SPIRITUALITY IN DARK PLACES
The Ethics of Solitary Confinement

Derek S. Jeffreys
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Spirituality in Dark Places: The Ethics of Solitary Confinement
By Derek S. Jeffreys
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Spirituality in Dark Places
The Ethics of Solitary Confinement

Derek S. Jeffreys
To the inmates at the Green Bay Correctional Institution
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Content and Context in Theological Ethics, as a new series in the Palgrave Macmillan titles in religion, offers a fresh look at the millennia-old tradition of ethics engaging religions, their scriptures and revered texts, and their theological reflections on what matters and why. The series is first and foremost focused on ethics, done from theological and religious perspectives, and rooted in the particular contexts and lived experience of real people in history, in the present, and with the hope for future. While engaged by diverse contexts, themes emerging in the series span the gamut of research in ethics that provoke theological and/or religious concerns; for example, as this text demonstrates, a theo-ethical reflection on understanding and managing the effects of solitary confinement raises concern for the experience of spirituality in the lives of isolated inmates. The series offers challenges to a status quo and suggests ways to move from complacence in the face of hard truths exposing injustice and/or alternatives to standard approaches to contexts that express the content of a tradition in novel ways and means. As contemporary work in ethics is increasingly context driven and characterized by diversity, this series brings contextual theological and religious ethics to bear on the content explored.

*Spirituality in Dark Places: The Ethics of Solitary Confinement* by Derek Jeffreys focuses on the spiritual consequences and the ethics of modern penal reform practices. As difficult as it may be to look to prisons as places of reform at a time when demands for retribution up to and including the death penalty sound all too clearly over print media and airwaves, Jeffreys asks his readers to do just that. He recognizes that isolation expresses a society’s moral values by responding to those who disobey the rules, commit heinous crimes, or become disruptive through isolation from the community (even the prison community). He also takes seriously the protective force of confinement as he argues for greater limits on the practice. As with other subjects engaged in this series and related work in the first and second years of publication (especially *Constructing Solidarity for a Libera-tive Ethic: Anti-Racism, Action, and Justice* by Tammerie Day and
The Scandal of White Complicity and US Hyper-incarceration by Alex Mikulich, Laurie Cassidy, and Margaret Pfeil), *Spirituality in Dark Places* starts with the historical context of two centuries of studies on the psychological damages caused by inmate isolation and moves to the content of spirituality and practices of transcendence, such as creativity and ongoing possession of personal identity.

I am grateful to include in the series’ first years of publication a text that so carefully examines the practice of solitary confinement and its psychological and spiritual effects upon prison inmates. In the United States in particular, where a privatized prison-industrial complex increasingly manages the penal system, theological ethicists are rightly concerned with how inmates are treated, what lasting damages are done by practices of solitary confinement, and whether or how that treatment crosses the boundaries of reform. If inmates belong to the human community, then all people should be alarmed that their dignity is compromised by isolation when isolation dispossesses them of their personal identities and rejects their spiritual needs as transcendent beings in search of creativity and communion.

Readers, welcome to the series!

Mary Jo Iozzio
Series Editor
Many people have helped me while I was writing this book. I first want to thank my colleagues at the University of Wisconsin, Green Bay. They supported me while I worked furiously to complete the book. I am also grateful to Mary Jo Iozzio and Burke Gerstenschlager at Palgrave Macmillan. They both acted quickly once I submitted the manuscript. Flora Kenson did a superb job of copyediting the manuscript. Paul J. Griffiths, friend and mentor, offered insightful criticisms of my writing. Paul invited me to lecture on solitary confinement at Duke University Divinity School, where I received helpful comments about my work. For additional assistance, I thank Rhonda Bell, Helen and Jim Benton, John F. Crosby, Antony Duff, Stuart Grassien, Wolfgang Grassl, Eddie Griffin, Terry Kupers, Daniel P. Mears, Jeffrey Mitscherling, Bishop Robert Morneau, Keramet Reiter, and Michael Wreen. Sharon Shalev offered helpful comments on the manuscript. She makes a frequent appearance in this book, and I find her work on solitary arresting and moving.

I have been fortunate to have been granted access to institutions in the Wisconsin Department of Corrections. I appreciate the help of the staff at Wisconsin Resource Center. I spent an afternoon at this facility, where I was able to talk to psychologists and corrections personnel. At the Green Bay Correctional Institution, I thank Wardens William J. Pollard and Michael Baenen for allowing me to volunteer at the prison. I am grateful to Deputy Warden Sarah Cooper, who generously spent time talking with me about segregation. I also appreciate the assistance of the corrections officers whom I have met over the years. I am indebted to Michael Donovan, Chaplain at the Green Bay Correctional Institution. Mike welcomed me at religious services, and helped orient me to the confusing world of prison life. He also introduced me to Father Jim Barniack, whose prison ministry I admire. Other staff members from whom I have learned include Harriet Schoenebeck and Jack Doruff, teachers who understand the intrinsic value of education. I also appreciate Judy Van Caster’s thoughtfulness and dedication to helping inmates. Finally, I have been inspired by the
work of Virginia Vanden Branden, organizer of the “Challenges and Possibilities” program at the Green Bay Correctional Institution. This program brings inmates in contact with outside speakers who discuss topics like restorative justice, domestic violence, and parole. Ginny is a quiet hero who treats inmates with remarkable patience and deep respect.

I have talked to many inmates, and dedicate this book to those living in the Green Bay Correctional Institution. I have spent hours giving religion lectures to inmates, and am grateful to them for wonderful conversations. They have moved me by their hunger for knowledge and willingness to share their experiences. Given the difficulties in learning about solitary, I also want to thank several people who corresponded with me. They included Mustafa-El K. A. Ahala, Kamau T. Z. Damali, Daron Hardin, and Derek M. Williams. These men graciously shared information about their difficult experiences in solitary confinement.

Finally, I thank my wife, Celestine, and my twin sons, Zachariah and Caleb. Zach and Caleb have reached an age where they can begin to understand their father’s research. They observed with interest my prison visits and long hours before a computer screen. Celestine has endured my research on difficult ethical topics. She frequently encouraged me when I was dispirited by what I saw in our prison system. To her, I am always deeply grateful.
**Introduction**

I found solitary confinement the most forbidding aspect of prison life. There is no end and no beginning; there is only one’s own mind, which can begin to play tricks. Was that a dream or did it really happen? One begins to question everything. Did I make the right decision, was my sacrifice worth it? In solitary, there is no distraction from these haunting questions.

Nelson Mandela

In January 2009, US president Barack Obama signed executive orders overturning the Bush Administration’s interrogation policies. He promised to close the notorious Guantánamo Bay prison, banned torture, and pledged to review detainee policy. Upon learning of these orders, many people breathed a sigh of relief. An era in which waterboarding and Abu Ghraib had become household words seemed to be finally over. No longer would America be scorned abroad for its torture policy. No longer would television pundits debate the intricacies of torture techniques. No longer would Americans hear of horrible torture and abuse in American detainee facilities. The United States seemed to have turned away from an ugly period in its history.

But the euphoria over President Obama’s executive orders soon dissipated. The president encountered a storm of opposition to his plans to close Guantánamo Bay. Politicians and pundits attacked his proposal to try terror suspects in the United States. Despite Obama’s assurance that the detainees would be housed in secure penal facilities, many Americans rejected the idea of bringing them to US soil. The Obama Administration’s plans to close Guantánamo Bay soon fell apart. Much to his supporters’ dismay, President Obama kept the facility open. He also retained some of the controversial Bush-era detainee policies. He held detainees without bringing them to trial, and expanded a large prison at Bagram in Afghanistan.
The fierce partisan debates about Guantánamo Bay masked a disturbing consensus. The Obama Administration promised it would place detainees in US “supermax” prisons. Lured by the prospect of new jobs that would result, several rural communities eagerly volunteered to accept detainees. President Obama proclaimed that no inmate has ever escaped from a federal supermax facility. Progressive and liberal pundits echoed his claim. For example, television talk-show host Rachel Maddow condemned the opposition to housing detainees in Illinois’s Thomson Correctional Facility. This facility, she claimed, would securely house alleged terrorists. Some conservatives dissented, but they still commended the American prison system. Despite intense public disagreements, all sides in this debate affirmed the efficacy of America’s supermax prisons.

Throughout this controversy, few Americans asked about life in a supermax prison. What exactly is a supermax prison? How many Americans live in such facilities? The few journalists considering these questions noted that the use of solitary has skyrocketed in the past few decades. The United States now imprisons a staggering number of people in solitary, anywhere from 50,000 to 80,000 inmates. Restricted to small cells for most of the day, these inmates have little contact with other people. Many suffer from mental illness exacerbated by solitary. Others develop mental illness as a result of their isolation. Still others carry on constant battles with corrections officers, producing a violent and degrading social dynamic. Yet, because prisons are closed institutions, few people understand what transpires behind their walls.

Those who are aware of supermax facilities disagree about their moral legitimacy. Some are only too happy to see criminals isolated from society. Others (including some wardens and corrections officers) acknowledge solitary’s degrading character. Yet they see it as a necessary disciplinary tool. Activists insist that solitary confinement amounts to torture or cruel or unusual punishment. They demand that the United States end its excessive use of such a horrible practice.

**Approaching Solitary Confinement**

Because of its complexity, solitary elicits attention from diverse academic disciplines. Prisons in general are difficult to study. They restrict researchers, and present them with complex, unfamiliar situations. To approach them, sociologists, anthropologists, and journalists employ different tools. Some use participant observation, spending time in institutions and talking with their inhabitants. For example, writer
Ted Conover gained access to New York State prisons by becoming a corrections officer. After serving at the Sing Sing prison, he wrote a riveting book about life as a corrections officer (Newjack: Guarding Sing Sing). Other researchers make comparative studies, employing statistical and other methods. For example, political scientist John Dilulio compared the Texas, California, and Michigan prison systems in his controversial work Governing Prisons: A Comparative Study of Correctional Management. Others use anthropological tools to understand prison life. Anthropologist Lorna Rhodes studied prisons in Washington State, and wrote a fascinating account of solitary confinement, Total Confinement: Madness and Reason in the Maximum Security Prison. Finally, for decades journalists have illuminated our understanding of imprisonment. For example, in Going up the River: Travels in a Prison Nation, Joseph Hallinan provided fascinating vignettes about different US prisons. All these approaches provide insights into prison life.

But this book takes a different approach. I offer no original statistical or empirical research on solitary confinement. Nor do I use questionnaires or interview techniques to capture the attitudes of inmates and correctional officials. Instead, this is a philosophical work exploring human spirituality in solitary confinement. By considering our spiritual lives, this book draws attention to how punitive isolation damages a person’s inner life. It also links philosophical analysis with the voices and insights of inmates. Carefully analyzing power and violence, it also honestly confronts the difficult ethical issues surrounding our use of solitary. Finally, this book considers philosophical theories about punishment that might justify our use of solitary.

By considering spirituality, I reveal a side of solitary that few scholars consider. Most recent discussions of it focus on international law and human rights, social control theories, and psychology. These approaches are all important, and I draw on them throughout this book. Nevertheless, they overlook important dimensions of our inner life. They rarely address how extreme isolation affects the human person’s spiritual capacities. Moreover, they ignore how penal authorities use architecture and technology to destroy the human spirit. Finally, they neglect the negative spiritual forces dominating public discussions of solitary confinement. Anger, fear, and dehumanization often make their ugly appearance in contemporary debates.

Solitary Confinement: The International Context

With its extensive solitary confinement regimen, the United States is an outlier among industrialized nations. England, the Netherlands,
and other European countries incarcerate inmates in harsh conditions of solitary confinement. However, they imprison nowhere near the number of inmates per capita that are incarcerated in the United States. When I talk to European colleagues, they are astounded at how many Americans live in solitary. In sheer numbers and per capita imprisonment, our prison population dwarfs that of most nations in the world. Moreover, our sentences are far more draconian that those in European countries. I have met men serving incredibly long sentences in isolation that would be unheard of in any other industrialized nation.

When analyzing solitary confinement, scholars outside the United States tend to apply international law and human rights frameworks. For example, in 2011 the United Nations Special Rapporteur on torture Juan E. Méndez issued a report on solitary. He maintained that it “can amount to cruel, inhuman or degrading treatment or punishment or even torture.” To make his case, Méndez applied principles from international and human rights law. He urged countries to limit solitary to no more than 15 days, and called on them to use it only as a last resort. His approach is typical of many activists campaigning against solitary confinement. They frequently cite United Nations statements, European conventions, and other documents. Some American scholars also employ these conceptual tools. Additionally, they maintain that solitary violates an inmate’s constitutional rights.

The international/legal perspective is insightful and crucial for policy-making. However, it neglects dimensions of solitary that I highlight in this book. Often, those using international law or human rights law uncritically assume we have strong philosophical justifications for human rights. Rarely do they wonder about the conceptual adequacy of a human rights framework. More significantly, the human rights approach captures only part of what’s troubling about solitary. It says little about a person’s inner life. Moreover, the wrongness of an act often goes far beyond a rights violation. Acts can assault a person’s dignity and devalue his or her inner life. In this book, I therefore discuss human rights and international law, but argue that we need a richer ethical approach.

**FOUCAULT AND SOCIAL CONTROL THEORIES**

When many scholars in the humanities write about prisons, they use the work of French philosopher Michel Foucault (1926–1984). Foucault’s arresting work *Discipline and Punish: The Birth of the Prison*
captured the imagination of many people. His vivid depiction of Jeremy Bentham’s Panopticon Prison, his description of public executions, and his account of modern discipline provoked considerable scholarly reaction. Rather than a progressive march toward greater humanity, Foucault saw modern penal history as the development of new modes of social control. In particular, he analyzed how power is distributed in penal and mental institutions. Instead of a positive force for rehabilitation, Foucault saw the behavioral sciences as powerful agents of social control. His analysis challenged a generation of historians and sociologists to rethink their conceptions of prisons and mental institutions.

Readers of this book will notice themes that seem to come from Foucault, but I draw little from his work. Like Foucault, I focus on power in the penitentiary, discuss temporal and spatial ordering, and worry about the presence of the behavioral sciences in prisons. However, I develop these themes drawing on thinkers like Machiavelli, Thucydides, and Hobbes. I also agree with those historians who fault Foucault for his historical research. I rely on other historians whose work is more careful. Finally, philosophically I depart significantly from Foucault. He rejects the concept of an essential self, maintaining instead that the self is socially constructed. I oppose this position entirely, arguing instead that the person is an embodied spirit. Foucault’s conception of the self leaves the person at the mercy of social forces. She has no spiritual aspirations that can ground resistance to penal authorities. Prison inmates become passive bodies dominated by power. Their agency disappears in a haze of words like “carceral state,” “docile bodies,” and “discipline.” Foucault’s epigoni also present prison administrators as one-sided, wooden villains. They pursue power and control, but lack any deeper spiritual aspirations. As a result, some of Foucault’s followers paint a grossly simplistic picture of prison life. For these reasons, Foucault will appear only occasionally in this book.

**Solitary Confinement and Psychological Damage**

In addition to social control approaches, scholars also consider solitary’s psychological impact. Anecdotally, we have known for almost two centuries that solitary damages people psychologically. Early-nineteenth-century English and American prisons isolated inmates. Wardens soon discovered that those inmates suffered from terrible hallucinations. Some endured them while others went mad. For this and other reasons, prison officials soon abandoned strict solitary
confinement. However, for complex reasons I discuss in this book, solitary returned as a practice in the late twentieth century. When it reappeared, psychiatrists and psychologists began noting how it damages inmates. For example, Dr. Stuart Grassian writes extensively about the “SHU Syndrome” (SHU stands for “Security Housing Unit,” a special unit devoted to solitary confinement). Interviewing inmates in solitary, he notes that they suffered from hypersensitivity to external stimuli, panic attacks, difficulties with concentration and memory, intrusive thoughts, overt paranoia, and impulse control problems. Others like Terry Kupers and Craig Haney have found similar symptoms among solitary inmates. Their studies suggest that solitary has deep negative psychological effects on a person.9

A recent study, however, challenges these findings about solitary’s psychological damage.10 Working for the Colorado State Department of Corrections, Maureen L. O’Keefe and colleagues did a one-year longitudinal study of solitary in the Colorado State Penitentiary. The study concluded that those in solitary showed little or no psychological deterioration. It even suggested that some inmates might psychologically improve when placed in solitary. It also held that mentally ill inmates may benefit from being removed from general population. The Colorado study thus radically challenges previous accounts of the psychological dangers of solitary confinement.

Scholars harshly criticize the Colorado study, focusing particularly on its methodology.11 They question how it collected data, note the study’s political context, and condemn the way it relied on self-reports. Stuart Grassian and Terry Kupers both maintain that the Colorado study is fatally flawed. For example, Grassian criticizes it for inadequate attention to medical charts, and notes how researchers used corrections officers to gather data. The study’s authors responded to critics, thus provoked a fierce debate. However, the Colorado study remains at odds with a large body of evidence demonstrating solitary’s damage.12

I am convinced that solitary exerts a negative psychological impact on inmates. However, I will not rest my argument on the outcome of this empirical debate. Instead, I consider solitary’s spiritual damage as distinct from psychological harm. I will also refer frequently to the testimony of those who have experienced solitary. Inmate after inmate describes its deleterious effects. Essays and books by inmates provide further evidence of solitary’s horrors. I take this inmate testimony seriously, and find it baffling that some social scientists disregard its value.
To explore spirituality, I draw on Thomistic philosophy and phenomenology. Modern scholars of Thomas Aquinas (1224–1274) develop a rich conception of the human being as an embodied spirit. Phenomenology, a twentieth-century philosophical movement, enriches Thomism by focusing on consciousness and its objects. In the United States, scholars sometimes associate phenomenology with the German philosopher Martin Heidegger (1889–1876). In fact, some writings on prison architecture use his ideas. Instead of Heidegger, I employ the work of some of the students of Edmund Husserl (1859–1938). In particular, I consider Roman Ingarden’s writings. Ingarden (1893–1970) was a famous Polish philosopher known particularly for his work on literary theory. He draws our attention to the unusual features of everyday life. What is a book? Is it paper or the ideas we encounter through it? What is a building? Is it merely organized bricks or how we experience them? In considering these questions, Ingarden develops a remarkable account of human creativity.

By focusing on creativity, I call attention to a neglected dimension of human spirituality. When people hear the word “spirituality,” they often think of non-material realities. However, we are spiritual beings who operate through bodies. Creative products like architectural and musical works embody spiritual aspirations. They reveal a unique capacity to unite mental and physical realities. Through works of art, people incarnate aspects of their inner life. Artistic creations become objects we can all share and enjoy.

Solitary confinement assaults our creativity. We take for granted our access to creative outlets. Few people can imagine a world without music, art, or books. Yet many in solitary inhabit just such a world. Other solitary inmates exercise their creativity only under tightly controlled circumstances. Prison systems see music, art, and reading as privileges they grant for good behavior. This book details how creativity becomes the locus of a power struggle between inmates and their captors.

A Paradoxical World

My concern with creativity and spirituality reflects my experiences as a volunteer in correctional institutions. I have talked at length with wardens, psychologists, inmates, chaplains, and correctional officers. I have attended religious services and participated in a restorative justice program. Finally, I am privileged to give religion lectures to inmates at
Spirituality in Dark Places

a maximum-security men’s prison. I have shared remarkable moments with men who reflect deeply on evil, anger, forgiveness, and other topics. Through these experiences, I encountered a world where things are often not what they seem. Political philosopher Machiavelli famously depicts political life as marked by appearances, shadows, and confusions. To many visitors, prisons seem to embody Machiavelli’s world. Inmates, correctional officers, and wardens offer competing accounts of the same events. Psychiatrists, psychologists, and social workers purport to be helping inmates, yet often control and manipulate them. Some inmates lie or exaggerate to impress others. Others who have committed terrible crimes show profound insight about social and political issues. In order to make it through the day, corrections officers sometimes embrace simplistic ideas about inmates. An outsider to the prison world finds it difficult to distinguish wishful thinking from reality or mendacity from truth. To gain a sense of what is happening, one needs to talk to multiple actors. Often, scholars or reporters identify too closely with one group, failing to understand what is occurring. Or they enter the penitentiary with preconceived notions and find exactly what they are seeking. In either case, the result is a simplistic view of prison life.

Political Realism

To address solitary confinement’s complexities, I employ political realism. Political realism is a tradition of thinking about politics that focuses on violence and power. Thinkers like Thucydides, Machiavelli, Hobbes, and Reinhold Niebuhr all depict politics as an arena constituted by “givens” like power and fear. Political realism uncovers power relations, and exposes the hypocritical moral rhetoric rationalizing them. It helps us understand the difficult ethical choices prison administrators confront. Prison officials must contain prison violence, and keep human beings caged against their will. Political realism also recognizes the official violence that has always existed in American prisons. Historically, prison authorities routinely tortured and brutalized inmates. A realist approach acknowledges this history, and sees solitary confinement as a continuation of an ugly history.14

Political realism also takes seriously the moral emotions animating public discussions of crime. Often, sheer irrationality dominates them. People are confronted with facts about crime, yet stubbornly refuse to recognize them. They persist in embracing falsities in the face of overwhelming evidence. People also react to violent crime with fear and
anger. They may never know the victim, but feel a rage that leads them to embrace draconian policies. Finally, inmates often exhibit intense anger toward themselves and others. Subject to degrading treatment, they respond with destructive rage. Political realism acknowledges that these emotions play a role in public policy. However regrettable they may be, we cannot simply wish them away or self-righteously denounce them.

**Political Realism and Punishment**

Political realism also takes seriously the role punishment plays in most societies. Philosophers offer diverse justifications for why we punish. Some hold that punishment deters criminals from committing crimes. Others insist on retribution, the idea that a wrongdoer deserves to be punished. In this book, I consider what is called the expressive view of punishment. It holds that punishment expresses moral emotions and beliefs. The expressive view represents an alternative to deterrence and retribution theories. It sees punishment as an act symbolizing internal states and expressing moral values. Images and symbols embody our emotions and reasons. Punishment expresses moral disapproval to the offender. It also indicates to the victim that he is valued, and lets the community understand that certain conduct is unacceptable.

By employing the expressive view of punishment, I can explore a powerful philosophical justification for solitary confinement. I often hear corrections officials and members of the public insist that heinous criminals deserve to be in solitary. Their behavior excludes them from a community. By isolating disruptive inmates, we express our opposition to moral wrongdoing. This book will evaluate this argument by considering the everyday realities of solitary. It will also consider the moral limits of the expressive view. I will argue that a respect for human dignity precludes us from expressing moral disapproval through isolation.

**Solitary and Segregation: Definitional Questions**

Scholars writing about solitary confinement often confront definitional challenges. Words like “supermax” and “segregation” seem imprecise. What exactly is a supermax prison? What constitutes solitary confinement? Additionally, penal institutions use strange euphemisms for solitary units like “intensive management unit,” “administrative segregation,” and “punitive segregation.” Social scientists exploring solitary’s psychological effects debate solitary’s definition. Generally,
they use the term “supermax” to refer to specially constructed, high-tech facilities that house inmates in solitary. At least 44 states now have such prisons. Scholars use the term “segregation” to denote solitary units within jails and prisons. Like supermax prisons, in recent years segregation units have proliferated throughout the United States.

To focus my analysis, I adopt a standard definition of solitary confinement. In a well-known 1999 document, the Department of Justice defined a supermax facility as

[a] freestanding facility, or a distinct unit within a freestanding facility, that provides for the management and secure control of inmates who have been officially designated as exhibiting violent or seriously disruptive behavior while incarcerated. Such inmates have been determined to be a threat to safety and security in high-security facilities and their behavior can be controlled only by separation, restricted movement, and direct limited access to staff and other inmates.15

This definition applies to both supermax facilities and segregation units. Since it appeared, scholars have added temporal and technological dimensions to it. They note that in solitary units, inmates spend at least 23 hours a day confined. They are released only for exercise or showering (alone), and have severe restrictions placed on visits from outsiders. Computers and restraint technologies reinforce this regimen. Scholars also note that modern solitary inmates live with little environmental stimulation. Their cells are painted with drab colors, and constructed with heavy material. Inmate access to personal items is highly restricted and often minutely described in bureaucratic documents.

Solitary’s involuntary character is particularly important. People often ask me how solitary differs from religious isolation. Western monasticism, for example, had a long tradition of isolating those who violated monastic rules. Additionally, monks and nuns often lived in isolation, reporting unusual experiences while alone. To some observers, the conditions of religious isolation seem akin to those of modern solitary confinement. For example, temporal and sensory disorientation characterize some forms of monasticism. However, religious people have generally entered isolation voluntarily. Moreover, they value the isolation, holding that it has some spiritual significance.16 In contrast, today’s inmates are denigrated and forced to live in isolation. Scholars note how this devaluation deeply damages a person. Unlike religious people who receive validation for isolation from the world, inmates receive daily signs of their degradation.
Solitary’s involuntary character thus sharply distinguishes it from other forms of isolation.17

Some scholars restrict their analysis to supermax prisons, thereby making it analytically precise. This approach holds conceptual advantages, but in this book I discuss both supermax and segregation units. Facing legal challenges and budget shortfalls, some states have begun deemphasizing supermax institutions. However, they sometimes replace them with more solitary units within maximum-security prisons. For example, after losing a court battle in 2001 (*Jones v. Berge*), the State of Wisconsin downgraded its supermax prison (the Wisconsin Secure Program Facility, better known as “Boscobel”) to a maximum-security institution. However, inmates report that segregation units in other prisons often reproduce supermax prison conditions. Similarly, Rikers Island in New York City is one of the largest jails in the world. It has dramatically expanded the number of its solitary units.18 This proliferation of segregation units often goes unnoticed in media accounts of solitary. By using a broad conception of solitary, I focus attention on this disturbing development.

**The Book’s Structure**

Chapter 1 outlines the philosophical ideas that guide my analysis of solitary confinement. Imprisonment distorts a person’s sense of time, and I first consider temporal dislocation. I also describe how our spiritual powers of transcendence and self-possession enable us to deal with temporal dislocation. I then turn to human creativity and cultural objects. Architectural and musical works, technological achievements, money, and institutions are all examples of cultural works. I maintain that they illustrate the person’s capacity to unite physical and spiritual realities. The chapter features complex philosophical analysis, but I ask readers to bear with me because it will be important to understand this book.

In Chapter 2, I locate modern solitary confinement within the history of official violence in American prisons. This brief foray into history may irritate professional historians who look askance at philosophers discussing history. However, I argue that an historical perspective is essential for understanding why the United States incarcerates so many people in solitary. After noting the brutal history of official violence in American prison, I argue that solitary emerged as a response to the real and perceived threat of prison disorder. It represents a way of economizing prison violence, creating the deceptive appearance that official prison violence no longer exists.
In Chapter 3, I turn to spirituality and solitary confinement, arguing that penal isolation assaults our spiritual nature. It targets spiritual transcendence and self-possession, often fracturing the self. In a perverse exercise of creativity, architects create penal structures designed to destroy the personality. Solitary inmates are often cut off from music, art, and reading. Their natural drive to create finds no object, and they are left in dark isolation. I also discuss how fear and dehumanization blind us to solitary’s horror. They impede our capacity to empathize and sympathize with people in solitary.

In Chapter 4, I introduce the expressive view of punishment. I briefly consider different justifications of punishment. I then turn to the expressive account. Arguing that it contains both descriptive and normative dimensions, I demonstrate that it offers a powerful moral justification for punishment. Punishment signals to the offender that he has committed a wrong act. It also reaffirms the value of the victim, whom the offender has devalued. Finally, punishment conveys to the community that some acts are immoral.

In Chapter 5, I apply the expressive view to solitary confinement. I initially note that many in solitary are guilty of only minor rules infractions. They are not, as many people believe, the “worst of the worst.” I then turn to the problem of dealing with violent and heinous criminals. On the expressive view, isolating such people seems morally legitimate. However, I maintain that human dignity sets moral limits on expression. Exploring different kinds of dignity, I conclude that solitary assaults human dignity.

In the book’s Conclusion, I offer suggestions for ending America’s solitary confinement binge. I focus particularly on recent attempts to reduce the population of inmates in solitary. Arguing that we cannot entirely eliminate solitary confinement, I maintain that we should limit its use and drastically change its structure. I end the book by expressing hope that we can alter an unjust and oppressive system.
Chapter 1

Is Time Our Enemy?

Spirituality and Creativity

Dear Christ! the very prison walls
Suddenly seemed to reel,
And the sky above my head became
Like a casque of scorching steel;
And, though I was a soul in pain,
My pain I could not feel.

Oscar Wilde

Time dominates prison life. Inmates use phrases like “hard time” to describe life in penal institutions. They obsess about the past, longing to change it or alter its meaning. They plan for the future, hoping to escape their dismal circumstances. Prison administrators also concern themselves with time. They carefully plan out days and activities, recognizing that by controlling time they control people. Nineteenth-century wardens of British and American prisons meticulously organized time. They were convinced that idle time creates sinful behavior, and therefore regimented every hour of the day. Young people in particular were subjected to careful time management lest they fall into idleness. Early prison wardens also frequently linked time with architecture, emphasizing how organized space developed positive character. Inmates would move only at designated times and for regimented distances. Buildings would instill fear and respect for the law. Routines would replace disorderly behavior, and orderly space would undermine criminal habits and behavior.
Nineteenth-century British and American architects held dangerous aspirations to reform the human personality through architectural works. They aimed their efforts particularly at the poor and working classes, hoping to transform them into “respectable” people. When built, many penal institutions not only failed at spiritual reformation, but also produced terrible mental disorders. These failures lead many historians to worry about linking architecture and spirituality.

Despite this valuable historical lesson, we cannot hastily dismiss the connection between architecture and spirituality. Those visiting, working, or living in prisons recognize almost immediately how they shape feelings and thoughts. Older prisons feature imposing facades that greet visitors. Stone walls surrounding the building produce a sense of heaviness and foreboding. In contrast, newly built prisons appear aseptic, monotonous, and artificial. When people enter them, they feel a pervasive sense of control and helplessness. Time seems to stop, and individuals lose themselves in an endless and stifling boredom. Those sensitive to prison architecture cannot refrain from thinking that it somehow shapes our psyches.

To provide analytic precision to these vague reactions to architecture, in this chapter I link spirituality and creative works. First, I briefly discuss our experience of time, noting in particular its inner dimensions. Second, I describe two important temporal experiences. People grasp themselves as enduring entities in time or seem to lose their identity in its flow. I also note how our relationship to the past and future can create a sense of temporal dislocation. Third, I consider two ways we can overcome our sense of temporal dislocation, spiritual self-possession, and spiritual transcendence. We transcend our environments by seeking intellectual wholes, and become aware of ourselves as centers of activity. Fourth, I consider the unusual nature of objects like architectural works. I argue that they are neither purely physical nor purely mental, but instead arise when human beings link the two. Finally, I show how architectural works express and limit self-possession and spiritual transcendence. They reveal our capacity to link mental and physical realities, but constrain us once we create them.

**TIME, MOTION, AND MEASUREMENT**

With time, we experience a linked succession of thoughts, feelings, or objects along with some kind of change. Without change, we would grasp only motionless presence. Temporal experience requires change
from one object to another. Our experience of time also includes linked elements. Past, present, and future and before and after seem connected. For example, the present points to or gives some intimation of the future. I anticipate that what is now happening will lead to something in the future. Similarly, my present experiences quickly become past ones, but leave traces in the present. Finally, a present experience can evoke memories of the past. For example, the current experience of my child graduating from high school has poignant echoes of the past and intimations of the future. Time thus involves a distinctive order absent from other kinds of succession. A mathematical succession, for example, lacks the look backward and pointing forward that we find in time.3

In experiencing time, we also measure succession using internal and external tools. We take a succession and compare it “with some standard of reference.”4 We are not compelled to choose one standard. In fact, the diversity of human standards testifies to the conventional character of much of time measurement. We measure succession through bodily functions or rhythms. Or we relate it to natural occurrences like the earth’s movement. We also develop internal standards that depend on personal history and psychology. Finally, we invent clocks, timepieces, calendars, and other devices to measure succession. Most communities adopt public standards of time, but particular groups embrace additional ones. Scientists, for example, measure time using technical instruments. Whatever standard human beings adopt, they understand time by measuring succession and change with a standard.5

**TWO EXPERIENCES OF TIME**

Two experiences of time play a particularly important role in our lives. In the first, we experience ourselves as what exists and time as derivative. In the second, we relate to time as fundamental and feel like we are disintegrating in its passage. In the first experience, I feel time is moving, but think I remain the same person throughout it. I am a constant in the course of my life. I apprehend deep changes in my body and ideas, but “feel myself to be a person constituted by this specific nature.”6 Suppose I graduate from high school and begin a new life at a university. I change, but retain an identity I had in my pre-university days.

In this experience, I feel relatively immune from time. People and things change, but maintain enough continuity to withstand time’s
changes. The present rushes into the past, but I remember it and prevent it from disappearing entirely. I also plan for the future, and assume I will be the same person in a few years. In the midst of temporal change, I remain a center of past and future events, steadfast while they appear and disappear. I transcend both past and present, and am never entirely constrained by time.

