long hours, night and day, under assembly-line like conditions, around boiling hot kettles, open furnaces, and grinding rollers. As historian Khalil Gibran Muhammad (2019) remarks, "Fatigue might mean losing an arm to the grinding rollers or being flayed for failing to keep up. Resistance was often met with sadistic cruelty." This claim is affirmed by demographic accounts of Louisiana's sugar plantations, wherein death exceeded birth, and the life expectancy of a slave was roughly seven years (Muhammad, 2019). Thus, what was initially extracted from slaves under Louisiana's sugar trade, was a ruthless, exhaustive, and deadly form of labor.

The demand for labor on the part of southern planters was determined by both, the need for collateral assets through which to secure financial loans, and the need for laboring bodies that could be replaced and replenished against high mortality rates. While the booming sugar trade stimulated Louisiana's economy, it also required a substantial expansion and accumulation of slave labor. The accumulation of slaves in the south however had introduced its own set of problems, and the federal government responded by initiating a ban and closing its ports to the Atlantic slave trade.

The Act Prohibiting the Importation of Slaves went into effect in 1808. The prohibition was the result of several factors. Often outraged by scenes of violence accompanying coffles and auction blocks, anti-slavery activists pressured the federal government to bring an end to the trade. At the same time, southern whites feared the consequences of over-accumulating slaves. The planter class as well as the south in general lived in constant fear of rebellion. As the population of slaves steadily increased, surpassing the population of whites in some jurisdictions, the fear of insurrection continued to grow. As one Confederate naval officer and pro-slavery advocate, Matthew Fontaine Maury asked, “If it is abolished, how are so many people to be got rid of? If retained, how are they to be controlled? In short, when they have increased and multiplied according to the capacity of the states to hold them, what is to be done with them, whether they be bond or free?” (Johnson, 2013, p. 301). Likewise, in what Walter Johnson calls Thomas Jefferson’s “vision” for “the empire of liberty” and the future of slavery, the specter of the Haitian Revolution loomed large. Jefferson wrote of Haiti, “If something is not done and not done soon, we will be the murderers of our own children... The revolutionary storm now sweeping the globe will be upon us” (Johnson, 2013, p. 32).

While the prohibition was supported by anti-slavery activists as well as whites who feared insurrection, these were not the only motives entertained by Jefferson who supported the Act. There was another incentive, tied to national economic development, as well as his own financial and political gain. For Jefferson, the ban was an economic move toward monopolizing the slave trade under a domestic market, to the benefit of “slave-breeding” states, namely his own state of Virginia. As historian and Black

feminist scholar, Jennifer Morgan notes, Jefferson once stated of enslaved women: “It is not their labor but their increase which is the first consideration” (Morgan, 2018, p. 14).

Prior to the passage of the Act, Virginia and South Carolina dominated the slave trade market, through forced reproduction and foreign importation, respectively. Even though a state like Louisiana could not legally import foreign slaves to supply its explosive demand for labor, planters could make purchases from South Carolina at prices that were usually much lower than Virginia’s American-born slaves (Sublette & Sublette, 2015, p. 16). But with the passage of the Act, Louisiana would now have to turn to Virginia as the source for its human capital. As Sublette and Sublette explain in *The American Slave Coast*, “Over the long term, ending the African trade was a business coup on behalf of the slave owners of Virginia, who were Jefferson’s most loyal constituents...” (Sublette & Sublette, 2015, pp. 15-16). The state of Virginia was known as “the great slave breeder,” and banning the importation of African slaves who were sold at lower prices, essentially guaranteed a dramatic rise in the demand for domestic-born slaves, ultimately ushering in an era of another Middle Passage (Sublette & Sublette, 2015; Sharpe, 2016).

During a moment in which the planter class of Louisiana was seeking an influx of slave labor, the ban complicated their plans. Even as foreign slaves continued to be kidnapped and smuggled into South Carolina and down the Mississippi into New Orleans, the prohibition increased demand for Virginia’s slave commerce. As Sublette & Sublette (2015, p. 17) explain:

By deliberately creating a scarcity of slave labor from which profit could derive for those who could supply it, the 1808 cutoff of the African trade created economic incentive for farmers to deliver as many homegrown laborers to market as possible, as fast as possible.

This demand would be met by a domestic slave trade economy, in which the reproductive capacity of female slaves would become the economic engine for slaveowners to expand their holdings. During the 1830s alone, almost 30,000 slaves were forcibly brought into the south (Rothman, 2021, p. 136). And between 1800 and 1860, traders moved roughly one million slaves from the south into the “deep south” states including Louisiana (Rothman, 2021, p. 13). By 1860, the south had accumulated roughly 4 million slaves, and established vast amounts of wealth worth more than what the entire nation had invested into manufacturing, railroads, and banks (Rothman, 2021, p. 17).

A Second Middle Passage: Extraction Through Forced Reproduction

As the 1808 Act Prohibiting the Importation of Slaves altered the economic conditions for accumulation, it ensured that the enslaved female’s body would become the vessel through which the slaveholding south could project its future (Morgan, 2004). Slave traders built an internal market in which the progeny of female slaves guaranteed “human increase” through forced reproduction (Johnson, 2020; Morgan, 2018; Hartman, 2016; Sharpe, 2016; Sublette & Sublette, 2015; Washington, 2006; Morgan 2004; Roberts, 1997). The scale of sexual violence required to extract human beings from their wombs in order to replenish property holdings of the planter class is a horror that exceeds the limits of narrative. Yet, Black feminist scholars have engaged this unthinkable violence. Rather than focusing on the economic role of commodities produced in the field (i.e., sugar and cotton), this body of scholarship centralizes the economics of “slave breeding” by deconstructing the interlocked structural positions of gender and race under slavery.

In its most crude form, this economy laid claim to the bodies of black female slaves and perpetuated a violent system of “slave-breeding” and forced intimate relations (Morgan, 2018; Hartman, 2016; Sublette and Sublette, 2015; Morgan, 2004). That is to say, the birth and raising of enslaved children was itself, a more economically productive industry than the commodities produced by laboring slaves. Under this system, female slaves were pressured to have as many children as possible through the threat of brute force and other negative incentives, such as being sold and separated from existent kinship communities. The womb was transformed into a reproductive force for planters to increase their capital. Extraction through forced breeding makes possible what Christina Sharpe refers to as another iteration of the Middle Passage. “The womb,” writes Sharpe, “[is] a factory producing blackness as abjection...turning the birth canal into another domestic Middle Passage” (Sharpe, 2014, p. 63).

The law of *partus sequitur ventrem* was central to the domestic slave trade because it ensured that the status of enslavement would be applied to all children born of a female slave (Morgan, 2018; Hartman, 2016). As Jennifer Morgan’s (2018) work clarifies, the Latin phrase was not included as part of the original law but was added later as a way to connect the English law to its Roman antecedents, thus further naturalizing the heritability of enslavement (Morgan, 2018). The statute was originally passed in Virginia in 1662 and declared that a child’s status as free or unfree was dependent upon the condition of the mother. While the Latin language of *partus*, which translates to “offspring follows the belly,” was inserted in 1819, its essential meaning remained unchanged from the 1662 law. As it was announced in 1819, it read:

Whereas some doubts have arisen whether children got by any Englishman upon a negro woman shall be slave or free, be it therefore enacted and declared by this

present grand assembly, that all children borne in this country shall be held bond or free only according to the condition of the mother—*Partus Sequitur Ventrem*. (Morgan, 2018, p. 1).

This statute barred the entire notion of meaningful kinship among slaves. As the property of another human being, the reproductive capacity of the slave woman's body was absorbed into the logics of market and capital. As such, pregnancy and birth were considered to be within the boundaries of the master's access to a fungible form of property and the demand for "human increase." The law guaranteed that the intimate bonds of motherhood and the possibility for kinship would be displaced by a racial-capitalist desire for accumulation: "The law locked enslaved women into a productive relationship whereby everything that a body could do was harnessed to the capital accumulation of another" (Morgan, 2018, p. 17).

In a chapter in *Laboring Women* titled, "The Breeding Shall Goe with Their Mothers': Gender and Evolving Practices of Slave Ownership in the English American Colonies," Morgan (2004) discusses how slaveowners depended on the logics of "increase" to provide financial security for their own families and future lineage. They gifted slaves to their own children so as to provide a fungible form of capital that could be used for profit or liquidated as a financial asset. In a kind of "proto-social-engineering," slaves were also passed down as couples, with the intent for future propagation. The female slave was harvested for her productive and reproductive capacities, whereby her progeny would provide security to the master's own lineage: "Nothing is more to the Advantage of my son than young breeding negroes," as one Virginia slaveholder wrote in his will in 1719 (Morgan, 2004, p. 86). In this way, the concept of "increase" enabled even a small-time planter to pass down more inheritance

than he actually owned. “Black women’s bodies,” writes Morgan, “became the vessels in which slaveowners manifested their hopes for the future...” (Morgan, 2004, p. 84).

Through *partus*, maternal relations were reduced to economic logics of the slave-trade (Morgan, 2018; Hartman, 2016), in which black female slaves were “valued for their fecundity,” as “traders made projections based on their ‘future increase,’” and “appraisals were linked to their ability to reproduce” (Berry, 2017, p. 23). Not only was motherhood constructed through the absence of protective rights, but the law worked to ensure that her child would be indistinguishable from the social arrangements of ownership and the reproduction of enslavement (Hartman, 1997, p. 98). Thus, Saidiya Hartman (2016, p. 166) writes, “The slaveship is a womb/abyss. The plantation is the belly of the world...The master dreams of future increase. The modern world follows the belly.” Increase arrives in the form of the female slave’s progeny who enters the world, not as subject, person, or even human, but as the property of another. Such a practice could not take root without first positioning the slave as external to the world of human relationships. This natal alienation is conditional to the master-slave relationship but was also dynamic in its manifestations. For example, we know that slaves formed familial and kinship bonds. But also, Berry’s (2017) research for example demonstrates that slave families could be forcibly separated and bought and sold, whether they were infants only days-old, teens, young adults, adults, or even elderly. These familial bonds then must also be understood as a social relation mediated by the master’s prerogative, and which could be, abruptly and violently severed on a whim, regardless of age or status.

In this sense, the Middle Passage constitutes a *forced breach* into the relationality of captive slaves, culminating in a kind of kinship that is perpetually

vulnerable to seizure and expropriation by a slave master and laws upholding the right to property (Spiller, 1987). *Ungendering* is crucial to these extractive logics of forced reproduction and forced breach, as it positions the female slave as both commodity and producer. In this sense, the gratuitous violence of the middle passage inaugurates the slave, not as subject, but as *flesh*—or, as Hartman (2016, p. 168) writes, “Flesh provides the primary narrative rather than gendered subject positions.” This mode of violence under which kinship is made to not matter, or made to matter only in so far as flesh is reproducible, inaugurates the modern world (Hartman, 2016; Wilderson, 2011).

But the notion of *breach* is not simply relegated to the formal laws that govern slavery. The female slave in particular is made subject to a natal alienation that exceeds juridical command. In “Poetics of mu,” Sora Han (2020) deepens Spiller’s concept of breach by centering the figure of the daughter born under the law of *Partus*. In Han’s reading, the Spillerian daughter is less a subject of traditional kinship networks marked by father, mother, and child, and is instead the child of a doubled paternal absence: the slave father who is denied the ability to claim her as kin, and the master who refuses to recognize her as daughter (Han, 2020, p. 922). As *flesh*, her relation to each, but in particular to the master, is structured by violence. The emergent structure of kinship here is one in which the master exercises a perverse sovereignty over his reproductive property, thereby collapsing “the boundaries of desire, sexuality, and reproductive violence...” As Han (2022, p. 940) iterates, “The loss of ‘gender function’ even understood more broadly as a neutralization of symbolic identification through gender difference, hardly neutralizes the sexual fate of sexuality under slavery.” Thus, the signifying power of gender does not disappear under *Partus*, but it instates the private sovereignty of a master over the sexual fate of the female slave. This reading of Spillers’

enforced state of breach situates the law's relationship to slavery beyond Slave Codes and into a realm in which slavery operates as a law unto itself—or what Han (2015) has elsewhere referred to as “the private law of slavery.” Engaging this private realm moves us past the rule of the state and toward a recognition of the master's perverse desire as a mode of sovereign rule under slavery.

The black female slave then, as a political economic figure, is not simply a commodity or laborer, but rather, a means of production. If the slave was considered a commodity earlier, then the transport of African captives was how labor could be replenished. But as the foreign slave trade was banned, the mode of extraction shifted toward sexual violence and the master's perverse sovereignty which were essential to the exchange of *flesh*. The structural position of the female slave was essential for sustaining not only the antebellum economy and demands for labor, but as we will see, the establishment of a slave trading market based on financialization, credit, and debt.

In the following section, I recount a partial history of the domestic slave trade that unfolded in the state of Louisiana, and how one planter, Isaac Franklin, considered to be one of the wealthiest individuals in the U.S. at the time, built his fortune from this extractive economy and ultimately established the plantation that would become Angola prison.