In the second experience, we apprehend time’s destructive character. Through a dramatic event, we become aware of our fragile existence. Suppose a loved one dies, a person whom we believed would always be around. Her death stuns and overwhelms us. We realize that human existence is contingent on many factors. We cannot exist without food and other necessities, and built institutions to provide them. We need time to develop these institutions, and they can easily crumble through natural or human disasters. We may also reflect on cultural achievements, and realize that “the repository itself, namely human civilization, is itself perishable.”7 Monuments, cathedrals, and works of literature disappear over time. Visiting an ancient ruin, we realize that “it is not we who are masters of time, but that time rules over us.”8 This sense of time’s threat appears powerfully in ancient Greek thought. For example, the historian Herodotus captures how time appears like a dangerous force. Surveying his massive army invading Greece, the Persian king Xerxes begins to weep, stating, “I was suddenly overcome by pity as I considered the brevity of human life, since not one of all these people here will be alive one hundred years from now.”9 One of the most powerful people on the planet felt time’s threat to his existence. On this view, we no longer transcend time but are instead its pathetic victims.

**Temporal Dislocation and the Self**

Often, this experience of time’s danger includes a sense of temporal dislocation. We have difficulty connecting the periods of our lives. Sometimes, we cannot link past and present because the past intrudes on the present.10 Suppose I discover that my spouse secretly cheated on me for years. This revelation forces me to completely rethink my life. Or perhaps I change religious or philosophical views and see my past as morally or religiously corrupt. I might also be haunted by horrible memories that undermine my current sense of temporal coherence. Or I might imagine past events that never occurred, and they gradually erode my sense of temporal coherence.11 In all these cases, I wonder about my earlier self, seeing it as an apparition lost in disconnected processes.12
My relationship to the future can also produce temporal confusion. Perhaps I see my life as going nowhere. Or I anticipate future suffering, throwing my current sense of time into disarray. Unable to stop thinking about what might happen, I imagine alternative futures. They weigh heavily on my consciousness, radically changing my present. For example, I have spoken with young inmates serving life sentences. They cannot enjoy the present because they know they will never leave the penitentiary. They sense that they are moving toward a future against their will, and they cannot coherently link present and future.

I can also lose myself in temporal processes when facing important life decisions. In a crisis, I fail to realize what’s important or am too weak to act. Paralyzed by fear, weakness, or distraction, I act inappropriately. Perhaps I have lived my life with a moral commitment to human rights. Confronted with a government committing genocide, I accede to its policies out of fear or opportunism. I betray my ideals, and disappear as an agent defined by a commitment to human rights. I “become dispersed” in a large historical or political process, and lose my moral center. Without it, I can no longer exert significant power to influence the present and future.

To summarize, we often struggle to maintained temporal coherence. Processes outside of our control and internal distortions can create pathological relations to time. We experience temporal units as only vaguely connected, and lose our sense that we endure in time. Recalling the past and anticipating the future, we find ourselves “as if on the edge between two abysses of non-being.” Time becomes a hostile force destroying our identities.

Temporal Dislocation and Self-Possession

People can resist temporal dislocation by developing spiritual self-possession, an “awareness of oneself both as present and as a source of action.” Philosophers and theologians often see it as a sign of our spiritual nature. It involves no “dispersal of parts characteristic of material bodies with their spatial extension.” When material objects unite, they displace each other, one giving way to another. A stone placed in a jar of water dislodges the water. Philosopher Kenneth L. Schmitz calls this dimension of material entities determinacy; material objects resist and exclude other objects. The awareness of self involves no such determinacy, but instead enhances a knowing being. When I am aware of myself, I do not exclude or lose anything.
Gradually, human beings can understand themselves as unified centers of thought and action. Many living beings maintain biological systems that enable them to interact with their environment. Through internal unity, an organism “distinguishes itself from the world and constructs its own opposition to it.” Self-possession includes a deeper interiority because human beings grasp both their mental activity and its meaning. How do new experiences fit into older ones? How do they reflect a personality? By considering such questions, a person relates meaning to a center of mental and other activities.

I develop self-possession through conscious action, and I gradually “construct an abiding portrait, proclaiming implicitly” that “this is the kind of person I am.” Every consciously chosen action shapes my character. It affects me and the world, and cannot “be simply wiped out at will without leaving a trace.” Gradually, I understand the consequences of action for others. I never completely understand myself because my personality contains hidden dimensions. Other people may in fact understand parts of me better than I do. Nevertheless, by acting I grasp something of my presence in the world.

Self-possession often appears when we confront difficult choices. Our acts sometimes “spring forth from the deepest interior of the ego, as it has become in the past and sustains itself to this day, to the moment of the deed.” In moments of crisis I respond in ways requiring continuity in change. I may be unaware of it until I act, but retrospectively realize its presence. For example, some people give little thought to how they would respond to torture. A government tortures, and people must decide whether to support it. They refuse to torture perhaps at grave personal costs. They then reflect on what made this choice possible. A profoundly disordered person might be incapable of resisting institutional pressures to torture. Through reflection, I apprehend the kind of person who could resist making immoral choices.

I often discern constancy with difficulty, but recognize that time cannot fully destroy my enduring self. When making an important choice, my act “simultaneously enhances my powers” and “shapes me for the future.” My choice lends coherence to events in my life, giving them a distinctive stamp. The person resisting torture, for example, realizes a new efficacy to shape the future. That person reveals a persisting element of he or she for others to consider. Responding to it, he or she shape their own action. Through important choices, a person thus displays an enduring self.
SELF-POSSESSION AND SELF-RECOLLECTION

We can cultivate self-possession through spiritual practices like “self-recollection.” Through it, people “recall not something about themselves in the past, but recall their very selves in the present, and recall themselves not as an object of cognition, but as a subject.” Self-recollection plays little role in our everyday lives when we lose ourselves in sensations or experiences. Taking no distance from them, we seem like a dispersed set of activities. In this condition, we can be easily manipulated by those presenting attractive goods. One good seems desirable today, while another draws us to it a few weeks later. Without a strong self-presence, we cannot resist flitting from attraction to attraction.

Self-recollection counteracts self-dispersion. It can begin when someone concentrates intensely on an activity. It then develops into an inner unity. I cultivate a sense of inner coherence and become aware of how my acts affect others. Often, I need moments of solitude in which to focus on inner unity. Unlike a spatial center, we cannot measure self-recollection because it consists of “different acts of relation, control and command which are continually building” internal unity. Nevertheless, we can discern a focused activity and how it affects others.

I can also develop self-recollection by devoting myself to a good of ultimate value. I “let myself be recollected, not so much by my own act, as by the recollecting power that issues from things of ultimate significance.” For example, I can pursue a political or religious ideal that gives me inner strength. This path to self-recollection often appeals to those experiencing difficulties with acts of will. They cannot concentrate sufficiently, and need external support. For example, despite institutional brutality, some prison inmates realize an inner unity by adopting religious goals or political ideals. For example, in the 1960s and 1970s, the controversial figure George Jackson developed political ideals that enabled him to endure California’s horrible prisons. After he was killed by prison guards in 1971, he remained a revered figure among some inmates. For them, his political ideals provided indispensable means for surviving incarceration.

Self-recollection enables someone to respond to the gazes and domination of others. Personal life is stifled, and the “whole of existence is exposed to the public gaze, to be supervised and directed by public officials.” Self-recollection temporarily liberates a person from these forces. By understanding a personal center, he refuses to allow...
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others to define him. This process is particularly important for those in penal institutions. On a daily basis, inmates struggle to resist gazes from cellmates, cameras, and guards. They yearn to develop a personal center that resists invasions of their personality.

Finally, self-recollection allows someone to escape constant distractions and temporal dislocation. Distractions produce a sense that the present rushes into the past. Experiences follow experiences with little coherence. For example, incessant noise often permeates American prisons. Inmates find it overwhelming, and describe how noise makes clear thought impossible. Self-recollection can mitigate this aural assault by focusing a person’s attention. By monitoring her inner life, an inmate can gradually develop a distinct identity that resists temporal confusion.

Temporal Dislocation and Spiritual Transcendence

Like self-possession, spiritual transcendence allows us to overcome temporal dislocation. Through our intellect, we can transcend any particular idea or situation and inquire about large wholes. Like self-possession, philosophers and theologians often identify transcendence as a spiritual power surpassing material existence. Medieval philosophers like Thomas Aquinas and Duns Scotus construct arguments for the intellect’s immateriality. Material objects occupy space and are limited by their spatial location. In contrast, we can “produce abstract universal ideas that capture the united meaning common to an indefinite number of individual instances.”

For example, we are not restricted to perceiving individual people, but can form the idea of a “human being.” We apply it to many individuals, making it possible to recognize human rights. Ideas like human being, traditionally called universals, “transcend the particularized location and limitation in space and time, the spatial extendedness, characteristic of the material mode of existence.”

They play an integral role in our thinking, but could not do so if they were purely material entities. Suppose the concept “human being” existed only in my brain. Others with different brains would be unable to have access to it. A universal thus must transcend particular matter in order to serve its linguistic and cultural functions.

We also use universals to understand what lies beyond our immediate circumstances. We open ourselves to receive information from new realities. We conceive an object and then immediately go beyond it to consider related objects. We cannot arbitrarily stop this drive to know by erecting artificial barriers. Parents, teachers, and other
authorities frequently discover that they cannot prevent young people from inquiring beyond proscribed limits.

Prison authorities have often experienced this drive to know when censoring inmate communication. For example, in an excellent study of the California prison system, Eric Cummins discusses how prison authorities controlled inmate reading. Imbued with the rehabilitation ideal that dominated prisons in the 1950s, authorities employed psychology and education to dominate inmates. Hermann Spector, the librarian at the San Quinton penitentiary, promoted “bibliotherapy.” It focused on the transformative power of reading and sought to make criminals into good citizens. Spector employed reading as a control mechanism. He restricted access to books, approved what inmates read, and kept a detailed record (on index cards) of what they read. As Cummins shows, once inmates at San Quinton learned to read, they moved beyond the texts Spector prescribed. Caryl Chessman, Eldridge Cleaver, and others read and wrote books that challenged contemporary social and political norms. In his brilliant book, Cummins illustrates the human intellect’s drive to know what lies beyond restricted environments.

Thinking beyond an environment, we encounter a world of value and meaning. We can contemplate an object’s significance for us and for others. Does it really exist? Does the object have some hidden structure? How does it relate to other objects? We are often presented with goods by parents, teachers and other authorities. They request or demand that we adopt them. Yet we can sometimes explore a proposed good by considering its sides and dimensions. The thing “which is good only in a certain respect discloses uncongenial aspects.” We then must judge whether the proposed good is really good. Suppose we are taught to always obey the law. We might go along with this idea until confronted with what seems to be an unjust law. We think about the law’s merits and demerits, and suddenly obedience no longer seems the best choice.

Through this encounter with universals, we counteract the sense that time dissolves our identities. The universals we cognize retain a stable identity throughout time that others also recognize. If the concept of “human being” changed each time we thought or talked about it, we would be unable to apply it to more than one individual. If our cognition constantly changed, much of it would turn out to be impossible. By using universals to think and communicate, we enter a world that endures longer than our fleeting individual experiences. It is not “intrinsically bound by particularities of time and space,” and allows us to transcend past, present, and future. Universals thus
provide a temporal stability vital to human life, and reveal one mode of overcoming time’s damage.44

To summarize, human beings transcend their environment because they can never be entirely confined to one object or good. They consider universals and larger wholes. They can thus overcome the sense that they are trapped by the passage of time.

The Peculiar World of Cultural Objects

Philosophers and theologians often link our spiritual powers and our creativity. Human beings are not disembodied creatures, but instead express spiritual activities through bodies and environments. They communicate self-possession and transcendence to others through technology and artistic creations. They leave personal traces in stories, paintings, and buildings. These objects enable them to share their inner lives with others. They employ material realities to go beyond their individual psyches or cultural environments. Creativity thus embodies spiritual transcendence and self-possession.45

Twentieth-century thinkers focused particularly on how human beings create “cultural objects,” such as flags, money, books, architectural works, symphonies, and paintings. At first glance, cultural objects possess odd characteristics. They have a foundation in physical realities like canvas, stone, pieces of papers, and sound vibrations. However, they also depend on psychic activity. They originate at a certain time and place, but endure only as long as people perform cognitive acts. Once these acts disappear, we no longer have the cultural object.

This résumé of the features of cultural objects may strike some readers as bizarre. Artistic creations, they may think, are merely formed pieces of marble, structured sounds, or pigments on paper. Today, many people impressed with scientific achievements find purely physical analyses of cultural objects appropriate. They are particularly intrigued by neuroscience, which reveals the brain’s secrets. Those bedazzled by it think that to understand cultural objects we need no appeal to aesthetic or mental experiences. Instead, we analyze paintings, music, or buildings by using neurology, physics, chemistry, and other sciences.

Others, however, find this appeal to science unsatisfactory, and explain cultural objects by ascribing them to psychological states. My experience of an opera, for example, hardly seems like mere sound vibrations or brain events. It includes powerful emotions like joy and sadness. Artistic creations have a physical substrate, but seem to be something more. Sometimes, people identify them with individual
subjectivity. Cultural objects become psychic events triggered by contact with physical objects. I experience the opera in one way but someone else hears it in another, with both experiences reflecting different psychological constitutions.

Both psychological and physical approaches to cultural objects encounter significant difficulties. To illustrate them, let me consider architectural works, which will occupy my attention later when I talk about supermax prisons. Roman Ingarden asks us to think about a church. To some people, it seems like an ordered structure of bricks or stones. A church is extended in space and responds to environmental changes. It possesses physical characteristics we all experience. We might describe them using everyday language of stones and mortar. Or we might deny that the building’s stones exist, choosing instead to describe relations between sub-atomic particles. In whatever way we characterize the church, we soon discover that it possesses properties that sub-atomic particles or stones lack. Churches can be numinous, alluring, beautiful or even frightening. It would be absurd to ascribe these properties to stones or sub-atomic particles. We cannot, then, simply identify a church with its material structure. Two objects with different properties cannot be identical. Imagine, for example, saying that twins with diverse genetic material are identical. We would rightfully reject such a strange claim.

Perhaps we should say that a church’s properties are identical with individual brain activities or psychological states. Each person entering a church has different experiences. I find it captivating while you find it boring. Each of these properties characterizes different individual psychic states. However, this approach to a church cannot explain common cognition. Brains and psychologies are highly individual. Your brain differs from mine in multiple ways. If we identify a church with brains states, how can we have the same experience in a church? Strictly speaking, no two psychic experiences or brain events can be identical. Any talk of a common experience constitutes merely a useful fiction.

Dissatisfied with psychological and physical approaches, we might adopt a sounder view of cultural objects. To create or experience them, we need an act combining the mental and the physical. To see this point, let me return to the church example. A stone-mason approaches a church building as part of her work. She might pay attention only to stones in one part of the building. An art historian might study the church’s history. However, we can also approach the church by considering its nature and aesthetic qualities. For example, to be a Christian church, a building requires a physical structure, a form,
and consciousness. In particular, it needs a ritual act like consecration. Prior to this act, we have a formed structure with physical properties whose nature remains indeterminate.

Imagine an alien who visits our planet and comes across an empty St. Peter’s Basilica in Rome. This being would not automatically understand it to be a house of worship. Initially, he would be unable to ascertain the act of consecrating, but might identify it through historical and archeological research. Discerning traces of psychic and communal activity, the alien might recognize the characteristics of a church. For a building to be a church, then, we must have a present or past act that links physical realities, forms, and mental acts.

To some, this account of an architectural work seems like a conjuring trick. Do cultural objects magically appear? They sometimes seem magical, but we understand them better if we think of some of their qualities as derived from consciousness. A building possesses properties that exist independently of our thinking about them. Cell bars, for example, cannot bend no matter how much inmates will to bend them. However, other qualities emerge through the encounter between thinking beings and physical objects. The architectural work enjoys qualities borrowed from the consciousness of individuals and groups.52

Architectural objects thus defy easy classification, and depend on both mental and physical realities. I cannot simply imagine a church, and watch it appear. Nor can any random pile of stones constitute a cathedral. Instead, a church depends on both mental acts and physical entities. Without them, we have no cathedral. If no mind holds them together, we no longer have a cultural work.53 If someone remembers a ritual and a building still stands, we can reconstitute the church. If we discover design plans, we might be able to rebuild a destroyed architectural work. Once this memory disappears, however, the church goes with it.54

ARCHITECTURAL WORKS AND TIME

In addition to enjoying an existence depending on mental and physical realities, cultural works create a particular relation to time. For example, if I read a literary work, I can’t grasp its structure instantly, but must allow the work to unfold gradually. As I read, I get a sense of characters and the world they inhabit. Similarly, I cannot experience a play in its entirety, but need to sit through a performance. I slowly grasp its structure as the drama unfolds. In both cases, my sense of time differs from what a clock measures. I enter the world of
Is Time Our Enemy?

a play or novel, and experience its temporal structure. In fact, I may have difficulty experiencing this time if I remind myself of clock time. Imagine an impatient person constantly consulting his watch during a play. He measures time by his watch’s motion, and cannot adequately attend to the work’s temporality. Clock-time differs from the play’s time, and with his disinterest the spectator loses out on something important.

Architectural works differ from cultural objects like plays because they appear in outline at one glance. We cannot immediately fathom their various aspects, but get an initial sense of a whole. I grasp a prison’s dimensions quickly and then experience temporal unfolding as I explore its various aspects. Architectural works seem (perhaps mistakenly) less dynamic than musical works that develop in phases. Their dynamic processes remain hidden, and appear “as something already complete.” After a while architectural works may lose “much of their freshness, vitality and impact.” They constantly undergo decay, with paint fading and materials disintegrating. However, we rarely discern these changes. To apprehend different properties, I must locate myself in different places. Those unwilling or unable to change locations see only one side of a work. Motion and change, so essential to our experience of time, seem absent in many architectural works.

Unable to ascertain change, those encountering architectural works sometimes experience frightening boredom. Each experience seems the same, and slowly sinks into the past. Those with a strong identity can locate passing events in a temporal framework. Others feel “degraded” by interacting with a static reality. An architectural work can produce an oppressive sense of time. If it allows for considerable sound, it may contribute to a sense of boredom. We become distracted by endless, monotonous noise. Unable to concentrate, we lose our personal unity.

ARCHITECTURE AND TEMPORAL INERTIA: A NINETEENTH-CENTURY EXAMPLE

In its repetitive patterns, prison architecture often induces a powerful sense of meaningless. I will have occasion to examine contemporary prison structures later in this book. However, let me briefly illustrate the architectural work’s power to shape moods by looking at an example from the past. In his masterful work on prison architecture (The Fabrication of Virtue: English Prison Architecture, 1750–1840), architectural critic Robin Evans devotes a chapter to the famous Pentonville prison in London. Built in the early 1840s, it was a “Model Prison”
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designed to showcase solitary confinement’s transformative power. It represented the culmination of decades of experimentation with the architecture of solitary confinement. Pentonville’s planner, Joshua Jebb, designed the prison so that convicts “spent almost the whole time isolated in their cells, all 520 of which were exactly the same.” Each contained identical sanitation, heating, and other systems. Each included identical slots, one allowing for external inspection and the other permitting food to be delivered. Inmates were issued few personal items and were required to organize them in identical fashion. Any time they spent outside their cell was meticulously ordered in a deadening routine. While exercising, prisoners were masked. When attending chapel, they occupied individual booths separating them from others.

Pentonville authorities reinforced architectural uniformity by precisely measuring time. A prisoner’s day “followed the cadence hammered out by the bell; wake-up, work, meals, chapel, exercise, inspection, lights out.” To retain a strict schedule, authorities distributed time instruments throughout the institution. For example, a device timed the entrance and exit of inmates into the chapel. Jebb calculated that with the help of the device, “the chapel could be filled or emptied of a full complement of prisoners in just seven minutes.” Other time devices governed the behavior of correctional staff, ensuring that officers made rounds at specified times. These instruments supplemented the “already inescapable co-agency of rigid rules and vigilant surveillance combined with the passive power of the building itself.” Architecture and time measurement created a pervasive monotony and a sense that little moved or changed.

Pentonville distorted its inmates’ sense of time and space. As many scholars document, it sought to “reform corrupted characters” but instead produced widespread psychic disintegration. Men “came apart in the loneliness and the silence,” experiencing hallucinations and other psychological horrors. Some ended up in asylums, others committed suicide, while still others somehow endured psychological deterioration. Many inmates struggled with the psychological aftermaths of imprisonment long after their release from Pentonville. This harm compelled authorities to shorten the inmates’ isolation from 18 to 9 months. It eventually also prompted them to abandon their emphasis on solitary confinement.

At Pentonville, we cannot neatly delineate how architecture alone (apart from severe discipline) affected an inmate’s sense of time. Moreover, a person’s experience of an architectural structure interacts with his psychological make-up in ways difficult to measure. Finally, many prisoners resisted their harsh treatment, refusing to passively
accept it. Nevertheless, we can safely say that for many Pentonville inmates, the architectural work contributed to a profound temporal dislocation.

**ARCHITECTURAL WORKS AND SELF-POSSESSION**

An architectural work can, however, also reflect a self-possession that resists temporal inertia. It “bears traces of the taste and proclivities of its creator; these traces can, in certain circumstances, express the latter’s mental structure.”69 Brunelleschi’s famous *Duomo* in Florence, Italy, for example, reflects its architect’s deep interest in geometry and proportion. It also contains traces of fifteenth-century Florentine civic pride. By studying the *Duomo*, we discern Brunelleschi’s character. We can also consider stable entities like Florentine guilds that made the *Duomo*’s construction possible. The current building thus has a historical dependence on past realities that resist temporal change.

Once created, however, an architectural work takes on a life of its own. It acquires a stable presence allowing people to relate to it. Some of these relationships are practical. In fact, architectural works without such purposes “are very rare.”70 I can write a literary work that serves no practical purpose whatsoever. In contrast, architectural works (particularly because they are so expensive to create) generally serve practical goals. People lose a sense of a work’s remarkable character, taking it to be a useful or everyday object. For example, I have Florentine friends who treat the *Duomo* as merely a large building around which to navigate.

Those experiencing a stable architectural work visually encounter shapes and gradually experience a three-dimensional object.71 For example, the Green Bay Correctional Institution was built at the turn of the twentieth century, and contains a giant Rotunda leading to cell halls. On its exterior, I see grim and dirty walls with guard towers and barbed wire. I grasp the building’s dimensions, but once I enter the prison I understand them better. Gradually, I get a better sense of the building as a whole. Even though I’m no longer looking at the outside walls, I am aware that they exist. The prison has an “inner qualitative unity” that reflects early-twentieth-century penal ideas.72 Its design endures long after its architects and engineers have died.

Architectural works also allow us to experience ourselves as enduring objects. We find a “certain ready-found world of products of the human spirit” that alters our character.73 An architectural creation shapes our thoughts and actions positively or negatively. We feel elevated or moved to action by its presence. Observing our responses, we notice patterns reflecting our self-possession. A building may also
aid in self-recollection. A quiet church becomes the locus of contemplation. It allows us to turn inward, away from multiple disturbances and perceptions.

Because they depend on both mental acts and physical objects, architectural works also reveal time’s threat to self-possession. Even those works that help us see what endures in human life eventually disintegrate. In wartime, combatants destroy significant cultural monuments. Ingarden occasionally comments about how German and Soviet troops destroyed much of Warsaw in World War II. Those who remembered destroyed buildings and retained design plans tried to re-create lost architectural works. In this case, people performed the psychic and physical acts necessary to rebuild a destroyed church. However, if no plans or memories exist, the architectural work vanishes. It becomes merely piles of stone or wood whose significance we cannot discern. Because of their unique mode of existence, architectural works enjoy a fragile existence. They remind us that we age and will eventually die, perhaps disappearing from history and memory.

**Architectural Works and Spiritual Transcendence**

In addition to threatening or sustaining self-possession, architectural works reveal spiritual transcendence. Ingarden notes that architecture is an expression and a result of humanity’s living together with the world of matter, one of humanity’s ways of making a home for itself in the world that makes human life easier, and that at the same time is a manifestation of humanity’s victory over matter, a sign of its mastery over matter and of matter’s subjugation to practical requirements. But architecture is also an expression of humanity’s ability to impose on lifeless matter forms that correspond in the highest degree to the human being’s intellectual life and emotional needs by satisfying his yearning after beauty and aesthetic magic.74

Architectural works manifest spiritual transcendence through the shapes we imagine and actualize in matter. Before we design or build, we need universals like lines, squares, and circles. They transcend any particular environment and enable us to contemplate architectural designs. Along with engineers and workers, the architect unites physical and mental objects to create homes, churches, and schools. She combines real space and psychic experiences to create an object rarely (if at all) found outside of human life.
The resulting architectural work in turn frees others from subjective mental worlds. Personal fantasies remain deeply imbedded in my consciousness, and enjoy limited intersubjective presence. In contrast, architectural works free ideas from the limitations of individual awareness. They are thus “transcendent with respect to any given act of consciousness” and gain a public life. Standing in front of New York City’s extraordinary Empire State Building, I am no longer restricted to a private world, and experience something communal. Only beings capable of spiritual transcendence can enjoy and create such works.

Architectural works reveal our transcendence vividly because they are deeply rooted in material realities. Once created, a building resists individual experiences of time. Other human creations seem more fleeting. For example, unless we record a conversation, it ends, and endures only in the memories and personalities of its participants. In contrast, congregants can return to a church again and again to share common experiences. They differ in how they apprehend the building, but its spatial dimensions limit possible apprehensions. A public object mediates the conscious, changing acts of many people. It enables them to partially overcome their individual sense of temporal dislocation.

Because they depend on space and material, however, architectural works also limit spiritual transcendence. They can be enormously diverse, but are constrained by the material world. I can conceive of a lion/snake chimera with the powers of both animals. I imaginatively construct a world populated by similar creatures. Unconstrained by biology or the laws of physics, my chimera appears and disappears at will. In contrast, an architectural work contains physical elements limiting us. I cannot link material and forms in ways that defy the laws of physics. Once I create the work, spatial forces limit my interaction with it. In my imagination, I may pass through prison walls, but once built they keep me within them.

Those planning and constructing architectural works must also recognize environmental limitations on spiritual transcendence. They need to take into consideration a work’s immediate environment. How does it fit into its surroundings? How do they affect its aesthetic qualities? Architects usually try to locate their creations in appropriate environments. Guided by practical or aesthetic values, they design structures accommodating what already exists. For example, some architects plan municipal jails that will be “integral parts” of a community. They consider how inmates will be transported to and from courts. An imaginative world contains no such difficulties. It can
include structures unconstrained by other objects. Because of their location in a particular environment, architectural works thus limit spiritual transcendence.

The architectural work’s practical dimensions can also undermine spiritual transcendence. Too often, practical exigencies block our perception of aesthetic values. An architect dealing with a demanding client might become obsessed with a house’s practical functions. For example, state officials building prisons are preoccupied with safety at all costs. Often, they cannot distance themselves from this overriding concern (a danger I will discuss in Chapter 3). To consider aesthetic values, someone must remove herself temporarily from intense practical concerns. She may find this choice difficult because of the architectural work’s practical aims.

To summarize, architectural works constrain and display spiritual transcendence and self-possession. They contain enduring forms and other entities. They reflect human aspirations to transcend matter and environmental limitations. An architect or one enjoying her work transcends bricks and other material objects. She unites them with mental entities to form enduring objects. Architectural works also become public objects that transcend individual psyches. They allow for experiences of value unimagined by their creators. However, architectural works also constrain spiritual powers because they are deeply rooted in material world. Unlike an imaginative world, they cannot go beyond material and practical limitations.

**Conclusion**

Multiple factors shape our experience of time. Measuring internal and external motion, we encounter an ordered relationship between present, past, and future. Usually, we think we endure throughout time. Yet sometimes we experience temporal dislocation. We attempt to regain temporal order by exercising self-possession and transcendence. Through our intellects, we transcend environmental limitations and apprehend larger wholes. Through action, we inaugurate a presence that affects the world. We often embody it in cultural objects. In our everyday lives we take for granted objects like churches, flags, and money. Yet we can step back from them and discover their peculiar existence. Cultural objects are neither purely mental nor purely physical; rather, they reflect a remarkable human capacity to link two ways of existing. In turn, they take on a life of their own that shapes our sense of time. Architectural works in particular express and limit
spiritual powers. They disclose our triumph over matter’s limitations, but also remain closely linked to matter.

By attending to the features of the architectural work, we understand our vague sense that prisons express ideas or values. They are not merely ordered piles of stones, but reflect the consciousness of those building, operating, and occupying them. Prison architects design their works to express their or their clients’ sense of the purpose of imprisonment. Once the architects and engineers leave the scene, their creations continue to reflect these purposes. Those inhabiting them apprehend what their dwelling expresses. They also bring their own personal experiences to these apprehensions. As the example of Pentonville illustrates, prison architecture profoundly affects how inmates encounter time. Although someone’s experience depends heavily on individual psychology, we can understand why Pentonville created a stifling monotony. I will shortly apply these broad themes of spiritual powers and architectural works to modern solitary confinement. Before doing so, however, we need to understand why the United States enthusiastically embraces solitary confinement.
When discussing Machiavelli many years ago, political philosopher Sheldon Wolin coined the phrase “the economy of violence.” Machiavelli, he noted, highlights the presence of violence in political life. For Machiavelli, the “hard core of power is violence and to exercise power is often to bring violence to bear on someone else’s person or possessions.” Rather than trying to eliminate violence altogether, political leaders should manage it carefully. The politician, Machiavelli recognizes, cannot continually use violence without losing the respect of the governed. In fact, the “indiscriminate exercise of force and the constant revival of fear” create “widespread apprehension and hatred.” The politician must therefore use violence selectively and dramatically. Machiavelli fully recognizes that violence constitutes only one ingredient in sustaining political order. Institutions, personal charisma, common values, and a desire to share a common good all contribute to order. Nevertheless, Machiavelli counsels political leaders to always remember that violence remains a significant factor in political life.

Those operating modern prisons fully understand Machiavelli’s conception of violence. They force their captives to remain in cages
against their will. They threaten them with violence if they try to escape. They deal with men and women who often use violence. Some lack self-control, and resort to it quickly. Sometimes, violent inmates force others to defend themselves, creating further disorder within the prison. Many inmates want to quietly do their time, but must confront those unable to control their violent impulses. Authorities must prevent inmates from harming others, and keep them regimented in demeaning conditions. Violence thus plays an essential role in maintaining order in a modern penitentiary.

In this chapter, I consider modern solitary confinement as a tool for economizing violence. Viewed from a historical perspective, it represents just one more form of prison brutality. To consider this topic, I first focus on the nature of prison order. Second, I discuss how historically US prisons used torture to maintain order. I briefly detail the sad history of torture in prison. I also consider how prisons maintained order by delegating brutality to inmates. Third, I trace how American prisons moved away from official torture. Judicial intervention, a greater appreciation of human rights, and political advocacy all delegitimized official brutality. Fourth, I describe how modern solitary developed as a response to real and perceived prison disorder. Finally, I consider solitary confinement as a tool for controlling inmate behavior. I argue that because solitary reduces physical violence, it deceptively appears less abusive than older modes of prison discipline.

**Order in the Penitentiary**

For decades, sociologists, political scientists, and criminologists have debated how best to maintain prison order. They have discussed prison management techniques, inmate self-government, parole, moral leadership, and other topics. Scholars recognize regional differences in governing prisons. History and local customs produce diverse prison conditions. Finally, American courts, the federal government, and outside advocacy groups all affect prison order. Those administering prisons must respond to external forces limiting their action.

At minimum, prison administrators must ensure that inmates remain confined and incapacitated from harming the public. Beyond this basic task, penal institutions pursue different goals. Early English and American penitentiaries embraced religious missions, aiming to transform sinners into good Christians. Prisons have used inmates as slave labor to earn money for states and corporations. Others, particularly in the 1950s, harnessed the modern social sciences to rehabilitate prisoners. Finally, some prisons seek only retributive ends, aiming to
maximize the pain of incarceration. The nature of prison order thus depends largely on an institution’s aims.

We can identify some general features of prison order. For example, we can measure covert and overt violence like assaults, rapes, murder, and riots.\textsuperscript{4} We can consider order more subjectively, examining if life in an institution is “calm, stable and predictable.”\textsuperscript{5} How prison administrators balance these features of order again depends on their goals. Some early-twentieth-century prisons in the American South were willing to overlook considerable inmate-on-inmate violence as long as the prison prospered. Supermax facilities prioritize staff safety and tight surveillance of the inmate population. Prisons in the 1970s like the Walla Walla prison in Washington State tolerated some violence in order to develop inmate self-government.\textsuperscript{6}

To those outside prisons, maintaining order may seem simple. Prisons, many citizens believe, should be horrifying places that discourage lawbreakers from repeating their mistakes. Prison authorities have a “grant of power which is without equal in American society.”\textsuperscript{7} They are authorized to use deadly force to quell disturbances. They can use violence to compel inmates to submit to institutional regulations. In some institutions, authorities can force inmates to work, and make them regret the day they broke the law. In sum, many people unfamiliar with prison order mistakenly identify it with violence.

**Prison Order and Torture**

Historically, American prisons often employed physical torture. For example, in the 1840s at the Sing Sing prison in New York State, inmates were subjected to water torture. Jailers “released a solid stream of cold water from a great height, literally beating prisoners with water.”\textsuperscript{8} At the famous Auburn prison (also in New York State), guards in 1858 “showered an inmate for thirty minutes, after which he collapsed and died.”\textsuperscript{9} Authorities at San Quentin in California used similar water torture in the decades following the Civil War. Historian Darius Rejali documents numerous kinds of physical torture employed in nineteenth-century American prisons. Authorities used technological devices to torture inmates into submission. They included sweat boxes heated by fires, pepper spray and smoke, and metal gags.\textsuperscript{10} For penal authorities, torture constituted a significant element of their power.

Such torture continued well into the twentieth century. It took particularly brutal forms in Southern states like Mississippi, Alabama, Texas, and Arkansas. Scholars have focused on the convict-leasing
system that terrorized convicts. Developed after Reconstruction, the convict-leasing system involved renting convicts to profiteers. It particularly targeted African-Americans. With little incentive to keep inmates healthy, those leasing convicts frequently worked them to death. Thousands of young men were picked up on vagrancy and other trumped-up charges. They entered a nightmarish system in which “armies of free men, guilty of no crimes and entitled by law to freedom, were compelled to labor without compensation, were repeatedly bought and sold, and were forced to do the bidding of white masters through the regular application of extraordinary physical coercion.” From the 1880s through the 1930s, this system yielded enormous profits for large and small companies.

Journalist Douglas Blackmon describes the case of Company the Tennessee Coal, Iron & Railroad. It operated a mine above Pratt City in Alabama. It contracted with the state of Alabama to receive prisoners to work in the mine. Hundreds of convicts extracted coal in darkness and horrible conditions. Many died of pneumonia and tuberculosis. Teenagers often worked in the mine, and were subjected to violence and sexual predation from older inmates. They spent hours in claustrophobic space, and experienced accidents that took their limbs.

Those governing this and other Southern prisons frequently tortured their captives. They most commonly used savage whipping to compel assent. Inmates who disobeyed orders or failed to meet labor quotas were publically and brutally whipped. Some died after dozens of lashes from the whip. Others were subjected to torture devices with crowbars and handcuffs that suspended inmates in painful positions. Finally, like authorities at Sing Sing, captors found water to be an effective mode of compelling obedience. The “water cure” came in several varieties. Sometimes, a high-pressure water hose “was turned on the naked prisoner, pounding his skin with intense pressure and filling his mouth and nose with torrents of water until he became convinced he was about to drown.” Other methods were simpler; authorities would lift “a man off his feet and plunge him headfirst into a barrel, with his arms tied or held useless to his side.” The prisoner was held under water for several minutes, brought up for air, and then plunged back into the barrel.

This torture was not unusual or aberrant, but instead formed part of regular penal practices. Throughout Georgia, Texas, Alabama, Florida, and Arkansas, black and white convicts were tortured. For example, in Texas in the 1870s, convicts leased out to private contractors were subjected to the “horse.” Here is a description of the horse:
[It] consisted of a vertical post that had slots into which a peg could be placed at various heights. An offending inmate was seated astride with his back to the post. His hands were fastened behind him, and as the peg was a sufficient distance from the ground, his feet were brought down tight and stretched until the tension became intense.17

Similarly, inmates were frequently tortured at Mississippi’s infamous Parchman Farm penitentiary. For instance, in 1965 approximately 150 civil rights protesters (both adults and minors) from Natchez arrived at Parchman Farm. They were “stripped naked, beaten, marched to a maximum security prison unit and packed eight in a cell.”18 They were forced-fed laxatives and left in cells with broken latrines. These protesters later won an important class-action lawsuit against the State of Mississippi. It ruled that their treatment constituted cruel and unusual punishment under the US Constitution’s Eighth Amendment.

In the 1960s, Warden Thomas Morton exposed the horrors of the Arkansas prison system (his experience was later brought to the screen in the film Brubaker). In addition to savage beatings, inmates were subjected to the “Tucker telephone.” It consisted of “an electric generator taken from a crank-type telephone and wired in sequence with two dray-cell batteries.”19 A naked inmate was “strapped to the treatment table at Tucker Hospital while electrodes were attached to his big toe and to his penis. The crank was then turned, sending an electrical charge into his body.”20 Before Murton arrived, the warden used the Tucker telephone to extract information and compel obedience. Because of these and other abuses, the Arkansas prison system was declared unconstitutional and came under judicial oversight and management.21

The cases in Arkansas, Texas, and Mississippi represent only the most prominent instances of torture in American prisons and jails. Histories of particular prisons, ethnographic studies, and court cases all reveal widespread torture. As Rejali emphasizes, in the United States, torture took bizarre forms. Prison administrators picked up techniques from previous administrations and adapted them to new circumstances. Or they imported them from military experiences and gave them a local flavor.22 Often unconstrained by law, prison authorities were free to use twisted forms of torture.

When publically revealed, torture elicited diverse responses. Some politicians and citizens applauded it, while others reacted with horror. Activists and prison reformers sometimes successfully halted torture. Public outcries and political opposition occasionally reduced its use
in American prisons. However, it often reappeared in other guises once public attention turned elsewhere. Historians confirm older narratives that detailed torture. For much of the modern experience of imprisonment, torture played a prominent role in maintaining prison order.

**STATE-SANCTIONED BEATINGS AND ORDER**

Rather than employing torture devices, some American prisons selectively beat inmates. In institutions in New York, Illinois, Massachusetts, Ohio, and other states, beatings were an acceptable form of prison discipline. For example, in the late nineteenth century, the Elmira Prison for young men in New York State became a model prison. Its superintendent Zebulon Brockway became famous for developing a new “scientific” penology. He claimed that it could create Christian gentlemen out of young criminals. Brockway also publically decried the brutality of nineteenth-century prisons. He toured the United States in order to publicize his ideas. Elmira soon became an inspiration for institutions throughout the country. For example, Wisconsin’s Green Bay Correctional Institution was originally a reformatory for young men, and it had ideological ties with the Elmira experiment. Brockway’s ideas about rehabilitation influenced many in the first half of the twentieth century.

In contrast to his public image, Brockway brutally maintained order at Elmira. Young inmates “had a clear choice: total submission or severe corporeal punishment.” Dissenters were taken to a bathroom and severely beaten. Brockway personally administered thousands of beatings in his tenure. Inmates were paddled with “a leather strap which was twenty-two inches long, three inches wide, and nearly a quarter thick. The strap was attached to a fourteen-inch hickory handle. Although the paddle weighed over one pound when it was dry and was applied directly to the bare buttock, it was soaked in water before the punishment was administered.” Brockway combined beatings with other punishments. Historian Alexander Pisciotta details Elmira’s extraordinary cruelty. Hypocritically claiming to be moving away from the old penal system, Brockway instead reproduced its physical brutality.

harassment of troublemakers, relentless supervision, and an extensive reward system enabled a cohort of men to dominate several thousand inmates. The reward system and long prison sentences motivated many to obey authorities. As Jacobs demonstrates, Ragen also wrested control of his institution from political forces. He also enjoyed little critical attention from journalists or outside agencies.

Beatings played a role in Ragen’s totalitarian regime. Inmates were required to march and eat in silence. Those who showed the slightest disobedience of numerous rules were issued disciplinary tickets or placed in isolation. Up until the 1950s, those in solitary were required to stand silently at attention for eight hours. If necessary, corrections officers backed up these requirements with beatings. With little or no outside supervision, Ragen authorized or overlooked violence. He governed staff with a rigid punishment and reward system. Inmates reported that Ragen “often turned his back on beatings at Stateville.” Compared to other penal institutions, Stateville had a low level of official violence. Nevertheless, the prison continued to rely on physical brutality to compel obedience.

**VIOLENCE AND INMATE CONTROL**

In sharp contrast to Ragen’s model of absolute control, some twentieth-century prisons empowered inmates to employ violence. Unable or unwilling to hire adequate staff, prison authorities created inmate trusty programs to carry out prison duties. Because of prominent legal battles, the Texas system is perhaps the most famous example of a trusty system. For much of the twentieth century, it allowed inmates to perform various tasks. Their degree of power depended on different wardens and superintendents, but remained a constant feature of the Texas system. Under the BT system, inmates performed administrative work, thus relieving corrections officials of tedious tasks. Building tenders also reduced administrative costs and provided inmates with work.

Security was a central part of the BT system. The “overwhelming majority of disciplinary blows delivered within TDC [Texas Department of Corrections] were administered not by guards but by convict trusties.” Trusties were officially prohibited from carrying weapons, but frequently used them. Often, they were violent criminals serving long sentences. They served as “enforcers of the ranking officers’ will in the living areas” and engaged in “harassing, threatening, and physically punishing inmates perceived as troublemakers.” Often,
authorities chose “not to see that building tenders” enforced discipline on inmates. In trials, inmates and expert witnesses testified to how trusties committed unspeakable acts. They “amassed extraordinary powers and then wielded them not just for official purposes but for their own.” They sometimes had access to inmate files and used personal information for extortion purposes. They influenced job assignments and sold commissary goods at exorbitant prices. With impunity, building tenders often sexually assaulted inmates. In trials, inmates and expert witnesses testified to how building tenders committed horrible acts. Authorities often ignored these crimes as long as trusties maintained order.

In the 1970s, the BT system degenerated, and rather than keeping order it contributed to its own demise. Matters came to a head in the famous Ruiz v. Estelle case. Working with others like Fred Cruz, Texas inmate David Ruiz brought a lawsuit against the Texas Department of Corrections. Confronting physical brutality, solitary confinement, and other punishments, he worked as a jail house lawyer combating the TDC. In 1972, Federal Judge William Wayne Justice received a writ from Ruiz that focused on prison conditions in the TDC. Judge Justice used it as an opportunity to investigate conditions in the Texas system. Years of protracted hearings, inmate and expert testimony, and bureaucratic foot-dragging ensued. Finally, in the 1980 Ruiz v. Estelle ruling, Judge Justice ordered the TDC to end overcrowding, dismantle its BT program, and double the size of the guard force. It was, as historian Robert Perkinson observes, one of the most important prisoners’ rights cases in American history.

Ruiz v. Estelle destroyed the BT model of maintaining prison order. The TDC fought Judge Justice for years, effectively blunting some of his demands. Nevertheless, it could no longer resist changing the BT system. Scholars debate how this change affected prison order. For example, Dilulio charges that Ruiz v. Estelle produced significant prison disorder. Others acknowledge increased disorder, but maintain that it resulted from the TDC’s refusal to change. After considerable chaos in the 1980s, the TDC embraced modern solitary confinement as a means of maintaining prison order.

In my all-too-brief discussion of prison brutality, I have traced diverse ways prisons economize violence. They have often employed elaborate forms of torture to keep order. They have also authorized state agents to brutally beat inmates. Finally, they have relied on violent inmates to terrorize others into submission. The history of the prison is thus marked by deep cruelty.
The Limitations of Violent Power

Physical brutality represents one important form of power in prisons, but those using it confront significant limitations. Public torture may promote prison order when inmates are compelled to work like slaves. Without legal recourse and forced to perform manual labor, inmates in many Southern prisons were often terrorized into submission. However, as we move away from enslavement, widespread torture becomes less effective as a means of controlling inmates. In his classic 1958 study of prisons, *The Society of Captives*, sociologist Gresham Sykes describes violent power’s limitations. Modern penitentiaries, he notes, are complex institutions guided by contradictory goals. American society moves in cycles of retribution, rehabilitation, and deterrence. Often, wardens must attempt to meet all or part of these goals. They are authorized to use violence, but to what end? Since Sykes published his book, American penal philosophy has become more committed to retributive goals. The rehabilitative ideals of the 1940s and 1950s died in the 1970s and 1980s. Today’s prisons operate in an atmosphere that devalues rehabilitation. Nevertheless, those running prisons still deal with ambiguities about the ends of imprisonment.

Even when the purposes of punishment are clear, corrections officials confront internal limitations on deploying violence. Those running an extermination camp can work captives to death or kill them at will. However, short of such extreme circumstances, those wielding power must find diverse ways to compel obedience. Violence represents a powerful way of accomplishing this end, but we cannot simply identify it with power. Power takes forms like subtle coercion, personal charisma, moral suasion, propaganda, and inspiration. Sometimes those wielding violence reveal the limitations of their power. Those subjected to it become inured to it. They obey the will of those using violence, but do so in a minimal way. Finally, they lose respect for those incapable of controlling their recourse to violence. Experienced corrections officers often testify to the futility of quickly resorting to violence. They counsel new officers to avoid violent displays and advise them to adopt sophisticated means of settling disputes.

As Sykes demonstrates, those operating prisons also confront legitimacy challenges when using violence. Citizens may accept police violence because they believe a legitimate authority wields it. They may even feel a sense of duty to respect this authority. However, in prison, “power must be based on something other than internalized morality and the custodians find themselves confronted with men who
must be forced, bribed or cajoled into compliance.” The absence of an internalized sense of obedience in some inmates makes violence necessary, yet simultaneously illustrates its limitations. Many inmates feel that they are unjustly punished, and refuse to accept the state’s authority. Or they begrudgingly accept it, but lack the internal conviction necessary to shape action. They may construe violent acts differently than do those habituated to accept their legitimacy.

Confronted with those lacking of internal obedience, prison authorities (outside of extermination camps) cannot simply rely on physical brutality. They should realize that it is “grossly inefficient as a means for securing obedience, particularly when those who are to be controlled are called on to perform a task of any complexity.” Torturing people into working may backfire. Once they play the violence card, prison authorities unleash forces difficult to control. Sheer numbers militate against quick access to violence. Inmates outnumber corrections officers substantially, and if organized, they can overpower them. The keepers must therefore operate cautiously when resorting to violence.

**Delegitimizing Official Violence**

Scholars detail how twentieth-century Americans and Europeans gradually moved away from officially torturing prisoners. Generally, historians trace this historical trajectory to the end of World War II. They consider the 1960s and the 1970s as key decades. In this period, international law and human rights documents gained ascendency. They condemned torture, prison brutality, arbitrary imprisonment, and other oppressive state acts. The US federal courts began intervening aggressively to stop violence against prisoners. Throughout American history, they often took a “hands-off” approach to prisoners’ rights. They showed reluctance to get involved in managing prisons, thus allowing states considerable latitude in maintaining prison order. A prisoner entering the penitentiary in the 1930s, for example, was considered “civilly dead,” and had little legal recourse when abused. This all changed dramatically in the 1960s when federal and state courts opened new venues for prison litigation. Courts began hearing cases involving Black Muslims and religious liberty, overcrowding in Texas, and physical brutality in Mississippi. In light of this judicial scrutiny, prison authorities could no longer torture prisoners with impunity.

Social movements also moved modern democracies away from official prison brutality. In his study of Stateville, for example, Jacobs
traces how African-American prisoners began asserting their rights in the 1960s. George Jackson’s death at San Quentin in 1971, the 1971 Attica uprising, and other events signaled that black prisoners would resist physical brutality. Historians trace a similar pattern among Chicano prisoners, as reflected in figures like Raul Salinas and David Ruiz. Emboldened by civil rights movements and access to the courts, they employed new tools to resist physical brutality. Wardens and corrections officers also participated in these movements. Many rejected the harsh violence of earlier penal institutions. They banned it in their institutions and moved toward different means of controlling inmates.

These social movements sometimes implied a general skepticism about political authority and its right to punish. In general, the 1960s and 1970s saw a “sharp decline in public confidence in government and other institutions.” The Vietnam War, Watergate, and other developments created profound mistrust of institutional authority. The 1950s were the high point of the ideal of rehabilitation in the United States. Officials in that decade exhibited a new confidence that the social sciences could reform criminals. This confidence collapsed in the 1970s. Critics on both the political left and the right attacked the rehabilitation ideal. Those on the left maintained that rehabilitation amounts to a coercive form of social control. Conservative scholars argued that rehabilitation fails and contributes to criminal behavior. The result was that United States lost its tenuous consensus about the aims of punishment.

Finally, in the 1960s and 1970s groups outside of prisons exposed torture and brutality to public scrutiny. Civil rights organizations, legal aid societies, religious institutions, and journalists focused on prisoners’ rights. Unlike wardens like Joseph Ragen, prison administrators faced intense media scrutiny. Television and print journalists raised public awareness about prison violence. Civil rights attorneys embraced the prisoners’ rights movement, supporting inmates like David Ruiz. Outside monitoring thus constrained official violence.

All these forces rendered official violence morally and legally problematic. Before considering the consequences of this change, I want to enter a note of caution about it. Often, scholars influenced by Foucault describe modernity’s move away from physical brutality toward psychic manipulation. Accurate in some ways, this narrative ignores extraordinary unofficial brutality. Those who embrace Foucault’s thesis should take a cursory look at prisoners’ rights cases or talk with convicts doing long prison terms. They would discover widespread unofficial violence. For example, the 1995 Madrid v. Gomez federal court case detailed how corrections officers at the Pelican Bay
supermax prison brutalized inmates. The court found a pattern of using excessive force. Corrections officers beat inmates, scalded them in hot baths, kept them naked in outdoor cages, and broke their limbs.50 Similarly, David Kaiser and Lovisa Stannow have detailed the extraordinary levels of sexual assault in American penal institutions. Carefully studying new federal data, they concluded that in 2008, more than 200,000 people were sexually assaulted and abused in jails and prisons. Obviously, inmates sexually assault others, but Kaiser and Stannow also reveal how staff members rape inmates. In particular, widespread staff rape occurs in US juvenile facilities. Corrections officers abuse their power when dealing with those in no position to oppose them.51

In another example of unofficial violence, in the 1990s the US Department of Justice condemned Arizona’s Maricopa Jail for inmate abuse. Operated by the well-known sheriff Joe Arpaio, Maricopa became famous for making inmates wear pink underwear and live in tents. Reporters, human rights activists, and others reported repeated acts of brutality in the jail. Officials reportedly beat inmates, deployed tasers excessively, and often used restraint chairs.52 Allegations of similar abuse continued to appear for the next decade. Given the power imbalance in penitentiaries and worries about retaliation, such incidents rarely come to public light. Nevertheless, they occur often in American jails and prisons. We should, then, avoid endorsing facile historical generalizations that minimize unofficial prison violence. It rears its ugly head throughout the American penal system.53

**PRISON DISORDER**

With this caveat in mind, I want to consider one consequence of the modern delegitimization of official violence. Official violence became illegitimate, but the problem of maintaining prison order remained acute. US prison populations exploded in the last decades of the twentieth century, presenting authorities with serious overcrowding problems. For a variety of reasons in the 1970s and the 1980s, prison disorder increased. The United States saw a “sharp upturn in the incidents of prison riots and other sorts of political disorder.”54 For example, in 1972 there were 48 riots, “more than in any other year in American history.”55 In 1971, the famous Attica prison riot erupted in New York State. Inmates took hostages and held them for four days. New York Governor Rockefeller ordered correctional officials, state troopers, and National Guardsmen to retake the prison. In a
shocking display of indiscriminate violence, they killed 39 people, including some of the hostages. For many politicians and citizens, Attica symbolized a new disorder in American prisons.\textsuperscript{56}

Increased levels of violence, new gang activity, and overcrowding continued well into the 1990s. One of the most horrifying instances of prison violence occurred at the New Mexico State Penitentiary in 1980. A corrupt correctional system pitted inmates against one another in a divisive snitch system. Seeking to take power from drug dealers and other troublemakers, officials eliminated inmate educational and other opportunities. Inmates responded by wresting control of the prison, taking advantage of extraordinary security lapses. Seizing hostages, they burned and looted the prison for two days. Some heroic inmates saved the lives of staff members and inmates. Nevertheless, once the riot ended, at least 33 people had died in horrific circumstances. Inmates murdered one another with blowtorches and other instruments. High on glue, they assaulted or raped scores of people. After the riot, authorities brought in a forensic anthropologist to help identify human remains. Journalist Roger Morris called the New Mexico Penitentiary “The Devil’s Butcher Shop,” a nightmarish cauldron of mayhem and chaos. It left politicians, corrections officials, and scholars struggling to understand how such horror could occur.\textsuperscript{57}

The influx of mentally ill patients into the prison system also created disorder. Complex historical developments contributed to this influx. In the 1960s and 1970s, large mental institutions closed, funding for mental health care declined, and commitment laws changed.\textsuperscript{58} As a result, extraordinary numbers of mentally ill people have entered jails and prisons in recent decades. Some have special needs that authorities are unable or unwilling to meet. Many cannot defend themselves against violent predators. Some exhibit bizarre behavior that is difficult to control. A minority of the mentally ill act out violently, requiring some form of restraint. Authorities are often left with inadequate resources for dealing with this population.

Scholars debate the causes and the extent of prison disorder in the 1970s and 1980s. Nevertheless, its increase, particularly in public forms like the Attica and New Mexico riots, presented prison authorities with significant challenges. Perhaps more importantly, many correctional officials and the general public \textit{perceived} a problem of greater disorder. This powerful public perception fueled demands for change, eventually contributing to the “tough on crime” policies of the 1980s and 1990s. The perception and reality of disorder led to the demand for new approaches to prison order.
The Origins of Modern Solitary Confinement

Facing disorder, late-twentieth-century prison authorities found solitary confinement an attractive means of controlling inmates. However, they generally abandoned older forms of solitary. After the nineteenth-century solitary experiments ended, prisons used isolation as an occasional tool to discipline recalcitrant inmates. Conditions in the “hole” depended greatly on a prison’s location. Often, inmates were placed in a dark cell, denied personal belongings and books, and placed on dietary restrictions. Inmate W. G. Stone describes the “Hole” in the New Mexico Penitentiary. In the early 1960s, he was put in a cell near Death Row that had “no window, no ventilation, no lights, just darkness.” He was fed one meal every three days, given limited access to water, and had to use a hole in the floor as a toilet. The odor in the cell was overwhelming, and Stone saw little light for days. His description resembles many others that we find in works about twentieth-century prisons.

Sometimes life in the hole cost its occupants’ their lives. For example, in the early twentieth century, unruly inmates in Texas were placed in a dark “pitch-black box and sustained on bread and water.” Usually, they managed to survive this horror, but in 1913 things went terribly wrong at the Harlam Farm Prison. Guards placed 12 African-American men in a “free-standing wooden box, elevated off the dirt by short stilts and ventilated with six auger holes in the ceiling and four pipes in the floor.” Guards locked the contraption, and left the men in it for 16 hours. The enclosure measured seven-by-seven, and soon those inside experienced difficulties breathing. When authorities returned, “eight men were dead, their naked corpses piled one on top of the other. Four survivors crouched in each corner, their mouths wrapped around the floor pipes, gasping for air.” In this case, the hole became a tomb.

The most famous example of the older form of solitary confinement probably comes from the Alcatraz penitentiary. Opened in 1934, Alcatraz was a federal prison designed to deal with the most troublesome prisoners in the country. Those who tried to escape, harmed others, or engaged in political protests often ended up on the famous “Rock.” David Ward and Gene Kassebaum have produced a meticulous study of Alcatraz in its “gangster years” (1934–1948). Seeking to undercut many myths about the prison, they detail the careers of its inmates before, during, and after their terms at Alcatraz.

Alcatraz imposed a strict behavioral regimen, and used solitary confinement to enforce it. Inmates who talked with others, refused to
work, disobeyed orders, or used violence were placed in what were called the “dungeons.” They were cells in the lower part of the prison that “were fronted by a set of bars with a grill door in the middle that was secured by a chain and padlock. They contained no toilet, no running water, no light fixture, no mattress or furnishing of any kind. When they were first used, some prisoners were handcuffed in a standing position to the crossbars in the front of the cell.” Inmates were completely isolated from others. They were utterly dependent on corrections officers to bring them food and to empty their toilet buckets. No one could hear their screams or curses. Prison administrators viewed this form of solitary confinement as a useful means of securing obedience from troubled men.

Other than Alcatraz, most American prisons prior to the late twentieth century employed solitary confinement selectively. Modern solitary confinement, in contrast, is a widespread form of prison discipline. Most scholars trace its origins to the Marion Federal Penitentiary in Illinois. Opened in 1963 to replace Alcatraz, Marion served initially as an experimental institution designed to deal with troublesome inmates. Federal officials at the time adopted either the concentration approach or the dispersal approach to difficult inmates. Sometimes, they concentrated them in one institution like Alcatraz. At other times, they dispersed them throughout the federal system. The Marion prison adopted the concentration model.

Significantly for later developments in solitary confinement, Marion pioneered extreme behavior-modification programs. In the early 1960s, MIT psychologist Edgar Schein promoted “brainwashing” techniques as a way to control inmates. Schein had studied American POWs “brainwashed” by the Chinese in the Korean War. He avidly promoted coercive behavior modification. Psychologists and psychiatrists in the Federal Bureau of Prisons took up his counsel. They began using psychological conditioning and coercion to force inmates to change undesirable behavior. They employed Skinnerian operant conditioning, sensory deprivation, and drug therapy. For example, in “character invalidation” sessions resembling Chinese interrogations of American POWs, counselors attacked the inmates’ ego. Facing a barrage of verbal abuse, inmates were forced to confess their mistakes and character flaws. These experiments resembled coercive psychological tactics that would appear later in US prisons.

The Marion penitentiary degenerated into disorder in the late 1970s. Confronting prison unrest, “other federal penitentiaries and 36 of the 50 states began sending their most violent inmates and gang leaders to a ‘Control Unit’ at Marion.” It aimed to separate
troublesome inmates from the general population. Authorities were particularly concerned with gangs that had nationwide reach in the federal prison system. They were carrying out brutal attacks on other inmates. Authorities also wanted to segregate political dissidents who were protesting terrible prison conditions. Marion received the highest security designation in the federal prison system. However, inmates rebelled against its behavior-modification regime and solitary confinement. Displaying a new militant attitude toward authorities, they demanded changes in the control units. The rate of assaults and other violent acts increased in the early 1980s. Marion saw work stoppages, inmate murders, and other disturbances. Events came to a head in 1983, when two corrections officers were murdered and others threatened. A few days later, an inmate was murdered. As a result of these developments, authorities declared a state of emergency and initiated a lockdown.

This lockdown introduced the conditions that would become modern solitary confinement. Inmates were confined in their cells most of the day, a departure from maximum-security prisons. Prior to Marion, prisons often temporarily locked down cell blocks or entire prisons, but few kept inmates locked in their cells continually. Even Alcatraz permitted inmates work opportunities. At Marion, when inmates left their cells they were shackled and their activities severely limited. Authorities reduced visiting privileges and educational opportunities and stripped cells of personal items. Inmates reported numerous incidents of staff brutality and mistreatment. Correctional officers violently cracked down on dissent. Inmates protested these attacks, and with the help of outsiders they initiated lawsuits. Some succeeded in changing conditions, but as a whole the legal strategy failed. The US Supreme Court refused to intervene to end the Marion lockdown.

Court victories gave federal and state officials a sense of validation for their new solitary policies. The federal government and the states could build facilities like Marion without worrying about violating constitutional rights. Adopting the “Marion model,” they constructed a host of new institutions in the 1980s and 1990s. In 1986, for example, federal authorities built a women’s high-security unit in Lexington, Kentucky, designed to hold violent political dissidents. In this small wing (16 beds), federal officials experimented with isolation techniques. Five women convicted of political violence were isolated in stark cells in the facility’s basement. They were denied personal items and exposed to constant artificial light. They never saw the outside world, and were subjected to sleep deprivation, sexual harassment, and other humiliations. They rarely saw visitors. After considerable
domestic and international outcry, in 1988 the Federal Bureau of Prisons closed the Lexington prison. Nevertheless, like the Marion prison it provided valuable information about how to isolate inmates.

Authorities elsewhere developed similar facilities. In 1987, Arizona opened a supermax facility. In 1989, California constructed its infamous Secure Housing Unit (SHU) in Pelican Bay, and in 1994 federal officials opened the Federal Supermax in Florence, Colorado. It now houses terrorists and celebrated criminals like Theodore Kaczynski, the Unabomber. Numerous states constructed their own supermax facilities. By 2004, “an estimated 44 states operated one or more supermax prisons.” For example, in 1999 my own state of Wisconsin opened a supermax prison in the town of Boscobel. Containing more than 500 cells, it reproduced the confinement conditions of the prisons in Florence and Pelican Bay.

Jails and state prisons also embraced the Marion model. Confronting an explosion in prison population, they constructed segregation wings that resembled supermax institutions. For example, the Parchman Farm prison in Mississippi officially stopped torture and beatings in the 1970s. However, it replaced them with an enormous segregation unit (Unit 32) housing more than a thousand inmates. It adopted an isolation strategy that placed inmates in horrible physical conditions. They lived 23 hours a day in feces-filled cells that had broken plumbing and temperatures of more than 100 degrees. Receiving far less public scrutiny than the prominent supermax prisons, such state arrangements increased the numbers of people in solitary confinement. Tens of thousands of Americans now live in conditions that were exceptional before the Marion prison incident. Many remain in solitary as a permanent condition.

**Modern Solitary Confinement: The Basics**

In order to understand why solitary confinement economizes violence, we should examine its basic features. Both segregation units and supermax prison marry technology with isolation. They use “the old strategy of solitary confinement as devised in the separate penitentiaries of the nineteenth century, enhanced by professional knowledge and experience that have accumulated over time, as well as by the most advanced measures of control and surveillance offered by modern technology.” Technology enables corrections officials to have little contact with an inmate. The inmate remains in her cell 23 or more hours a day. When released for exercising or showering, she may be shackled and accompanied by security personnel. In some
supermax prisons, those released for exercise in solitary pens or showering make no contact with corrections officers. They are released from their cells electronically, and are required to return to them. They are fed through slots in their cell door, and receive only occasional visits from correctional staff. They are monitored by computers located at a distance from their cells.

In both segregation and supermax settings, the lives of inmates are also carefully controlled. Authorities monitor what they read, decide if they watch television, and carefully scrutinize personal possessions. Inmate handbooks, conferences among correctional officials and social service workers, and disciplinary hearings keep inmates in check. Inmates leaving their cells may be subjected to intrusive body searches. Authorities can change living arrangements by enhancing or removing privileges. After disciplinary hearings, they can extend time in segregation for those disobeying rules. Inmates can lose personal items, have visitors restricted, or have special diets imposed on them. They have no face-to-face visitation, and if they are allowed to have visitors, they often must communicate with them through videoconferencing.

Solitary inmates enjoy limited access to educational, religious, and medical resources. For example, in some institutions they cannot participate in regular religious services. They receive chaplain visits, but cannot attend services of any kind. Corrections officials carefully monitor meetings with counselors or doctors. Often, inmates speak to psychiatrists or psychologists only through the doors of their cells. They report that they lack privacy in these sessions. In some institutions, inmates also have medical consultations via videoconferencing.

Modern solitary also uses violence dramatically. From the early days of the Florence and Pelican Bay facilities, authorities have violently reinforced isolation. They are authorized to use deadly force on inmates seeking to escape or posing a serious danger to others. They often meet the smallest act of disobedience with force. Court cases reveal the extent of the violence they mete out to inmates. Cell-extraction represents the most dramatic form of official violence for those in solitary confinement. Institutions conduct them differently, but we can describe a general pattern. As Chief Deputy Warden Peetz at Pelican Bay prison put it in his testimony for the Madrid v. Gomez case, “cell extractions are a very, very violent maneuver . . . Inmates get hurt and staff get hurt, and it’s just the nature of the thing.” Officers wearing protective gear assemble in front of the prisoner’s cell. They may be armed with chemical agents, batons, mace, rubber bullets, projectiles, and tasers. After giving warnings and perhaps spraying an
inmate’s cell with chemicals, the officers open the door and rush the inmate. They incapacitate him or her, and force obedience to orders. In a few states, corrections officials have used dogs to force inmates out of their cells. Large dogs bite the inmate, while officers subdue him. In other cases, officers shackle inmates and leave them naked in their cells for long periods of time. Court cases, medical records, and inmate testimony reveal that cell extractions often result in severe injuries to inmates and staff.

For the contemporary prison or jail, solitary confinement has become a widely used practice. In the first decade of the twenty-first century, we saw an extraordinary increase in the use of segregation in the United States. For example, data from federal prisons showed a 68% increase in the use of disciplinary segregation from 1995 to 2000. Disciplinary segregation occurs when officials within an institution place someone in solitary for disciplinary infractions. We have also seen an increase in administrative segregation, the practice of placing vulnerable and dangerous inmates in isolation (terrorists, policemen, gang members, sex offenders, and others). The same period saw a 38% growth in the use of administrative segregation in the federal system. Inmates also serve long sentences in segregation. They remain in isolation for periods anywhere from 90 days to 40 years. When they build new supermax facilities, authorities often feel pressured to fill them. The net of modern solitary confinement has thus widened to include prisoners guilty of fairly minor disciplinary offences. Supermax facilities were originally billed as only for the “worst of the worst.” However, they are now populated by many who disobey orders or experience difficulty functioning in general population.

**Modern Solitary Confinement and the Economy of Violence**

Although modern solitary confinement relies heavily on violence to maintain order, it seems less brutal than other means of economizing violence. The violent clashes between inmates and extraction teams may not occur often. When they do, they appear more controlled and orderly than do savage beatings. By themselves, solitary’s extreme conditions exert considerable power over inmates. Rather than threatening water torture, officials use the prospect of additional segregation to force inmates to alter behavior. Rather than administering brutal beatings, they remove books, televisions, or personal items, leaving inmates in a terrible state of boredom. Retaining complete control
over those in isolation, they create a powerful system of rewards and punishments. They threaten to increase time in isolation, or deny or restrict visitations from relatives and friends. For many inmates, these sanctions create great suffering.

Modern solitary confinement thus seems ideal for economizing violence. Unlike the old hole, it marshals modern knowledge and technology to isolate prisoners. It enables authorities to restrict physical violence to select circumstances. Moreover, when they deploy it, they do so in overwhelming and dramatic fashion. Cell extractions express to inmates their utter helplessness. Often, they involve a ritual that intimidates others. By selectively using force and extreme rewards and punishments, authorities no longer need to rely extensively on physical brutality.