The Slaveocracy that Built Angola

Louisiana State Penitentiary inherits its name, “Angola,” from Isaac Franklin, one of the wealthiest beneficiaries of the antebellum domestic slave trade (Sublette & Sublette, 2015; Rothman, 2021). Franklin started working in the slave trade at the age of 18, after his brothers introduced him to the family business which operated out of an

office in New Orleans. In 1824, he met John Armfield, a stagecoach driver who was trafficking slaves from South Carolina. Together, they founded what would become the largest slave trading firm in American history—the Franklin & Armfield Office (Sublette & Sublette, 2015, p. 469).

The “office,” a three-story brick building, still located at 1315 Duke Street in Alexandria, Virginia, would more accurately be described as a “slave prison,” for it contained holding cells used to imprison kidnapped human beings. Alexandria operated one of the busiest slave-trading ports, in part because of Virginia’s status as “the great slave breeder” (Sublette & Sublette, 2015, p. xiv). While the term “slave-breeding” was commonly used at the time by traders and others involved in the business of slavery, it was also deployed by anti-slavery activists to describe the terror behind the practice (Sublette & Sublette, 2015, p. 19). The office operated between 1828-1837, and its success was largely attributed to Franklin’s business and networking skills (see Sublette & Sublette, 2015, pp. 472-477), but also to his willingness to engage in ruthless violence, terror, and disregard for the human cargo he owned and traded. As historian, Joshua Rothman (2021, p. 16) notes, the horrors of the slave breeding market rewarded traders like Franklin:

Their professional dominance came in part from their command of the intimate daily savageries of the slave trade. Franklin, Armfield, and Ballard immersed themselves without hesitation in the routine brutalities and coldhearted violence of their work. The exhilarating thrill of acting with impunity animated them, feeding a roguish swagger and bold ambitions. They knew that beatings, rapes, and family separations terrified the enslaved, affronted antislavery activists, and troubled some of their fellow white southerners...theirs was a dirty job most men lacked the audacity to do. For those audacious enough, there were no limits.

This was an industry in which direct violence was fundamental to the extraction of capital.

While Franklin ran the firm's logistics and mostly operated out of New Orleans, Armfield was in charge of the Alexandria office, as well as locating new slaves to buy and sell. They conducted their sales through these offices, but the buildings also doubled as prisons for slaves who were not immediately sold. Instead, they would be forcibly marched for sale as part of Franklin & Armfield's annual coffle. In preparation for the Fall "slave selling season" of each year, Armfield headed a coffle, marching roughly 300 slaves, well over 1,000 miles southward, from Alexandria, Virginia, to Natchez, Mississippi and Louisiana (Sublette & Sublette, 2015, p. 475).

Franklin & Armfield also owned four slave ships, one of which was named *Isaac Franklin*. The brigs were evidence as to the economic and innovative scale of their company. They allowed the firm to conduct business by sea, sailing regularly from Alexandria to the port of New Orleans. In 1835 alone, they shipped over 1,000 slaves (Sublette & Sublette, 2015, p. 478). The brigs were also outfitted with steam engines, allowing them to traffic their human cargo up the Mississippi into Natchez, increasing the speed and efficacy of their trade.

In this way, Franklin & Armfield "modernized" the domestic slave market, utilizing waterpower, steam, and credit lines secured through human capital (Sublette & Sublette, 2015, p. 479). "From Alexandria and Richmond to Natchez and New Orleans," writes Rothman, "[they] controlled the fates of thousands of enslaved people. They were creditors for hundreds of white farmers and planters, and they sat at the center of capital flows connecting southern cotton and sugar fields to northeastern merchant

houses to banks in New York, Philadelphia, and London” (Rothman, 2021, p. 15). In less than 10 years, the firm had grown into a national enterprise, made possible through a violent economy of slave breeding and social death.

Despite their success, Franklin chose to leave the firm in 1835. A global cholera outbreak had infected slaves held for sale in the market and substantially weakened the trade. At the same time, the price of cotton was already starting to fall ahead of the Panic of 1837. But perhaps above all else, Franklin left the firm because his reputation was forever scarred after he was directly linked to an atrocious scene in which the bodies of several slaves were found buried in a shallow pit outside his office in Natchez, Mississippi.

When Franklin first learned that a cholera outbreak was decimating slaves held captive for sale, he took a gamble and advised his business associates to hold off on selling their human cargo, so as to avoid deflated prices, and in the hope that demand would increase as the pandemic made healthy slaves a rare commodity (Sublette & Sublette, 2015, p. 482). But slave pens were unhygienic spaces notorious for circulating disease, and the contagion reached his business. According to letters he penned to his business partners, in December 1832, at least 15 slaves died under Franklin’s watch within a two-week span, and at least half a dozen more were on the verge of death. In a letter to his business partner, Franklin wrote, “the last two weeks we have Buried... 9 Negroes and 6 or 7 children and we have 7 or 8 Negroes sick...the way we send out dead Negroes at night and keep Dark is a sin...” (Sublette & Sublette, 2015, p. 482). Franklin did not bury the dead, but rather, ordered their bodies to be dumped in a swamp in Natchez in the middle of the night. As Rothman (2021, p. 12) explains:

A man concerned about the dignity of the enslaved might have arranged for proper burials. Isaac Franklin was not that man. Dead slaves brought no profit and threatened future gains. They were useless. So Franklin and an assistant waited till nightfall, tossed the corpses in a ravine by the bayou adjacent to the company showroom, shoveled a little dirt on top, and walked away.

It was not until the following Spring that the bodies, beginning with a teenage girl, a woman, and an infant, were unearthed by rainfall. The scene was discovered by shocked local townspeople. The decomposing corpses were repulsive, even for those who were tasked by the coroner's office to investigate the site. The deceased bodies were identified by their clothing as slaves that belonged to Franklin & Armfield. As Rothman notes, "his disposal scheme had come undone" (Rothman, 2021, p. 2).

Franklin's actions had crossed the line. Horrified by the way he dumped these bodies and concerned for the safety and public health of local whites, the citizens of Natchez demanded that slave traders be banned from the city. The ban went into effect in 1833, and a humiliated Franklin was driven out of town. As he spiraled further into disrepute, other traders publicly denounced his action and quickly dissociated themselves from him. And while he attempted to deny any knowledge of the disgraceful behavior, claiming that he was out of town when the bodies were dumped, he was forced to close his slave jail in Natchez and sell the building. Although the company would eventually recover and reopen a new office outside the limits of Natchez, Franklin retired from the business two years later in 1835. Both his character and career were damaged beyond repair as the public came to see him for the kind of person he was—outright disgusting, *even for* a slave trader.

The scandal of Franklin's disposal scheme would impart an important lesson onto the future of Angola, as it poses a crucial problem for the logic of extraction: the jettisoning of its byproducts which have been exhausted of all extractable life. If bodies

cannot be dumped so recklessly, then how should they be discarded? What form will Angola prison's disposal scheme take? And can it ensure against the resurfacing of bodies, and the return of their bones? I consider these questions at the conclusion of this essay.

Over-accumulation and the Arrival of Angola Plantation

Franklin left the slave trade in 1835 as one of the richest traders in the industry. His departure came at the peak of slavery's booming internal trade, and just prior to the Panic of 1837, which sent the U.S. into an economic depression that affected the prices of captive slaves, land, sugar, and cotton. This depression would have lasting consequences for the domestic slave trade as well as the entire institution of American slavery. It also set off a sequence of events that led to Franklin coming into possession of the plantation land that would become Angola.

In many ways, the Panic of 1837 resulted from an over-accumulation of commodities produced on southern plantations, and the collapse of the credit-based market which slavery subtended. As Walter Johnson (2013, pp. 12-13) observes:

It is easy to see in retrospect that overinvestment in slaves, overproduction of cotton, and overreliance on credit made Valley planters vulnerable to precisely the sort of crisis they experienced during the Depression of 1837... In most capitalist economies, capital chases the leading sector. Over time, as more and more is invested in a single sector, returns diminish. Often there is a crisis, a crash.

In the case of the antebellum south, the leading sector consisted of commodities produced on the plantation—namely cotton and sugar. But the financial investment that made this market possible was particularly risky as it rested on borrowed money. Credit was collateralized by human capital in the form of 2 million slaves worth over \$1 billion,

which constituted nearly 20% of all wealth owned by U.S. citizens at the time (Baptist, 2014, p. 245).

In the U.S. national economy, it was the logic of extraction at work within the institution of racial slavery that made this massive system of credit financialization possible. The very land upon which commodities were grown, the forced labor needed for production, the cost of transporting goods to national and international marketplaces, and everything in between, almost entirely depended on the ability to borrow and lend immense amounts of capital. Essentially, wealth, in the form of captive human property, secured lines of credit that could circulate as forms of capital within global markets (Sublette & Sublette, 2015; Baptist, 2014; Johnson, 2013). “Human increase” and the future of slavery, harvested from the soil of Black female slaves by way of sexual violence, forced reproduction, and “breeding,” was guaranteed by this form of extraction (Morgan, 2018; Hartman, 2016; Morgan, 2004). However, a system in which owning more slaves allowed planters to take out loans, repay debts, gain profit, and forcibly reproduce property that could in turn be used as even more collateral for borrowing, proved to be delicate and susceptible to economic booms and busts (Baptist, 2014).

In *The Half Has Never Been Told*, Edward Baptist (2014) explains how over-accumulation set off a long chain of events that culminated in the Panic of 1837, from which although the U.S. eventually recovered economically, it continued to struggle with, politically. According to Baptist, by 1833, the U.S. led the world’s cotton market, as production had been expanding across the South for 40 years. Part of its massive growth is attributed to the industrial revolution’s rapidly developing textile factories in northern

U.S. states and Britain, for which raw cotton was a crucial commodity. Credit was leveraged from national and international economies and infused into the cotton trade.

At the same time, American planters in the deep south's cotton and sugar fields managed to increase their output. By exploiting a quota system backed by sheer violence, these planters doubled the production of cotton. But in doing so, they created a supply that vastly outpaced demand, and the price of the commodity began to decline. As Baptist notes, cotton production expanded at an unprecedented rate between 1830 and 1837, and U.S. banks had dramatically increased lending to support this growth. But as the market became saturated, the price of cotton peaked in 1834, and by 1836, it had receded to the level of prices in 1830 (Baptist, 2014, p. 270). The entire market, built upon a shaky foundation of credit and accumulated through unmeasurable violence was about to collapse.

By the end of 1836, British banks ceased to provide Liverpool cotton-buying firms with the credit and loans required for purchasing cotton and feeding the industrial textile factory sector. The tightening of credit caused the interest rates of business loans in Liverpool to erupt, making it virtually impossible for cotton merchants to purchase the crop yielded by Southern planters during 1836. This resulted in a free fall of cotton prices. In the U.S., cotton merchants could not find buyers for their commodity and thus could not make payments on the credit borrowed from local banks. Finally, as local U.S. banks called in their credited loans from plantation owners, they realized that planters could not pay back their debts. In other words, everybody wanted their borrowed money returned, but most had lent beyond their capacity, and few actually possessed the cash reserves to pay it back.

The economic fallout emanating from 1837 would last years, and although the economy eventually recovered, it was not without considerable impacts. For one, the planter class and southern elites sought to bolster their economic futures by expanding slavery further and further into the western U.S. They also demanded that the U.S. open its borders back up to the international slave trade, which they imagined would supply westward expansion. These desires were driven by the knowledge that the planter class would not last without slavery—in a word, it was driven by fear. Because their wealth *was* people, they could not simply liquidate their property and transfer their investment into “the next big thing.”

As Johnson (2013, p. 13) discerns, “Their capital would not simply rust or lie fallow. It would starve. It would steal. It would revolt. Beneath the commitment to the exegetes of slavery to their cause lay fearful visions of any future without it.” But the collapse also garnered scrutiny and pressure from abolitionists, anti-slavery activists, and northern banks, all of whom recognized the economic and social instability created by the institution. In this sense, the American body politic was deeply torn between a desire to expand slavery once again, and to bring an end to the institution, not for the sake of morality, but primarily political and economic self-interest. Ultimately, this divide would set the stage for southern secession, a standoff between the Union and Confederate armies, the beginning of the American Civil War, and formal emancipation.

As a mode of production and a form of capital then, slaves could not simply be abandoned or liquidated as asset, but neither could they be executed in mass. The scale of death necessary under the planter class’ logic of crisis and accumulation was impossible. In other words, there was no actual logistical plan or practice (either of

business or society) to accompany death on such a scale. This was the lesson Franklin's story held for other planters.

Although Isaac Franklin officially retired from the slave trade in 1835 before the worst of the depression, its economic fallout had everything to do with how he came into possession of the plantation land that would later become Angola Penitentiary. At age 46, Franklin began a career as a plantation master and purchased land in Gallatin, Tennessee, establishing his own plantation there. Onsite, he built a decadent mansion called Fairvue, which came to be known as the most grandiose house in Tennessee (Sublette & Sublette, 2015, pp. 489-490).