Solitary confinement also enables authorities to avoid the moral condemnation associated with torture. In his monumental study of modern torture, *Torture and Democracy*, Rejali develops a thesis that illuminates the power of solitary confinement. He maintains that in the twentieth century, torturers confronted a growing stigmatization of physical torture. They faced external monitoring from human rights groups and other organizations devoted to ending torture. They responded, Rejali argues, by developing a range of “clean” torture methods that are difficult to monitor. Sleep deprivation, stress positions, noise, and sensory deprivation all reached new sophistication in the twentieth century. Rejali defends the uncomfortable thesis that as public monitoring increased, stealth torture became more common.85

Rejali emphasizes that modern democracies continue to use physical torture. In fact, he provides a depressingly thorough account of techniques of physical brutality. Contra Foucault, modernity did not see the disappearance of physical brutality. However, Rejali notes that modern torture leaves few physical scars for outsiders to discover.86 Unlike the whipping in the BT system, tasers may leave few bruises. Because of inmates’ criminal histories, legal authorities and the general public often doubt their veracity. Moreover, inmates often face terrible recriminations when they allege torture. Clean torture thus renders it extremely difficult for inmates to prove their allegations. Authorities can always deny that torture ever occurred, and without physical evidence, inmates have little recourse. The general public often dismisses torture allegations, attributing them to inmate mendacity.

Strangely, Rejali says little about solitary confinement, but I want to extend his thesis to it. Torturers, he argues, “on their own or at the direction of others and for whatever reason, have turned more and more, as time has gone by, toward techniques that leave few marks.”87
Multiple factors stigmatized torture in American prisons. Although these practices never disappeared, authorities cannot practice them openly. However, they still must compel inmates to obey regulations and refrain from harming others. Like clean torture methods, solitary confinement leaves few physical marks. Like clean torture, it enables authorities to evade easy detection. Finally, like clean torture, it proves a powerful way of dominating human beings.

Rejali makes a strong causal argument that I wish to avoid endorsing. He suggests that human rights monitoring caused democracies to embrace clean torture. Whatever the merits of this controversial thesis, I forward a more modest one. Causally, multiple factors led to the demise of torture and physical brutality in American prisons. Multiple causes produced the new solitary confinement regime. We cannot, therefore, move from a correlation to causation, claiming that legal monitoring produced modern solitary confinement. Nevertheless, we can say that once Americans moved away from torture, they needed other forms of coercion. Empowered by changed public attitudes toward punishment in the 1980s and 1990s, authorities found solitary confinement an ideal means of controlling inmates.

In the next chapter, we will also see how solitary confinement attacks the human spirit, an attack many people may find morally unproblematic. A democratic public, as Rejali writes, “may be outraged by violence it can see,” but is less likely to get upset by stealth violence “that may or may not leave traces, violence that we can hardly be sure took place at all.”

CONCLUSION

In a famous section of The Prince (that often appears in discussions of torture), Machiavelli describes how Cesare Borgia, the charismatic son of a Renaissance Pope, brought order to the province of Romagna in Italy. Riddled by bandits and warlords, Romagna seemed ungovernable. Borgia assigned a minister, Remmiro de Orca, to bring peace to the province. De Orca did so in short order, but his brutal methods soon incurred the inhabitants’ wrath. Borgia feigned shock at his minister’s actions. He then publically tried de Orca, executed him, and left his body in several pieces in the piazza, with a bloody knife and block of wood alongside it. This act, Machiavelli notes, left Romagna’s inhabitants at “one and the same time satisfied and stupefied.”
one stroke, Borgia eliminated a potential rival for power, pacified a province, and satisfied the deep desire for revenge and spectacle animating so many people.

Machiavelli admires Borgia because of his capacity to efficiently and dramatically deploy violence. A political leader must use it, but many do so badly. Some, like the Florentines, are afraid to appear cruel, and therefore allow disorder to reign in places like Pistoia. Others like the ancient Sicilian king Agathocles use violence excessively, thus alienating their people and causing unnecessary cruelty. For Machiavelli, the ideal leader uses violence carefully. He knows when and how to employ it, and understands its expressive character. Violence intimidates, satisfies, and allures human beings. An act of political violence must therefore include a dramatic element that reveals the leader’s power. The best leaders understand this aspect of violent power.

In this chapter, I have applied this Machiavellian analysis to prison violence. I have maintained that those operating jails and prisons confront the challenge of economizing violence. Caging human beings is a terrible act that gradually wears them down. Without violence or the threat of violence, few of the more than 2 million inmates in the United States would voluntarily remain caged. Outside of extermination camps, prisons cannot compel obedience solely through violence. Authority, modern management techniques, moral suasion, and inmate social relations foster order. Nevertheless, authorities must still decide how to mix these factors with violence.

Historically, I have detailed how American prisons employed torture to force inmates into obedience. Usually, they used it directly, but many prisons relied on inmates to brutally keep order. The latter half of the twentieth century saw a remarkable and welcome stigmatization of this official violence. Universal human rights enshrined in international law prohibited authorities from torturing inmates. American domestic law abandoned the concept of prison as “civil death,” and recognized prisoners’ rights. Legal, religious, and human rights groups advocated on behalf of prisoners. These important developments shed light on prison brutality and torture, and delegitimized its official (but not unofficial) use.

I have maintained, however, that modern solitary confinement soon replaced the older forms of brutality. In the 1970s and 1980s, the disorder at Marion and other US prisons led penal authorities to experiments with isolation. They developed today’s technologically and bureaucratically sophisticated supermax and segregation units. Many complex economic, cultural, and historical factors contributed to this development. I do not pretend to have explained them all,
but have focused instead on why isolation units serve as an attractive means for controlling inmates. They deploy impressive violence when inmates refuse to comply with regulations. They combine it with debilitating nonviolent coercion. To the public, isolation for 23 hours a day appears less horrible than 20 lashes with a whip. Modern solitary confinement, therefore, economizes physical violence, using it sparingly in combination with other techniques. For modern sensibilities understandably revolted by physical brutality, the segregation unit seems like marked progress over the old Big House.

In the next chapter, I will challenge this progressive view of modern punishment. We should be horrified at the history of torture in American prisons, and should never contemplate its return. Physical torture deeply damages the person, and elicits deep savagery and cruelty in those administering it. However, I will also maintain that modern solitary confinement deeply assaults the human spirit. It unleashes deep spiritual damage that lasts for years. We cannot self-righteously condemn our ancestors for their brutality while ignoring our assault on the human spirit. Once we have examined this assault, we will be in a better position to morally evaluate solitary confinement.
Solitary and the Assault on the Human Spirit

How is it possible for you, or ourselves, reader, to make out to our imaginations the terrors of separate confinement? How can we, whose lives are blessed with continual liberty, and upon whose will there is scarcely any restraint—we, who can live among those we love, and move where we list—we, to whom the wide world, with its infinite beauties of sunshine and tint, and form, and air, and odour, and even sound, are a perpetual fountain of health and joy; how, we say, can we possibly comprehend what intense misery it is to be cut off from all such enjoyments—to have our lives hemmed in by four white blank walls—to see no faces but those of task-masters—to hear no voice but that of commanding officers—to be denied all exercise of will whatever—and to be converted into mere living automata, forced to do the bidding of others?

Harry Mayhew and John Binny, The Criminal Prisons of London and Scenes of Prison Life

Cultural objects perform essential practical and political functions. Architectural works house people, stories educate children, and songs help laborers work. At their best, cultural works display extraordinary beauty, inviting people to experience aesthetic values. They reveal the human capacity to unite physical and mental entities. In encountering them, people develop their spiritual lives. From both the participant and creative side, cultural works reflect beautiful elements of human spirituality.
Sadly, they also serve as vehicles for spiritual distortions. Taking their power to surpass matter, prison architects and engineers create instruments for self-assertion and violence. They use their spiritual transcendence to dominate others. In their designs and hands, space becomes a “fundamental ingredient in the exercise of power.” Architects design structures that stifle creativity and degrade the personality. An “apparently passive building becomes an active, powerful force in shaping the daily lives of those who inhabit it.” People can use their spiritual gifts to pursue dangerous goals.

In this chapter, I argue that modern solitary confinement discloses ugly sides of our spirituality. First, I discuss the architecture of isolation, considering how architects and engineers construct solitary units to control inmates. Guided by their correctional clients, they limit their creativity to isolating people. Second, I explore how the architecture of isolation affects an inmate’s sense of time. Prisoners in solitary repeatedly describe temporal dislocation and a sense that time is their enemy. Third, I show how solitary confinement assaults spiritual transcendence and self-possession. These spiritual powers create relationships, but solitary destroys them. Fourth, I consider how solitary confinement attacks human creativity. Briefly looking at reading and music, I show how prison authorities deny or control access to them. Fifth, I detail how authorities use the behavioral sciences to destroy creativity. Sixth, I note how solitary creates a zero-sum world within prison that seems difficult to change. Finally, I discuss ignorance, empathy and sympathy. I maintain that many people stifle their sympathy for inmates in exchange for a sense of security.

**ARCHITECTURE AND ISOLATION**

When designing and building supermax prisons, architects and engineers use their creativity to pursue negative goals. Environmental factors constrain an architect’s creative act because she must decide where to locate her artifact. However, prison architects have often used their creation to send moral messages. In particular, a prison’s exterior has been important. In the eighteenth and nineteenth centuries, it sought to “send a message to both inmates and the public concerning the punishment process itself, conveying an object lesson in the purpose of the law.” Contemporary architects may recoil at such sentiments, but still pay attention to the expressive function of their work. For example, writing about how prisons relate to communities, James Kessler proclaims that “the design of the buildings should express to the community the professionalism of administrators...
and correctional officers, and reinforce the advantage of a positive approach to incarceration.” In such formulations, bureaucratic efficiency replaces the stern moral message of early prison reformers. Yet, the expressive power of prison architecture remains a key concept.

With supermax institutions, the architect often uncritically accepts a client’s decision to locate a prison in a remote location. Shalev carefully describes this initial architectural choice. She did research at Arizona’s Supermax and at California’s Pelican Bay Prison. She observes that a prison’s location “influences the possibility of family visits, reintegrative community programs, specialized services and so on.” An institution located in a city may provide greater services for its occupants. If many inmates hail from an urban area, family visits become more common. In this setting, reintegrating prisoners into society after their release may be easier. Architecturally, the prison will likely need to blend in with nearby structures. Given limited space, architects must design structures that cohere with urban space.

Many supermax prisons require no such architectural restraint because they exist as stand-alone structures. For example, when designing the Pelican Bay facility planners sought to isolate gang members and disrupt their communication. They thus located the prison in a remote part of Northern California. It sits near an economically depressed town on the Oregon border that is “grey and barren, completely cut off from its surroundings.” This setting renders it difficult for many inmates to receive visitors. For example, visitors from Los Angeles must travel hundreds of miles in order to visit their loved ones. They must incur the expense of bus transportation or gas, and pay for overnight stays. Many poor families simply cannot afford such expenses.

Similarly, Wisconsin’s Boscobel facility is situated in a remote rural part of Wisconsin. When I visited it, I was struck by its isolation. I intended to take a bus to Boscobel, but no public buses, planes or trains stop anywhere near the prison. The nearest Greyhound station is at least 30 miles away. Potential visitors must often travel hundreds of miles to see loved ones. To visit an inmate, I drove more than 400 miles round-trip. Although no longer officially a supermax facility, Boscobel still limits visiting hours to one or two hours in the morning. To visit, people often have to stay overnight in a motel. The prison itself sits on the edge of town. No other buildings surround it, and few can see the prison from the town. Other supermax prisons like Virginia’s Red Onion facility are also located in geographically remote areas. Their remoteness is a product of a deliberate choice of architects and corrections officials.
Penitentiaries and jails may also situate segregation units in isolated sections of the institution. Obviously, security concerns dictate location, but the segregation unit’s placement also symbolizes its isolation. It may be positioned in a building away from a larger complex or located in the prison’s lower level. Architects and engineers constructing these units carefully maximize isolation. For example, the Oklahoma State Penitentiary’s H Block holds some death row inmates in solitary. When building it, engineers and architects and staff designed a “no-contact” wing. It became “an artificially earth-sheltered facility, which is to say that it was built as a free-standing unit on level ground and then all external walls were insulated and sheltered with imported earth sloping up from ground level to the top of the walls at an angle (judged by eye) of approximately 35 degrees.” Inmates in H unit are virtually buried alive. Although Oklahoma is an extreme case, we find similar architectural isolation in other segregation units.

Once architects and engineers select a site for a segregation unit or supermax prison, they choose materials that reinforce isolation. After building supermax prisons, engineers and architects sometimes reflect on the materials they use. For example, Shalev describes how engineers building the Pelican Bay facility emphasized its concrete structure. She quotes a corrections official as saying that “concrete by its nature is somewhat severe.” Engineers are often well aware that their building materials express harsh messages.

Within isolation cells, we see additional architectural choices. In segregation units, “all aspects of a prisoners’ cell are geared toward preventing both escape and bodily harm, both to oneself and to other prisoners and guards.” Authorities design and build cells focused almost entirely on security concerns. They seek to control inmates with minimal staff contact. Cameras monitor inmates constantly. For example, in the Pelican Bay facility, cells are arranged in pods of eight cells managed by a control room. Control rooms, Shalev notes, “have a ‘180 design’—living pods fall within a field of view of 180 degrees of the control room guard, so there always is a good visibility of all the pods, and the guard always faces the cell area.” Corrections officers communicate to inmates through an intercom system.

Cell doors in isolation units often severely restrict inmates. For example, some institutions have “boxcar” doors, sliding doors that block out visual access to corridors. Inmates see out only through slots through which they receive food and other items. Ray Luc Levassuer, imprisoned for revolutionary violence in federal prisons like Marion, describes how these doors affect inmates:
The purpose of a boxcar cell is to gouge the prisoners’ senses by suppressing human sound, putting blinders about our eyes, and forbidding touch. Essential human needs are viewed with suspicion. Within the larger context of a control unit prison, the boxcar cell is designed to inflict physical and emotional isolation that wears down a prisoner’s will to resist. When this regimen undermines a prisoner’s health or distorts his/her personality, it’s considered the cost of doing business.\textsuperscript{15}

In the 2001 court case involving the Wisconsin Secure Program Facility, a federal court heard testimony about boxcar cells. Inmates reported that they produced a powerful sense of claustrophobia and anxiety. In its decision, Jones \textit{El v. Berge}, the Court ordered the state of Wisconsin to remove some mentally ill and juvenile inmates from Boscobel. Other courts have demanded that prisons abandon the boxcars structure, but they still exist in some segregation units.\textsuperscript{16}

These features of modern solitary confinement illustrate how architectural and engineering choices buttress isolation. Solitary cells possess properties like small size and barren walls. Yet, they derive some of their isolating function from the minds of those building and operating them.\textsuperscript{17} Engineers and architects embody their intent to isolate in design plans and concrete structures. Corrections authorities carry out their intentions by forcing inmates to occupy them. The building gains properties it would lack without human mental activity.

**Isolation and Time**

Scholars often describe how imprisonment disrupts inmates’ sense of time. Those in general population have access to time instruments. They may also have contact with people outside the prison. Inmates can measure time’s progression, but those serving long sentences experience it as monotonous. They confront particular difficulties adjusting to disruptions in their life’s course. For example, sociologist Yvonne Jewkes describes how imprisonment disrupts a human life cycle.\textsuperscript{18} Female inmates either cannot have children or miss milestones in their children’s lives. Male inmates struggle to be fathers and to live a life often defined by unemployment. Prisoners describe a sense of timelessness and purposelessness.\textsuperscript{19} They long for some change in their monotonous lives. Imprisonment thus creates acute barriers to maintaining a positive relationship to time.

Those in solitary have a very different relationship to time. To experience time, we must measure motion and change, and inmates in solitary cannot easily discern change. Some solitary confinement cells
contain a light that is illuminated 24 hours a day. It makes it hard for inmates to sleep, and disturbs their internal sense of time. For example, in the Boscobel prison before the court intervened, inmates endured constant light. The Federal Court noted that cells remain illuminated 24 hours a day. Inmates may change the lighting in the cells from high to low but they cannot turn it off altogether. The low setting is bright enough to read by; many inmates state that it is so bright that it disturbs their sleep. At night, inmates are required to sleep in such a way as to allow guards to see skin when they perform hourly checks of the inmates. Guards will wake inmates if they have covered their faces in such a way that the guards cannot see any of the inmate’s skin. For seriously mentally ill inmates, the constant illumination disrupts their diurnal rhythm and adds to the sense of disorientation, especially when they do not know the time of day. The constant lighting creates a sense of lack of control and passivity in seriously mentally ill inmates and contributes to sleep problems and headaches that exacerbate the symptoms of mental illness.20

In court cases and human rights documents, we find similar complaints about lighting in other supermax and segregation units. Prison authorities insist that constant lighting serves security functions, but it gravely disturbs inmates’ sense of time.

Environmental uniformity creates a further sense that nothing changes. Cells are “stark and monotonous,” usually painted in one drab color.21 Many inmates lack items to place on the wall or are prohibited from having them altogether. Each cell contains exactly the same kinds of toilets, sinks, and other fixtures. Gradually, inmates find themselves unable to discern changes, and become desperate for them. Ronald Epps, an inmate who served time in solitary in Maryland, describes this debilitating condition:

Under these adverse conditions of confinement, one tends to crave a change of scenery, location, atmosphere, and environment just so s/he can see new sights instead of the same ole, everyday, mind-deadening routine and faceless faces.22

Environmental uniformity slows down the ordered succession of present, past, and future. With little change, temporal units blend into each other, with only minor differentiations between them.

In addition to environmental monotony and constant light, many solitary inmates lack time instruments. We need to measure motion in order to tell time, but inmates are often denied clocks. In the Boscobel case, the judge noted that inmates “are permitted no clocks, radios,
watches, cassette players or televisions.”23 Solitary inmates often lack access to windows, so they cannot measure time by observing seasonal change. Without time instruments, inmates struggle to establish rhythms they can measure. Frequently, they use the arrival of meals to measure time. However, many sleep irregularly, and gradually lose their sense of day and week. Arthur Longworth, imprisoned in solitary in Washington State’s Intensive Management Unit at Walla Walla Prison describes his struggle to tell time: 

You never see a clock, but you become an expert at guessing the time. It’s important to you for some reason. You don’t realize how important until you find yourself in that situation. Guessing doesn’t always work though, especially after long periods of time. Something breaks down, your mind plays tricks on you and you lose time. It feels as though it’s been stolen from you. Months pass, until a guard lets slip the day or date and you realize with a sudden heaviness pressing down on your heart, it’s been only a week.24

Without some external way to measure time, inmates like Longworth cannot ascertain how temporal phases develop. As days, months, or years pass they often lose their struggle to maintain a coherent sense of time.

The desperate struggle with temporal dislocation appeared in the 2011 hunger strike at California’s Pelican Bay prison. Inmates in the Secure Housing Unit (SHU) initiated a strike that quickly spread to other California penal institutions. At its height, it included more than 6,000 inmates refusing food.25 They demanded a fairer classification system, educational opportunities, and an end to long-term solitary confinement. The strike ended after three weeks with the inmates receiving little of what they demanded. However, among their demands was one for wall calendars, a point little noted in press coverage of the hunger-strikers. Officials conceded to this demand, which was a minor victory in a strike that largely failed. It testifies to the powerful need solitary inmates have for ways to measure time.26

**Solitary and the Disintegration of Identity**

We resist temporal dislocation by developing self-possession. Through acts, particularly morally important ones, we cultivate a sense of an enduring self. We ascertain how our acts impact others, and understand our enduring character traits. We orient ourselves toward values, and use self-recollection and other spiritual practices to strengthen self-awareness. By putting a personal stamp on reality, we fight temporal disorientation.
Solitary confinement blocks this path to spiritual unity because it severs human relations. Solitary inmates enter solitary either from general population or (less frequently) directly after sentencing. In both circumstances, solitary strips them of previous relationships. Instead of human contact, they confront debasing control techniques. When leaving their cells, they are shackled and subject to body searches. These searches can include humiliating rectal exams. Visiting hours are reduced and visitors carefully scrutinized. Given the remote location of supermax facilities, many relatives or friends cannot visit. Those visiting undergo careful screening, and often communicate with loved ones through telephones. Sometime, they must use videoconferencing in lieu of visits. As a result, inmates in isolation receive few visitors.

Through these policies, isolation seeks to reduce inmates to “the weak, helpless, dependent status of childhood.” Prisoners “depend on staff to bring them everything.” They receive meals, medicine, and counseling at their cell doors. Correctional officers and supervisors deny inmates potentially dangerous objects. Sometimes, they must request items like toilet paper and sanitary napkins. Authorities control and scrutinize what they receive from outside the prison. Many inmates are considered too dangerous for religious services, and must receive cell-door visits from chaplains and religious counselors. They cannot partake in rituals like the Christian Eucharist or the Muslim Jumu’ah. Like toddlers, they cannot be trusted to act without extensive adult supervision.

This treatment degrades someone’s capacity to communicate with others. He reaches out to communicate, but receives no return message. He cannot understand his action because no one responds to it. Segregation units are filled with inmates screaming for some kind attention. Many people report an overwhelming level of noise in them. When someone enters, many inmates rush to their small windows to communicate. Yet, these desperate gestures receive no response. Other inmates have long given up on communicating with those outside their cells. Gradually, without communication many inmates lose a sense of their distinctive presence in the world. They feel themselves devolving into a series of negative relations without a personal center.

Social psychologist Craig Haney documents this gradual erosion of agency among solitary inmates. Many, he writes, “lose the ability to initiate or control their own behavior or to organize their own lives.” Because they have been infantilized for so long, they find it difficult to initiate meaningful action. Haney documents how lethargy
and apathy mark the lives of many in solitary. Given the important link between relationality and self-possession, we can only expect more such findings from psychologists.

Some experiencing this loss of self-possession respond destructively. In order to feel their agency, they initiate pointless acts. They cut themselves, bash their heads against the wall, and flood their cells with water. Others find ways to commit suicide. Rhodes vividly captures this reaction to isolation. She describes how inmates throw feces and urine at corrections officers (a common occurrence in some segregation units). This disgusting act seems utterly senseless because it can increase the time inmates spend in solitary. Many know that throwing feces incurs greater punishment. By resisting authority, inmates with short stays in segregation can extend them for years. For example, Antony Gay, an inmate in the Tamms supermax prison, began serving a seven-year term in solitary. He often bombarded corrections officers with feces and urine. He also repeatedly mutilated himself (at one point he may have cut off one of his testicles). For these acts, officials punished him by adding years to his time in segregation. Unless courts intervene, Gay will serve 99 years in prison for his rule infractions. How can his action be rational? We can dismiss some mentally ill feces-throwers because they no longer control their actions. In fact, Gay’s lawyers argued that he was too mentally ill to be punished for his acts. However, for others a pure cost–benefit analysis would militate against acts of resistance. Those resisting segregation almost always lose, and would be well advised to submit to authorities.

Yet, Rhodes notes that sometimes feces-throwing seems like a bizarre way of retaining human relations. It invariably provokes reactions from authorities, thus affirming a person’s existence and agency. It can also perversely proclaim the need for respect. Respect is a “pervasive theme in prisoners’ descriptions of their own violence.” Violent clashes with extraction teams, lighting fires, and refusing orders can all be demands for respect. Inmates often feel compelled to strike out at officers whom they perceive as disrespectful. Small, perceived slights become grounds for violence, particularly because solitary inmates have so much time to fulminate. Lashing out indicates that a horrible system has failed to break them.

This violent and degrading environment distinguishes solitary from other situations in which human beings live alone. Hermits and monks in isolation may experience temporal dislocation, psychological disturbances, and environmental monotony. However, they rarely receive daily reminders of their degradation and worthlessness. Only in exceptional circumstances do they face officials tasked with violently
controlling them. Solitary thus differs from monastic isolation because it includes constants assault on the personality.

Inmates who eschew a violent response to their desperate condition sometimes embrace prayer or meditation. However, they confront significant obstacles to cultivating these practices. Environmental conditions block an inward path to self-possession. Incredible noise erupts day and night, and mentally ill inmates shriek and moan. Others yell vainly to gain attention. In some units, inmates hear people tormenting them with taunts and curses. This noise is particularly damaging for mentally ill inmates because it disrupts their fragile mental unity. Normally, spiritual advisors recommend finding quiet places for prayer and contemplation, but solitary inmate must forgo this advice.

Those in isolation also face humiliating invasions of privacy that undermine spiritual practices. Meditation, for example, enables a person to temporarily escape the gaze of others. However, in solitary cameras often watch inmates continually. They know they can be seen while using the toilet or masturbating. Female inmates in particular report shame at their exposure to the looks of male corrections officers. Men observe their behavior at will. An inmate can never be assured that she is enjoying a private moment. Many solitary inmates describe a pervasive feeling that they are being watched.

Some inmates respond to attacks on their identity by trying to conform to rules. Yet, they often report arbitrary disciplinary procedures blocking their return to general population. Corrections officers can write inmates disciplinary tickets for minor infractions. Their stay in solitary can be extended after hearings that many inmates think are stacked against them. Officials seem to take an officer’s side in personality clashes, and abusive officers may be disciplined infrequently. Thus, even those conforming to rules encounter obstacles and deep frustration.

For others exiting solitary is even more difficult. They serve indeterminate sentences, and can only end them by making dangerous choices. For example, in 2011 50% of those serving time in Pelican Bay’s SHU were in an indeterminate status. The only way they could exit the SHU was “to tell departmental gang investigators everything they know about gang membership and activities including describing crimes they have committed.” Obviously, those who snitch may confront extreme peril if admitted back into general population. Inmates call this policy “snitch, parole or die,” and it was one of targets of the 2011 Pelican Bay hunger-strikers. The strike ended without any change in the debriefing policy. Those in other supermax facilities confront similar impossible choices.
Spiritual Transcendence through Reading?

Stifled in their attempts to exit segregation, some inmates turn to reading. Those who read forget its remarkable character. We encounter bound pieces of paper with printed signs. Almost immediately, we understand their meaning. Gradually, we discover new objects and people. In the complex act of reading, we unite mental and physical realities to create new worlds.36

Many inmates in American prisons cannot transcend their lives through reading. Tens of thousands are illiterate or read at a low level. For example, in 2006 in Wisconsin, only 49% of inmates read above the ninth-grade level and others were illiterate.37 Additionally, many in segregation suffer from mental illnesses that interfere with reading. In some segregation units, inmates rarely ask to read. This gives their captors further justification for denying them reading material. They dismiss reading as irrelevant to lives of solitary inmates.

Despite these dismissals, inmates testify to the importance of reading. Some enter the prison illiterate or reading at an elementary-school age level. Some learn to read on their own, while others meet teachers who teach them to read. Many of these teachers are quiet heroes who patiently educate inmates. I have met remarkable people who spent years teaching in our prison system. They teach reading skills that open up opportunities for inmates. Historically, these teachers have helped many inmates. For example, Cummings details how Caryl Chessman, Eldridge Cleaver, and George Jackson used San Quentin’s bibliotherapy program to pursue personal and political goals.38 Instead of reading prescribed books, they turned to revolutionary critiques of American society. Wilfred Rideau, who edited the celebrated prison magazine in Louisiana’s Angola Prison (The Angolite), describes how reading changed his life. Awaiting an appeal of his death sentence for murder, Rideau began reading works by Machiavelli and Ayn Rand. For the first time in his life, he expanded his outlook beyond Louisiana.39 Similarly, Arthur Longworth describes how reading Alexander Solzhenitsyn’s One Day in the Life of Ivan Denisovich inspired him to write. He acknowledges that it depicts a prison experience far different than his own. Nevertheless, Solzhenitsyn showed Longworth “the strength and perseverance of the human spirit in the face of seeming hopelessness.”40 He used Solzhenitsyn as a model for writing about prison life.

In prisons, reading has also served as a locus for power struggles between inmates and authorities. The “struggle between prisoners’ reading and writing and the need to keep the populace from reading
prison-written texts, or at least control their form and content, has been at the very heart of the issue of how power was to be distributed, or redistributed in the culture.” Early-nineteenth-century prison officials in England and the United States sought to control an inmate’s thoughts. They restricted what he read and wrote, and cut off external communication. These experiments failed, but prison authorities throughout the last two centuries continued to monitor reading in prison.

Modern solitary confinement represents a return to the early modern model of tightly controlling reading. Segregation units and supermax prisons frequently make it difficult for inmates to read. Sometimes, they allow only religious materials to enter segregation. Or, they permit inmates access to a carefully screened list of books. In other cases, prisons libraries are grossly inadequate, and inmates have limited access to books. In the second half of the twentieth century inmates could pursue college degrees, and encountered new books through the professors who taught them. In the 1990s, however, financial support for federal Pell Grants and other programs disappeared. Few professors now teach in maximum security institutions.

US courts have issued conflicting rulings on inmate access to reading materials. Naturally, prisons must confiscate dangerous reading materials like bomb-making manuals. For security reasons, they have an obligation to monitor materials like mail. However, courts have ruled that this general obligation cannot warrant complete control over reading material. For example, in 1974, the Supreme Court rejected broad restrictions on inmate mail. It insisted that the state of California refrain from censoring mail containing complaints and political material. In a concurring opinion, Justice Thurgood Marshall resoundingly affirmed that prisoners retain First Amendment rights. In an extraordinary passage, he wrote:

When the prison gates slam behind an inmate, he does not lose his human quality; his mind does not become closed to ideas; his intellect does not cease to feed on a free and open interchange of opinions; his yearning for self-respect does not end; nor is his quest for self-realization concluded. If anything, the needs for identity and self-respect are more compelling in the dehumanizing prison environment.

Marshall thus defended First Amendment rights for inmates as an essential means of affirming their dignity.
In subsequent decisions, the Supreme Court restricted but did not deny inmates’ First Amendment rights. However, in 2006, it took a disturbing turn that bodes ill for the future of Marshall’s vision. A Long Term Segregation Unit in Pittsburgh, Pennsylvania, denied inmates access to newspapers, books, and photographs. It permitted them to read only select religious publications. Inmates challenged this policy in court, arguing that it violated their First Amendment rights. Lower courts ruled in their favor, but the Supreme Court upheld the censorship policy by a 6–2 majority.

Before the Supreme Court, the State of Pennsylvania offered a troubling justification for its policy. It claimed that censorship made segregation onerous and thereby changed behavior. Lawyers for the inmates pointed out that censorship had little impact on behavior because few inmates ever left segregation. Many ended up serving years in isolation without reading material. Nevertheless, the Supreme Court majority maintained that Pennsylvania should have wide leeway in its behavior modification efforts. In the Court’s view, they served a “legitimate penological objective.” In a concurring opinion Justices Scalia and Thomas cited approvingly Pennsylvania’s nineteenth-century isolation. For these justices, the Constitution offers little justification for limiting the power of prisons to control an inmate’s mind.

The minority dissent in the *Beard* case captures the pernicious character of the majority ruling. First Amendment protections, Justices Stevens and Ginsberg wrote, apply “even those who flagrantly violate their social and legal obligations.” They held that the Constitution limits how far authorities can go in their rehabilitation efforts. Echoing Justice Marshall, they noted that the First Amendment respects the mental lives of citizens. The dissenters remarked that the Pennsylvania segregation policy “comes perilously close to a state-sponsored effort at mind control.” Sadly, they conceded that the majority decision signaled that “a tool of mind alteration is now dubbed ‘rehabilitation.’” The dissenting justices recognized the spiritual and moral significance of restricting reading.

The *Beard* case empowered prison authorities around the country to restrict inmate reading material. Segregation officials have not hesitated to exercise this power. Segregation units in local jails can be the most restrictive. For example from 2008 to 2012, the Berkeley County Detention Center in Moncks Corner, South Carolina enacted a censorship policy. It banned inmates from access to all reading material except for the Bible and “foundational” religious texts. The jail returned all other reading material to senders or discarded it when
it arrived in the mail. It also reportedly erected bureaucratic barriers to inmates who wanted to read non-Christian texts. The US Justice Department investigated the jail’s reading ban. Prison Legal News (a newsletter providing information about inmates and the law) filed a lawsuit against the Berkeley County Sheriff’s office. It attempted to deliver copies of its newsletter to inmates, only to have them rejected by jail officials. In 2012, the Sheriff’s office settled the lawsuit, agreeing to pay “Prison Legal News” $600,000.47

The Beard case thus threatens a mode of spiritual transcendence that prisoners have employed for centuries. Through reading, an inmate encounters a world of cultural objects previously unavailable to her. Sustained through material objects like books and computers, it reflects her spiritual powers. If able to communicate with others, an inmate can share an intersubjective experience. I give religion lectures to inmates in a maximum-security prison, and have repeatedly encountered a deep hunger for knowledge. Inmates pose probing philosophical and religious questions, read whatever is available to them, and ask for reading suggestions. They discuss what they read and learn. Sadly, those in solitary can now be legally denied such experiences. They find themselves severed from any possibility of gaining new knowledge.