In place of his commercial trade, Franklin went on to expand his wealth by dispossessing small landowners and acquiring their plantations. At the onset of the depression of 1837, small planters were the first to liquidate and give up their assets in the face of debt-collecting. As Baptist remarks, "...all along slavery's frontier, the process of collecting debts from individuals began to roll forward with redoubled speed. All had to fend for themselves against desperate banks, bankrupt merchants, outside creditors, and, above all, each other" (Baptist, 2014, p. 279). Because the southern economy was so heavily reliant on slavery, largescale planters could collateralize their human captives in order to open extensive lines of credit. This meant that traders had access to the largest pool of "collateral" in the U.S. at the time: two million slaves, worth over \$1 billion (Baptist, 2014, p. 245). The credit system benefitted large planters under the assumption that the more slaves one could finance, the more commodities they could produce for, what the south had misrecognized as a seemingly unending market (Sublette & Sublette, 2015; Baptist, 2014). Large-scale planters like Franklin could in turn sell credit to small-time planters, and profit on the interest gained. As Sublette &

Sublette explain, “These well-capitalized individuals...thus lent out their credit. Writing mortgages heavily collateralized by the debtor’s slaves, they foreclosed on the weaker members of the planter society as they went down, appropriating the bankrupt estates in the process” (Sublette & Sublette, 2015, p. 490). This is precisely how Franklin procured plantation land in Louisiana’s East Feliciana Parish where Louisiana State Penitentiary currently stands.

Much of the plantation land that makes up Angola prison today, was owned by a planter named Francis Routh. Routh’s property included three plantations—Bellevue, Killarney, and Lochlomond— which spanned 7,767 acres of land, and 205 slaves (Rothman, 2021, pp. 290-291). In 1835, the Routh and Franklin had agreed to a five-year contract to become business partners, wherein Franklin paid \$150,000 to own half of Routh’s estate. However, like many others at the time, Routh made a series of poor business decisions, borrowing much more money that he could repay through his plantation. The Panic of 1837 left him in financial ruin, and the West Feliciana sheriff authorities repossessed the rights to Routh’s property. Franklin reluctantly purchased the property through an auction, knowing that the only way he could regain his investment was by making the plantations lucrative on his own (Sublette & Sublette, 2015). He eventually evicted Routh and his family, before setting into motion plans to expand the arable land.

Franklin cleared fresh land and established the first in a series of new plantations—he called it, “Angola.” The reason behind the selection of this name is not entirely clear. While some have speculated that Franklin’s slaves were trafficked from the Angolan coast of southwest Africa, or were their descendants, the hypothesis is unlikely (Rothman, 2021, pp. 358-359). As Rothman notes, Franklin kept meticulous

records of his estate, and none of his slaves had African names, nor were most old enough to have been born when the transatlantic slave trade was still legally operating. Rothman proposes instead that this was an arrogant display of the slave trader's desire to insert himself into history: "Franklin was gloating about the international trades in Black people and the most lucrative crop they produced, asserting a right to take the ancestral languages and words of those whose land he held and whose bodies he exploited, and claim them as his own." Nonetheless, Franklin bought several hundred more slaves to supplement Angola, bringing the total number within his personal estate to roughly 500 (Rothman, 2021, p. 384).

In 1846, he became severely ill from what was most likely cholera. While he resented his responsibilities at the Louisiana plantations and would have preferred to spend the remainder of his life in Tennessee, he became bed-ridden and unable to leave the state. He died during April of that year at the Bellevue property. At the time of his death, he was staying inside Routh's old house, which had fallen into disrepair (Rothman, 2021, pp. 391-392; Sublette & Sublette, 2015, pp. 548-550). As such, he would not live to see the continued expansion of his slaveocracy.

Reconstruction

After Franklin's death, his wife, Adelia Hayes carried out parts of his will, including plans to build two ancillary plantations in addition to the four existing ones. They were named Loango and Panola but would collectively assume the name "Angola" at the end of the century. At the time of his death, Franklin owned a vast estate including hundreds of human captives, plantations, and undeveloped land in three different states. Adelia Hayes inherited the entire estate, including 750 slaves, the

Louisiana plantations, the Fairvue plantation in Tennessee, and 50,000 acres of land in Texas. This made her the wealthiest woman in the U.S. during the late antebellum period (Ryan & Perrault, 2007).

Seizing upon an opportunity to make money from the Louisiana plantations without having to tend to its maintenance, Hayes leased out the plantation land to private companies, which in turn used the site as a penitentiary and convict labor camp. While the convict lease system was already operating in antebellum Louisiana, the end of the Civil War and Reconstruction bolstered the enterprise. Hayes eventually consolidated her assets and sold off the land that she no longer needed. She sold the Louisiana plantations to a former Confederate Major, named Samuel James in 1869.

During Reconstruction, James capitalized on the convict lease system and for 25 years, personally oversaw “the most cynical, profit-oriented, and brutal prison regime in Louisiana history” (Carleton, 1971, p. 21). In Louisiana, the Black codes which replaced Slave codes during Reconstruction, were sanctioned only months after the surrender of the Confederacy (DuBois, 1935, pp. 177-179). These new laws secured a steady supply of former slaves to labor as convicts and enabled the continued extraction of wealth through the suffering and deaths of mostly black prisoners (Rideau & Wikberg, 1992, pp. 164-165).

While official records of prisoner deaths on the Louisiana plantations during James’ reign are scant or remain yet to be uncovered, the limited archive demonstrates that thousands died, and most were black:

The Prison Board of Control reported that 216 convicts died during year 1896 alone. And it is estimated that as many as three thousand men, women, and children convicts (most of them black) died from over-work, exposure, brutality, and outright murder during that infamous thirty-year period from 1870-1901 (Rideau & Wikberg, 1992, p. 36).

The racial distribution of death likely followed patterns of labor assignments, where the most dangerous and deadly forms of work were almost exclusively doled out to black convicts (Wikberg & Rideau, 1992, pp. 170-171). To this day, it is unclear how many died, or where their bodies may have been buried, either on the prison grounds or offsite at nearby labor camps (Wikberg & Rideau, 1992, p. 158).

In 1901, the State of Louisiana purchased the prison-plantation from James, and formally consolidated the site as Louisiana State Penitentiary. But its horrifying reputation remain unchanged. Between 1928 and 1940, torture and corporal punishment were well-documented practices, and the prison's mortality rate was at its highest since its ownership under James. Prison records from this era suggest that Long's prison guards inflicted 10,000 "official" floggings, but it is estimated that the true number of beatings, many of which took place in the field, far exceeded the record (Wikberg & Rideau, 1992, p. 38). In 1933, the prison began construction of its infamous "Red Hat" cellblock, where Albert Woodfox would find himself some 40 years later. The Red Hat consisted of 30 concrete cells fitted with solid steel doors instead of cell bars, and only a single 12-inch window for ventilation in each cell. In protest against the prison's brutal conditions, in 1951, a group of 37 prisoners cut their Achilles tendons. Pressure from within and outside of the prison mounted, and between 1964 and 1968, the wardenship changed nine times (Wikberg & Rideau, 1992, p. 40). Throughout the 20th century, Angola remained violent and unstable (Pellet-Hobbs, 2018), and was referred to as both "America's bloodiest prison," and "The Last Slave Plantation."

This Reconstruction-era transformation of the prison, passed from Hayes, to James, to the State of Louisiana, constitutes the relationship between state-sanctioned punishment and racial subjugation. While freed black people were no longer owned as

private property, this legal recognition also inaugurated them as subjects within a racially targeted project of state-sanctioned punishment. What appears then as a transition from plantation to penitentiary, obscures anti-black violence by re-presenting it as a formal method of punishment. Here, social death is the authorizing force behind the emergent penitentiary form, and civil death, its surrogate articulation that conceals the prison's racial origins.

Within the history of Angola prison and Louisiana, the antebellum chapter demonstrates that no amount of violence leveraged against black bodies could be made legible as violence. The repeating destruction of kinship was, at best understood as the cost business, and at worst, a source of pleasure—or perhaps both. In either case, through social death and the forced reproduction of slavery, terms such as injury, rape, and violation lose their meaning. Like human cargo forced overboard and spread throughout the Atlantic for the sake of collecting insurance recompense, or the bodies of human property abandoned in swamplands in the middle of the night, the fungible captive can only be valued in financial terms. While this antebellum history supplies context necessary for analyzing the anti-blackness of the violence that took place in the physical creation of Angola, it is the shifting logics of extraction across these periods that helps us understand the afterlife of slavery.

The Fugitivity of Bones

In 1927, in what is considered the most destructive river flood in U.S. history, the Mississippi submerged some 27,000 square miles of land under 30 feet of water across three states (Watkins, 1997). As floodwaters receded at Angola Penitentiary, they left behind clusters of human remains (Ryan & Perrault, 2007). These exhumed bodies most

likely belonged to slaves who died at Angola and the surrounding plantations, Union troops who were buried onsite with the permission of Adelia Hayes, and presumably, a portion of the roughly 3,000 prisoners who died under Samuel James' convict lease system (Ryan & Perrault, 2007). They were reburied in a mass grave where the prison's cemetery, Point Lookout, stands today.

The fact that the prison's cemetery rests atop a mass gravesite is indicative of how the shifting logics of extraction survive into the afterlife of slavery. What Angola prison learns from the legacy of Isaac Franklin and the antebellum slaveocracy which he helped establish, is that the byproducts of extraction must be disposed of without scandal. Like the bodies of expendable slaves dumped into swampland, today, it is deceased prisoners who fill the penitentiary's graveyards and constitute the byproducts of the extraction machine that is Angola prison.

Decomposition of the human body begins with tissue, skin, and flesh. Bones are the last to decay. They contain the oldest stories and the longest of memories. But disassembled from their skeletons, these amalgamated bones cannot narrate the who, where, or how of death. These facts are lost to the depths of Angola's soil and to the currents of the Mississippi. But what secrets are possessed by those human remains scattered across this plantation land?

The Great Flood of 1927 was neither the first nor last instance in which Angola would be submerged by the Mississippi (Rideau, 1998; Rideau, 1997; Carleton, 1971). Each year, the river which borders the prison on three sides, threatens to smash through its levees. And each broken levee brings with it, the potential to uncover fragments of human decay.

The way these bones reappear time and time again exposes the limits of what can be concealed. The spatial arrangement of the cemetery gives this much away as it contains 331 marked graves of prisoners, carefully organized into rows, resembling a military-style burial site. However, at its center can be found a large, circular, open space containing a mass grave and the bodies unearthed by floodwaters. There are no known records that document who or how many are contained in the common grave (Louisiana Department of Corrections). There is only a memorial plaque, ordered by Warden Burl Cain in 2001, which reads, “In Memory of the Unknown Buried Here.” The full text continues, “Remember not my name nor my sins nor guilt nor shame; only that I was a man. Dedicated 2001. Burl Cain, Warden. The Forgotten Voices Toastmasters Club #6571” (Moore, 2009).

But the spatial arrangement of the cemetery, marked by individuated graves, is a fantasy that covers over the atrocious nature of a mass burial site. And Cain’s memorial plaque is a performance of piety and deathcare. Certainly “The Unknown” are buried there. But they are also buried everywhere else. The dead cannot be contained to the geography of the cemetery because their bones extend to every part of the plantation, and they refuse to disappear. The fugitivity of these bones reveal Angola itself to be a mass gravesite.

As the name *Point Lookout* suggests, one is invited to stand watch—to oversee the dead and to guard against the fugitivity of these bones. But its name encompasses another possible interpretation: an elevated point from which to look outward toward a staggering scenery. If we think of the graveyard as the object of a scenic overlook, it brings a warning sign into sharp focus. Gazing at the cemetery, what one sees is not only the byproduct of extracted time, but also the horizon of mass incarceration. The fact that

the two-acre cemetery reached “capacity” during the mid-1990’s signifies this much. One hundred yards to its east, prisoners built Angola’s second official graveyard: Point Lookout II. Carved out within this tract of land is the space for 700 individual graves which continue to be filled at a steady and unstoppable pace. Thus, while the prison is a graveyard in the most literal sense, it also establishes a metaphor through which to see the future of all prisons that are central to mass incarceration. To put it bluntly, as long as we allow for prisons to continue to exist, to impose life sentences, to incarcerate the aging, the elderly, and the terminally ill, then death is the only future.

Chapter 4

Coercion as Care: An Emerging Prison Medical Regime

Prison “oversight” has become a key concept during the COVID-19 pandemic, as states across the U.S. struggle to contain and control viral spread inside its carceral institutions. In late October 2020, approximately nine months into the pandemic in the U.S., California’s Office of the Inspector General (OIG) released a report heavily criticizing The California Department of Corrections and Rehabilitation for failing to comply with mask mandates within its institutions (Wesley, 2020). During the following *Plata* Case Management Conference on November 5, 2020, presiding Judge Tigar chastised the CDCR, referring to the OIG’s findings as “totally unacceptable.” Tigar noted that the OIG report was coming on the heels of CDCR’s 89th Covid-related prisoner death and 10th staff death. The judge, while reading lengthy excerpts from the OIG report, also stated, “CDCR should care enough about the health of its incarcerated population and its staff, that it enforces its own guidelines...it has been allowing a culture of *voluntary compliance* and *non-compliance* to fester in its prisons... it needs to stop immediately.”

While Judge Tigar announced a few possible responses to remedy the problem of voluntary compliance and non-compliance, he emphasized ordering bi-weekly reports focused on CDCR staff violations of face mask and physical distancing protocols. What stands out from this exchange between CDCR’s non-compliance and the Judge’s threat to impose tighter oversight, is the significance of government reports—both the OIG’s report, as well as the Judge’s reliance on mandating frequent reporting as a remedy to the problem at hand. Because government-generated reports offer proof, fact, and

evidence, they play an important role in shaping and framing the context around a given socio-legal problem (Sykes, Chavez, and Strong 2020, under review; Foucault 2015; Foucault 2009).

But the oversight of prison conditions has a complex and longstanding history that predates the onset of the current pandemic crisis. As part of *Brown v. Plata*, an Eight Amendment case involving prison conditions inside California facilities, the state's prison system has been under federal oversight in the form of a receivership since 2006 when Federal Judge, Thelton Henderson, made the order. Following the order, Judge Henderson gave a speech at The Annual Dinner of the American Law Institute, held in the Grand Ballroom of the Mayflower in Washington, D.C. during May 2006 in which he defended his decision:

So, in sum, it has to be made...abundantly clear to defendants from the start that the case is not going to just go away. This is critically important because...In the typical case of this sort, the defendants smile nicely when you visit, they shine the tabletops, and they sweep the floors, and they just wait for you to go away. They wait for you to turn to your other cases, and, as soon as you do, they go back to business as usual, and you have to make it clear that this is not going to happen. To the contrary, they must know that they are being closely supervised and that the full range of equitable powers available to federal judges will be used if it becomes necessary to do so to achieve full compliance. They must, in my view, be made to understand that there is only one exit door out of this kind of litigation, and that door is marked, "real and full compliance" (Henderson, 2006).

If Judge Henderson seems decidedly steadfast in his decision to impose what is the largest federal receivership of a prison medical system in U.S. history, it is because "business as usual" for CDCR at the time, entailed deadly and desperate living conditions. Perhaps the most critical demonstration of institutional failure for Henderson was the fact that, on average, one California prisoner was dying each week from preventable causes associated with the prison system's dysfunctional medical care system. The proposed resolution, the use of the full range of equitable powers available

to a federal judge to induce full compliance, would take the form of a federal receiver vested with extensive authority to oversee and reform a vast and unwieldy medical-carceral apparatus.

The question of “power,” here however, is not as simple as it may seem. As Michel Foucault (1997) indicates, “power” is neither a dominating juridical force to be imposed onto a submitting subject or institution, nor is it merely the repetition of the relations of production. Rather, power is a relational force, one which relies on the framing of a social problem (i.e., problematic individuals; problematic institutions), in order to influence the potential scope of available solutions, and to redirect the behavior of the problematic entity. Strategies and techniques deployed within this dynamic, or how relations of power will be exercised, is what constitutes governmentality (Foucault, 1997, pp. 133-135). In short, Foucauldian governmentality can be understood as an antagonistic play of forces, where power is at once, directed into motion and also, where it is contested.

In the context of *Plata*, the prison system is at once an instrument and problem for governmentality. It is an instrument in the sense that carcerality is by design, a legal institution for coercion and control. However, it is also a problem in that it exposes the residuals of an absolute sovereign power that never fully disappears from the state’s governmental structure, even in present-day society (Foucault, 1991). The expression of this sovereign right—the power to kill—survives in myriad forms, but perhaps most clearly through the example of the carceral apparatus, such as prisons and policing, where the legal and extra-legal imposition of violence, torture, and death, are normative precisely because they are framed as exceptional. In other words, the spectacle is also the mundane (Martinot & Sexton, 2003).

Judge Henderson's decree that unnecessary death has become a common occurrence in California's prison system indicates this much. The ethical duty to challenge this state of normality and to systemically transform the carceral apparatus by way of leveraging "the full range of equitable powers available to federal judges" has been met with resistance by the department of corrections at just about every turn since the order went into effect in 2006. Where reforms stemming from the receivership have succeeded, they have also contradicted attempts to protect life as such. The prison system in California today operates on the basis of medicalization and decarceration. CDCR's total prisoner population has greatly declined since its peak in during 2006 (from roughly 160,000 to 100,000), and it has successfully institutionalized medical care practices. And yet, this reformed system retains many of the logics of mass incarceration through the continued incapacitation and warehousing of vulnerable populations.

In this chapter, I examine state-generated reports on California's prison health care system to track changes made during the last 15 years of reform. State-generated reports, data, legal records, and other arrangements of carceral indexes provide a rich archive of empirical materials through which social science can pursue a study of the ever-evolving and increasingly less accessible world of prisons. My analysis of these documents is guided by the following questions: How has the institutionalization of healthcare within prisons altered punishment? What kind of new model of carceral healthcare is currently underway? And what potential social consequences are at stake in its construction?

The emerging carceral medical regime incorporates discourses of care, development of healthcare infrastructure and technology, and governmental oversight

in the implementation of reforms, as significant evidence of its success. The abysmal conditions of medical care in California prisons identified by prisoner-plaintiffs during the early stages of *Plata* litigation provided the material and discursive conditions to which the dynamics of reform would have to respond. For example, the induction of language surrounding medical care, first into the 2006 Receiver's Turnaround Plan for Action (Kelso, 2006), and then as a core piece of CDCR's ongoing mission statements, are responses to the gaps and absences of care articulated by *Plata's* plaintiffs. Likewise, the redevelopment of medical infrastructure inside of California prisons, whether adding sick beds, converting old cell blocks into new infirmaries, constructing hospice wards, or erecting a brand new, \$839 million hospital-prison hybrid facility, together, constitute the carceral state's material solution to the growing number of geriatric, terminally ill, and dying prisoners (Kelso, 2006). And finally, the judicial decree to install a federal receiver who would design, implement, surveil, and enforce the trajectory toward medicalization and reform, attested to a commitment to pull the carceral regime out of the shadows of mass incarceration's warehousing scheme.

But this fantasy of a life-affirming carceral apparatus is undercut by the fact that medicalization helps legitimize the continued accumulation of death under the auspices of carceral care. Here, I am referring specifically to CDCR's development and institutionalization of hospice care and geriatric wards, accompanied by the reproduction of "lethal abandonment" (Fleury-Steiner 2011, 118-120) largely made possible through, though not limited to, life sentences. While Fleury-Steiner's use of the term "lethal abandonment" refers to insufficient or absent medical resources (i.e., a lack of medication or under-trained staff), I deploy the analytic to understand how medical violence and death are a part of the carceral economy. That is to say, the problem goes

beyond a lack of resources or institutionalized failures to deliver care. The example of CDCR demonstrates how a relatively well-resourced and functional prison medical system—at least when compared to the HIV/AIDS ward at Limestone Prison around which Fleury-Steiner’s study is centered—continues to struggle with morbidity and mortality (Imai, 2021a; Imai 2021b; Imai 2019). Lethal abandonment in CDCR is administered through reforms that promise to, not only punish more humanely, but to *let die*, humanely. The shift here is less about the reallocation of resources or institutional practices, as it is about the provocation to rearrange the place of sovereign power within the carceral.

LWOP sentencing essentially condemns a person to die in prison (Seeds, 2022). But its deathly function cannot be understood in isolation. It is an articulation of a sovereign power left intact, not necessarily despite attempts to reform punishment, but to the contrary, because reforms ultimately displace that power, allowing it to underwrite whatever shape carcerality would take next (Foucault, 1995; Davis, 2003). In this light, the set of ongoing reforms can more accurately be described as a refashioning of carceral machinery, devised for the management of death in prison, which is likely to continue growing.

Medical violence, lethal abandonment, and death are integral to the carceral economy. They are at once a part of the conditions that initiate juridical intervention—as demonstrated by Judge Henderson’s fixation on needless death in the prison system—as well as the result of these interventions and the reforms they precipitate. In other words, death and suffering bring about carceral restructuring, but this restructuring ultimately sustains the production of death by expanding the discursive and material dimensions of the carceral in such a way that blurs the distinction between coercion and care.

The emerging medical carceral regime then, legitimizes the state for taking action against deplorable medical care in prisons. It consolidates medical treatment as a carceral provision while distorting the conditions that shape death in prison. So-called “humane punishment” (Simon, 2014) reduces the spectacle of medical violence to normative non-event. Ultimately, institutionalized death, legitimized through reform, operates as a disposal mechanism for mass incarceration’s “overcrowding” problem, which is really a problem of over-accumulation.

Theoretical Framework: Carceral Healthcare and Racialized Punishment in the Neoliberal State

Any critical assessment of contemporary American punishment should engage with the racial dynamics of incarceration as well as the influence of neoliberal modes of governance (De Giorgi 2015; Wacquant 2012; Gilmore 2007; Davis 2003). The current configuration of the American neoliberal state is an “anti-state state,” meaning, public funds are deployed to augment security and surveillance capacities, and wherein prisons are offered as solutions to structural social and economic problems (Gilmore & Gilmore, 2007; Davis 2003). If the state is to maintain legitimacy as it governs, then it must first demonstrate some type of need that is served by investing in a particular institution or state capacity. In the context of late 20th century American statecraft, we can recognize how the state fabricated a deeply racialized narrative about crime, criminality, public safety, and social decline, before it could press for a “solution” to this problem by expanding American prisons to an unprecedented degree (Gilmore & Gilmore, 2007; Davis, 2003).

According to Gilmore and Gilmore (2007), states and the institutions that comprise them adjust their civil society building-capacities according to the types of conflicts they confront. Through rules, laws, and a monopoly over legally sanctioned violence, states attempt to compel or coerce populations into compliance. A hegemonic approach to attaining consent helps a state to maintain legitimacy in the perspective of its population, even as it imposes zero-sum logics of market-like competition onto its social and economic order (Gilmore & Gilmore, 2007). Where the ideological force of hegemony proves inadequate for the formation or preservation of social control, the state reverts to structures of direct violence. In this sense, illegality is an exercise in hegemonic power, while the carceral apparatus of confinement and punishment are expressions of the state's coercive power.

But the anti-state state is also a racial state in the sense that racial hierarchies are constantly reshaped, according to what the state needs under a particular set of socio-economic conditions, to successfully maintain order. Social context then, helps to situate the state's ideological mechanisms: "racist ideologies and material practices are infrastructure that needs to be updated, upgraded, and modernized periodically..." (Gilmore and Gilmore, "Restating the Obvious", 144). Here, "colorblindness" merely functions as an instrument for procuring consent and regulating social order. In particular, the racialization of crime (or propagating ideology that conflates crime with race and vice versa), can be understood as the anti-state state's exercise of hegemonic power through a strategy for sustaining both, massive social inequality, and the expansion of carceral institutions such as prisons. In this way, the state performs legitimacy by providing social and economic "security" as it adjusts to the booms and busts of capital.

The deployment of a colorblind racial paradigm, one which relies heavily on unspoken racial implications when problematizing “crime,” has functioned as a key technique under recent American neoliberal governance. Certain populations are rendered punishable, and even disposable. When the state enacts violence against these groups and individuals, its coercive force is ideologically construed as security and protection, or a form of state capacity (Gilmore & Gilmore, 2007, p. 153). In manufacturing its social threats, the state avoids specifying racial categories. However, the historical trajectory of mass incarceration reveals that it has, by design, taken aim at populations of color. This power to violently dominate racialized groups through its carceral institutions, repackaged as societal protection, is precisely what imbues the anti-state state with legitimacy, even as it acts against the interests of its own population.

Gilmore’s (2007) landmark study of California prisons helps illustrate the role of the prison within the neoliberal state. According to Gilmore’s theory, the prison industrial complex emerges from a surplus of labor, land, capital, and state capacity within California’s political economy. Following Marx, Gilmore reasons that surplus capital cannot remain stagnant for long, and must enter back into economic circulation, if it is to maintain its productive function (De Giorgi 2018; De Giorgi 2008; Gilmore 2007). This mode of political-economic governance is “neoliberal” because of the way in which the prison industry is offered as a remedy to stagnant and surplus labor as well as high unemployment rates. In other words, within a social and historical context which followed massive de-industrialization and restructuring of the welfare state, local and state government sold the faulty idea that prisons would generate jobs and uplift the economy in favor of citizens, voters, and taxpayers (Gilmore, 2007).

The problem however, as Gilmore points out, is that the production of this carceral economy comes at a high social cost, for it creates economic growth by building prisons, and employing part of the population to oversee the incarceration of others. Thus, “the prison fix” only works by “putting half the population into prisons so the other half can make money watching them” (Gilmore 2007, 228). The division between who is exploited as prisoner, and who benefits from this exploitation, is highly racialized, thus leading Gilmore (2007) to conclude that the neoliberal prison system is conditioned upon the “premature death” of primarily impoverished Black and Latinx populations.