**Music and Spiritual Transcendence**

Inmates who cannot read find other cultural objects to sustain them. For example, music has often played an important role in helping prisoners do time. Like reading, those with music in their everyday lives forget its extraordinary character. We produce sound vibrations through voices or instruments. We combine them with melody, rhythm and other musical forms. The musical work then becomes an object of intersubjective concern. We repeat it through memory, written signs or technological devices like iPods. Musical works endure so that others can enjoy them. Combining physical elements and mental activity, we create works that powerfully influence our lives.48

Music frequently provides spiritual succor for the incarcerated. From prison work songs to contemporary hip hop, inmates have often responded powerfully to music. Historians writing about Southern prisons describe the songs inmates sang while working. For example, Perkinson details the amazing career of Huddie William Ledbetter (1888–1949), better known as “Lead Belly.” Sentenced to serve time in brutal Texas and Louisiana prisons, he became a legend for guitar
playing and song-writing. His songs reflected the experiences of many black inmates, and were sung by those working in fields. Musicologists John and Allan Lomax famously toured Southern prisons to record inmate songs, and made Lead Belly famous. Contemporary inmates are no different in their hunger for music. Inmate religious choirs, hip hop artists and others follow in the footsteps of Lead Belly and many others.49

Like reading, music can become the locus of a power struggle between corrections officials and inmates. Politicians sometimes lead the way in controlling music. For example, in 1997 the US Congress passed the Zimmerman Amendment, named after US Congressman Dick Zimmerman. It included a number of restrictions on inmate recreation. In sponsoring the bill, Congressman Zimmerman proclaimed that “there is no reason why someone convicted of a crime should enjoy accommodations better than those available to many law-abiding Americans.”50 Targeting alleged “luxuries” in the Federal Prison system, Zimmerman’s legislation barred federal funding for weights, in-cell television sets, and other items. Among the prohibited items were electronic musical instruments of any kind.

In 2002, inmates filed a lawsuit challenging the Zimmerman Amendment. They held that its restrictions on musical instruments violated their First Amendment rights. The Court ruled against the inmates, holding that the Zimmerman restrictions served a legitimate penological interest. The concurring opinion also justified the restrictions by pointing to its deterrent value. By making prison unpleasant, a restriction on musical instruments served the interests of the Federal Bureau of Prisons. As with the reading cases, courts gave great deference to officials who invoked security concerns or pursued behavioral modification policies.51

Many segregation units are devoid of music. In others, inmates enjoy carefully selected music piped into their cells. In the Colorado system, for example, people in the most punitive segregation hear no music. However, if they submit to authorities they can be granted the privilege of listening to music. Those entering less punitive levels of the system use their television sets (which they must purchase) to listen to “a music channel that plays at designated times and rotates through music genres.”52 Like the Pennsylvania authorities who restricted reading, Colorado administrators use access to music as a behavioral modification tool. Rather than allowing inmates to select their own music, they make judgments about appropriate musical genres. Rather than providing music to isolated people, they deny it to those who misbehave.
Inmates in solitary sometimes testify to a powerful urge to experience music. For example, Darrell Cannon, a convicted murderer, did more than ten years in solitary confinement in the Tamms facility in Illinois. Struggling to maintain his sanity, he returned to the music of his youth. Saturday night, he said “was dedicated to all the old songs. Blue Moon. Stand By Me... all those old songs I could think of. I would try to remember the words. I would sing just loud enough where I could hear myself.” For Cannon, music became a vital link to his former identity. Others in solitary also emphasize music’s importance.

Music and reading empower people to escape restricted conceptions of what is good. They are no longer forced to embrace aesthetic values defined by parents or other authorities. Even when accepting them, they can move beyond what they receive. For example, Machiavelli’s *Prince* appears on many lists of Great Books. However, inmates reading it have interpreted it in uncomfortable ways. During the 1990s, rapper Tupac Shakur was imprisoned for sexual assault in New York’s Clinton Correctional Facility. In prison, he began reading Machiavelli *Prince*. He later produced his hit album *The Don Killuminati: The 7 Day Theory* under the stage name Makaveli. It contained lyrics that would make any prison warden nervous. Although it bore little relationship to Machiavelli’s great text, the album illustrates how we cannot control interpretation. Machiavelli has inspired others to embrace similarly subversive paths. Consequently, prisons have sometimes banned his writings. Cummins notes that “the ownership of a prisoner’s written self, the control over the production of the inmates’ autobiography, or the right to determine how the collective story will be recorded of what ‘criminals’ are in the culture can be an issue of intense controversy.” Once an inmate exercises creative powers, we cannot determine precisely what will happen. Musicians, artists and writers often adopt self-conceptions that authorities find disturbing. They open up a world difficult to control or even understand.

Sadly, authorities operating solitary units understand how human creativity shapes identity. The solitary regime compels inmates to see themselves as monsters. They are often defined as the “worst of the worst,” beings beyond the pale of rehabilitation. For example, Rhodes details how the language of choice dominated the control units she visited. Inmates, she was frequently told, chose to put and keep themselves in solitary. Yet, they were also seen as incurable fiends. Inmates she interviewed gradually came to understand themselves as people who continually choose evil. Some lost hope in change altogether, concluding that they could never be good. As years of solitary dragged
on, staff and inmates cooperated in reinforcing negative conceptions of the human person.

CREATIVITY AND THE BEHAVIORAL SCIENCES

When crushing inmate creativity, officials sometimes employ the behavioral sciences. Psychology, social work, and sociology no longer play the dominant role that they did in the 1950s and 1960s. In those years, inmates were subjected to treatment by an army of social workers, psychologists, and counselors allegedly seeking to help them. Today, prisons often operate with a skeleton crew of overworked professionals. Many labor hard to help inmates in important ways. However, contemporary prisons also use the behavioral sciences to manipulate prisoners. Prison authorities coercively apply psychological theories to inmates. Some, like psychologist Stanton E. Samenow, posit a “criminal mind” that dominates our prisons. Others like Robert Hare hold that some inmates are incurable psychopaths who will never respond positively to treatment. Using these theories, psychiatrists, psychologists and social workers exercise considerable power over inmates. Confronting them, inmates often feel helpless to resist controversial ideas about what ails them.

Some solitary units use psychological theories to construct detailed control regimes. Known as “level” systems, they require inmates to complete stages through which they gradually regain privileges. Authorities probably don’t intend to use such programs to break an inmate’s will. However, sometimes, inmates complete several levels only to be returned to an initial one devoid of all privileges. This reversal creates extraordinary anger among inmates. After months or years, inmates have a sense of accomplishment, only to confront the prospect of years in previous levels. For example, some prison systems use programs like “Thinking for a Change,” a cognitive-behavioral approach to behavior modification. It aims to help inmates in general population alter their cognitive structures. According to proponents, it bears significant fruit in prisons systems. However, if authorities use anything like it on solitary inmates, therapy becomes profoundly coercive. Inmates debilitated by solitary have little choice but to embrace the self-identity prescribed by their therapy. Without access to the arts or reading, they cannot hope to develop alternative identities. They must either resist the dominant psychological theory or capitulate to it.56

A New Mexico case illustrates the dangers of using the behavioral sciences in solitary. In 2002, the American Civil Liberties Union
(ACLU) filed a class action lawsuit on behalf of inmates in the state’s “Special Control Facilities.” It maintained that these solitary units violated the Constitution’s Eighth and Fourteenth Amendments. Courts never fully heard the case because New Mexico reached a settlement with the ACLU. In their suit, inmates complained about the intrusive character of a required “Cognitive Restructuring Program.” Before being released from the most severe form of solitary, inmates were required to memorize and regurgitate statements about criminal behavior and thinking. They were obliged to participate in the program for a minimum of 367 days but many inmates remained in it much longer. Education staff, not trained mental health personnel, quizzed them to determine if they had altered their thinking. If deemed insufficiently rehabilitated, corrections officers could adjust inmate behavior by removing property and family visits. Inmates were reportedly never told why they failed to progress beyond particular levels. The Cognitive Restructuring Program was thus a capricious tool for controlling those in solitary. Combined with strict control over creativity, it sought to force inmates to adopt a particular identity.

The New Mexico case represents only one instance where officials use the behavioral sciences to assault inmates’ spirituality, creativity and identity. In prisons, an inherent inequality marks relationships between staff and inmates. Many psychologists and psychiatrists are sensitive to this power imbalance. Others, however, abuse their power. Those in solitary confront particularly brutal forms of psychological manipulation. To regain minimal liberty, they must embrace controversial conceptions of value and identity. Often, mental health authorities identify the person’s good with order in the institution. In other cases, they disregard or undermine a spiritual approach to problems. They ignore an inmate’s religious beliefs, and rarely consider how they relate to therapy. Isolated inmates are in no position to question what is forced on them. Bereft of the spiritual resources supplied by reading and the arts, they cannot counter restricted conceptions of the good life. Some heroic inmates resist them, but others capitulate to forces beyond their control.

**Why Attack Creativity?**

Some people explain this horrible attack on the person simplistically. Wardens and corrections officers, they suggest, are ignorant, cruel people who enjoy damaging inmates. Or, they are mere dupes of an unjust economic system that exploits inmates for economic gain. Or modern solitary simply reflects the power dynamics of the modern
world where bureaucracy and rationality dominate our souls. These explanations capture dimensions of solitary confinement. Examples of sadism and cruelty abound in solitary. The weakness of inmates often elicits profound cruelty from captors. Public reactions to punishment also bring out the worst impulses in people. However, by focusing on cruelty we often create strawmen, moral monsters that sadistically enjoy isolating people. We also fail to explain the origins of cruelty. Are we inherently cruel or does cruelty originate in other emotions? Do certain situations encourage cruelty? Appeals to cruel wardens and sadistic corrections officers illuminate none of these questions.

When we dig deeper, we encounter additional puzzling questions. Creativity seems only tangentially related to security. What harm can it possibly do to allow those in solitary to read? Reading rarely creates physically dangerous conditions, despite claims that newspapers and books provide fuel for cell fires. Similarly, restricting music adds little to security. Access to jazz or hip-hip hardly enhances a gang leader’s power. Restrictions on creativity also seem like inefficient instruments for behavior modification. Few people denied creative outlets change their behavior. The sustained assault on creativity demands some other explanation.

Those censoring inmate reading and musical expression may recognize creativity’s potentially dangerous character. Reading books, inmates may embrace political or religious positions highly critical of their captors. Music can exhibit morally offensive ideas or seduce people to act destructively. Human creativity is “unstable, two-faced, capable of operating at the service of reason but also of opening itself to the control of quasi-autonomous drives of the sensate body, or even control by our deliberate evil desires.” Flags or pamphlets can serve nefarious ends. Without a moral compass, cultural objects can damage those creating and experiencing them. Given these dangers, prison officials may see little value in encouraging inmate creativity.

Sometimes, officials confront creativity’s destructive potential. The infamous case of serial killer John Wayne Gacy illustrates this problem well. In the 1970s, Gacy murdered at least 33 young men, burying many in the basement of his house. While awaiting execution on Illinois’ death row, he took up painting. Gacy produced grotesque paintings of little artistic value. Through the magic of the Internet, they survived his 1994 execution. In fact, after he died some people paid thousands of dollars to acquire Gacy’s paintings. Products of a perverse imagination, they remain a visible insult to the relatives of Gacy’s victims. Rather than embodying beautiful elements of our spirituality, they remind us of a perverted personality. We
can understand why a warden might suppress this kind of artistic expression.

A Zero-Sum World

Fear and dehumanization also drive prisons administrators to control inmate creativity. The power struggles characterizing many segregation units render it difficult for authorities to value inmate creativity. Studies of segregation units and supermax prisons describe perpetual conflicts between staff and inmates. Isolated inmates build up extraordinary anger in response to the smallest slights. Staff members provoke further rage by taunting inmates. Inmates and correctional officers perceive each other in the worst light. In solitary units, the “division between these two groups, prisoners and guards, is physically, procedurally and symbolically clear.”59 Those seeking to adopt a positive conception of the other side find it difficult to do so. An inmate’s minor gain seems like a staff member’s loss, a correction officer’s act of disrespect seems to take something from inmates. In such circumstances, we can easily see why denying books or music to inmates becomes symbolically significant. Blinded by a zero-sum dynamic, prison authorities lose sight of the value of human creativity. They soon begin denying that inmates exhibit creativity at all.

Political realists frequently explain this kind of conflict by linking fear and dehumanization. The fear of another can lead us to dehumanize him. In his famous account of the revolution at Corcyra, the Greek historian Thucydides describes the path from fear to dehumanization. At Corcyra, two sides competed for power, one favoring democracy and the other embracing oligarchy. Each side ceded no ground to the other, and Corcyra soon descended into chaos and extreme violence. Unable to trust each other and fearful of losing power, both sides pursued power through party allegiance. The parties described each other in dehumanizing language. They praised aggressiveness over caution, and it was “equally praiseworthy to get one’s blow in first against someone who was going to do wrong, and to denounce someone who had no intention of doing any wrong at all.”60 In the Corcyran revolution, fear yielded dehumanization and terrible results.61

In segregation units, ignorance sometimes fuels fear and dehumanization. Young corrections officers may have little experience with troublesome inmates. Without seniority, they end up working the segregation unit. In some cases, white officers have little experience
with African-Americans. In many state systems, African-Americans are overrepresented in prisons run entirely by white officers. Drawn from rural areas without racial diversity, these officers know little about African-American life. Thrown into a segregation unit, they operate with a host of negative images about black inmates. These in turn shape their behavior, producing an environment of fear and dehumanization.

Political philosopher Thomas Hobbes famously analyzes the relationship between fear and dehumanizing images. We may know little about someone, but our fearful imagination fills in missing details. A distorted image of him produces a distrustful and violent social dynamic. From the onset of our interaction, we assume the worst of another. He may respond negatively, perhaps with his own cognitive distortions. Conflict ensues and escalates, and all sides seem incapable or unwilling to cede ground.

This perverse dynamic appears often in supermax and segregation contexts. Corrections officials in training are told to expect the worst of their captives. Inmates are defined as degenerates incapable of moral behavior. In some cases, these images accurately capture prison life. On a daily basis, corrections officer confront the possibility of inmate violence. Given a dangerous environment, they must assume that all inmates are potentially violent. It takes only a few violent incidents to solidify their worst assumptions. Nevertheless, in other cases, corrections officials unfairly adopt a negative image of all inmates. It produces fear and perverse interactions within the segregation unit.

Dehumanization may originate from higher authorities or emerge from interactions with inmates. Often, bureaucratic documents and officer training manuals assume the worst of solitary inmates. Prison authorities reinforce this assumption, preparing officers for the worst. In other cases, officers develop their own dehumanizing images of those in solitary. They use derogatory terms for them, and see little of their humanity. Dehumanization creates tension and violence within the segregation unit.

The zero-sum character of social relations in solitary helps explain why corrections officials control creativity. Because of fear and dehumanizing images, they understandably see any inmate gain as an institutional loss. If corrections personnel dehumanize inmates, they don’t expect them to display their humanity. They see no reason to provide access to creative outlets. Moral monsters have little use for music, and psychopaths can only misuse what they learn from books.
IGNORANCE AND EMPATHY

However, a zero-sum dynamic fails to explain why the general public tolerates solitary’s assault on the person. Unfortunately, many people lack knowledge of what happens in prisons. In the 1960s and 1970s, journalists and academics revealed abuses behind prison walls. Today, investigative journalism has declined and academic research in prisons is rare. Without financial support for education in prison, few professors teach inmates. These changes have been accompanied by greater restrictions on access to inmates. Departments of Corrections control research and visitation. Supermax institutions in particular invoke security concerns to bar visitation. Consequently, many people understand little about prison conditions. I have been taken aback by academic colleagues who know nothing about the Green Bay Correctional Institution. Situated less than 15 miles from my university, it presents an imposing image with its thick walls. However, some of my colleagues are surprised that the prison is maximum security. They know little about different security designations, and believe the Green Bay prison houses only petty criminals.

Without knowledge of what happens in prisons, people experience difficulty empathizing with solitary inmates. Empathy allows us to access someone’s inner life. Often, a person’s inner side seems inaccessible; I can experience my own spiritual powers, but cannot directly experience your spiritual nature. Empathy enables me to apprehend another person’s perspective. To empathize, I must use my own experience as a medium for reaching another’s inner life. Rather than reasoning or comparing two perspectives, I use my perspective to apprehend another’s inner life. To do so, I either must have an experience similar to another’s or must imaginatively relate myself to it. For example, most of us have never been in solitary confinement. We have difficulty relating to someone living in its extreme conditions. Nevertheless, we can learn about it. We can listen to the stories of those who have experienced solitary. We can imagine what it would be like to live without human contact. How could we exist without music, books and art in our lives? How could we withstand complete social isolation and daily assaults on our dignity? Through such imaginative exercises, we gain limited access to a solitary inmate’s experience.

Empathy poses risks for those empathizing. Often, people think their moral imagination enables them to fully understand another. They posture in obscene ways, pretending to comprehend a terrible experience. Or, they engage in activities that make them think they understand others. For example, in the history of prisons we
have examples of wardens who incarcerated themselves in order to comprehend prison life. These experiences expanded their imaginative capacities in significant ways. However, short-term imprisonment under ideal conditions hardly compares to an inmate’s degrading conditions. Those empathizing, therefore, must be attentive to how their experiences differ from others.64

**No Sympathy for Inmates**

To understand public indifference to inmates, however, we must distinguish between empathy and sympathy. Empathy provides awareness of another’s inner life, while sympathy includes an element of benevolence or love.65 Philosopher Martha Nussbaum correctly remarks that empathy with another’s experience can occur “whether that experience is happy or sad, pleasant or painful or neutral.”66 In everyday parlance, empathy suggests a positive relationship to another. Yet, we can use empathy negatively. For example, divorced couples sometimes empathize very well with their ex-spouses. However, they use their empathy negatively, understanding precisely what hurts the other person. They lack any sympathy at all for someone they used to love. Empathy without sympathy can yield dangerous fruit.

Many people block both sympathy and empathy with inmates because of a self-righteous sense of superiority. They refuse to imagine that they have anything in common with those in prison. They have never broken the law, and therefore can’t conceive of what imprisonment would be like. Their children are well-behaved, and have never had negative encounters with law-enforcement. In these cases, people display an unwillingness to empathize or sympathize, exhibiting a “certain proud isolation, a desire to breathe a purer air than the rest of humanity.”67 They refuse to concede that they share anything with inmates.

In other cases, people empathize without sympathizing. We can imaginatively experience a solitary inmate’s plight, but refuse to show benevolence. Sympathy requires one to acknowledge that “one has possibilities and vulnerabilities similar to those of the sufferer.”68 However, when it comes to inmates, people don’t share a sense of vulnerability. Solitary may be terrible, they contend, but those incarcerated deserve their suffering. Why should we extend sympathy to criminals suffering from their awful choices? We should reserve sympathy only for those who suffer through no fault of their own.69 To many, solitary inmates are alien beings with whom we share nothing. Sometimes, people even celebrate solitary’s assault on the personality.
Inmates locked in a world without music or reading gain no moral consideration. Those living years with limited human contact garner no sympathy. In these cases, someone apprehends another’s inner life, but refuses to sympathize with him.

Often, those refusing to sympathize sacrifice their sympathy for a sense of security. As long as they appear safe, they need not enrich their moral imagination. People in quiet, safe communities respond with horror at an isolated incident of violent crime. The nightly news features people proclaiming that such events “are not supposed to happen here.” Even if a crime is unlikely to reoccur, people endorse draconian responses to it. As Hobbes frequently notes, security can become an overriding consideration. It blocks sympathy, leading people to accept the horrors of solitary confinement.

In noting this perverse dynamic between sympathy and fear, I have no intention of downplaying the real danger of violent crime. Too often, people analyzing America’s imprisonment binge ignore the power of violence to shape our psyches. They overlook the legitimate fear people have for the safety of their loved ones. I grew up in New York City in the 1970s. In that decade, the city seemed to descend into violence and lawlessness. Those of us who lived through those years cannot dismiss the fear of violence as an irrational panic. However, must a legitimate fear of violence stifle empathy and sympathy? Are we, as Thucydides and Hobbes sometimes suggest, necessitated by fear and forced to dehumanize others? Those opposing solitary confinement must confront these difficult questions.

**Conclusion**

Scholars writing about solitary confinement say little about human creativity. Understandably, they focus on tangible issues like classification systems, psychological harm, and relations between inmates and staff. Those confronting these matters may see creativity as an irrelevant or dangerous distraction. It appears to be important only for a class of people who value reading and music. For an illiterate convict, debates about access to books may seem irrelevant. For a Pelican Bay hunger-striker, talking about music might undermine demands for real change.

Sometimes, contemporary thinkers acknowledge creativity, but reduce it to power or economic relations. For example, at the end of his study, Cummins recurs to Foucault, suggesting that controlling reading symbolizes other forms of domination. The battles over reading “at least reenact other sets of primary power relations within the
prison.” Cummins acknowledges that the control of inmate reading and writing sometimes “describes a primary power relation.” Yet, he criticizes convicts and activists who focus on ideas rather than material realities.

In this chapter, I have argued that we should acknowledge spiritual realities as distinct variables. Undoubtedly, they can distract from fights to improve material conditions. Unquestionably, some inmates may find discussions of creativity unimportant to their concerns. Nevertheless, spiritual concerns are never mere epiphenomena reflecting underlying material or class relations. Reading, music, and other arts reveal a profound desire to transcend our circumstances. They reflect enduring features of our personality enabling us overcome temporal disorientation. Finally, creativity expresses our embodied spirituality. Although interacting with material concerns, spiritual realities exert a distinct influence on social and political life.

This influence becomes clear when we consider spiritual distortions. For example, ambition and greed drive some architects to build repressive control units. Yet, alone these motives cannot account for why they disregard the lives of those inhabiting their creations. Like other people, those designing control units fear violent crime, and want to control it. They rarely consider the damage they unleash. Authorities censoring inmate reading or musical expression understandably want to maintain institutional security. They may even convince themselves that they are actually benefiting inmates. Yet, they use their spiritual transcendence to dominate others. This drive to dominate is so frightening because it knows few limits. With men and women under our total control, we can rule over their inner lives as we please.

Solitary confinement’s assault on spirituality is profoundly damaging. Sadly, it destroys many everyday things we take for granted. Denied creative outlets, left alone to their often distorted thoughts, some inmates destructively attempt to retain minimal self-possession. Others gradually lose their sense of time and a distinctive self, existing in a hazy world of diverse relations. Still others submit to authorities, accepting whatever self-identity is forced upon them. Some remarkable human beings develop their spiritual powers positively. Yet, they face relentless pressure to adopt spiritually diminished lives.

Perhaps I have worried too much about the inner lives of solitary inmates. When they write or produce artistic works, critics rightfully draw our attention back to their crimes. They legitimately warn against ignoring the horrible things people do. After all, famous people like William F. Buckley and Norman Mailer were duped by inmates claiming to be great writers. Those of us who value inmate creativity should
remember that it can serve evil ends. Moreover, tight control over those in solitary might reflect justice rather than spiritual distortion. Those who commit heinous crimes seem to deserve isolation. A mass murderer or a serial child rapist in solitary puts himself in his terrible condition. To many, isolation seems a particularly apt punishment. It expresses our collective repugnance and anger at a criminal’s horrible acts. It symbolizes that through his acts, he excluded himself from human society. Aristotle famously declared that a man who is “unable to live in society, or who has no need because he is sufficient for himself must either be a beast or god: he is no part of the state.” By harming others so profoundly, criminals seem to descend to a level below that of beasts. Perhaps our appropriate reaction should be either to execute them (as many societies have done) or banish them from our presence. Modern solitary confinement, in sum, expresses legitimate moral and emotional reactions to atrocities. To this expressive justification of punishment, I now turn.
Sending a Message: The Expressive View of Punishment

The decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community’s belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death.

US Supreme Court, Gregg v. Georgia

Public discussions of solitary confinement often seem utterly irrational. People who know nothing about the topic pontificate about the cable television inmates supposedly watch. Others who have never met anyone incarcerated insist that solitary is too good for prisoners. When confronted with facts about the criminal justice system, these arm-chair critics refuse to change their views. They stubbornly cling to false assertions and angrily label those with whom they disagree. Such exchanges can be deeply frustrating for people who value rational discussion.

Some people respond to these conversational impasses by condemning emotions altogether. When discussing punishment, they hold that we should distrust anger, revenge, and disgust. These emotions frequently produce dangerous collective violence and irrational policies. Disgust at child-molesters leads communities to enact counterproductive sex offender ordinances. Anger at murderers leads the police to ignore due process and fundamental human rights. Revenge drives victims to brutalize offenders. In matters of crime and punishment, we should thus abandon emotion and proceed soberly and rationally.
This understandable response to irrationality is deeply tempting but ultimately short-sided. Often, it leads scholars to ignore the powerful role emotions play in public life. Whether or not we approve of them, we disregard them at our peril. Moreover, those rejecting emotional responses frequently adopt truncated conceptions of the human person. They view the emotions as inherently irrational and maintain that reason alone characterizes our humanity. For these critics, the emotions have little moral value. Yet our spiritual life contains far more than rationality. Accounts of punishment cannot ignore our complex and messy emotional world.

In this chapter, I defend a more balanced approach to punishment that illuminates the ethics of solitary confinement. Sometimes known as the “expressive” view, it holds that punishment legitimately expresses our disapproval of immoral acts. First, I briefly note diverse approaches to justifying punishment. Second, I outline the expressive view of punishment, examining its descriptive and normative elements. I maintain that ideally, punishment conveys moral messages to the offender, victim, and community. Third, I respond to objections to the expressive view, considering why we sometimes need coercion to express moral truths. Fourth, I explain why the expressive view enjoys theoretical advantages over other views of punishment. Placing moral limits on punishment, the expressive view avoids the dangerous coercion we find in rehabilitation and deterrence approaches. I end by noting the extraordinary gulf separating theory and practice in the American criminal justice system.

**Justifying Punishment**

American prisons are filled with great suffering. Inmates endure deprivations of liberty and other goods. They live with people who cannot get along with others. They often confront sexual assault and other violence. Their lives are managed by others, and they are separated from their loved ones. Many inmates regret their mistakes, and feel terrible anger at the person they have become. They long to change a past that cannot change. Finally, the pains of imprisonment extend far beyond prison walls. Family members suffer the absence of a loved one, and often lose considerable income. Children grow up without mothers and fathers. When and if prisoners are released, their felony records remain with them for the rest of their lives. They confront social disgrace, unemployment, and other difficulties integrating back into society.²
How can we justify inflicting such deep suffering on people? For many Americans, prisons occupy a natural place in the social landscape. They take them for granted, and cannot imagine doing without them. However, although many societies had dungeons and confinement, they often relied on other forms of punishment. To punish offenders, they used public humiliation, banishment, public censor, beatings, and torture. Modern societies, in contrast, emphasize imprisonment as the primary mode of punishing. As many social historians note, the modern prison arose as a response to the inadequacies of previous forms of punishment. To eighteenth- and nineteenth-century American and English reformers, prison seemed a substantial moral improvement over corporal punishment and debtors’ dungeons. With several million Americans beyond bars and an enormous prison industry, however, we cannot simply assume that the prison is the best way to punish.

Punishment in general cries out for ethical justification because it involves an authority that intentionally inflicts suffering on someone for a real or supposed wrong he committed. We have our large prison system not accidentally, but because we intend to put people in cages. We assume that those imprisoning have the legitimate authority to punish. We think that if someone commits a crime, he should suffer or pay a debt to society. Finally, we think that only those who have committed crimes should be penalized. All these aspects of punishment are controversial, and imprisonment is thus a subject of deep moral disagreement.

Philosophers offer several justifications for punishment. As legal theorist H. L. Hart once noted, we must morally evaluate the general justification, distribution, and severity of punishment. The general justification focuses on why we punish. What is punishment’s precise purpose? When considering punishment’s distribution, we ask about who deserves to be punished. For example, should we punish someone who is mentally ill? What circumstances mitigate punishment? Finally, when approaching punishment’s severity, we ask about appropriate sanctions. Is the death penalty a just punishment for murder? Should we sentence juvenile offenders to life in prison without the possibility of parole?

On the general justification of punishment, we can distinguish between backward- and forward-looking approaches. Forward-looking ones focus on goods we want punishment to actualize. We may punish to deter criminals and others from committing future crimes (deterrence views). Or we might punish in order to reform or rehabilitate wrongdoers (rehabilitation views). Backward-looking
justifications consider what a person has done in the past. We might punish people because they deserve to suffer for a wrong they committed (retributive accounts). Or we might hold that punishment annuls past crimes (annulment accounts). On this account, the justification for punishment rests on an offender’s past acts.

Sometimes in philosophical circles, scholars myopically insist that we adopt *either* a backward- or a forward-looking justification for punishment. We can, they maintain, brook no compromise between these positions. Others propose “mixed theories” that embrace both sorts of justifications.5 We confront important philosophical choices when adopting justifications for punishment. Too often, however, philosophers fail to develop theoretically rich conceptions of punishment. They think we can justify it by relying solely on one ethical principle. However, a sound theory of punishment requires an account of human nature, authority, and other matters.

**Punishment and Expression**

The expressive view of punishment incorporates both backward- and forward-looking elements. Historically, thinkers like Plato and Hegel defended views that included expressive elements.6 Christian thinkers also develop expressive views. In the twentieth century, Anglo-American philosophers like A. C. Ewing, Joel Feinberg, R. A. Duff, and Jean Hampton emphasized punishment’s expressive character. They held that it moves beyond familiar impasses in theories about punishment.

The expressive view contains both descriptive and normative elements. It tells us how punishment operates, and recommends we adopt a particular justification of it. Feinberg captures these two aspects well when he defines punishment as “a conventional device for the expression of attitudes of resentment and indignation, and of judgments.”7 Philosophers and sociologists note that punishment expresses emotions like resentment and indignation. For example, sociologist Emile Durkheim notes that to punish “is to reproach, to disapprove.”8 For Durkheim punishment expresses a distancing from offenders. Victorian statesman Sir James Fitzjames Stephen proclaimed similar ideas in his well-known statements about punishment. Stephen states that the “criminal law thus proceeds upon the principle that it is morally right to hate criminals and it confirms and justifies that sentiment by inflicting upon criminals punishments which express it.”9 He notoriously mixes descriptive and normative elements, but recognizes how punishment reflects emotions.
Recently, philosopher Jeffrie Murphy has analyzed emotions like hatred and revenge. Modern victims’ rights movements, he notes, enable victims to express important emotions. They allow them to participate at key moments in trials and sentencing. Moreover, popular culture repeatedly celebrates emotions like revenge. Numerous movies present characters wreaking vengeance on criminals who killed their family members. For Murphy, those condemning revenge as barbaric shoulder the explanatory burden of proof. They should indicate why “all feelings of hatred and revenge are intrinsically, or inherently, or in principle irrational and immoral.” Our revulsion at child molesters, for example, seems perfectly normal and healthy. Those who exhibit it are hardly morally deficient.

Too often, critics of emotions also ignore their cognitive elements. On a hot day, I might feel an uncomfortable sensation. Yet it differs from an emotion like moral indignation. Moral indignation has an object; someone commits child abuse, and I direct my indignation at his act. It includes a relationship to some value. Responding negatively to a child-molester, I recognize the disvalue he introduced into the world. We can explore this emotion and evaluate its moral character. We can show its appropriateness or rationality. Or we can show that “it is not fitting to its object, is harmful to the person who experiences the emotion, is inherently self-defeating” or “necessarily leads to pathological and dangerous excess.” In sum, emotions differ from irrational sensations because they point to objects about which we can argue. We cannot dismiss the expressive view merely because it appeals to emotions.

Murphy highlights important elements of contemporary debates about punishment. Too often, rationalistic critics ignore their own emotions or declare them to be beyond discussion. Too often, they assume that emotions have no cognitive component, instead reflecting sheer irrationality. Finally, some contemporary thinkers overlook the significant role emotions play in public disputes about crime. Even if revenge and hatred are irrational and immoral, they shape public discourse and policy. We cannot self-righteously condemn them.

**Expression and Justification**

We might accept this descriptive account of punishment, but still demand ethical justification for it. Groups can express emotions in morally repugnant ways. For example, people often respond negatively to interracial unions or find homosexuals repulsive. We thus need to
rationally examine our emotions. People also differ about which values to express. They can disagree about which acts best express or embody values. For example, some people hold that the death penalty legitimately expresses our revulsion at heinous crimes. Others hold that life imprisonment communicates it more forcefully. In its controversial ruling reinstating the death penalty in 1976, the US Supreme Court held that “in part, capital punishment is an expression of society’s moral outrage at particularly offensive conduct. This function may be unappealing to many, but it is essential in an ordered society that asks its citizens to rely on legal processes rather than self-help to vindicate their wrongs.”

Critics also worry about the values punishment expresses. Social classes or special interests can dominate legal systems. Using legal coercion, they impose class-specific values on others. They prevent minority values from finding expression in legal and political institutions. Finally, they hypocritically appeal to moral values to obscure unjust acts. In pluralistic societies, we should worry about whose values we coercively impose on others. For all these reasons, we need to philosophically justify the expressive view.

I begin this case by highlighting punishment’s communicative side. Punishment not only displays power, but also constitutes a relationship between persons or communities of persons. Punishment inflicts suffering, but suffering constitutes only one of its elements. Philosopher Jean Hampton illustrates this idea well with the image of an electrical fence. Like a fence, punishment administers pain, but it also marks barriers that “convey a larger message to beings who are able to reflect on the reasons for these barriers’ existence; they convey that there’s a barrier to these actions because they are morally wrong.”

For non-reasoning beings, a fence deters simply by causing pain. However, as embodied spirits with the capacity to reason, we can ask why we erect fences. We impose punishment not simply to manipulate people into changing behavior. We inflict it not merely because someone deserves it. Instead, we inflict punishment on rational beings who understand moral messages.

Some theorists liken punishment to a “kind of language intended to express disapproval.” It communicates by blaming the perpetrator for wrongdoing. Blame, as philosopher Antony Duff argues, implies disapproval of an act. It may take the form of a statement or an act. For example, I once knew a man who got drunk and unexpectedly beat his girlfriend. After the incident, I no longer associated with
him, but never verbally blamed him. My act communicated blame nonverbally, and my former friend well understood its meaning. Whatever form blame takes, it implies a negative judgment about an act or a person.\textsuperscript{20} Blaming someone also may seek a response from him. We expect him to respond negatively (even though he may not do so). We also want him to understand our disapproval. Otherwise, we do nothing more than erect an electrical fence as a mode of behavior modification. In some cases, this may be all we can accomplish, but merely erecting fences is less than ideal. Blaming should differ from behavior manipulation.