In a similar vein, Wacquant’s (2012; 2010; 2001) notion of “the neoliberal state” contains a theoretical assumption that the contraction of the welfare state during late 20th century political-economic restructuring, was directly offset by a massive expansion and investment into “the penal state.” In this sense, the neoliberal state recasts welfare as “prison-fare.” The prison-fare state governs through carcerality, under the guise that it is investing in the well-being of its population by creating jobs and providing public security, via an expanding penal apparatus (Wacquant 2001; Simon 2007). However, as Western and Beckett (1999) point out, high incarceration rates only artificially lowered unemployment by incarcerating a large sect of surplus labor, and thereby removing them from official data counts. In fact, incarceration negatively affects the labor market, because when prisoners are released, they face joblessness and an already strained unemployment system.

Furthermore, Wacquant (2001) also understands the rise of mass incarceration as part of a long *durée* of an anti-black carceral continuum. This continuum is marked by a series of “peculiar” institutions—the interlocking prison and “hyperghetto” (1968-

present), the segregated northern ghetto (1915-1968), Jim Crow in south (1865-1965)—rooted in the original “peculiar institution” of racial slavery (1619-1865). Today’s neo-liberal model of incarceration is an extension of this structural continuity amongst a string of institutions that aim to “define, confine, and control” African Americans (Wacquant, 2001).

As Gilmore and Wacquant both note, neoliberal confinement relies on racial and economic exploitation. The people who fill the American Gulag as prisoners, are drawn from rather homogenous racial and economic demographics. The fact that mass incarceration is a highly racialized project, should come as no surprise to any careful observer (Alexander, 2010; Davis 2003). A brief overview of demographic and statistical evidence illustrates this point (i.e., Pettit and Sykes 2017; Pettit and Sykes 2015; Pettit and Western 2004). Far from being consistent with national population demographics, the incarceration rate of African Americans is over five times that of whites (Nellis, 2021; 2017). When it comes to the question of which racial groups serve the longest prison sentences, African Americans are also over-represented in life sentences, life without parole, and death row (Nellis, 2021; 2017). These racial dynamics are also gendered, as African American women are incarcerated at twice the rate of white women (Pettit and Sykes, 2017). I highlight these statistics to demonstrate how the neo-liberal prison, or what has been referred to as “mass incarceration,” is not a “mass” project at all, but rather, one that is highly targeted, racialized, and largely built upon Black hyper-incarceration (Oleson, 2016).

Not only do incarceration rates affect racial groups differently, but this dynamic also creates an intergenerational impact through a series of invisible punishments and inequalities (Sykes and Maroto 2016; Sykes and Pettit 2014; Western and Wildeman

2009; Mauer and Chesney-Lind 2002; Western, Pettit and Guetzkow 2002). What socio-legal researchers call the “collateral consequences of incarceration,” refer to the ways in which social relations, family members, and entire communities connected to an individual who is imprisoned, are affected by an assortment of severe socioeconomic conditions (Wildeman 2014; Wildeman, Lee, and Comfort 2013; Mauer and Chesney-Lind 2002). For example, parental incarceration is known to affect childhood economic hardship, poverty, and access to health care. Yet, research shows that 10% of black children have a parent incarcerated, while for Latinos, the rate is 3.5% and for whites, 1.7% (Sykes and Pettit, 2017). Thus, the impact of incarceration is not limited to an individual’s life experience, but rather, extends through entire social structures and communities with which they are associated.

The social costs incurred by the neo-liberal state also hold significant consequences for health inequality, both within and outside of carceral institutions. Patterson’s (2010) demographic research on prisoner mortality rates shows that while white prisoners experience an increase in mortality during incarceration, compared to their non-incarcerated counterparts, the same is not true of black prisoners. Incarceration induces a decrease in mortality rates for black prisoners across all ages between 18 and 64. While this finding may seem counter-intuitive, it reflects how the “outside” of prisons engender harsh social and economic inequalities for African Americans.

This point is also supported by Sharkey and Friedson’s (2015) work, which analyzes how Black life expectancy was affected by America’s “violent crime drop”—a period of time between 1991 and 2004 in which the homicide rate fell by more than 50%. The authors identify homicide as a leading cause of “years of potential life lost” for

Blacks, and estimate that the drop in homicide corresponds with a .8-year increase in the life expectancy of Black men, as well as a reduction of 1,156 “years of potential life lost” per 100,000 Black men. Like Patterson (2010), these findings suggest that, even outside of carceral institutions, life expectancy and livelihood are highly racialized.

A final point to note here is that while racial disparities in health are emergent to incarceration, they are not contingent upon it. In other words, prisoners in general experience higher health risks due to carceral environments, but Black populations experience poorer health conditions, even compared to other racial groups, irrespective of incarceration (Friedman, 2021). Recently, this point has been made readily apparent through public discourse surrounding Covid-19. Social science research on the pandemic clearly demonstrates that Black populations, followed by Latinx groups, continue to show the highest overall mortality rates, and are most impacted by this health and economic crisis (Hardy and Logan 2020). Thus, racialized health disparities and underlying medical conditions that we witness inside the prison system cannot be understood purely as the result of incarceration. Rather, the social terrain facilitated by neo-liberal state formations is one in which structural racism is intimately entangled with the problems of healthcare and incarceration.

Taken together, the body of research discussed above suggests that the health and well-being of black populations is threatened, both inside and outside of the prison. Black life is made precarious on “the outside” by social and economic conditions that mediate high exposure to various forms of inequality that threatens livelihood. And on the “inside,” disproportionately high incarceration rates and their collateral consequences introduce their own dangers. Thus, mass incarceration cannot be understood outside of its racial context.

Today, as scholars and policymakers continue to argue that the social and economic costs of mass incarceration far outweigh the supposed benefits of the system, states across the nation, and California in particular, have begun to demonstrate a humble trend toward “decarceration”—or downsizing the overall population of state prisoners—to reduce economic costs to the state (Aviram, 2015; Simon, 2014). Here, I want to suggest that neoliberal penalty is once again undergoing restructuring. The present question is a matter of tracking how the state is shifting its ideological narratives to manage its internal antagonisms and maintain hegemony (Gilmore & Gilmore, 2007). Even the anti-state state cannot outright withdraw all social support, at least not without sharp opposition from those it governs.

Historically, the particular neoliberal state configuration emergent to the U.S. has adapted by transforming welfarist institutions into punitive ones (Wacquant, 2009; Gilmore, 2007). We can think of how schools, public housing, workplaces, and other governing institutions increasingly incorporate surveillance and exclusion criteria based on criminal records, citizenship status, or even simply the possibility for “future dangerousness,” as part of their quotidian operations (Rollins, 2021; Vaught, 2017; Simon, 2007). In other words, what were previously welfare institutions now function as an extension of the state’s carceral apparatus. The anti-state state then is not opposed to building institutions; rather, it seeks to integrate punitive functions into existing ones. Put another way, this is not a question of how to govern *less*, but how to govern *differently* (Gilmore & Gilmore, 2007, p. 148).

Furthermore, patterns today suggest that the state’s responsibility to provide welfare in the form of healthcare is operating through both, community as well as carceral institutions (Lara-Millan 2021; Simon 2014; Fleury-Steiner 2008). In one

sense, the neoliberal state orchestrates a social and political context in which it makes itself appear to provide security, protection, and care. At the same time, it also incorporates social services into its carceral institutions. Both prisons and jails in the U.S. are tasked with providing medical care, mental health care, and other opportunities such as education and vocational training. These “services” help demonstrate how state institutions are shaped by their internal contradictions, but also how strategies for expanding the social state are subsumed as evidence of the anti-state state’s legitimacy as a governing institution. The state’s coercive power then, is offered as a form of care.

The following section will provide a brief discussion on methodology and the categories of government-generated reports that will be examined here. Following a discussion of methods, I will provide historical context to California’s prison healthcare crisis through a discussion of *Brown v. Plata*. The remainder of this chapter will focus on how *Plata* directly led to the creation of the state’s newest prison, California Health Care Facility, which opened in 2013. I will conclude this chapter by providing insight into a newly emerging neo-liberal model of carcerality, based on an increased reliance on punitive forms of prison healthcare, rather than medical parole, compassionate release, and decarceration. This model of neo-liberal carcerality weaponizes welfare by strategically deploying *mortality management* as a form of “care.”

Anatomy of a Report: A Note on Methodology

California’s new prison regime emerges under the neoliberal state’s drive for institutional knowledge. Here, the state meticulously surveils, analyzes, and catalogues knowledge regarding its prison population. This information is used, not for the affirmation and improvement of life inside, but rather, it serves to accelerate the

productive capacity of the prison to disappear surplus bodies of the aging, the sick and the dying. In other words, the emergent regime engages in a bio-political modality of neoliberal governance in which certain population are made to live in order to be left to die (Gilmore 2007; Foucault 2003). Under this regime, the elimination of life is made to appear “natural” even as it is socially ordered through the prison (Davis 2003). This naturalization of carceral violence is carried out through the work of state-generated oversight reports and legal documents. The reports examined in this chapter reveal how the crisis of overcrowding and insufficient medical care in California prisons continues, not *in spite of*, but rather, *because of*, implementing constitutionally mandated prison reform policies, carefully ordered through government reports.

These reports are repositories of “technical knowledges” used by governing bodies in order to diagnose, understand, predict, and act upon various social changes that impact the state’s administrative capacity (Sykes, Chavez, and Strong, under review; Foucault, 2015; Foucault 2009). When confronted by government institutions that operate under heavy access restrictions, the ability to analyze compliance reports informs a crucial method for understanding their internal operations. Such reports comprise a “paper trail” of an institution’s historical and administrative life (Benson, 2019). In the case of prisons, they constitute “penal artifacts,” or documents vital to examining power dynamics, social relations, and cultural shifts within a carceral setting (Lynch, 2017).

When Foucault theorizes biopolitics, he touches on the critical role of government-generated reports in tracking various aspects of a population. Foucault understood the penitentiary as a disciplinary force within a larger biopolitical framework, in which governance is designed to maximize population health and

productivity. The elimination of life through social abandonment that we see in prisons today can be understood as a form of sovereign power contained within biopower—or *the power to make live and let die*. Documents supply knowledge around the internal operations of the prison institution. They help us understand how medical violence and death are legitimized and administered through state-led reforms. For Foucault (2015), population reporting is inherently an exercise of governmental power. They function as the “administrative extraction of knowledge,” which are then interpreted, filtered, and abstracted by governing bodies (Foucault, 2015, p. 235).

To understand the significance of population reports for governmentality, it is helpful to follow Foucault’s (2009, pp. 24-25) example of the problem of the pandemic as well as the nation-state’s biopolitical response to it. Foucault suggests that until approximately the 18th century, the regulation of medical catastrophes, such as the plague in England, largely depended upon “disciplinary” methods. As depicted in the opening scene of “The Panopticon,” these disciplinary methods refer to practices of literal geographic partitions, individualized isolation, quarantines, strict prohibition of social contact, and submission to police and government inspections of private homes, which were meant to ensure that disciplinary rules were followed (Foucault, 1995).

Foucault (2009) also identifies a notable shift in the governance of medical catastrophe from the 18th century onward, captured by the example of the smallpox pandemic. While the old disciplinary measures of physical partitioning did not completely disappear, they were displaced by an emphasis on technical knowledge as well as the use of population reports which were believed to be able to predict, prevent, control, or otherwise minimize the spread of and damage brought about by the pandemic. The response to smallpox required a meticulous examination of the disease

by way of identifying a variety of factors associated with it, including origins; initial infections; subgroups at higher risk dependent on age, location, and profession; morbidity and mortality rates; transmissibility; symptoms; and the potentials and limitations for inoculation (Foucault, 2009, p. 24 and pp. 86-88). Here, older methods such as isolation and quarantine are not fully replaced, the biopolitical agenda is supplemented by detailed reports that can establish population-level patterns, generalizations, and quantitative assessments. Given the indispensable value of demographic knowledge within this context, Foucault refers to biopolitics as *the era of the report* (Foucault, 2015, p. 234).

While the example of the pandemic is exceptional here, biopolitics refers more generally to “technical knowledges” meant to track a population’s mortality and natality rates as well as its relationship to wealth, resource distribution, trade, taxes, etc., largely through statistical methods (Foucault, 2009, p. 345). In this sense, biopolitics is essentially tied to early methods of demographic reporting. It mobilizes these techniques in order to establish normative patterns as well as irregularities, with the intention of regulating and intervening upon a population’s living conditions.

In this chapter, I focus on three types of compliance reports, mandated by the *Plata* court, to evaluate CDCR’s reform progress: “The Federal Receiver’s Tri-Annual Report,” the annual “Analysis of Inmate Death Reviews,” and the Office of Inspector General’s “Medical Inspection Cycle Results.” These reports were first ordered by Judge Thelton Henderson in 2006 as one method for evaluating whether CDCR was successfully implementing updates and changes to its medical system in a timely manner. Today, these reports continue to be submitted to the *Plata* court. As of May 2022, the Receivership has filed 49 Tri-annual reports and 15 Death Review analyses,

while the OIG is conducting Cycle 6 of its Medical Inspections. Each report is an assessment instrument, arranged to benchmark CDCR's performance and provide evidence of its success or failure to comply with court orders. And each report bases its findings on an aggregate series of metrics that work toward the larger goal of balancing the state's security interests against constitutional mandates for a humane model of punishment. Thus, the assumptive logic of the state is that medical care can be reconciled alongside punishment, once the correct combination of the two is calibrated.

The "The Federal Receiver's Tri-Annual Report" tracks a series of official actions taken by prison administration toward fulfilling the court's compliance orders. It is presented as primary evidence that progress is being made. Although the contents of each report can vary, in general, they mostly center on infrastructural, and personnel changes made to CDCR. These changes are of course directly linked to the prison system's medical capacity, which includes implementing or updating procedures surrounding health screenings, increasing availability of doctor and nurse meetings for the incarcerated, cataloguing a patient's medical history, overhauling personnel training and management systems, evaluating oversight programs, and upgrading and expanding the use of medical facilities and equipment at each prison (Kelso, 2010).

The "Analysis of Inmate Death Reviews" is published once per year, by Kent Imai, M.D., consultant to the Federal Receiver. These reports are compiled by a team of prison nurses, doctors, and administrators who examine the cause behind each prisoner death, and search for patterns in mortality. Between 2006 and 2018, the primary category of interest when analyzing each death was *preventability*. The Death Review Committee would issue a decision as to whether a particular death was *preventable* or *non-preventable*. However, in 2018, the committee underwent a formal assessment of its

policies and procedures, carried out by UC San Francisco's Criminal Justice and Health Program. As a result, the committee changed its main category of interest, replacing *preventability* with *expected/unexpected*. An *expected death* is defined as relating to "the natural course of a patient's illness or underlying condition and is anticipated within the timeframe in which it occurred." An *unexpected death* is defined as one "which was not anticipated or predicted to occur, may be related to the natural course of a patient's illness or underlying condition, but may also be related to a previously unrecognized condition, such as an accident, drug overdose, homicide or suicide" (Imai, 2019).

The third category of reports, the Office of Inspector General's "Medical Inspection Cycle Results," is the culmination of on-site visits and investigations into each California state prison. Every cycle concludes with an overall rating of the prison under investigation. These ratings, ranging from *inadequate*, *adequate*, and *proficient*, play an important role in determining whether a prison will remain under Federal Receivership, or, if authority over an institution will be delegated back to the State of California, and CDCR's control. For example, in the OIG's Cycle 5 report on California Health Care Facility, published in April 2019, the prison was assessed as *inadequate* in its timely implementation of reforms and delivery of healthcare. This particular assessment cited several problems including a lack of institutional capacity needed to meet demand for medical care, delays in follow-up appointments, frequent misdiagnoses, understaffing, and a lack of medication and/or medication continuity (Wesley, 2019).

As living documents, these reports provide the state with real-time feedback regarding the efficiency and quality of its compliance with reform orders, thus allowing

both the Court and prison administration to actively make adjustments. While I provide a detailed discussion later in this chapter, a brief overview of California Health Care Facility illustrates the point. While CHCF was built specifically with the purpose of providing medical care, following a series of institutional failures, it received heavy scrutiny almost as soon as it opened in 2013. In 2014, all incoming transfers were halted as one problem after another surfaced. Amidst the debacle, the court revised its order regarding the Tri-Annual Report, writing, “Based on the Receiver’s most recent triannual report and subsequent discussions, the Court has serious concerns about the level of care being delivered at the California Health Care Facility (“CHCF”) in Stockton, as well as what appear to be increasing difficulties with recruiting and retaining medical staff statewide” (*Plata v. Brown*, March 27, 2014). Subsequently, the Receiver began to include detailed discussions and information in each Tri-annual Report, as to what measures were underway to remedy the problems at CHCF. While heightened judicial attention to CHCF temporarily resolved some of these issues, new problems continue to emerge.

What I want to emphasize here is how each report is a living document that animates the process of legal reform. They are measurement tools, mandated by a federal court, to evaluate whether adequate progress toward prison health care reform is being made. In this sense, they are also mediums for understanding law’s “command structure” (Vismann, 2008), wherein the highest judiciary orders an institutional oversight body to produce aggregate documentation regarding the fulfillment of its command. Thus, they constitute an archive for understanding not only the internal reform operations of a prison, but also the life of a legal decree, as it is materialized from symbolic command into infrastructure.

But as we will see, efficient reporting does not guarantee desired results. In the case of California, despite nearly 15 years of court-mandated reforms, prisoner deaths were on the rise, even prior to the onset of the Covid-19 pandemic (Sykes, Chavez, and Strong under review; Imai 2019). By closely examining these reports in the context of prison healthcare reform, I hope to shed light on how the medicalization of California's prison system is altering the deployment of punishment. Thus, at a methodological level, this work contributes to scholarship that seeks to study the prison through its paper trail (i.e., Benson 2019; Lynch 2017). At a theoretical level, the contribution of this study is to expand our understanding of how current medical reforms are altering the prison. And, at a pragmatic and policy level, this study makes it readily apparent that simply reforming the prison is inadequate if it is not coupled with a plan for substantial decarceration and the release of medically vulnerable, terminally ill, and elderly prisoners.

***Plata* and the Prison Medical Crisis**

Brown v. Plata, decided in 2011, tells a decades-long story of prisoner medical and health care litigation. Legal advocates and scholars alike recognize the fact that incarceration is detrimental to one's health (Massoglia and Remster 2019; Sykes, Chavez, and Patterson 2018; ACLU 2012; Binswanger, Krueger, and Steiner 2007; Fleury-Steiner 2008; Massoglia 2008). Following highly publicized litigation over the past 15 years, California has undergone what is perhaps the most comprehensive overhaul of any state prison healthcare system. And while socio-legal scholars are witnessing a significant transformation of carceral healthcare, this shift comes on the heels of the *Plata* decision (Schlanger 2013; Tabo 2013), in which the U.S. Supreme

Court ruled that the CDCR was in violation of the 8th Amendment, due to its failure to provide incarcerated persons with constitutionally adequate medical care.

Plata conceivably began with the filing of *Coleman v. Wilson* on April 23, 1990. Although *Coleman* was primarily concerned with the role of mental health care in California's Department of Corrections, the fundamental constitutional violation—deliberate indifference leading to cruel and unusual punishment prohibited under the Eighth Amendment—carries over from 1990 into the next decade when *Plata v. Davis* (and later *Plata v. Schwarzenegger*, and *Plata v. Brown*) was filed on April 5, 2001.

Plata's Class Action Complaint, dated April 5, 2001, opens with the following statement:

Plaintiffs are nine California state prisoners who have been seriously injured because of defendants' deliberate indifference to their serious medical needs in violation of the cruel and unusual punishment clause of the U.S. Constitution. They bring this civil rights action on behalf of themselves and all other California prisoners because the medical care system operated by the California Department of Corrections (CDC) does not and, with current systems and resources, cannot properly care for and treat the prisoners in its custody. These unconstitutional conditions have caused widespread harm, including severe and unnecessary pain, injury and death.

The class action complaint goes on to outline case after case of medical neglect, pain, and suffering experienced by prisoners in California. Some of the key issues arising from the complaint include poor treatment for chronic illness, lack of individualized medical attention, and a broader pattern of treatment that denies basic human dignity (Simon, 2014).

While *Plata* litigation revealed that not only was CDCR generating, “on average, one death per week,” but also, that CDCR regularly employed medical personnel with disciplinary and malpractice records (*Plata v. Brown*, August 13, 2003). According to the National Practitioner Databank, many of CDCR's medical staff had engaged in behavior “below gross negligence to outright cruelty,” including falsifying reports and

engaging in coverups that concealed medical violence. In light of these accusations, the court ordered CDCR to produce its “death review” records, referring to a set of detailed medical documents that tracks each prisoner death occurring under CDCR custody. Although institutional protocol required CDCR to keep such records, the state was unable to produce them. Instead, the court soon discovered that details regarding prisoner deaths were often unreported, and records were incomplete, disorganized, and missing critical medical information (*Plata v Brown*, Findings of Fact and Appointment of Receiver, October 3, 2005).

In order to intervene upon CDCR’s disregard for the safety of prisoners, as well as sound protocol, attorneys representing the plaintiffs, namely from the Prison Law Office (PLO), strategized around the need for Federal intervention in the form of a Receivership (*Plata v Brown*, Order Appointing Receiver, February 14, 2006). While the Prison Litigation Reform Act (PLRA), enacted in 1996, was originally intended to suppress prisoner litigation in federal courts by significantly reducing the discretionary power of federal intervention, PLO attorneys understood that it could also be leveraged to make the appointment of a Federal Receivership possible. The PLRA declared that a court, “shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right,” thus setting up a rather strict set of conditions that must be met prior to a court’s ability to intervene (Schlanger 2013, p. 171). Furthermore, there are two main conditions that must be met for a court to consider a receivership: first, there must be a grave and immediate threat or actuality of harm to plaintiffs; and second, the use of less extreme measures of remediation have been exhausted or proved further. Once these

conditions are met, the PLRA stipulates that instead of a single judge, a panel of three judges must convene and decide on the conditions of a population-reduction order, again, only after all lesser remedies regarding a constitutional violation have been exhausted, and only if there appears to be no other method of correcting the violation (Schlanger 2013). Given these severe restrictions, the fact that *Plata* succeeded at all is significant, as it did not seem possible in the post-PLRA world of prison litigation.

The plaintiffs made their case, and in 2005, Judge Thelton Henderson agreed, writing: “Based on the Findings, removing defendants from control of the medical system and imposing a Receiver to radically transform it is the only viable means of saving lives and creating a stable and effective health care delivery system in the CDCR” (*Plata v. Brown*, Findings of Fact and Appointment of Receiver, October 3, 2005). The court’s decision to approve a receivership is historically significant because receiverships in the past were not given this level of power (*Plata v. Brown*, Order Appointing Receiver, February 14, 2006). The Receiver was authorized to take over the CDCR secretary’s responsibilities including the management, control, and financing of the state’s prison medical care system. This included the power to reshape CDCR’s infrastructure, personnel, and policies, and to purchase, discard, and repair equipment and materials necessary to implementing proposed reforms. It also allowed for unlimited access to the state’s files, including medical records, maintenance reports, personnel reports, and more.

By 2008, the Federal Receiver, J. Clark Kelso submitted a “Turn Around Plan for Action” which was approved by the court. This plan envisioned and proposed a large-scale overhaul of CDCR’s medical system. In the opening pages of the plan, Kelso announced six overarching goals that would lead to structural reform: (1) To ensure

timely access to health care; (2) to establish a prison medical program addressing a continuum of medical services; (3) to recruit, train, and retain quality medical professionals; (4) to implement quality assurance standards; (5) to establish medical support infrastructure; and (6) to create necessary clinical, administrative, and housing facilities (Kelso, 2008). It was Objective 6 of this plan, which created the groundwork to expand the reach of the carceral state by incorporating the responsibility of medical care directly under the control of the prison. Objective 6 called for an overhaul of the CDCR's health care system by modifying all existing facilities and announcing plans to construct new facilities. Specifically, it envisioned alterations of all 33 existing California state prisons, as well as the construction of up to seven new "long-term care centers" designed specifically to house 10,000 prisoners with complicated medical problems requiring specialized care. In many ways, this document engendered the very idea that the state should construct a new prison, dedicated to the provision of healthcare. As such, it was germinal to the creation of California Health Care Facility.

However, constrained by California's budget crisis of 2008, the state withdrew funding support for this expansion project. The Receiver was forced to compromise, and offered three alternative plans in 2009 (Rappaport, 2010). The first was a plan to construct three new prison health care facilities with the capacity to provide 5,000 new beds at the cost of \$2.5 billion. Second, the construction of five new facilities, equipped with 7,500 beds, at the cost of \$4.3 billion. And third, the original plan: 10,000 new beds, seven new medical prison facilities, at the cost of \$6 billion.

In January 2010, the Receiver's 13th Tri-Annual Report to the three-judge court, announced that due to the state's budgetary deficit, the expansion plan would be scaled down to the construction of one facility that would provide a meager 1,734 medical beds.

At the time, the proposed institution was referred to as the “Consolidated Care Center, Stockton,” but would later become California Health Care Facility (Kelso, 2010; Shaw, 2010). The Receiver’s report took the position that the Turn Around Plan had been impeded not simply by lack of funding, but also by political disruption on the part of CDCR and the California’s Governor’s office.

The resulting situation was foreshadowed by Judge Henderson’s statement in 2007 that, “It would indeed be a hollow gesture to appoint a Receiver only to let him to become entangled in the same bureaucratic quagmire that has thwarted prior efforts to provide constitutional medical care” (Plata v. Schwarzenegger, 2007). When Kelso (2010, p. 56) announced in 2010 that the Receivership would be accepting the compromised plan, he clarified that while he believed 10,000 beds would have been sufficient to meet minimal constitutional standards, he was doubtful that the newly amended plan was going to be adequate:

Instead of 7 facilities and 10,000 new beds to be operated by the Receivership, the new plan envisions only 1 new facility of approximately 1,600 beds for inmates with medical and mental health problems, the use of three juvenile justice facilities which would be converted to hold approximately 3,200 inmates with medical and mental health conditions, and allocation of \$700 million for improvements to existing facilities. *Although the current plan is likely to fall short of actual needs in some material respects*, the Receiver believes it is the most that can be accomplished at this time given the state’s serious financial problems and the amount of funding available under AB 900.