In adopting this view of blame, the expressive account affirms the person’s value. A person differs from a thing, and can freely respond to what others do. She possesses the spiritual powers of transcendence and self-possession, and exercises them to relate to others. She can understand why we punish her. Punishment’s dialogical component acknowledges an offender’s value. It also enables us to critically evaluate punishments, exposing those that merely express particular class interests. Punishment should aim not at validating them, but at affirming the moral value of all persons.

**Symbols and Offenders**

For someone to understand and respond to blame, we must express it appropriately. Punishment serves as a sign conveying moral values. It may express anger, but also contains a rational judgment about an act’s moral wrongness.\textsuperscript{21} It points to an act or the character from which it emerged.\textsuperscript{22} It announces to the offender the destructive character of his act. It may also indicate a defect in his emotional life. Suppose a court requires someone to take anger management classes after a road rage incident. The punishment indicates to the driver that he is unable to control his passions. In other cases, punishment symbolizes that someone possesses a skewed moral judgment. A thief might think robbing a bank is morally justifiable. Punishment points to his defective conception of what is good. As philosopher A. C. Ewing points out, when we punish “it is not only that the man suffers pain, but that he suffers it as a consequence and sign of the condemnation of his act by society as immoral and pernicious.”\textsuperscript{23} “Too often, we fasten onto the sign itself, mistaking it for what it signifies. We should instead focus on what punishment symbolizes.”\textsuperscript{24}

Punishment also responds to what an offense expresses. A horrible crime indicates disdain for the person’s value. It “insults us and attempts (sometimes successfully) to degrade us.”\textsuperscript{25} A rapist devalues
his victim, who becomes merely a means for asserting power and violence. He communicates that his victim is reduced in value. For example, thousands of people are raped annually in American jails and prisons. They receive the brutal message that they are worth less than others. Their rapists fail to respond properly to their value. They “incorrectly believe or else fail to realize that others’ value rules out the treatment their actions have accorded others, and they incorrectly believe or implicitly assume that their own value is high enough to make this treatment permissible.”26 The rapist indicates that he is more valuable than his victim. He is not subject to moral or civil laws, and can pursue his aims freely. He can treat persons merely as things that please him.

Punishment makes it apparent to the offender that he has committed an immoral act. It also indicates that he is of no greater value than his victim. It “not only repudiates the action’s message of superiority over the victim but does so in a way that confirms them as equal by virtue of their humanity.”27 Punishment represents moral equality in a concrete fashion. The offender can no longer embrace a distorted conception of value in an unimpeded manner. He can no longer say, “I count, but you do not.”28 He can no longer take it for granted that he is more valuable than others.

Importantly, punishing offenders also expresses moral truths. By his acts, the offender asserts a false claim about human value and “moral reality has been denied.”29 Punishment indicates that the offender has in some way been defeated. The disvalue he introduced into the world has been opposed. Punishment often conveys these moral truths indirectly. Perhaps someone commits a crime because he developed a vicious habit. Punishment places an obstacle to exercising it. Perhaps, it will frighten him from repeating his act. Or punishment may weaken powerful desires so that the offender’s “mind may be free to realize the moral iniquity of the deeds he does to satisfy this craving.”30 Hopefully it will also “pave the way for a disposition which does not abstain merely from fear of consequences.”31 It can open someone up to positive influences.

Punishment can also directly affect moral knowledge. Perhaps an offender knows an act is wrong, but has a weak sense of right and wrong. Punishment can strengthen a shaky adherence to moral norms.32 It can reawaken part of an offender’s conscience so he can repent. Punishment thus treats someone as a responsible being, implying that he is “immoral, not that he is non-moral.”33 It acknowledges that he can consciously relate himself to what is good.
Reaffirming the Victim’s Value

Punishment also sends moral messages to victims. The victims’ rights movement of the past few decades has drawn attention to victims. Punishment’s reorientation of value certainly relates to them. By punishing offenders, a community reaffirms the victim’s damaged value. He may feel devalued and lowered in his sense of value. By punishing the offender, we try to “remake the world in a way that denies what the wrongdoer’s events have tried to establish; thereby lowering the wrongdoer, elevating the victim, and annulling the act of diminishment.” Punishment symbolizes that the offender no longer exercises mastery over his victim. It makes the “relative value of victim and wrongdoer apparent.” The victim can now begin redeveloping a sense of self-value.

In particular, punishment reaffirms a victim’s value as an embodied spirit. Unjust social systems often punish to express the superiority of one class over another. They may see affirming unequal social relations as an important justification for punishment. For example, those operating Parchman Farm perhaps believed they were defending the value of whites over African Americans. However, such a valuation distorts punishment’s purpose. It should focus on our basic equality as embodied spiritual beings. It should aim at restoring a sense of this value, sometimes in the face of countervailing social considerations. Punishment should particularly reaffirm the value of victims occupying socially despised classes. For example, we should punish those in a lynch mob attacking a child-molester. No matter how much we may despise child-molesters, we should recognize their value as persons.

Undermining a Precedent

In addition to sending moral messages to victims and offenders, punishment conveys messages to a community. Punishment “is not like a private letter; it is more like a billboard on a busy street.” Through it, a political community declares that some acts are such that we should never commit them. Murder, rape, and torture all qualify for such a status. For those few inclined toward committing them, punishment might block their evil inclinations. It might dispose them to adopt a different path. In their case, punishment makes the development of morality possible. For others (the majority of citizens), punishment stigmatizes acts, and “prevents most men from even seriously considering whether they shall commit them.” The threat and execution
of punishment make certain moral responses automatic. We cannot ascertain exactly how punishment shapes habits, but “must not suppose that, because we cannot say definitely which persons are better for the moral effects of punishment, therefore no persons were the better.” Punishment publically stigmatizes heinous acts.

In a community, punishment also addresses past events. Those writing about punishment sometimes talk about “annulling” an immoral act. The philosopher Hegel famously wrote in this vein. Yet the language of annulment seems mysterious and excessively metaphysical. Someone has committed an act, it has passed, and we cannot change the past. What exactly does annulment mean? Philosopher A. C. Ewing gives some sense to it by considering how wrongdoing creates evil effects. An evil act “tends to make other acts of the same kind in the future more likely both on the part of the agent himself and on the part of others.” British philosopher Bernard Bosanquet once described this process in an abstract, Hegelian way:

A bad act has come into being. It has so far established a vicious rule, a precedent hostile to the body or soul of the community. If the rule is not to stand, is not, that is, to become with a greater or less degree of consciousness, a persistent factor and make-weight on the communal mind; ... if the evil rule is not in this sense to stand and persist, then the act or fact must be cancelled, annulled, or undone.

By condemning the act, punishment aims to prevent it from guiding future acts. The bad act no longer exerts an unimpeded power to influence action. For example, suppose we punish a torturer. Once punished, he can no longer claim without dispute that his acts were morally justified. He may stubbornly cling to his righteousness, but others now recognize that his act is morally problematic. Such conceptions of annulling torturous acts have guided countries like Argentina and Guatemala. After they suffered horrible periods of atrocity, they developed truth commission and other mechanisms to stigmatize torture.

Punishment also symbolizes that a community values all its members. If it allows weak people to be repeatedly victimized, it implicitly devalues them. The disabled, racial minorities and women often receive a negative message. Punishment signals to everyone that criminals are wrong in thinking their “victims lacked value relative to them.” For example, when living in California, I learned of a case where a 300-pound junior college football player decided to have some fun at the expense of someone weak. He and his friends got
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drunk and brutally beat a homeless man to death. The offender received a long prison sentence, thus affirming that his life had no greater worth than that of his obscure victim. By punishing, the community publically reaffirmed its commitment to value all of its members equally.

Offender versus Community Good: A Conflict?

By emphasizing punishment’s social dimensions, I risk making wrong-doers mere instruments for achieving social purposes. To rectify a disvalue, why not publically torture offenders? To send a message to those inclined toward crime, why not punish an innocent man? To reinforce positive habits, why not hang a rehabilitated inmate? Once we acknowledge punishment’s expressive dimension, we may sanction arbitrary brutality. A state-supported lynch mob, for example, expresses a community’s moral outrage at a crime. If it targets a man dangerous to the community, it sends a message to victims. It may also undermine criminal acts, preventing them from becoming precedents for future action. We seem unable to stop communities from using people merely as means to achieve positive social ends.

To respond to the danger of unjust violence, we must accentuate the person’s value as an embodied spirit. Punishment seeks to counteract devaluations of persons, and its moral limitations issue from the person’s value. Some understandings of punishment place no ethical limits on how we express moral revulsion or outrage. Yet those valuing the person cannot endorse them. As Hampton notes, we might be tempted to embrace a simple “eye for an eye, tooth for a tooth” ideal, but it sanctions horrific acts. For example, raping a rapist may make him understand the wrongness of his act. It may affirm the victim’s value, and proclaim to others that rape is wrong. Yet rape debases the offender, damaging his value as a person. We cannot punish to affirm this value while simultaneously degrading it.

Punishment cannot accomplish its aims by lowering offenders to a sub-human level. As a victim of violent crime, I may derive great pleasure by degrading my attacker. However, punishing him this way undermines punishment’s proper goals. The community undercuts its moral aims when brutalizing offenders. When it “climbs into the morel gutter with the criminal in this way, it cannot credibly convey either to the criminal or to the public its moral message that human life must always be respected and preserved.” It teaches the offender nothing morally important, inappropriately reaffirms the
victim’s value, and fails to counteract negative communal ideas and habits.

**WHY HARD TREATMENT? A KEY CHALLENGE**

Some critics of the expressive view affirm its ends but contest it means. Why, they ask, must punishment involve “hard treatment” like imprisonment?\(^5\) If it aims at morally censoring acts, why not simply denounce offenders publically? Instead of imprisonment or state-sanctioned violence, a legal system could try and convict offenders. It could then “issue an official statement of denunciation censoring” them.\(^5\) To make this point, critics point to examples like prostitution. Municipalities sometimes censor men who frequent prostitutes. They publicize their names, hoping to shame those who are married. Often, critics maintain, those shamed receive the message that their act is wrong. They feel terrible remorse for what they have done. Such cases suggest that the expressive theory moves illegitimately from moral communication to hard treatment. Yes, blame implies moral disapproval, and public censorship morally educates wrongdoers. However, we have no reason to go beyond moral censorship.

This objection presupposes a shallow view of human nature and moral knowledge. Punishment must speak to the entire person, and go deeper than verbal messages that often have little power to move people. To put it in A. C. Ewing’s old-fashioned language, punishment must “print indelibly” on the offender’s consciousness “the iniquitous character of certain acts.”\(^5\) Verbal condemnation alone will do little to accomplish this goal. Instead, we must disrupt the offender’s freedom to satisfy her desires.\(^5\) We must powerfully communicate that she has transgressed a moral boundary. By thwarting the offender’s desires, we indicate the boundary’s significance. The offender has *acted* to devalue others, and we must *counteract* to deny this immoral message.\(^5\)

Initially, disrupting an offender’s desires may fail to convey a moral message. He may view punishment as naked force, but this can serve as a first step toward moral understanding.\(^5\) A message can fail to reach its recipient either because it is poorly conveyed or because the recipient refuses to accept it. A person habitually committed to criminal acts has often passed the point where he will listen to verbal denunciations alone. Time may need to pass before he begins to understand the immorality of his acts. Punishment’s hard treatment makes rejecting its denunciation difficult. In fact, “the pain and coercion involved in punishment present the law with much greater impressiveness than can, for the mass of people, be gained from mere admission that
the law is binding.”

Brute force without moral condemnation treats people like animals incapable of moral response. Denunciation alone fails to convey moral seriousness. Thus, punishment must contain both elements.

Hard treatment also reaffirms the victim’s value. To communicate with him, punishment must adequately represent the act that degraded him. A “plain unvarnished injunction, with no sanctions attached is, will be regarded as just a pious exhortation.” Suppose someone viciously assaults another person. Political authorities should certainly publically denounce him through a legal or political process. However, denunciation alone hardly suffices to reaffirm the victim’s value. He must see that the perpetrator confronts hard treatment thwarting his desires. Otherwise, the victim may understandably conclude that his attacker has been right in his devaluation of him.

Those conveying a moral message to the victim, however, cannot permit victims to craft or administer punishment. Instead, a legal system must carefully select appropriate symbols to vindicate the value of those harmed. In a concrete way, they must represent a defeat of the wrongdoer. Punishment’s form depends on the particulars of a legal system and culture. We can develop guidelines for punishment so we avoid denigrating human value. We can decide that some punishments do too little to reaffirm the victim’s value. Finally, we can point out that excessively emphasizing hard treatment obscures punishment’s moral message. However, beyond these basic parameters we should allow for considerable diversity in ways of vindicating a victim’s value.

Punishment must also employ hard treatment to express its message to a community. To prevent an evil act from becoming a precedent, we should associate it with “the more tangible stigma of a definite punishment.” Suppose the government denounces an assailant and demands he pay monetary restitution to his victim. He may simply ignore this denunciation, refusing to participate in legal proceedings. Or he may view restitution as the cost of doing business. Others may follow him, seeing assault as a legitimate means of pursuing their goals. To undermine this moral precedent, authorities must make punishment concrete. Hard treatment symbolizes an act’s immorality even to the most morally insensitive people. It is the “most unmistakable language that authority can speak to the imagination.” A community witnesses that the offender has lost something significant. It vividly understands that the evil act cannot be a precedent for future wrongdoing.
To exercise power over habits in a community, punishment must often take dramatic forms. Young people may be developing habits, and punishment’s vivid embodiment can help form good ones. Others may have weak habits, and the example of hard treatment prevents their deterioration. Sadly, for some, hard treatment serves merely as a deterrent. However, punishment never rests at this goal, always inviting those witnessing it to a greater moral understanding. In most cases, we can’t precisely measure how hard treatment shapes habits. It exerts a hidden influence that becomes apparent only when disorder erupts.

To summarize, we need hard treatment to send moral messages to offenders, victims, and the community. In limited cases, public denunciation alone might effectively thwart an offender’s desires. Hard treatment serves as a blunt instrument for communicating moral messages, and we should avoid employing it excessively. American society criminalizes so much conduct, and our broken and unjust system cries out for creative ways to send moral messages. Restitution for victims, community service, electronic monitoring, and a host of other sanctions can convey moral disapproval. Nevertheless, many criminal offenses reflect distorted habits, and denunciation alone is unlikely to help offenders see the wrongness of their acts. Furthermore, denunciation insufficiently conveys to the victim that he is equally valued. Finally, without hard treatment, punishment fails to vividly respond to evil acts. We need to disavow them with tangible responses.

**Expression and Moral Freedom: Avoiding Coercive Rehabilitation**

By sending moral messages to offenders, however, we may sanction dangerous intrusions into the personality. In the 1960s and 1970s, critics on the American political left leveled powerful criticisms of the ideal of rehabilitating criminals. They held that twentieth-century social scientists embraced a host of human engineering approaches to crime. Throughout the Cold War, prisoners were subjected to government-sponsored behavior-modification experiments. For some penal authorities, psychology held the key to transforming inmates into good citizens. For example, in a well-known book in the 1960s (*The Crime of Punishment*), psychologist Karl Menninger proposed replacing the idea of crime with mental illness. He held that lawbreakers are sick people needing therapy. Critics pointed out how Menninger’s approach warranted deep intrusions into the
human personality. Their critique serves as a warning to anyone who enthusiastically promotes rehabilitation.

The expressive approach avoids intrusive coercion by emphasizing punishment’s responsive character. When communicating a message, we cannot demand that someone responds to it. Offenders are not sick people needing treatment, but responsible moral agents capable of reacting to moral messages.69 At some level, they can understand the moral nature of their acts. However, punishment also leaves open the possibility that they might reject a message.70 In either case, criminals remain free beings capable of shaping their responses to others.

Because the expressive view acknowledges this freedom, it also adopts modest expectations about character change. Historically, rehabilitation approaches often promised to cure criminals and confidently predicted results. Through parole and other mechanisms, they tried to manipulate inmates into changing behavior. When change failed to materialize, critics (particularly on the political right), proclaimed that “nothing works.”71 They legitimately pointed out how rehabilitation often failed. They recognized that someone’s behavior in captivity may indicate little about that person’s conduct once it ends. Rehabilitation seemed far more difficult than its many proponents predicted it would be. As a result, many Americans unfortunately abandoned any interest in changing offenders. They turned to the draconian policies characterizing our contemporary penal system.

The expressive view refuses to abandon the hope of moral change, but recognizes obstacles to moral communication. It focuses not on empirical research about effective programs, but on a conception of the human person. The person may reject a moral message for many reasons. She may see the messenger’s authority as oppressive or illegitimate. She may hold philosophical or religious beliefs that conflict with those of her captors. Finally, she may be simply too immature to understand the wrongness of her act. Blaming others for her mistakes, and unwilling to take responsibility for her crimes, she remains unreceptive to a moral message. Despite these obstacles to moral knowledge, the expressive view still holds that offenders can change their outlook and behavior.

The expressive view also recognizes the limited power of hard treatment. It cannot bring offenders to “heel by crushing and abasing their recalcitrant wills.”72 Otherwise, it abandons communication, and expects no response from offenders. Excessive cruelty may “turn men into puppets who are creatures of their manipulators.”73 For example, by torturing its prisoners, the Parchman Farm prison treated them as beings incapable of moral responses. Similarly, punishment
cannot automatically reform prisoners because each person responds differently to suffering. Some find meaning in it, while others see it as pointless. State agencies have little knowledge of offenders’ inner lives and possess scarce resources with which to influence them. They are in a limited position to understand how individuals will react to suffering. Finally, we cannot crudely think that pain always motivates moral change. It may stop some from offending, but cannot by itself compel them to change their moral understanding. It may produce temporary personality changes that disappear when hard treatment ceases.

The expressive view thus recognizes that moral modification may not materialize. Punishment is only “one among a number of influences which, in combination, can work moral change.” It will hopefully bring about change if it addresses the person as a moral being. Change requires that both authorities and offenders act. Offenders must freely engage the moral message they receive. They must also recognize the authority of those punishing them. Authorities must refrain from the powerful urge to brutalize others. They must institutionalize policies that recognize the person’s humanity.

We cannot precisely pinpoint how offenders will exercise freedom. They can be duplicitous and feign moral reform. They can make moral progress, only to fall back on previous bad habits. They may recognize the limited authority of the state’s right to punish them. They may initially reject it, but gradually see its importance. Finally, offenders may take a moral stance against those punishing them. Engaging in acts of resistance like the hunger strike at Pelican Bay, they repudiate the state’s moral message. The expressive view acknowledges such freedom and recognizes that some offenders embrace different conceptions of the good.

In sum, unlike programs in the rehabilitation age, the expressive view exhibits modesty about its goals. Focusing on human habits and freedom, it yields skepticism about quantifying moral change. The expressive view recognizes the role that coercion plays in human life, but upholds the person’s value by acknowledging human freedom. Finally, it rejects the cynicism pervading many contemporary approaches to crime. In its place, it retains hope that punishment can change people.

**Expression and Deterrence**

Because punishment communicates to victims and the community, it can deter criminals. However, the expressive view differs from deterrence views in key ways. With deterrence, we aim to stop an
offender from reoffending or try to deter others from imitating him. Many deterrence theories pay little attention to the offender’s moral development. Instead, they use pain or social disincentives to shape behavior. To return to Hampton’s image, deterrence proponents merely build electrical fences. Rather than seeking a response from offenders, deterrence advocates manipulate behavior to achieve positive social goals.

A deterrence proponent might object that he includes moral development in his punishment calculus. Yet he must explain why communicating to the offender is so important. Suppose we could bypass communication altogether, and curtail crime by painful sanctions or extreme behavior modification. We would then have no need to consider an offender’s moral response. The deterrence theorist faces difficulties demonstrating why we value moral development. It occurs slowly, and seems like a waste of resources. To efficiently reduce crime, we would be better off ignoring the offender’s moral character entirely.

Deterrence theorists also must explain why we shouldn’t punish the innocent. Some accept the idea of punishing the innocent, but most recognize its horror. They sometimes maintain that such punishment is only a fictional possibility. Or they argue that if we attack the innocent, we undermine confidence in the law. If everyone knew they could be punished without offending, we would live in anxiety and fear. For these and other reasons, some deterrence theorists refuse to harm the innocent.

Whatever the merits of these arguments (and I find them unpersuasive), the expressive view avoids the perils of deterrence. It justifies punishment by embracing the person’s value as an embodied spirit. It aims to communicate it to the offender, victim, and community. By attacking innocent people, we use them merely as a means to the end of deterrence. We show utter disdain for their transcendence, self-possession, and creativity. We can pursue deterrence only within the moral boundaries set by the person’s value. If the offender fails to grasp a moral message, deterrence might be a useful side-benefit. However, this is an imperfect outcome, a sad concession to human freedom and corruption.

Perhaps, however, the expressive view warrants punishing the innocent in order to promote moral development. We find many acts morally problematic, but think the state should refrain from punishing them. People might “merit censor for telling offensive jokes, cheating on their boyfriends, girlfriends, or spouses, playing practical jokes at funerals, and so forth.” The expressive view seems to legitimize punishing them for these offences. It appears to extend punishment’s web
into inappropriate places. Although morally culpable, for example, a Holocaust denier in the United States breaks no law. Nevertheless, maybe we should punish him in order to send moral messages to the offender, Holocaust victims, and the community. Yet we would be punishing a legally innocent person. The expressive view thus seems to succumb to a common argument that we find marshaled against deterrence theories.

This argument illegitimately detaches an expressive view from ethical and political principles. Some thinkers like Antony Duff develop an expressive view in the context of political liberalism. Liberalism places well-known limits on the law’s range. We can also defend expressivism with other kinds of political philosophy. For example, philosopher Yves Simon develops a conception of authority and government grounded in Thomas Aquinas’s work. He offers persuasive reasons for resisting government’s excessive power. For example, we can defend the value of free speech, arguing that it develops a person’s personality. It might support allowing robust free speech rights. Or perhaps we think criminalizing hate speech endangers liberty. In both cases, we can justifiably oppose punishing Holocaust deniers. The government could publicly condemn them, but refrain from using hard treatment. We can endorse punishment’s pedagogical role without embracing intrusive interventions into personal and social life. The critic of expressivism thus falls prey to a faulty slippery-slope argument. The expressive view, she holds, automatically leads to dangerous government intrusion. Yet we have no reason to endorse such sloppy reasoning. We can communicate moral messages while simultaneously limiting punishment’s range. Ethical/moral principles and prudential judgments provide guidance for how punishment should express moral values.

**THE ADVANTAGES OF AN EXPRESSIVE APPROACH**

The expressive approach thus holds distinct advantages over other justifications of punishment. Like pure retributive views, its looks to the past, holding offenders responsible for their acts. Yet it avoids retributivism’s pitfalls. Pure retributivist views often cannot explain why wrongdoers should suffer, particularly at the hands of the state. To respond to this problem, the expressive view looks forward to punishment’s moral message. It symbolizes an immoral act or a moral disorder within the offender. To the victim, it undermines the negative message he has received. Finally, to the community it indicates that a moral wrong cannot provide a precedent for future acts. By
emphasizing communication, the expressive view goes beyond the simple intuition that wrongdoers deserve to suffer.

The expressive approach also holds advantages over deterrence views. It refuses to manipulate persons in order to reduce crime. It gains its justification not by promising measurable and unrealistic results, but by focusing on the person’s value. Because the expressive view acknowledges human freedom, it also recognizes significant limitations on punishment’s scope and intensity.

**Conclusion**

Crime and punishment elicit powerful emotional responses from offenders, victims, and the community. Rather than mere physical happenings or nonrational sensations, emotions communicate values. Those committing violent crimes devalue their victims. They also present moral examples for others to emulate. Punishment responds to these distorted messages. To the offender, it symbolizes internal disorder by denouncing his act and administering hard treatment. To the victim, it reaffirms his value as a spiritual being, disavowing his victimizer’s perverse moral message. To the community, punishment signals that others should refrain from committing evil acts.

This justification of punishment represents an ideal that differs drastically from the reality of punishment in the United States. In fact, our current system falls short of any of the standard philosophical justifications of punishment. High recidivism rates make a mockery out of claims that punishment deters or rehabilitates offenders. Unofficial brutality, isolation, overcrowding, and sexual assault suggest that Americans are comfortable with degrading inmates. Inmates in US jails and prisons often receive the message that they are worthless people forever branded by their offenses.

In applying a philosophy of punishment to contemporary life, we thus confront a huge gap between theory and practice. An expressive view clarifies what should be punishment’s aim. It establishes ethical parameters grounded in the person’s value. However, to use it to illuminate contemporary life, we must carefully analyze current penal practices. In the next chapter, I will contribute to this task by considering the expressive justification for solitary confinement.
Chapter 5

Should We Banish the Wicked?
The Ethics of Solitary Confinement

On the one hand, the various declarations of human rights and the many initiatives inspired by these declarations show that at the global level there is a growing moral sensitivity, more alert to acknowledging the value and dignity of every individual as a human being, without any distinction of race, nationality, religion, political opinion or social class. On the other hand, these noble proclamations are unfortunately contradicted by a tragic repudiation of them in practice. This denial is still more distressing, indeed more scandalous, precisely because it is occurring in a society which makes the affirmation and protection of human rights its primary objective and its boast.

Pope John Paul II

On June 19, 2011, David Laffer entered a pharmacy in the town of Medford on New York’s Long Island. Intent on stealing painkillers for himself and his wife, he started a conversation with the pharmacist. After saying a few words, Laffer took out a gun and shot the pharmacist in the abdomen. He then shot the pharmacist’s wife and pumped more bullets into the pharmacist. He also shot and killed two of the customers in the shop. One of them was a 71-year-old man whom Laffer shot in the back of the head. He then calmly filled a bag with painkillers, wiped the pharmacy counter clean, and left the building.

Laffer was captured, convicted of four counts of murder and sentenced to four consecutive terms of life in prison. At his sentencing,
Judge James Hudson described Laffer as a person with “unnatural viciousness.” He angrily promised to place him in solitary confinement for the rest of his life. Corrections officials pointed out that they held sole responsibility for deciding how to incarcerate someone. Nevertheless, the judge expressed an understandable moral response to a horrific crime. For many people, life in solitary confinement seems appropriate for someone like David Laffer. It expresses our righteous revulsion at the brutal murder of four innocent people.²

In this chapter, I explore this expressive justification of solitary confinement. First, I briefly note official defenses of solitary confinement based on its positive consequences. Describing critical reactions to them, I argue that they are promising but incomplete. Second, I present the argument that solitary confinement legitimately expresses moral disapproval. I focus particularly on how penal architecture and restrictions on creativity convey moral rejection to inmates. Third, I evaluate the expressive justification of solitary confinement. I note first that many in solitary are guilty of minor offenses. I then consider the difficult issue of punishing those guilty of heinous crimes. Solitary, I maintain, constitutes an illegitimate means of moral expression because it diminishes an inmate’s inherent dignity. Fourth, responding to puzzles about dignity, I distinguish between inherent dignity and dignity as a quality. Inmates can display or diminish dignity as a quality, but cannot lose inherent dignity. I also maintain that our spiritual capacities conceptually link inherent dignity and dignity as a quality. Finally, I argue that we cannot easily generalize about dignity in prisons. Too often, we make facile judgments about inmates that reveal profound ignorance of their lives.

THE UTILITY OF SOLITARY CONFINEMENT: AN EMPIRICAL ASIDE

Corrections officials often defend solitary confinement by making empirical claims. Three in particular appear prominently in contemporary discussions. The first points to how solitary reduces violence within institutions. It removes disruptive inmates from general population, and makes life less violent for others. With a supermax facility, maximum-security prisons can send disorderly inmates away from their institutions. Departments of Corrections can target specific resources toward controlling the most troublesome inmates. The second empirical justification for solitary focuses on deterrence. By using and threatening to use segregation, prison administrators deter general population inmates from breaking rules. Confronting the
Should We Banish the Wicked?

prospect of brutal isolation, they will think twice before creating disorder. Finally, those defending solitary maintain that it reduces prison gang activity. In the past few decades, prison officials have confronted sophisticated and dangerous gangs. With solitary, officials can remove gang members from general population, thus preventing them from influencing other inmates.

Surprisingly, few scholars have seriously examined these empirical claims about solitary confinement. This is partly because they confront difficulties doing research in prisons. They are closed institutions, and many scholars have little access to them. Sometimes they make uncomfortable compromises to gain entrance or end up enthralled with wardens or inmates. As a result, their work lacks empirical validity. If scholars find their way into prisons, they confront a host of challenges. Prison authorities and inmates may be uncooperative, withhold the truth, or even lie. Consequently, researchers are often reluctant to undertake major studies of solitary confinement.

Nevertheless, the sophisticated studies we possess question the soundness of empirical justifications for isolation. For example, Daniel P. Mears conducted several extensive investigations of supermax confinement. He carefully explored several state systems, and surveyed numerous corrections officials. Inmates, he notes, often respond to solitary confinement based on their perception of prison authority. If they see it as illegitimate, solitary may have little effect on curbing violence. Variations in this perception render it difficult to generalize about solitary’s effectiveness. Mears concludes that we lack sufficient evidence to know how much violence solitary prevents. Similarly, investigating the California system, Shalev casts doubt on whether solitary reduces gang activity. By isolating gang leaders, she suggests that corrections officials may create leadership vacuums that increase gang violence. Leaders provide stability, and once they disappear, others may violently pursue power. Jesenia M. Pizarro and Vania M. K. Stenius question whether solitary reduces inmate-on-inmate violence. They also note that many solitary inmates are released back into society without any transition. They worry that this practice poses safety hazards if psychologically damaged inmates cannot cope with their new situation. Former inmates may harm others, and end up back in prison. Overall, Pizarro and Stenius suggest that the costs of solitary confinement outweigh its proposed benefits.

Despite these promising studies (whose results I find persuasive), we should be cautious about large empirical generalizations about solitary’s effectiveness. The complexities involved in studying so many institutions in so many states are staggering. As Daniel P. Mears
and Jamie Watson note, “no solid empirical foundation exists to say” that the supermax prison as an institution is “either effective or ineffective.” To empirically generalize about tens of thousands of inmates, we would need greater access to penal institutions. We would have to consider numerous factors affecting prison order. We would need full knowledge of local factors shaping prison violence. When wardens or others make empirical claims, critics of solitary often undermine them. They effectively counter unsubstantiated generalizations about solitary’s effectiveness. Those opposed to solitary should offer further ethnographic and empirical studies. However, when they go beyond them to make large empirical generalizations, they risk making problematic judgments.

Philosophically, I have reasons for deemphasizing empirical studies of solitary’s effectiveness. We should evaluate solitary’s impact on prison violence, and I don’t gainsay the empirical work that researchers conduct. However, by making it central we move in the direction of ethical consequentialism. It holds that we should evaluate an act’s morality by considering its consequences. We make moral decisions by calculating good and bad consequences. For reasons I have presented in other works, I reject this form of ethical reasoning. Consequentialism requires an empirical knowledge of consequences that few possess. Moreover, it cannot measure immaterial spiritual realities like transcendence, self-possession, and creativity. Consequentialism also confronts ethical difficulties with immoral acts. It cannot explain why we should refrain from executing the innocent in order to promote social or political goals. Consequentialists often claim that they can resist killing the innocent, but I find their arguments defective. Finally, even if we could demonstrate that solitary maintains prison order, I would still oppose its use. A policy can be effective but immoral. For these reasons, I avoid focusing exclusively on the consequences of solitary confinement.

**Banishing the Wicked**

Although scholars debate solitary’s empirical consequences, many people hold a more expressive view of this practice. They think that those guilty of terrible crimes are no longer fit to remain in human society. Living among others outside or inside prison requires us to adhere to minimal moral standards. Those who murder, rape, or torture violate those standards, and we can legitimately banish them from our presence. Unless we employ the death penalty, solitary confinement constitutes society’s ultimate punishment.
By isolating heinous criminals, we send a moral message to them, to victims, and to the community. Those who commit horrible crimes display disordered personalities unresponsive to normal forms of persuasion. Unless we take drastic action, we are unlikely to change them. Isolation is a radical means of communicating moral disapproval. For the victim, it symbolizes society’s recognition that he has been devalued. We show solidarity with the victim by refusing to associate with the victimizer. Finally, solitary confinement provides a tangible message to a community. It indicates publically that we are willing to resist evil acts. It locates them at society’s outer fringe, dissuading everyone from even considering their moral legitimacy.

Sending these messages is particularly important within penal institutions. Like other societies, “the society of captives” (to use Gresham Sykes’s memorable phrase) operates according to social norms. Those who violate them can no longer remain in society. Segregation forces them to understand the minimal rules governing the institution. It also indicates to other inmates that authorities will penalize predators. Finally, segregation sends a message to a community filled with those inclined toward criminality. For example, corrections officials must immediately isolate inmates who attack staff members. Segregating them indicates to all inmates that the institution will tolerate no violence against staff.

On this view, we should admire rather than condemn architects who design institutions of isolation. They perform a grim task that few are willing to undertake. They carefully communicate messages of exclusion to heinous criminals. Nineteenth-century architects, on this reading, may have erred in predicting that architecture would morally transform offenders. Yet they correctly recognized that architecture communicates moral messages. They failed to rehabilitate inmates, but most prisons experience similar failure rates. Nineteenth-century theorists showed that prison architecture may change at least some recalcitrant inmates.