Thus, the Receiver acknowledged that the compromised plan would be inadequate for addressing the deliberate indifference to the suffering of prisoners identified by *Plata* litigants. Nonetheless, it was adopted and continues to be under implementation, today.

By the time *Plata* was decided by the U.S. Supreme Court in 2011, the majority opinion agreed with plaintiffs that overcrowding was a source of constitutional violations, since facilities lacked the space needed to expand medical and mental health

treatment. Justice Kennedy affirmed earlier court conclusions, writing, “absent a population reduction, the Receiver’s and Special Master’s continued efforts would not achieve a remedy... with no reduction, any remedy might prove unattainable...” Thus, the CDCR was ordered to undergo a steep reduction in its population, supplemented by ongoing structural overhauls of its medical and mental health care systems. On the side of population reduction, the state was ordered to release some 30,000 prisoners, which would bring the population at the time, roughly 160,000, down to 110,000 or 137.5% capacity. On the side of repairing CDCR’s broken health care system, the state proceeded with the amended Turn Around Plan.

Today, the CDCR and the Federal Receiver are nearing agreement and preparing to terminate the receivership. The Receiver’s investigation of CDCR facilities reports satisfactory conditions, almost across the board with only a few exceptions remaining. CDCR claims that it is ready to resume control over its own institutions. But is the state really prepared for such a transition? Are its facilities adequately equipped to deliver adequate healthcare to the incarcerated? Has the culture of punishment changed enough to fulfill this goal? And did CHCF—the flagship institution that could potentially alleviate overcrowding in the state prison system while also providing much needed medical care to prisoner-patients—deliver on these promises?

Failing Remedies: California Health Care Facility

Located in the southern outskirts of Stockton, California, surrounded by expansive Central Valley farmlands and a cluster of varied distribution warehouses, is the site of the 1.4 million square foot medical prison, known as California Health Care Facility (CHCF). CHCF opened in July 2013 after a total construction cost of \$820

million and an annual \$300 million operating budget (Wesley, 2019; Kopachinski, 2011). The compound itself is comprised of 54 buildings in total, designed with the total capacity to incarcerate 2,951 people. However, as will be discussed throughout this section, the repeating medical catastrophes occurring within this model medical prison, brings to the light the limitations and paradox of providing “care” within an institution that ultimately aims to punish.

In January 2014, roughly six months after opening, admissions to CHCF were ordered to a halt by the Federal Receiver, J. Clarke Kelso, after a prisoner named John Earl Cartwright, reportedly died from a stroke. During his emergency, Cartwright repeatedly pressed the bedside call-button to alert a nurse or prison staff to help him. When no one showed up, other prisoners reported hearing Cartwright shouting and crying out for help (Clarke, 2016). They realized that something was seriously wrong and began shouting for prison staff to check on him. Another prisoner at CHCF, Donta Ivory, repeatedly yelled “Man down!” through the bottom crack of his cell door in the hopes that a staff member might hear. Some 30 minutes passed before a nurse arrived, but the damage was already done. Cartwright could not recover from the stroke and died from complications related to cardiac arrest within 24 hours (Clarke, 2016).

Kelso’s decision to temporarily halt all admissions to CHCF in 2013 was not only the result of Cartwright’s death, but also, prompted by an outbreak of scabies that spread throughout the prison (Rodriguez-Moore, 2014). The outbreak was facilitated by a lack of essential medical supplies and poor sanitization procedures. Standard equipment such as a latex gloves, soap, towels, incontinence supplies, and wheelchairs, were unavailable in the prison. In fact, prison staff were forced to borrow medical supplies from Stockton’s San Joaquin General Hospital (Rodriguez-Moore, 2014). It

would be six months before the environment at CHCF would become relatively stable. Even though the prison failed to tend to Cartwright, resulting in his death, and the outbreak of a contagious disease, Kelso resumed admissions, stating, “I am pleased with the progress staff members have made... All supplies are now readily available, and we’ve increased staffing and training” (Johnson, 2014).

In March 2019, the prison made national headlines once again when an outbreak of Legionnaire’s disease spread throughout the facility, causing widespread panic over contamination of the prison’s water treatment system, and ultimately resulting in the death of one prisoner (Sabalow, Kasler, and Venteicher 2019; Thompson, 2019). Legionnaires disease, a type of bacteria that causes severe lung inflammation and typically leads to one fatality out of every ten infected, was spreading through the prison’s water supply. Once again, admissions to CHCF were halted. Portions of the institution went into quarantine and prisoners were not allowed to use showers and instructed to not use their sinks. External parties were brought in to investigate the outbreak and trace the source of water contamination. Tim Keane, a consulting engineer with Legionella Risk Management Inc., part of a group of investigators called into CHCF, told reporters, “For them to test the water and find Legionella everywhere, something is systematically wrong... It’s not an anomaly... It could be the design of the [water treatment] system; it could be the maintenance of the system” (Sabalow, Kasler, and Venteicher, 2019).

This was not the first Legionnaire’s outbreak at CHCF, suggesting that water contamination was a known problem. In 2018, a CHCF prisoner died from Legionnaires disease, and prison staff reported being warned to avoid drinking facility water, and to bring their own bottled water. The prisoners however had no choice but to drink

polluted water (Sabalow, Kasler, and Venteicher, 2019). The bacteria were also found in several other California prisons: four years earlier, an outbreak of Legionnaires disease at San Quentin caused 13 prisoners and three employees to fall ill; and another prisoner had died from the disease at a Vacaville prison in 2018. This suggests that CDCR already had knowledge of infrastructural problems within its water treatment systems.

In a much less publicized aspect of this story, the Office of the Inspector General's April 2019 report documents CHCF's failure to comply with basic medical care standards (Wesley, 2019). The OIG regularly inspects CDCR facilities and produces reports that are used by the Receiver as criteria for determining progress and delegation of specific facilities back to CDCR's authority. As part of the Cycle 5 investigation (Wesley, 2019), the OIG had inspected the delivery of medical care at CHCF, from February 2018 to December 2018, roughly three months before the Legionnaire's outbreak. The report revealed a sharp decline in both CHCF's compliance with the delivery of adequate medical care and with expert clinician's case review results (Wesley, 2019). During Cycle 4, out of the 10 compliance measures, CHCF received "adequate" scores for eight of such measures (Barton, 2017). However, by Cycle 5, CHCF only received two "adequate" scores out of the 10 expert case review measurements, and one "adequate" score out of the 13 compliance testing measures. The facility was marked "inadequate" for access to care, diagnostic services, health information management, health care environment, inter and intra-system transfers, pharmacy and medication management, preventive services, quality of provider performance, specialized medical housing, specialty services, and administrative operations (Wesley, 2019).

To expand on just one of 13 "inadequate" areas, the OIG's Cycle 5 Report revealed that basic health care environment standards were not met: gurneys were not properly

disinfected, medical supplies were kept past the expiration date or stored in unsanitary containers, and emergency medical response kits did not contain the proper equipment. Some of the other lowest scoring areas include documenting medical records of transferred patients as well as screening the health of incoming patients, and the management, ordering, and prescribing of pharmaceuticals. The report suggests that CHCF was failing to comply with some of the most basic standards of care laid out by the Receivership and the OIG.

The fact that a facility designed by the Receivership to specialize in prison healthcare has repeatedly failed to deliver a minimum standard of medical care, raises serious concerns over CDCR's ability to maintain authority over its prisons. Kelso's original plan, released in 2008, was intended to reach completion within a three to five-year timeframe (Rothfield, 2008). Even with massive expenditure, Federal oversight, specialized infrastructure, and decades of careful litigation, medical neglect, suffering, and unnecessary death, continue within California prisons. How do we understand this situation, in which the state's costly new medical prison is effectively failing, at a time when the Federal Receiver is attempting to delegate institutional control back to CDCR? In the following section, I examine how the emergent post-*Plata* prison healthcare system is less of an improvement in healthcare delivery or humane punishment, as it is a refined and efficient system for managing prisoner illness and mortality, justified through the use of oversight reports.

Mortality Economy: A Neoliberal Model for Governing the Prison Medical Crisis

By analyzing the contents of state-generated compliance reports alongside the long history of *Plata*-inspired reforms, we can begin to trace the contours of a new carceral system on the horizon. Over the past several decades, prior to *Plata* and federal intervention, CDCR was defined by a lack of oversight and warehouse-like characteristics marked by overcrowded spaces, medical neglect, and a harsh punitive model of abandonment. In the wake of *Plata*, the prison healthcare system has undergone notable transformations. Under the eye of intensive Federal surveillance, the emerging prison system promises to deliver adequate medical care, healthcare infrastructure, and compliance with population reduction orders against overcrowding. The method for evaluating these reforms relies heavily on the production of state reports which contain detailed data and knowledge of the process. However, neoliberalism's assumption that the drive to knowledge will lead to an improvement in carcerality, is contradicted by today's post-*Plata* prison. Here, the "remedy" has led to a new arrangement of carcerality that abuses the idea of prisoner rights, to incorporate medical technology into punishment and death.

As discussed above, CHCF was constructed to remedy violations of Eighth Amendment protections against cruel and unusual punishment. This new prison appears to be modernized and equipped with appropriate medical instruments: acute and long-term medical care beds, mental health beds, dialysis stations, a dental care facility, telemedicine for specialty treatment, and an array of other onsite diagnostic services (Wesley, 2019). The Tri-Annual Reports generally signify that CDCR is making timely progress with its infrastructural reforms. The new Death Review Analysis reports mark a stark departure from previous practices in that the dying body of the prisoner is now an object of close scrutiny. The review contains meticulous procedures for

recording each in-custody death and closely investigating each cause of death. As discussed above, the role of the Death Review Unit was primary in this task, because it promised to track and report on CDCR's internal management of prison death by identifying and investigating lapses in care and instances of "preventable" death. CDCR proffers these infrastructural and cultural changes as evidence of its preparedness to terminate the Receivership, and resume state control over its prison system. Thus, the narrative materializing from these compliance reports make it seem as if a new era of carceral progress and medical reform has already been achieved.

However, the notion of progress is sharply contradicted by the 2018-2019 Death Review Report, which makes clear that in-custody deaths were the highest they had ever been, even prior to the Covid-19 pandemic (Imai, 2019). What explains this contradiction between the purported success of a post-*Plata* medicalized carceral system on the one hand, and on the other, a continued practice of degradation, suffering, and death by design? How has the introduction of medical technology into the prison, reshaped ideas around punishment and prisoner mortality? And what kind of political-economic underpinnings have facilitated this shift toward a new model of carceral healthcare, informed by neoliberal logics of care and coercion?

One place to begin analyzing this shift is through the use of sentencing laws. As discussed earlier, Gilmore (2007) traces how the restructuring of California's criminal justice system and the expansion of prisons depended on the creation of new laws and mandates that targeted populations from specific geographic locales, necessary for filling those institutions. In other words, once the neoliberal state invested immense resources into constructing dozens of prisons, it mobilized harsh sentencing laws to fill those prisons. In political-economic terms, what Gilmore calls "the prison fix," involved

the transformation of stagnant surpluses of land, labor, finances, and state capacity, into a rapid expansion of California's carceral state. As the construction of prisons made use of each of these surpluses by creating jobs, allocating funding to local economies, and re-tooling depleted agricultural land, the state fulfilled its promise to provide social security by expanding its punitive apparatus.

The medicalized prison regime presents a similar political-economic dynamic, internal to the carceral state. What *Plata* made clear was that the crisis of mass incarceration and the state's failure to provide healthcare was rooted in the problem of overcrowding. At the turn of the century, the state had successfully converted portions of its surplus labor pool into capital by supplying the carceral state with the bodies it required to justify and fill up its new prisons (Gilmore 2007; Wacquant 2001). However, by 2011, it was clear that the system contained *too many* prisoners. Thus, the new regime that we are witnessing today has, once again, engaged in a conversion of surplus prisoners, into capital, which takes the form of massive investment into carceral medical technology. In this sense, it is the declining health, suffering, and deaths of prisoners that fuels the neoliberal prison's economy of death.

A crucial component to this economy is the proliferation of long-term and life sentencing laws. Such sentences not only overcrowd prisons, but naturalize the growing population of aging, sick, and infirm prisoners (Mauer, Nellis, & Meyers, 2018; Seeds, 2018; Nellis 2017). These include various forms of "virtual life sentences" that extend beyond those designated as "life without parole" (Seeds 2019). When taken together, policy changes that have culminated in the reduction of parole eligibility as well as "good time" credits, combined with the high likelihood of having time added due to alleged violations of prison rules, and the risk of deteriorating health during prolonged

sentences, virtually all prison sentences pose the risk of devolving into a permanent sentence. In a ruthless model of neoliberal efficiency, these various forms of long-term and life sentences serve the prison's new medical regime by eliminating surplus prisoners from an overcrowded system. Here, death in prison is re-narrated as an inevitable aspect of punishment, and this is done so, in a manner that helps justify the expansion of the carceral state by reforming its medical capacities.