Perhaps we should also commend those who deny creative outlets to heinous criminals. Music, art, and reading should be privileges we grant only to those who cooperate with authorities. The arts reveal our common humanity and invite us to participate in a good. Cultural objects are public goods, and sharing them can lead to a remarkable community. By their acts, vicious criminals separate themselves from the human community. We symbolize their separation by blocking access to the arts. Deeply corrupted persons can only pervert aesthetic values, and we honor these values by keeping inmates away from them.
Finally, for some people the temporal dislocation solitary inmates experience seems morally legitimate. Clocks and other forms of time measurement link persons to communities of memory and value. Murderers and rapists rupture them, scarring others and distorting their memories. It seems particularly appropriate that we deny them access to time measurement. Heinous criminals should live alone with their tortured memories. Their temporal dislocation mirrors their spiritual disorder and symbolizes their self-willed alienation from others.

The expressive conception of punishment thus suggests that solitary confinement constitutes an appropriate punishment for heinous criminals. Many people pay little attention to intricate empirical debates about prison order. However, they experience a legitimate revulsion against horrible crimes. Solitary confinement conveys this revulsion to the offender, victim, and the community.

THE POPULATION IN SOLITARY: AN INCONVENIENT FACT

The expressive justification for solitary confronts initial difficulties because of the population in segregation and supermax units. Many people believe that we reserve them for the “worst of the worst.” However, this is far from the reality of American solitary. Scholars often note that segregation and supermax units house those violating institutional rules. They “are not those who committed the worst crimes in society, but those whom correctional staff members deem as threats to the safety, security, or orderly operation of the facilities in which they are housed.” The Florence Correctional Facility in Colorado incarcerates some of the nation’s most notorious criminals. Judicial officials often send inmates to the facility directly after their sentencing. Yet these federal inmates represent a minority of those in solitary. Among state and local inmates, we find some heinous and violent criminals. More commonly, however, inmates receive segregation sentences for offenses like insubordination, drug use, inappropriate behavior toward staff, writing allegedly subversive essays, possessing contraband material, and alleged gang affiliation. This is hardly the stuff of the “worst of the worst” image. Additionally, many mentally ill inmates end up in solitary. Courts have intervened to prevent them from serving time in segregation, but jails and prisons still isolate many mentally ill people. Tasked with dealing with unruly or dysfunctional inmates with mental disorders, officials control them through solitary confinement.

Scholars also note the controversial and arbitrary procedures that place inmates in solitary. For example, in the late 1990s juveniles and
mentally ill inmates were sent to the supermax prison in Boscobel. Some had histories of mental illness, and were sent to solitary for disruptive behavior. It took the *Jones* v. *El v. Berge* case to address this issue, but it failed to completely end the policy of confining the mentally ill in solitary. Perceptions of an inmate’s background also heavily influence who ends up in segregation. For example, Rhodes explores how officials make controversial decisions about mental illness that determine who resides in solitary. Some inmates are labeled as mentally ill and receive treatment. Others are deemed psychopaths incapable of rehabilitation, and find themselves in isolation for years. Finally, Shalev discusses the dubious classification system at Pelican Bay. Authorities send some to solitary because they violate minor institutional rules. Once in solitary, they remain there for years with little hope of exiting.

Those guilty of rule violations may have little recourse for appeal. Many penal institutions proudly proclaim their commitment to due process. However, procedural safeguards rarely operate in an inmate’s favor. Pelican Bay features one of the most problematic review systems. As I previously noted, some alleged gang members face a “snitch, parole or die” option. They are placed in solitary for gang affiliation, often on the basis of judgments about their character or behavior. To exit solitary, they must complete detailed debriefing documents implicating other gang members. They must also renounce their gang membership and demonstrate that they can get along with others. This system puts inmates in a dangerous situation once they return to general population. Understandably, many “choose” to remain in solitary rather than risk their safety in general population.

Overclassification also populates segregation units with minor rule offenders. It occurs when penal systems fill supermax prisons with inmates who don’t belong in them. Throughout the United States, states build supermax facilities and segregation units at great expense. Once they exist, officials are tempted to fill them. For example, commenting on Boscobel in its early days (prior to the *Jones* case), Jerry R. Demaio noted that overclassification “is counterproductive to prisoners, to the corrections system and to the taxpayers who finance it. Simply put, overclassification can have consequences that extend beyond the effect on the individual prisoners.” Demaio described how inmates were transferred to Boscobel on vague charges of “gang involvement.” Some state systems have addressed such problems in their classification system. However, in others, overclassification remains a serious problem. Supermax prisons are expensive and prisons are overcrowded. These dynamics often pressure authorities to overclassify.
To summarize, we can’t think that all inmates serving time in solitary are violent criminals. Instead, they are frequently those who violate prison rules, and end up cycling in and out of solitary. Classified as troublemakers by authorities, they sometimes remain in solitary for a long time. With subjective and flawed review processes, we can have little confidence that all solitary inmates are truly dangerous.

**Violent Criminals: A Serious Problem**

Nevertheless, supermax and segregation units do incapacitate violent criminals. Some commit terrorist and other violent acts. The federal government incarcerates criminals like Ted Kaczynski in solitary in the Florence supermax. Others who might be subjected to solitary confinement are mass murderers or serial killers. Because of their notoriety, some live in protective custody. For example, Gary Ridgeway brutally murdered at least 49 women. When he was caught and convicted in 2003, he evaded the death penalty by helping authorities locate his victims’ bodies. For safety reasons, he was placed in solitary in Walla Walla’s “Intensive Management Unit” in Washington State. After some years passed, his attorney reported that “He’s by himself in a small cell with no windows and no human contact” and “has four days a week where he gets one hour out by himself. He can take a shower or make collect phone calls to his brother or whoever.”

For many people, this existence seems appropriate for such a profoundly evil man.

Penal institutions also isolate violent inmates who harm others. They include those who murder, assault, or rape other inmates and staff members. They endanger other people’s lives, and cannot remain in general population. For example, in 1978 at the age of 15, Willie Bosket murdered two people on a New York City subway. Since the age of nine, he had been in and out of juvenile facilities. He committed numerous violent acts against people in New York City. He was disruptive in court, and rejected efforts to provide him with educational and other opportunities. Because he was a juvenile, Bosket was sentenced to only five years in prison. Public outrage erupted, and New York State passed a law allowing juveniles to be charged as adults (one of the first in the country, sadly common today). Once he was released, Bosket continued his crimes. He was arrested, and New York State charged him as an adult. Convicted of assault and other crimes, he received a long prison sentence. While incarcerated, Bosket presented a significant danger to staff. He stabbed a prison
guard and assaulted others. Officials eventually placed him in solitary confinement, where he has remained for many years.16

Perhaps inmates like Willie Bosket deserve to be isolated from others. Immune to moral suasion, they seem to respond only to harsh treatment. For 20 years, Bosket was restricted to a small cell. He had no communication from staff, and was allowed limited time outside his cell. He could receive only in-cell visitations. In a 2008 interview with a New York Times reporter, Bosket seemed like a shriveled person. Yet a corrections official pointed out that “there are consequences for being violent in prison.”17 Bosket had committed no disciplinary offense for 14 years, but had previously racked up more than 250 offenses. Solitary confinement expressed moral disapproval to him, his victims, and the prison community.

Prison staff members often emphasize the importance of isolating disruptive inmates. Teachers, psychologists, nurses, doctors, psychiatrists, and chaplains cannot function in an environment marked by violence. When it erupts, they are reminded that their work requires minimal order. Sometimes, staff members confront violence directly. For example, in 1974 inmates at the Huntsville Prison in Texas led by Fred Carrasco took 11 people hostage, including teachers, a chaplain, and librarians. Inmates held them for 11 days, and then attempted to escape with a makeshift shield known as the “Trojan Horse.” Two of the three hostage-takers were killed by authorities. During the escape attempt, the inmates killed two hostages. Those who underwent this ordeal later commented about how it shocked them. They were teachers and librarians who helped hundreds of inmates gain education. Most of their students exhibited no violence at all. Most of them desperately wanted to better themselves. However, a small and disruptive minority undermined these efforts at self-improvement.18

By viewing solitary confinement as a means of moral expression, we follow a long tradition of seeing some people as outlaws. Prior to the rise of the modern prison, many societies banished deviants from their midst. Banishment often included elaborate rituals that symbolized exclusion from the community. In an intriguing article, Antony Duff explores (and rejects) the idea that we should banish pirates, outlaws, and terrorists. Perhaps we should hold that “someone who persists in committing crimes that flout the most basic bonds of community should in the end be seen to have excluded himself.”19 On this view, heinous criminals voluntarily remove themselves from the moral order. Through violent acts outside and inside prison, they put themselves beyond the law’s protection. Life in community entails moral obligations. Those who undermine them can no longer participate
in communal life. We don’t have limitless obligations to develop community. Fostering a community with some offenders requires a minimal level of mutuality. They deny it, and therefore their exclusion symbolizes their self-willed isolation.

This argument about mutuality and community presents a powerful challenge to those opposing solitary confinement. Many inmates in solitary are not heinous or vicious, but such inmates do exist. They commit crimes that separate them from any community. Moreover, they show no remorse and no interest in reconciliation. It seems remarkably naïve to think we can communicate morally with them. Those promoting moral respect for all people seem to foster foolish convictions about human equality. Their ideas fall apart at the appearance of radical evil. Perhaps we should honestly admit that we can no longer associate with some people.

**Psychopaths and Isolation**

In deciding to banish some people, we might use contemporary psychological tools. Psychologists and criminologists have long dreamed of developing a perfect test that would predict future violence. For example, many nineteenth- and early-twentieth-century Europeans were inspired by Cesare Lombroso’s theories of crime. Lombroso (an Italian criminologist) held that criminals had unique facial features that distinguished them from non-criminals. Similarly, in the 1970s researchers at the University of California at Los Angeles (UCLA) proposed opening a “violence center.” Embracing an interdisciplinary approach to violence, it would identify its biological causes. Led by controversial researcher Louis Jolyon West, those at the center promised to drastically reduce violence. They provoked a storm of controversy after proposing to administer a violence test to black and Latino school children. Their research proposals also hinted at the possibility of psychosurgery. The Black Panther Party and other organizations protested the opening of the new center. They eventually forced UCLA to close the proposed violence center. The UCLA effort at violence reduction was just one of many twentieth-century attempts to identify criminality’s biological origins.20

Adopting this biological approach to crime, some contemporary penal institutions employ tests like the psychopathy test (PCL-R). Developed by psychologist Robert Hare, it purportedly reveals a personality type immune to normal moral reactions. The test measures qualities like remorse and empathy, and holds that some people weakly exhibit them.21 Used in some US prisons, it affects parole, treatment,
and other aspects of an inmate’s life. Those scoring high on the PCL-R have few opportunities for treatment or parole. A psychopathy diagnosis may also incline authorities to seek the death penalty. Hare has expressed worries about how penal institutions use his test. Other researchers question its reliability, and hold that wardens and prosecutors misuse it. Nevertheless, states continue to employ the PCL-R.

The psychopathy diagnosis provides a useful means for deciding whom to isolate. Psychopaths are supposedly manipulative people who rarely respond to psychological treatment. Approaching them with empathy fails because they lack it themselves. Seeking to communicate with them as moral beings falters because they lack basic moral values. They cannot participate in a community because they exclude themselves from it. For such people, solitary seems an appropriate fate.

**Do Heinous Criminals Have Dignity?**

Confronting this powerful justification for solitary confinement, we might insist that even psychopaths have moral dignity. It should bar us from putting them in solitary because dignity places moral limits on how we punish. Cruel or torturous acts offend dignity. For example, we feed even the most violent criminals. Many of us would reject a policy that slowly starves mass murderers. It would offend our sense of value and dignity, no matter what we think of someone’s moral character.

Arguments about dignity appear often in contemporary ethics. However, some thinkers reject them entirely. For example, bioethicist Ruth Macklin decries dignity’s frequent appearance in bioethical debates. Provocatively, she calls dignity a “useless concept.” She holds that it amounts to no more than respect for persons or the value of autonomy. In public disputes, Macklin argues, dignity is a hopelessly vague idea that people use in contradictory ways. Linguist Stephen Pinker goes even further, declaring that dignity is a “stupid” concept. It “is a squishy, subjective notion, hardly up to the heavyweight moral demands assigned to it.” For Pinker, dignity is relative to individual’s perception. One person holds that suicide is undignified while another thinks it constitutes “death with dignity.” Moreover, Pinker argues that people use dignity to deny other people their rights. If I think I have a right to die, I will resent your claim that dignity forbids suicide. For Pinker and Macklin we are better off jettisoning the concept of dignity, and replacing it with other ethical ideas.
Even those using the idea of dignity find it puzzling. For example, they question the language of diminishing dignity. If we all have dignity, how can we diminish it? It seems odd to say that solitary confinement destroys a property we cannot lose. Similarly, people demand dignity but simultaneously claim to already possess it. Others hold that we must achieve or earn dignity. To them, it seems absurd to say that a serial killer possess dignity. For these reasons, some people shy away from using the concept of dignity.²⁵

Contemporary critics of human dignity express valid concerns. Dignity has become part of international law since World War II. Many writers describe how the horrors of that war led people to adopt the language of dignity.²⁶ It has played a pivotal role in ethics in the past 70 years. However, people often fail to explain why we possess dignity. Moreover, some contemporary intellectuals deny that human persons have dignity at all. Or they hold that value originates in social contracts or conventions. Yet people still retain vague ideas about dignity. Macklin, Pinker, and others thus legitimately demand philosophical justification for a controversial idea.

Unfortunately, they also display considerable confusion about dignity. They fail to distinguish between imputed dignity, inherent dignity, and dignity as a quality. Imputed dignity exists when we ascribe dignity to people using social, physical, or other categories. For example, someone might hold that a dignified person has proper table manners. In American society, inmates lack imputed dignity.²⁷ Once someone is incarcerated, she becomes an object of derision and disrespect. A negative perception follows her long after her incarceration ends. On the other hand, inherent dignity belongs to persons qua persons. They possess it no matter what society thinks of them or no matter how they behave. If inherent dignity exists, inmates possess it despite their lack of imputed dignity. Finally, dignity as a quality depends on character or behavior. Through their actions, people can develop or diminish it. Some inmates display dignity as a quality while others exhibit little of it.

Human beings possess inherent dignity because they are embodied spirits who can exercise transcendence, self-possession, and creativity. Our spiritual qualities distinguish us from things. They allow us to transcend matter, individual circumstances, and cultural restrictions. The ground of dignity lies not solely in our reasoning capacities but also in our embodied spirituality. It includes both intellectual and affective powers. They are irreducible to reason alone or autonomy (however we understand these complex terms). Creativity is a particularly important ground for affirming inherent dignity.
With music, art, and architecture, we create objects that are neither purely physical nor purely mental. They require us to unite a material substrate with mental objects to form a new object. This spiritual capacity reveals an important ground of inherent dignity.

Importantly, people retain inherent dignity even when they don’t exercise their spiritual capacities. Someone may be incapacitated and unable to display her spiritual powers. For example, a person in coma appears not to manifest self-possession, but still retains it. To use the technical language of contemporary analytic philosophy, our dignity requires dispositional rather than occurent powers or properties. Occurent powers or properties are ones we actualize. Dispositional properties exist even when we do not exercise them. Persons possess inherent dignity not because they always exercise spiritual powers, but because they can potentially do so.

This last point holds significance for how we punish heinous criminals. Often, they exercise their spiritual capacities perversely. They use their transcendence to dominate others. They exhibit a grandiose sense of self-possession. They employ creativity to manipulate others. In such people, we may see little or no dignity, but they still retain it. It places moral limits on how we treat them. No matter which crimes they commit, authorities cannot remove their inherent dignity. Nor can they pretend that inmates are things lacking a spiritual life. Evil behavior often obscures the difference between things and persons, but it still exists. Penal policies that treat someone like a thing degrade his inherent dignity. Destroying it may provide victims with emotional satisfaction, but it rests on an immoral practice. Finally, denying an offender’s dignity communicates a pernicious message to a community. It suggests that offenders lose their inherent dignity once they commit heinous crimes. This is a false and dangerous conception of inherent dignity.

**Inherent Dignity and Solitary Confinement**

Because modern solitary confinement damages human spirituality, it is inconsistent with inherent dignity. This conclusion follows from the account of solitary I have developed. The architectural and technological structure of modern solitary stifles transcendence. Isolation under technological restraint destroys our sense of time, and attacks our self-possession. Tight control of inmate reading and artistic life assaults our spiritual power to create. Solitary constitutes a deliberate and planned policy to degrade inherent dignity. It intentionally attacks our spiritual
capacities. For these reasons, solitary confinement cannot be anything but an affront to inherent dignity.

Perhaps, however, solitary punishes people who have already lost their dignity. We hear such arguments in public discussions of crime. People say that criminals lose their dignity after committing horrible crimes. They fail to recognize the rights of others, and therefore lose their right to be treated in a dignified way. Victims’ rights groups sometimes press this case. Murderers and rapists denigrate their victims’ dignity. What right do they have to claim dignity? By their actions, people forfeit their right to be treated with dignity.

This account of dignity ignores its inherent character. A person may appear to lose dignity. However, it constitutes part of his nature as a person, and cannot disappear entirely from his being. No contract or social agreement produces transcendence, self-possession, and creativity. Policies and actions can denigrate them and inmates can deny them, but they continue to inhere in people. No person can ever fully lose his or her dignity.

If dignity is inherent, how can solitary confinement diminish it? Inherent dignity seems like something that can neither diminish nor develop. However, this response misses an important point. Philosopher Herbert Spiegelberg explained years ago how we can assault inherent dignity. Witnessing a horrible crime, we recoil at the “attempt to break down the personalities of the victims and deprive them not only of the respect of others, but of self-respect.” Practices like solitary confront dignity “face to face with something that is incompatible with it.” We also prevent inherent dignity from manifesting itself. Spiegelberg distinguishes between possessing and expressing inherent dignity. Dignity needs a way of “expressing itself, of shining forth.” We cannot eliminate its possession, but can obstruct its expression. This distinction explains the perplexing language of attacking inherent dignity.

We thus cannot avoid concluding that solitary assaults inherent dignity. Too often, its defenders find means of denying inherent dignity. Those in solitary are psychopaths or irredeemable, they say, and therefore deserve isolation. Or they are sub-human animals unworthy of moral consideration. Such arguments suggest that people may uneasily recognize solitary’s horror. To justify policies treating inmates like zoo animals, they must change a person’s moral status. They must turn away from an inmate’s dignity, and fabricate the fiction that he lacks it. We are thus left with rationalizations and poor arguments masking brutality.
Dignity as a Quality

Perhaps this account of dignity misses something important about prison. Don’t we talk about people behaving in undignified ways? Anyone with experience in a prison encounters people who seem to lack self-respect. They have destroyed their lives by brutalizing others. They refuse to accept responsibility for their acts, and blame everyone else for their problems. They continually disregard the interests of inmates and staff, and show little interest in bettering themselves. They ignore opportunities for spiritual development, disregard education, and show no interest in creativity. Such people seem very undignified.

We can think about such cases by further considering dignity as a quality. Philosopher Aurel Kolnai helpfully explores it. He notes how dignity in general elicits reverence akin to what we feel for beautiful objects. What we recognize is height; what has dignity is somehow higher than what lacks it. It has a worth that sets it apart from other objects. Dignity as a quality includes calmness and a mastery of one’s passions. It implies a distance from what happens and invulnerability to constant change. A dignified person avoids becoming engulfed by circumstances. To capture this feature of dignity, Kolnai uses the term weight. It suggests a serene immobility in response to the world’s challenges. The dignified person has a spiritual center of gravity guiding reactions to her environment.

A dignified person also retains a sense of the moral importance of others. My response to wrongdoers can appear “in the form of active assertion, of disdainful silence, or even charitable admonition or a sympathetic attempt to make the offender understand it.” What matters is that I acknowledge another’s interests. Dignity as a quality is thus incompatible with completely disregarding others. For example, a leader might appear dignified if he exhibits a gravitas when making decisions. However, if he authorizes genocide, we would deny that he possesses dignity as a quality. He willfully corrupts himself, degrading his dignity in the service of an immoral policy.

Kolnai makes a final point about dignity as a quality that is important for thinking about inmates. Such dignity manifests itself particularly when someone acknowledges tensions between the ideal and the real. Unless passions dominate someone, he retains some control over his responses to adversity. However, he diminishes dignity as a quality by refusing to acknowledge limitations. Perhaps he foolishly denies them or blindly rebels against unchangeable circumstances. The dignified person refuses to accept adversity, but also
doesn’t wish it away. He resists withdrawing from the world or display- ing utter indifference to his circumstances. Dignity as a quality requires someone to engage rather than to deny the world.

Historically, some cultures identified dignity as a quality with the aristocracy, but no social group holds a monopoly on it. For example, people are often sure that law-breakers lack dignity. However, sometimes they display a dignified distance from their circumstance. Think, for example, of the Freedom Riders who risked their lives riding buses during the American Civil Rights Movement. To Parchman Farm officials, they appeared like undignified troublemakers. Yet prison officials mistakenly perceived lawbreaking as undignified. Prisons also house inmates who display a dignified response to horrible circumstances. I have encountered men who have committed terrible crimes. They recognize their immorality, and show remorse for what they have done. Many who have been incarcerated for years distance themselves from their degrading condition. They resist the violence and anger surrounding them. They honestly acknowledge the circumstances that brought them to prison. My experience is hardly unique; people who work with inmates report similar experiences. Such testimony undermines the facile argument that offenders cannot display dignity as a quality.

To summarize, we can diminish or enhance dignity as a quality. We all equally possess inherent dignity, but actualize dignity as a quality to varying degrees. It helps explain why we think some criminals lack dignity. Through their acts, they diminish their dignity as a quality. Without empathy for others, they display little understanding of the consequences of their acts. When we encounter them, we legitimately discern little height or weight. They are diminished persons who choose to remain diminished. However, in any prison, we can also meet those with extraordinary dignity as quality. Their example elicits deep respect for what people can accomplish in difficult circumstances.

**Relating Two Kinds of Dignity**

By recognizing two kinds of dignity, I risk creating complexity where we don’t need it. Inherent dignity provides conceptual resources for opposing injustice. We are easily tempted to deny it to inmates, and perhaps we would be better off ignoring dignity as a quality. Solitary confinement degrades inherent dignity, and we only muddy the conceptual waters by considering other kinds of dignity.

Philosophers and theologians also puzzle over how to relate different kinds of dignity. Theologian Gilbert Meilaender notes that
people use diverse concepts of dignity without connecting them. He describes personal dignity (what I call inherent dignity) and human dignity. Human dignity comes in degrees, while personal dignity is non-degreed. While endorsing both forms of dignity, Meilaender wonders how they relate. For him, kinds of dignity often remain “firmly fixed in separate linguistic departments.” Is one kind subordinate to another or are they separate from each other? Without addressing this question, we are left with a theoretically dissatisfying account of dignity.

Meilaender also worries that without relating kinds of dignity, we risk diminishing inherent dignity. People are quick to identify dignity with imputed dignity. They make invidious comparisons, and classify others as sub-human. For example, people in the “free world” with defective moral characters are quick to deny dignity to inmates. They assert their moral superiority over them, and assume that inmates are forever stigmatized. Such attitudes quickly become justification for mistreating inmates and ignoring intolerable prison conditions. They also legitimize employment discrimination against felons. For these reasons, perhaps we should be wary of talking about degrees of dignity.

We can address these worries by returning to our embodied spirituality. When it comes to possessing inherent dignity, there are no degrees. Our capacities for transcendence, self-possession, and creativity constitute part of our essential nature. We cannot eliminate inherent dignity without extinguishing the person. We can assault it with chemical interventions, psychological torture, solitary confinement, and other horrors. However, as long as the person exists, she retains inherent dignity.

Like inherent dignity, dignity as a quality originates in our spiritual powers. For example, it requires and actualizes self-possession. To develop dignity as a quality, I must acquire a sense of a self not engulfed by circumstances. I must be aware of how I relate to the world. Dignity as a quality cannot exist in someone oblivious to how she affects others. She must also grasp how her acts shape her character. Dignity as a quality therefore requires a unified center of thought and activity. It grows out of a spiritual power inherent in human nature.

Those cultivating self-possession can display dignity as a quality. They avoid the self-dispersal we experience in everyday life. They are not easily moved by superficial attractions. They resist temptations, and their inner life reveals serenity and calmness. Such people elicit our admiration, and we grasp their dignity. For example, I have
encountered Muslim inmates who have overcome their criminal past. Through daily prayer, they develop a sense of self, which empowers them to endure degrading conditions. Encountering such people elicits “an emphatic respect.” They show the important connection between self-possession and dignity as a quality.

Dignity as a quality also depends on spiritual transcendence. It requires someone to transcend his circumstances. He may be unable to alter them, but can refuse to give internal assent to them. He locates the circumstances in a larger context, which enables him to evaluate them. Often, people feel beaten down or defeated by their world. They can see no way out of a terrible situation. For such people, cultivating dignity as a quality will prove difficult. To develop dignity as a quality, they must go beyond demoralizing circumstances.

Finally, creativity can play a role in someone’s dignity as a quality. Artists and their creations can be undignified; they can be faddish, shallow, or immature. Nevertheless, artists and musicians can also display weight and gravity. A work of art may startle us out of complacency. It may distance us from familiar environments. A musical piece might calm us, and assist in developing serenity. A film might alert us to someone’s economic plight. In these cases, a person develops dignity as a quality by actualizing creativity.

By focusing on our spiritual powers, we thus link dignity as quality and inherent dignity. They are not disconnected concepts we use in an ad hoc fashion to defend favored public policies. Instead, both kinds of dignity originate in our nature as embodied spirits. The person’s value grounds all appeals to dignity.

**DIGNITY AS A QUALITY AND SOLITARY CONFINEMENT**

I have maintained that modern solitary confinement assaults inherent dignity. When we turn to dignity as a quality, the matter is a bit more complex. When we encounter someone who overcomes terrible adversity, we admire him. Yet we feel conflicted about his experience. For example, we recoil in horror at torture or rape. Yet we recognize that without them, some victims would not develop dignity as a quality. Should we conclude that their suffering was a positive thing? Such a conclusion is repulsive, and can justify the most horrible atrocities. We are better off condemning the horrors, while recognizing that some people bear them in dignified ways. They respond to evil positively, but it nevertheless remains evil.
Some inmates in the United States endure terrible isolation with an amazing dignity as a quality. Yet those visiting solitary inmates often find little that is dignified. Dignity as quality implies some worth, and penal institutions debase their solitary inmates in multiple ways. They are shackled, subjected to rectal exams, addressed by their inmate number, forced to wear institutional clothing, and tightly controlled by an incomprehensible bureaucracy. Their attempts to assert moral agency are met by violence, disdain, racism, or just sheer indifference. In solitary, we find little of dignity’s height. Instead, we encounter people who are isolated from society and considered to be worthless outcasts. Rather than eliciting respect, their condition produces horror and disgust.

Modern solitary stifles dignity as a quality in other ways. Without an adequate relation to time, many inmates lose a distinct sense of self. Without a social world linking actions and consequences, their identities fracture. Dignity as a quality requires someone to engage with the world. Yet many in solitary report an inexorable disengagement from their surroundings. With few outside visitors and controlled communication, they cannot gain any distance from their environment. Gradually, many become engulfed by it, unable to relate to anything outside its constricted confines.

Solitary confinement also undermines creativity’s links to dignity as a quality. Rather than uniting the mental and physical, inmates are often reduced to bare physical existence. Entirely dependent on their captors for necessities like toilet paper and food, they live a day-to-day existence. Corrections officers often degrade them further by treating them like sub-human animals. Solitary’s stark architecture communicates little creativity. Rather than embodied spirits, solitary implies that we are dealing with mere bodies. It suppresses our desire to express ourselves through cultural products. When we understand a truth, it is “natural for us to want to express it, both to ourselves and especially to others, by enlisting the body to clothe it in some vivid image or story that will move the other to share it and appreciate it as we do.” For example, inmates may want to express remorse for their crimes. They want to show others that they still possess value. They write poems or stories about their lives. Solitary deliberately stifles this desire to express dignity as a quality.

The complete loss of privacy in solitary also undermines dignity as a quality. We need an inner reserve hidden from others. It reveals our distinction from things, which lack an inner side. Privacy norms or policies protect our inner life. Needless to say, solitary inmates lack privacy. They are watched continually by cameras, and cannot perform
bodily or sexual functions alone. Their inner life is repeatedly made public. They often cannot develop the inner resources necessary to sustain dignity as quality.

**CONCLUDING THOUGHTS: THE MORAL LIMITS OF EXPRESSIVISM**

The expressivist account of punishment offers a conceptually attractive way of justifying punishment. However, it can descend into barbarism unless we place moral limits on expression. Societies often communicate moral beliefs by publicly torturing criminals. Unexamined emotional reactions often produce counterproductive policies that damage people. Once we acknowledge inherent dignity, we cannot endorse such penal practices. Dignity is no mere slogan wielded by those interested in winning points in political debates. Instead, it originates in our embodied spirituality with its powers of transcendence, self-possession, and creativity. Because of our nature, we possess a value no person or institution can remove.

Once we recognize inherent dignity, we can no longer morally justify contemporary solitary confinement. It intentionally attacks the inherent dignity of tens of thousands of Americans. Solitary units are often filled with mentally ill people or those guilty of minor rule violations. They also hold violent and disruptive criminals. Yet any distinction between these groups breaks down once we recognize that all persons possess inherent dignity.

Often, we have difficulty believing that someone possesses inherent dignity. Understandably, corrections personnel sometimes cannot see the dignity in inmates. Inmates who smear themselves with feces or bomb corrections officers with it seem like sub-human animals. Those who hide weapons and attack staff appear to lack dignity. Finally, serial killers, mass murders, child molesters, and rapists rupture their links to decent human society. They seem to share little with the rest of humanity. Nevertheless, I have maintained that no one can forfeit his inherent dignity. Even those acting like sub-human animals reveal their spiritual powers. Their animal-like activities disclose spiritual qualities absent in other animals. No matter how hard we try to deny their humanity, they remain embodied spirits with dignity.

This view of dignity contrasts sharply with other conceptions of it. Some thinkers hold that societies create dignity. Or they maintain that it appears only in those who positively participate in a community. Others defend an aristocratic conception of dignity, arguing that only a few excellent people display it. These views falsely imply that only
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Some possess embodied spiritual powers. They fail to explain how we can give up our spiritual properties without ceasing to exist.

At the risk of conceding too much, I have recognized a comparative concept of dignity. Yet I think that aristocratic conceptions of dignity contain some truth. With Kolnai, we can identify a height, weight, and distance that characterize dignity as a quality. Grounded in our embodied spirituality, it comes in degrees. Sadly, some who commit terrible crimes destroy dignity as a quality. They are unwilling to distance themselves from criminal activities. They lack remorse, and refuse to productively interact with others. The concept of dignity as a quality helps us understand why we think such people lack dignity.

I acknowledge the dangers of a comparative conception of dignity. Those inclined toward aristocratic views restrict it to certain classes of people. They accord it only to athletes, artists, soldiers, or wealthy businesspeople. Prison inmates are unlikely to make anyone’s list of the dignified. Charitably, we can account for this slight by noting the closed character of penal institutions. Outside of impoverished communities, few people know a prison inmate or an ex-convict. They are aware of almost nothing that goes on within prisons. Less charitably, people often denigrate others whom they think are beneath them. Ever since the prison’s inception over 200 years ago, inmates have been targets of public disdain. Historians of the prisons note how people need to feel superior to those in prison. This is why rumors of cable television and weights in prison elicit such resentment. The free, no matter how morally corrupt they may be, feel entitled to denigrate the captives.

Despite such sentiments, we cannot legitimately deny dignity as quality to all prison inmates. Penal institutions contain dysfunctional people who display little dignity. Yet they also hold men and women who have come to terms with their lives in profound ways. Those of us who have encountered them grasp their dignity, and marvel at their capacity to develop it in terrible circumstances. Such an experience quickly dispels the idea that one kind of person or group monopolizes dignity as a quality.

Some readers may be convinced by my arguments about dignity, but think I have failed to respond to my own challenges. Wardens and prison officers will continue to need to use violence. I have suggested that solitary confinement developed as a way to control inmates. Without the authority to officially torture, prison administrators use isolation to force inmates into submission. Often, it effectively destroys the will of recalcitrant inmates. Confronting violence, prison authorities legitimately challenge those outside of the
prison to provide alternatives. How should we deal with inmates like Willie Bosket? How do we ensure the safety of other inmates and prison workers? Staff members often confront me with these questions. They are people who do wonderful work with inmates. They have no interest in harming them, and feel saddened at what happens in segregation. Nevertheless, they recognize a need to be protected from violence. I acknowledge this deep concern, and believe critics of solitary confinement must address it.
From Fear to Hope: Concluding Thoughts

The truth is that there can strictly speaking be no hope except where the temptation to despair exists.