The emerging medical regime depends on decaying surplus and a mortality-based economy. Where a growing number of aging, terminally ill, and dying prisoners can no longer be contained to the carceral system, medical parole provides a way out of for a select few. Medical and compassionate release programs such as the End-of-Life Option Act and the Elder Parole Program are traditionally understood as methods for alleviating prison death. They do so by paroling persons who would otherwise die in prison. However, these policies are rarely utilized, and instead, their stringent conditions for eligibility ensure that many prisoners can only ever leave the prison, dead or dying. Thus, existing parole procedures are still very much a part of a carceral economy which depends on prisoner mortality. Taken together, sentencing and parole policies continue to supply the growing prison medical regime with the bodies it requires in order to appear necessary and self-evident (Davis, 2003).

When read in this light, recent Death Review reports reveal that the medical infrastructure is in fact serving its proper purpose toward the efficient disposal of surplus populations. The 2019 Death Review Report documents, not a reduction, but a *new peak* in the rate of prison deaths in 2018, exceeding the previous peak reported in 2006 (Imai, 2019). It demonstrates that the coercive treatment of vulnerable prisoners does not simply result from medical neglect, as was previously thought. The disposal

process is streamlined, not despite, but by way of, hyper-surveillance and increased scrutiny over ailing prisoners. Thus, the increased mortality rate suggests that the emergent system of carceral healthcare, built around federal oversight, rigorous reporting, and knowledge production, does not reduce death. Instead, it creates new channels for the efficient regulation of death.

Despite a substantial expansion of carceral facilities delegated with the provision of healthcare, or rather because of them, California prisons have successfully institutionalized medical violence under the guise of providing care. As medical facilities become permanent features of the new prison system, they enable a continuation of the warehouse approach to mass incarceration, wherein prisoners are not released, but remain incarcerated under state custody, even at the end of life. Thus, the construction of CHCF, alongside structural overhauls made to each of CDCR's state prisons, have ultimately extended the prison's capacity to harm. Within this political economy internal to the carceral state, the prison continues to rely on death as a source of its own legitimacy. But this time, death does not signify a crisis within the system as it did in *Plata*. Through neoliberal logics, prisoner mortality is deployed to reshape entire discourses around carceral suffering, violence, and coercion, into a presumption that naturalizes the prison as a provider of care. Prison death is taken as evidence for the continued need to expand the medicalized carceral state.

Conclusion: The Caring Carceral State?

Perhaps we are witnessing the formation of a new prison regime—or at least a novel expression of the same old carceral power—centered on the provision of prison healthcare. After all, the medicalization of prisons is a project that requires costly

investment, but which can also be justified by appealing to public sentiment and the right of prisoners to receive adequate health care (Simon, 2014). Whereas neoliberal logics of the past offered employment in exchange for prisons, the current context is one in which the need to provide medical care legitimizes further investment and expansion of the carceral state. By analyzing state documents on court-mandated prison healthcare reforms, I have tried to demonstrate how, despite an increasingly medicalized prison system, the various carceral practices that create medical violence continue to grow increasingly sophisticated.

While most people might think of medical care in the prison as humanizing the conditions of confinement, this impulse still depends on the exercise of sovereign power and punishment. Here, punishment is the degradation of being refused the right to die, with one's family, with one's community, and free—the simple right to die, in the free world. In this sense, medical care humanizes what is still, at its core, an inhumane commitment to punishment that strips a human being of their freedom, even at the end of a natural life.

Why, then, is it so difficult to read these practices, not as failures within an otherwise valid system, but as a form of medical violence? Failure is not anachronistic to this reformed regime. In fact, it is taken as evidence for the need to continue carceral expansion, and further entrench the role of prisons as providers of healthcare. As such, the efficient regulation of prisoner mortality goes unrecognized as care. Death and medical violence are registered as accidents in an otherwise sound carceral healthcare system.

The many manifestations of a “caring” carceral state in the wake of *Plata*—whether constructing a medical prison, implementing a Death Review Unit, or

converting cell blocks to hospices and infirmaries—should be thought of neither as a negation of carceral coercion nor progress away from it. Rather, it is the neoliberal state’s re-invention of the prison industrial complex, through a process of medicalizing its institutional capacity. There was nothing inevitable about the manner in which CDCR evolved under California’s massive prison reform project. An alternative outcome could have been possible had the courts and the state continued to focus on decarceration and release.

One can only imagine how different the present prison pandemic context might be, had CDCR released its most medically vulnerable, long ago in 2011 when *Plata* was first decided. Instead, prisoners today live under multiple layers of threat brought on by CDCR’s non-compliance and punitive solutions to the pandemic: heightened risk of exposure to Covid-19, abuse from prison guards who refuse to comply with Covid-19 safety measures, increased isolation, including solitary confinement, as methods of quarantine, and inability to receive visits from loved ones. Thus, more than ever, policies should focus on safely releasing these individuals, rather than expanding prison facilities to continue their incarceration and death (Psick, Simon, & Ahalt 2017; Rikard and Williams, 2010; Silver, Shames, & Reid, 2017; Chettiar, Bunting, & Schotter 2012). The institutional reports discussed throughout this chapter have in many ways, legitimized this system. The very concept of *cause of death* needs to be understood, not as something hidden within the body of a deceased prisoner, but rather, as something written *into* the very structures and procedures of a medicalized regime of punishment.

Finally, these reports contribute to the erasure of the racial dynamics of punishment. Given that incarceration and long-term sentences disproportionately fall upon Black and Latinx populations, the health inequalities associated with incarceration

are also racialized inequalities. But nowhere within the body of documents examined here, does the Federal Receiver, the OIG, or any CDCR bureaucracy, report on such matters. This point is both intrinsic to issues around prison conditions raised by the Eighth Amendment, but at the same time, completely beyond its logics.

Summary and Conclusion

The slave who grasps the real significance of freedom understands that it does not ultimately entail the ability to choose death over life as a slave, but rather the ability to strive toward the abolition of the master-slave relationship itself.

—Angela Davis, *Unfinished Lecture on Liberation—II*

Whatever my keepers wish my soul to be,
The man of steel is always free.

—Herman Wallace, *Man of Steel*

Summary

Throughout this dissertation, I have engaged the following questions: What are the structural dynamics between anti-blackness, medical violence, and mass incarceration? In what ways can we understand civil death and solitary confinement as forms of medical violence? How has medical reform altered the crisis of mass incarceration today? What kind of knowledge of abolition becomes possible when we conceive of the prison as symptomatic of a deeper set of social relations? And what structural connections between Louisiana and California prisons are made possible when conceived from the perspective of racial capitalist extraction? These questions have helped clarify three points that are principal to this dissertation.

First, *while mass incarceration produces a wide range of social inequality, including health outcomes, such disparities must also be understood as part of its racialized structure of violence.* Prison is detrimental to the health of those it incarcerates. Carceral institutions are known to be high stress environments which wear on both, bodily and cognitive functions. They also carry a high risk of exposure to infectious disease, while access to quality medical care, nutrition, and health screenings are often denied to the millions of people living inside of them. As a result, carceral environments can also hasten cognitive and physical decline, resulting in “accelerated

aging.” But prisons are also highly racialized institutions. As such, the cumulative effect of mass incarceration ought to be understood as an expression of anti-black violence, integral to a broader “assault on Black public health” (Sexton, 2021, p. 10).

Second, *solitary confinement is a form of medical violence, the force of which is felt as both, the caging and exhaustion of one’s body, and a profound torment of the psyche.* Solitary confinement has been used to target and isolate political prisoners precisely for its power to induce psychological distress and various degrees of psychosis. While recent scholarship has begun to analyze long-term solitary through a theory of social death, this dissertation clarifies the debilitating effect of prolonged isolation as a form of extreme punishment and civil death imposed upon “the slave of the state.” Black political prisoners such as George Jackson and Albert Woodfox, however, perceived of solitary confinement and life-long incarceration through a framework of Panther philosophy, in which the prison camouflages neo-slavery and war under the guise of politics and punishment. This shared intimate knowledge of anti-black captivity, felt through generations, develops as a social life founded in a collective desire for abolition.

Third, *racial capitalist extraction is foundational to both, the operations of the present-day prison system, and to the long history of racial slavery.* Gilmore (2017) argues that the prison is a racial capitalist technology for the extraction of life as time, where the incarcerated body becomes a resource and commodity for building up the punishment industry. Throughout this dissertation, I have posited that death is intrinsic to this extractive practice. Given Gilmore’s insight that extraction begins with racial capitalism, this dissertation provides readers with a historical analysis of extraction at Louisiana State Penitentiary, Angola, beginning in the antebellum era and into

Reconstruction, to identify how anti-black medical violence has always been a key structural component to the extractive scheme.

In today's prison system, life and long-term sentences produce a steady supply of bodies, necessary for filling cellblocks. And as thousands upon thousands of prisoners begin to age and face severe health complications, prisons are increasingly charged with administering medical care to them. Through the example of California, this dissertation demonstrates how contemporary prison reform is giving way to an ever-expanding carceral apparatus, in which the demand for better prison healthcare creates largely symbolic changes, meant to sanitize death in the prison system. Rather than eliminating the fundamental social problems of racism and economic exploitation that often funnel people into prisons in the first place, these reforms have, yet again, increased our reliance on the prison as an ideological solution, while underlying structural relations remain intact.

Conclusion

What is thought of as an incommensurable difference between the two distant prison sites of Louisiana and California—a difference in geography, politics, culture, and economy—suggests that a place like Angola's prison-plantation is an exceptional relic of a historical past, while punishment in California has developed in progressive and humane directions. But the fiction of past as past has grown increasingly untenable in a world in which anti-black violence blurs future, past, and present, to the point of indiscernibility: The "Angola 3" each lost decades to a system of unjust laws; George Jackson, one of the most gifted intellectuals of his time, was assassinated by San Quentin correctional officers; The carceral captives who liberated Attica prison in 1972

in memory of Jackson were met with violent retaliation; Hugo Pinell was held in solitary confinement for nearly 45 years, only to be set up for assassination at New Folsom Prison in 2015; Assata Shakur still lives in exile; Mumia Abu-Jamal still lives in carceral captivity; And the awakened demand for “police abolition” in the wake of Breonna Taylor and George Floyd’s murders, has withered and wilted into calls for reform.

The fantasy of progress offers comfort as it insulates one from fear. What is feared is a vision of a freedom, the arrival of which cannot be guaranteed, and the boundaries of which cannot be known until it arrives—a gratuitous freedom that we can call *abolition* (Davis, 1998; Han, 2015). This is not simply a call for the abolition of the prison as a geo-spatial location of confinement. The prison is also an abstract amalgamation of anti-black violence—a labyrinth of racial and gendered terror. This dissertation works to identify how Louisiana and California are not unrelated and disjointed sites of inquiry, as they might at first appear. Instead, they can be understood as projections of the same future. This is a future which repeats the past, but with difference. Repetition here is marked by the preservation of anti-black violence under the guise of imprisonment and punishment. This dissertation then, interrogates medical violence in the prison as an increasingly sophisticated and camouflaged mode of anti-black violence, one that adjusts to the continually shifting logics of racial capitalist extraction.

While it is widely acknowledged that the prison is effectively a racist and racializing force, the role of medical violence within its walls is rarely posited as an expression of anti-blackness. This dissertation explores how the prison emerges in the present as a key institution that continues to vitalize a long history of racialized medical violence. By advancing a theory of captivity and confinement as medical violence, it

offers an intervention contemporary to a rapidly growing body of scholarship that examines the intersection of incarceration, racism, and health.

This project is also a first step in demonstrating how the extractive logics of slavery (Gilmore, 2017) have historically animated, not only the rise of southern punishment—characterized as barbaric, backward, and subjugationist (Thompson, 2010; Perkinson, 2010)—but also, the reformed, progressive, and humane prison of the present. Throughout this project, I have positioned the prison as an implicit site of struggle within, what Angela Davis theorizes as, the unfinished abolition of racial antagonisms that underwrite the social structure of American society (Davis, 1998). For Davis, the “journey toward freedom” is not defined as an abstract notion of individualized agency, but rather, an active struggle for liberation—one that aspires toward a different future, forged from ongoing engagements within the antagonism (Han, 2015; Davis, 1998).

The stakes of such an engagement are clear to those civil rights-era political prisoners subjected to serving life and long-term sentences, and who remain incarcerated to this day. These individuals have struggled for half a century, and continue to do so against medical violence, inhumane living conditions, and denials of due process, even as they age. Up until his recent release from Angola at age 69, Albert Woodfox was one of these prisoners. And while he successfully secured his legal freedom, the same could not be said of Herman Wallace, who could only leave the prison on his deathbed. Even so, we should not reduce Wallace’s story to one of victimhood within an unjust system. Rather, *the man of steel*, is remembered for his endless commitment to actively engaging the anti-black state in a struggle against medical violence, within the deep recesses of a maximum-security prison-plantation.

The memory of Wallace marks the ongoing struggles political prisoners who continue to fight for freedom, as well as the millions of incarcerated people who experience the prison as a form of medical violence (Woodfox, 2019). The ever-reforming prison system, the continued litigation over prison health care, and the continued captivity of civil rights-era political prisoners are testimony to what Davis recognizes as the unfinished work of abolition, and what this dissertation offers as analysis of anti-black medical violence.

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