Gabriel Marcel¹

In 1973, British journalist Jessica Mitford wrote a remarkable exposé of American prisons (Kind and Usual Punishment: The Prison Business). She revealed the coercive character of many rehabilitation programs. She also described medical experiments on inmates, official brutality, and prison profiteering. At the end of her book, Mitford speculated about the abolition of the prison. Condemning it for its failure to rehabilitate or deter criminals, she discussed alternatives to imprisonment. Mitford was not alone in such speculations. The 1970s saw a number of proposals to alter American punishment. For example, noted sociologist John Irwin proposed inmate unions. Having served time in the California system, he wrote insightful books on inmate social structure. He spoke eloquently about the need to empower inmates. For Irwin and other observers, the prison was a morally bankrupt institution. In books and articles, they predicted that modern societies would soon drastically change or even dismantle the prison.²

Today, anyone surveying this literature can only be profoundly depressed. The predictions of the prison’s demise failed miserably. Throughout the 1980s and 1990s, the United States’ rate of imprisonment grew at a staggering rate. In 1980, for example, people wrote with horror about the prospect of 500,000 inmates in prison. Yet we now have more than 2 million people behind bars, and millions of others under penal supervision. Sentences have become draconian, with inmates serving terms that would have been unimaginable a few decades ago. America also began treating juveniles like adults, handing down harsh sentences for violent crimes. Political and advocacy groups pressured politicians to pass unforgiving crime legislation. Federal legislation in the 1990s denied felons access to social services,
severely limiting their economic opportunities after prison. In sum, the prison not only failed to disappear, but also became an integral part of American life.

Those embracing solitary confinement proceeded with full awareness of its consequences. When exploring historical developments, we sometimes concede that people committing immoral acts lacked adequate moral knowledge. However, those who instituted modern solitary confinement cannot claim ignorance. Throughout the nineteenth and twentieth centuries, many people recognized how solitary damages a person. Numerous documents testify to how inmates went mad. In 1890, the US Supreme Court famously noted that in solitary, “a considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.” Numerous studies in the 1950s and 1960s confirmed that sensory and environmental deprivation harm human beings. In sum, Americans initiated modern solitary with their eyes wide open, and cannot feign moral ignorance.

The history of prisons in the past few decades provides little reason to believe we can alter solitary confinement. However, I conclude this book by describing reasons to hope for change. First, I describe why some people doubt that change can occur. We have lost older, comforting narratives about the prison. Additionally, legal authorities only occasionally and reluctantly intervene to change solitary confinement. Second, I note that change may come only after we overcome the fear and dehumanization dominating our responses to inmates. Third, I turn to the transformation of Mississippi’s Parchman Farm prison. Contemporary scholars recognize that it provides important lessons about how to alter solitary. Fourth, drawing on the Mississippi case, I make concrete proposals for changing solitary. I call for improving classifications systems, barring the mentally ill from segregation, limiting segregation time, radically altering conditions in solitary, and closing supermax institutions. I end the book by discussing political realism and hope, and describe the transition from fear to hope.

**HISTORICAL NARRATIVES ABOUT THE PRISON: GROUNDS FOR PESSIMISM**

Many societies use extreme brutality to control deviant behavior. Executions, severe corporal punishment, public dismemberment, and
other horrors fill human history. Often, brutal discipline occurred in the family or other institutions, with the political community exercising little control over people’s lives. Societies have also banished or removed deviants from their territories. For example, in the late eighteenth and early nineteenth centuries, the British transported more than 160,000 people to Australia. Many were picked up on minor charges, and sentenced to seven years of hard labor. Similarly, in the nineteenth and twentieth centuries, Brazil used the army to control perceived deviants. Thousands of “poor, mostly black suspects were forcefully drafted into the army through impressment as a means of punishment for allegedly being in violation of the law.” When societies imprisoned people, they did so only for a short time before execution or public punishment. If they remained imprisoned, prisoners lived in horrible conditions. The famous prison reformer John Howard detailed the horrors of British prison life. He described how the poor lived in misery while the rich bought their way into comfortable quarters. He also detailed dangerous diseases that spread throughout penal institutions.

To Howard and other eighteenth- and nineteenth-century prison reformers, the prison promised to radically transform punishment. It aimed at removing class privileges, and sought to rehabilitate criminals. Through solitary confinement, labor, Christian worship, and careful classification, the state would eliminate bad habits. As many scholars detail, early American and British prisons turned out to be failed social experiments. For multiple reasons, they fell short of transforming inmates. Moreover, they often fostered new class divisions and criminal activity. Finally, prison conditions often deteriorated, leaving inmates in unhygienic nightmares.

The history of the prison features repeated and unsuccessful attempts to revisit its early transformative promise. In the United States, we see cycles of terrible prison conditions, scandal, reform measures, and draconian response to reform. Some years ago, historian Blake McKelvey concluded that the American story of imprisonment is one of “long hard experience with the tragedies of prisonization and with the failures or at least limitations, of corrections.” The decades following McKelvey’s book seemed to confirm his negative assessment. Today, anyone harboring hope that prisons can positively transform inmates must confront a mountain of contrary evidence. Given our repeated failure to improve prisons, why should we believe reform efforts have any hope of succeeding? The reformist and rehabilitation dream has been battered almost beyond repair.
Scholars studying prisons in and after the 1980s and 1990s often adopted a different historical narrative. Rather than a “history of good intentions” (McKelvey’s phrase), they saw the prison as an instrument for brutal social control. Marxists, followers of Foucault, and social historians deconstructed the motives of early prisons reformers. They maintained that reformers used the prison to defend an unjust social order. They indicted the behavioral sciences for their complicity in controlling people. For some of these scholars, the growth of solitary confinement came as no surprise. It represented just one more assault on oppressed classes, one more attempt to control alleged deviants. These thinkers viewed rehabilitation as farcical idea masking the prison’s true purposes. Prisons exist not to transform inmates or to express moral values, but to brutally suppress subjugated classes.

Throughout this book, I have shown considerable sympathy for this approach to prisons. Once called a “revisionist” approach, it reveals deep insight into the dynamics of prison life. However, those endorsing the revisionist approach offer little hope that we can change solitary confinement. In the 1970s and 1980s, they often endorsed political movements seeking to dismantle or change prisons. With the rise of modern political conservatism in the United States, these movements died. Too often, revisionists offered meager conceptual resources for promoting change. They portrayed social life as entirely a struggle for power that constructs a person’s identity. They demonized corrections officers and wardens, seeing them as “either knaves who are deliberately hiding their true intentions” or “fools who are sheltered from full knowledge by the vantage point of their class interests.” Inmates became passive victims of oppressive systems and unseen powers. Moral or spiritual ideals became mere epiphenomena with little impact on our lives.

This vision of social life may appeal to those opposed to changing prisons. Inmates in the United States retain little power, and their efforts at changing their conditions have often been crushed. Back in the 1970s, they briefly become objects of sympathy among the general public. That moment has long passed, and today inmates are treated with derision and fear. The end of public funding for education and other political developments excluded outsiders from the prison. Many Americans have little knowledge of prison life. If social life is merely a struggle for power, inmates have decisively lost.

Without the social control or rehabilitation narratives, people may wonder how to change solitary confinement. As I have argued in this book, solitary represents a deceptive means of dominating inmates. Rather than official physical brutality, we now use isolation
to break inmates’ wills. Rather than public punishments, we make men and women disappear into institutions. We control access to them, ensuring that few people understand what occurs behind prison doors. Modern solitary confinement represents one more form of domination, an effective tool that is unlikely to disappear.

Cruel and Unusual Punishment

Perhaps legal remedies provide hope for changing solitary confinement. Court cases and challenges have positively altered conditions for some solitary inmates. They have forced supermax prisons to become maximum-security ones, and removed mentally ill patients from solitary. They have exposed prison brutality, and awarded financial settlements to solitary inmates victimized by state violence. Often, state prison systems settle lawsuits with organizations like the ACLU. They devise consent decrees to enact badly needed changes in penal institutions. For example, in 2006, the ACLU filed a lawsuit against the state of Wisconsin. It identified numerous abuses in the state’s women’s prison, the Taycheedah Correctional Institution. At Taycheedah, women received grossly deficient health care, and mentally ill inmates were often sent to segregation. The suit alleged gross inequality in how male and female inmates received mental health care. In 2010, Wisconsin settled the lawsuit, agreeing to spend considerable money to upgrade Taycheedah’s health care. It also promised to limit the number of mentally ill inmates in segregation. The Taycheedah case shows how targeted lawsuit can alter conditions in segregation.9

However, activists opposing solitary confinement desire a more significant legal change. They hope the US Supreme Court will declare solitary confinement to be either torture or cruel and unusual punishment. In fact, for many non-American thinkers, solitary constitutes torture. It uses severe suffering to break the will of helpless inmates. If not torture, modern solitary seems excessively cruel. The US Constitution sets limits on how far the state can punish a person. The Eighth Amendment recognizes that punishment has moral parameters beyond which we should not go. Solitary confinement seems an obvious candidate for the status of cruel and unusual punishment.

I hope the US Supreme Court will declare solitary to be cruel and unusual punishment. However, I don’t harbor hopes that such a verdict will soon materialize. Federal courts have often interpreted the concept of cruel and unusual punishment narrowly. The “unfortunate trend in the United States has been to downplay and ignore the cruel and inhuman effects of psychological abuse to prisoners where there
is no long-term physical injury.” Courts have recognized solitary’s psychological damage, but are reluctant to declare it cruel and unusual punishment. They are willing to intervene to change conditions, but refuse to adjudicate Eighth Amendment issues. Today, we have few justices like Justice Justice, people willing to spend years trying to improve prison conditions.

Federal legislation also makes Eighth Amendment challenges difficult. Inmates must show that prison administrators intentionally embraced cruel and unusual punishment. Before alleging psychological harms, they must also first establish physical harm. Inmates find these standards very difficult to meet, and Eighth Amendment claims often fail. Finally, some members of the US Supreme Court understand the Eight Amendment very narrowly. They limit cruel and unusual punishment to brutal physical punishment. They refuse to acknowledge the importance of mental or spiritual suffering. Sometimes, they suggest that the Eighth Amendment covers only those punishments contemplated by the architects of the US Constitution. With all these constraints, we are unlikely anytime soon to see a radical transformation of solitary on Eighth Amendment grounds.

**Combating Fear and Dehumanization: A Reorientation of Values**

Change may come in solitary confinement policies only when judicial authorities and the public alter their conception of harm. Too often, we see it only in physical terms, arbitrarily ignoring spiritual damage. This tendency to identify harm with the physical leads many to ignore modern torture and psychological abuse. Governments have perfected attacks on the human personality that leave few marks. They respond to the stigma of physical torture by subtly attacking the person’s inner life. Too often, these assaults are invisible to those unfamiliar with them. Moreover, spiritual realities are difficult to quantify, and seem unreal in a world enthralled with science. Unless we alter this focus on the physical, we cannot see solitary for what it really is.

This blindness to spiritual harm afflicted many Americans shocked by the torture at Abu Ghraib and Guantánamo Bay. They wanted to believe that it was an aberration, a departure from what has happened in American history. They wanted to think that it originated from evil-doers in the military and government who have left office. Often, we hear political leaders and pundits assert that Americans don’t torture. Normatively, such statements represent an ideal for Americans. However, descriptively, they ignore the history of brutality in prisons.
Americans have often openly tortured prison inmates. Throughout penal history, we find numerous practices like waterboarding. In fact, in recent years, Americans have simply exported domestic penal practices to other countries. For example, solitary confinement in Iraq, Guantánamo Bay, and Afghanistan reproduced conditions in American prisons. Similarly, many Americans were shocked to learn that the United States used psychological torture on suspected terrorists. However, if they had looked inward, they would have discovered such techniques in their own prisons. In both cases, we find an unwillingness to recognize spiritual and psychological damage. We see a refusal to see that it can be as harmful as physical torture. A country that brutalizes its prison inmates is unlikely to extend moral respect to suspected terrorists.

Fear also remains a powerful force buttressing our solitary regime. Fear of violent crime is perfectly rational. Anyone who has been victimized by it realizes its power to change lives. Violence creates a profound mistrust of the world’s stability and goodness. With our bodily integrity no longer guaranteed, we struggle desperately to restate our trust in the world. Sometimes, we do so in positive and constructive ways. However, we also respond to violence with destructive emotions. Victims seek revenge, dehumanize others, and exhibit a lust for power. Often, these emotions appear in those who merely contemplate violence. We extend our empathy to victims, yet embrace draconian responses to violence. This is particularly true when violence threatens the innocent. No matter how uncommon it may be, such violence breeds a desire for security at all costs. Without addressing this powerful emotional reaction, proposals for changing solitary confinement will probably fail.

Given the link between fear and dehumanization, those seeking to change solitary must also highlight an inmate’s humanity. Too often, the language of the “worst of the worst” dominates discussions of crime. No serious observer doubts the presence of some evil or disruptive men and women in segregation. They present a problem for many penal institutions. However, we cannot allow this problem to overshadow the humanity of inmates. Thousands of men and women languish in solitary as punishment because of minor disciplinary infractions. To deny this injustice, we must avert our gaze from an obvious attack on inherent dignity. The closed character of penal institutions contributes to dehumanization. Many Americans simply have no contact with someone who has been in solitary confinement. Politicians and pundits also stoke deep fears about violence. They deliberately overlook or denigrate an inmate’s spiritual nature.
They cultivate our basest instincts toward those whom we consider less fortunate. Dehumanization in turn breeds more fear, dooming any attempt to deal with solitary rationally. Without a spiritual reorientation that recognizes an inmate’s dignity, we will have difficulty changing policy.

Despite fear and dehumanization, our spiritual powers offer resources for strengthening empathy and sympathy. Fear of violence can dominate a person’s psyche, but transcendence and creativity can prevent it from necessitating action. A person can transcend her powerful fears, and recognize that solitary is an unjust response to violent crime. She is not forced to see security as the highest good. Additionally, creativity allows us to cultivate empathy and sympathy. Films, music, and books empower people to see the dignity in inmates. They enable us to imaginatively share the experiences of those incarcerated. They empower us to develop sympathy even for those who have committed terrible crimes. Creative products can counter the media’s relentlessly negative picture of predatory criminals threatening our security. Creative responses also help us resist demagogues linking fear and dehumanization. Our spiritual capacities suggest that fear need not necessitate draconian responses to crime.

**The Need for Concrete Cases**

By itself, a call for spiritual reorientation may seem empty and moralistic. In ethics, we need cases that define the constraints and possibilities for acting. Can we really overcome fear and dehumanization? Must segregation units always feature a zero-sum struggle for power? Can we deal humanely with violent and disruptive inmates? We cannot address these questions without considering concrete cases. They counteract the pervasive sense that change is impossible in our prison system. They empower us to escape a sense of historical and cultural determinism. As Thucydides notes many times in *The Peloponnesian Wars*, people seem incapable of changing their behavior. Driven by fear, mistrust, misunderstanding, good intentions, and the lust for power, they undertake disastrous courses of action. Writing about solitary and torture, Colin Dayan sees “the poor treatment, the entombing of the living, not as historical contingency, but as something culturally inevitable in that the past haunts us.” For her, modern solitary confinement appears like an inevitable development in US history.

To counteract this sense of necessity, activists and scholars have recently highlighted the example of Mississippi. As I noted in
Chapter 3, the Parchman Farm at the Mississippi State prison opened an enormous segregation unit called Unit 32. It held Death Row and other inmates in unimaginable conditions. Inmates lived in temperatures of more than 100 degrees, had limited access to medical and psychological care, occupied cells overflowing with feces, and languished in solitary for indeterminate sentences. Some suffered from HIV or AIDS, but received little treatment. Many were mentally ill. They spent their days and nights screaming, mutilating themselves or spreading feces. Corrections officers kept minimal order with chemicals agents and extreme force.

Objectively, observers had little reason to believe that conditions in Unit 32 would improve. Most of the general public knew little about Unit 32. Others aware of it displayed no sympathy for the Death Row and other inmates in solitary. Corrections officials tended to harbor harsh views. They sought to isolate troubled inmates as securely as possible. The inmates seemed like violent predators controllable only by isolation and violence. Like many other states, Mississippi invested money in Unit 32, and seemed reluctant to change it. Even those who abhorred its conditions could envision little prospects for change. A state with a notoriously brutal penal history seemed doomed to repeat it.

However, in a remarkable series of events, the ACLU and the State of Mississippi worked together to change Unit 32. After the ACLU sued the state, in 2005 both parties signed on to a consent decree to alter the prison. They agreed to improve physical conditions, bar severely mentally ill patients from segregation, and provide better medical and psychiatric care. Perhaps most importantly, Mississippi examined its classification system. It found that it was profoundly arbitrary, a product of subjective judgments about inmate character and behavior. Classification expert James Austin discovered that “a substantial number of the approximately 1,000 prisoners who are housed in Unit 32 do not require such confinement.” Inmates were placed in solitary because they refused to work. Many had no serious conduct reports or history of violence, and others were in segregation because they suffered from HIV or AIDS. Those administering Unit 32 seemed to know little about why some inmates were in solitary. In the consent decree, Mississippi agreed to drastically alter its classification system. Using a new approach, it removed more than 800 inmates from solitary, leaving fewer than 150. Additionally, the state created a program for transitioning mentally ill inmates out of solitary. They received intensive treatment in a “step-down” program that gradually decreased their security status.
The overhaul of Unit 32 produced no new outbreak of violence. In fact, correctional staff found themselves needing less force to restraint inmates. In the new unit, the “number of incidents requiring use of force plummeted.” Inmates received fewer conduct reports. After several years, the ACLU ceased monitoring the Mississippi Penitentiary. Mississippi had effected a remarkable change to a profoundly unjust solitary system.

RESISTING FEAR AND DEHUMANIZATION: LESSONS FROM MISSISSIPPI

Mississippi provides a concrete example that can counteract fear and dehumanization. It shows that a state can change solitary without dire consequences. Other states are now considering the Mississippi example, seeing how to adapt it to their circumstances. No two state systems are alike, so we cannot simply copy all of Mississippi’s actions. Nevertheless, we can glean general lessons about how to change solitary policy. First, Mississippi demonstrates the promise of cooperation between state officials and outside groups like the ACLU. Often, outside groups must be at odds with state officials in order to force change. Unfortunately, activists sometimes demonize corrections officers and wardens, producing unnecessary and unproductive conflicts. In the Mississippi case, in contrast, the “administration of the Department of Corrections eventually welcomed the changes demanded by the plaintiffs in a serious of class-action lawsuits, which cleared the way for the changes to be put into effect in an atmosphere of strong collaboration.” Obviously, collaboration may not always be possible. However, the Mississippi case sharply contrasts with older antagonistic models. For example, it differs markedly from the long battles over the Ruiz case in the Texas system.

The Vera Institute of Justice uses the Mississippi model to try to change segregation. Collaborating with the Illinois and Maryland Departments of Corrections, researcher Angela Browne has worked to modify classification systems. She has also assessed disciplinary procedures that send inmates into solitary. Browne has also monitored how inmates are moved in and out of security levels. Her work suggests that through better classification, we can reduce the numbers of those in solitary. We can also remove mentally ill patients from segregation units. For example, Maine and Massachusetts have both changed their policies of putting the mentally ill in segregation. Importantly, Browne and others proceed carefully and methodically. They gain the trust of corrections officials, politicians, and the general public. They
counteract fear and dehumanization, and show that changing solitary need not endanger the public.20

Once we take these measures, however, we still must deal with violent and disruptive inmates. Given their threat to others, we cannot dispense with solitary entirely. To protect staff and inmates, corrections officials must remove some people from general population. Institutions will also need to place inmates in protective custody. In some cases, we can handle disruptive inmates by keeping them in solitary for short periods of time. For example, United Nations Special Rapporteur on Torture Juan E. Mendéz recommends that inmates be placed in solitary for a maximum of 15 days.21 His proposal is unlikely to meet approval in US prisons. Nevertheless, it suggests that Americans impose excessively long segregation sentences. For example, many institutions sentence inmates to a “360,” a segregation sentence of about a year. This is remarkably draconian sentence, often meted out for minor disciplinary offenses. There is no reason why such offenses should result in a long stint in solitary. States like Maine have recently stopped sending inmates to segregation for long sentences. Corrections officials must carefully abandon this system in order to avoid disorder. However, the Maine case demonstrates that change is possible. Separation from others should be a last resort that prisons reserve for the most violent inmates.

Even in these difficult cases, institutions should significantly alter the procedures they use to place people in segregation. Sometimes, only one or two people decide when inmates should be put in segregation. Often (because of worries about the safety of other inmates), inmates have no access to the evidence justifying their isolation. In fact, it might come from confidential informants. Once an inmate ends up in solitary, he has little recourse for contesting his status. Reviews are generally pro forma, conducted by wardens or officials in the Department of Corrections. Rarely do they reduce an inmate’s time in solitary. Furthermore, judicial authorities hesitate to intervene. Inmates must overcome numerous bureaucratic hurdles just to get attention from the courts. For many inmates due process procedures seem arbitrary and unjust.22

We should alter these procedures by institutionalizing legislative or judicial oversight over segregation decisions. Some activists propose that lawyers or advocates represent inmates facing the possibility of segregation. Although attractive, this proposal is unlikely to gain support in prisons or in the courts. Instead, states could appoint outside monitors who examine the segregation decisions that prison administrators make. Or, judges could examine segregation policies. Whatever
mechanism we adopt, it must ensure that someone outside the prison system reviews segregation policies and cases. If we leave them solely in the hands of prison administrators, we invite indifference and abuse.

Even if corrections officials must impose longer solitary sentences for extremely violent inmates, they have no justification for retaining solitary’s environmental extremities. I see no security rationale for denying inmates clocks. Likewise, books, music, and the arts pose few security risks. The only justification for such restrictions lies in the desire to break an inmate’s will. They constitute an unjust form of behavioral modification that crushes the personality. Similarly, stark environmental conditions serve only to destroy the psyche. There “can be no justification for deliberately designing unwholesome accommodation or choosing dowdy colours, dim lighting, and excessively harsh material.” Such conditions serve no “legitimate penological interest” other than domination.

We can also find little moral justification for extreme restrictions on visitors. Segregation units and supermax prisons allow few visitors. When they do have a visiting policy, they significantly limit visiting hours. Visitors have to jump through onerous hoops to visit loved ones. As a result, many people stop visiting inmates in segregation. Many of these restrictions on visiting have no security rationale. Visitors cannot pass contraband to those in solitary because visits occur through videoconferencing or Plexiglas. Policies that deny or cancel visiting hours aim to degrade an inmate’s will, and to force her into submission. They isolate her so that segregation becomes more psychologically effective. Finally, restricting visiting does nothing to help inmates reintegrate back into society within or outside the prison. Often, solitary damages them so severely that they no longer know how to interact with others.

If we are concerned about changing solitary, we also must gradually close supermax prisons. The federal facility in Florence is unlikely to close because it holds prominent terrorists and criminals. However, states have the option of closing supermax prisons. They can move inmates into maximum-security institutions. The geographic isolation of supermax prisons deters people from visiting their loved ones. Citing security concerns, these institutions also hide their activities from the general public. Their lack of transparency and isolation only invite abuse. They also remain architectural monstrosities designed to damage an inmate’s personality. To transform such demeaning structures, states would need to spend considerable money. Because supermax prisons have become a normal part of Departments of Corrections, they are unlikely to disappear immediately. Nevertheless as
states face budget crises, politicians may be willing to gradually reverse the supermax mania.

**AN INMATE VICTORY**

These changes to solitary may provoke resistance in the zero-sum game world of prisons. Inmates will likely see any amelioration of their condition as a victory. They might see authorities as weak, and create disruption. We should proceed cautiously with any changes. Each institution and system has its own social dynamics, and sudden change can upset prison order. Those guarding violent people will also be reluctant to concede anything. In the clash of wills, concessions seem dangerous and foolhardy. Positive change seems like an indulgence and an inducement for further criminal activity. Institutions define positive changes as privileges. They think privileges quickly become a triumph for those inclined toward criminal behavior.

The willingness to step away from a zero-sum dynamic may come only after states understand solitary’s moral and financial folly. Many wardens and prison administrators already hope the solitary system will change. They understand its excessive cost and moral horror. In Mississippi’s case, the Department of Corrections realized that it could no longer retain Unit 32 in its horrible condition. States strapped for cash may realize the need for a new approach. This financial incentive may lead to a further recognition of solitary’s inhumanity. Corrections officials segregating inmates hold most of the cards. Allowing those in solitary access to music and books does little to endanger others. Changing environmental conditions poses no real threat to staff. Of course, when inmates gain something, they narrowly prevail. However, ultimately they cannot escape, have little freedom, and receive only recognition of their dignity. The political community that recognizes an inmate’s dignity gains immeasurably. In a corrections system dominated by measurement and quantitative results, some people may see little value in inherent dignity. Yet many inmates, wardens, and corrections officials have already come to see its value.

In fact, in 2012, Illinois Governor Patrick Quinn took the courageous step of closing the Tamms supermax. For years, Tamms has been the scene of horrific abuse and isolation. Urged on by activists, and confronting budget shortfalls, Governor Quinn realized the folly of keeping Tamms open. Given the complexities of shuttering such a complex institution, we cannot easily predict how Quinn’s decision will affect inmates. Nevertheless, his action demonstrates that we can find our way out of the supermax nightmare.24
The Importance of Hope

Those encountering solitary confinement in its moral complexity are often overwhelmed. They feel defeated by the system’s brutality, the cynicism of corrections workers, the mendacity of inmates, and the sheer number of people incarcerated. Additionally, few people today show sympathy for those in solitary. Their plight remains largely unknown. On any list of the world’s injustices, the suffering of convicted criminals occupies a low priority. Finally, work with inmates serving long sentences seems unrewarding. Those volunteering to help the poor may see results from their labor. In contrast, with today’s draconian sentences, many inmates will never be released from prison. Prison volunteers see little in the way of rehabilitation back to citizenship. Even if solitary inmates emerge from their hell, they face daunting prospects upon release. Denied voting rights and economic opportunities, many find themselves back in the penitentiary. For all of these reasons, those seeking change in our penal system sometimes fall into pessimism and cynicism.

Such emotions are understandable but dangerous. Sometimes, they appear as a lazy spiritual attitude, a superficial response to complexity. It insults those laboring for positive change in our broken prison system. I have encountered remarkable teachers who taught maximum security inmates for decades. They have seen our prison system grown increasingly draconian. They have observed educational opportunities for inmates disappear, removed by resentful politicians who see education as a luxury. They have encountered a steady stream of young men and women entering the prison with their lives destroyed. Nevertheless, they continue to treat inmates with dignity. They show patience as inmates repeatedly fail. They remain convinced of the value of education even for those who will never leave prison. When I meet such teachers, I can only think that cynicism is an immature spiritual attitude.

Additionally, inmates living in solitary for years often exhibit a quiet dignity. Rather than resigning themselves to violence or finding a way to commit suicide, they devote themselves to religious or meditative practices. Rather than debasing themselves in a degrading system, they subtly resist those who oppress them. Rather than seeing solitary as an unchangeable system, they work with outsiders to change it. When I encounter this incredible response to adversity, I recognize something deeply valuable. It elicits my admiration and profound respect. With such examples, cynicism and pessimism seem not just shallow, but downright shameful.
In his *Summa Theologica*, Thomas Aquinas relates hope and fear to the future. Hope, he writes, aims at a future good that we find difficult but possible to obtain. In contrast, fear focuses on a future evil that we feel we cannot resist. To move from fear to hope, we need a different orientation toward the future. The feared object must lose its irresistibility. We can resist our policy of solitary confinement. We need not subject thousands of men and women to a punishment that degrades their personalities. Violent crime need not necessitate us to construct isolation units designed to destroy people. We need not deny that inmate possess inherent dignity. Our solitary regime attacks the person’s spirituality, but this same spirituality enables us to hope rather than to fear. We can transcend limited policy options that seem inevitable. We can refuse to be the kind of person who sanctions solitary. Finally, we can use our creativity to acknowledge the dignity of even those who have committed horrific crimes. Despite political and economic forces, we can end a morally and spiritually bankrupt policy.
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Useful Web Resources for Studying Solitary Confinement

1. Solitary Watch (http://solitarywatch.com/). This website collects information about solitary confinement. It often features the writings of solitary inmates, along with academic reports and useful links. It is a superb resource for those interested in solitary confinement.

2. American Friends Service Committee (http://afsc.org/). For many years, the American Friends Service Committee has drawn attention to solitary confinement. Periodically, it issues informative reports on solitary in particular states and prisons.

3. Amnesty International (http://www.amnestyusa.org/). Amnesty International often issues reports on solitary confinement. Within its website, those interested in prisons should look for the “Issues” part, and then go to the section on prisoners.

4. Human Rights Watch (http://www.hrw.org/). Human Rights Watch has focused on solitary in numerous reports on prisons and juvenile justice. Interested researchers can find them under the heading “Topics.”
INTRODUCTION


3. For Rachel Maddow’s discussion, see *The Rachel Maddow Show*, November 16, 2009, transcript available at http://www.msnbc.msn.com/id/33991521/ns/msnbc_tv-rachel_maddow_show/t/rachel-maddow-show-monday-november/#.T1pudHn16sM.


6. “Torture and Other Cruel Inhumane or Degrading Treatment, or Punishment: A Note by the Secretary General, Summary,” *The United


11. The journal *Corrections and Mental Health* devoted its June 2011 issue to the Colorado study; see *Corrections and Mental Health: An Update of the National Institute of Corrections*, June 21, 2012. It is available at http://community.nicic.gov/blogs/mentalhealth/archive/2011/06.aspx. It contains careful critiques by Sharon Shalev, Lorna Rhodes, and others, along with a response from the authors of the Colorado study.


4. Clarke, The One and the Many, 164.


6. Roman Ingarden, Man and Value. Translated by Arthur Szylewicz (München: Philosophia Verlag, 1983), 84. In this and the next paragraph, I rehearse Ingarden’s discussion.


8. Ingarden, Man and Value, 38.


12. Ingarden, Man and Value, 41.


Notes

15. Ibid., 51.
24. Ibid.
27. Ibid., 49.
28. Ibid.
29. Ingarden, *Times and Modes of Being*, 143.
32. In this paragraph, I follow John Crosby’s discussion; see Crosby, *The Selfhood of the Human Person*, 103.
37. Clarke, “The Immediate Creation of the Human Soul by God and Some Contemporary Challenges,” 175
38. Clarke, *Person and Being*, 64.
40. In Chapter 3, I will examine reading in prison in greater detail.
41. For a discussion of the person and meaning, see Guardini, *Freedom, Grace and Destiny*.
43. Schmitz, *The Texture of Being*, 211.
44. For this argument about language and universals, see J. P. Moreland, “An Enduring Self: The Achilles’ Heal of Process Philosophy,” *Process Studies*, Volume 17, No. 3 (Fall, 1988), 193–199. This kind of argument about universals appears frequently in Indian philosophy. Non-Buddhist philosophers often argue that Buddhists cannot account for universals. For an older, but still excellent, discussion of these debates, see Raja Ram Dravid, *The Problem of Universals in Indian Philosophy* (Delhi: Motilal Books; 2nd edition, 2001).
45. W. Norris Clarke deals extensively with the creative imagination; see W. Norris Clarke, S.J., “The Creative Imagination: Unique Express of

46. I have learned much from reading Amie Thomasson’s excellent article on Ingarden and cultural objects; see Amie Thomasson, “Ingarden and the Ontology of Cultural Objects,” Existence, Culture and Persons: The Ontology of Roman Ingarden. Edited by Arkadiusz Chrudzimski (Frankfort, Germany: Ontos Verlag, 2006), 115–137. I have also learned from Jeffrey Mitscherling’s work; see Jeffrey A. Mitscherling, “The Identity of the Architectural Work of Art,” Contemporary Issues in Aesthetics. Edited by in Jane Forsey (supplemental volume of Symposium, Volume 8, No. 3 (Fall, 2004)), 491–518. I thank Jeffrey Mitscherling for corresponding with me about this article.

47. Roman Ingarden, Ontology of the Work of Art: The Musical Work, the Picture, the Architectural Work, the Film (Athens, OH: Ohio University Press, 1989), 257.

48. For a similar refutation of the physicalist account of cultural objects from an analytic philosophical perspective, see Michael Wreen, “The Ontology of Intellectual Property,” The Monist, Volume 93, No 3, (July, 2010), 433–449. I have benefited from conversations with Michael Wreen. To make the argument I have made, philosophers sometimes appeal to Leibniz’s principle of the “indiscernability of identicals.” It holds that for two objects to be identical, they must have identical properties.

49. In discussing cultural objects, Ingarden draws on Husserl’s famous attack on psychologism. Husserl developed this argument in the first volume of his Logical Investigations, and provoked serious debate. Ingarden was one of the first thinkers to apply Husserl’s arguments to artistic works. For an excellent collection of articles devoted to psychologism, see Mark Amadeus Notturno, Perspectives on Psychologism (Leiden, The Netherlands: Brill Academic Publishers, 1989). Some contemporary thinkers maintain that aesthetic and other experience exist in the brain. For example, Searle holds that brain processes “have logical semantic properties,” see John R. Searle, Making the Social World: The Structure of Human Civilization (New York: Oxford University Press, 2010), 42. Because I reject Searle’s philosophical naturalism, I cannot agree with his position on semantics and the brain. For a good discussion of Searle, see Ingvar Johansson, “Searle’s Monadological Construction of Social Reality—Criticisms and Reconstructions,” John Searle’s Ideas about Social Reality: Extensions, Criticisms and Reconstructions. Edited by David Koepsell and Laurence S. Moss (Hoboken, NJ: Wiley-Blackwell, 2003), 233–255.

50. Ingarden’s technical term for the existence such objects enjoy is “purely intentional existence.” Neither real nor ideal existence, it represents a third mode of existence that arises with consciousness. For a recent attempt to defend this idea, see Jeffrey A. Mitscherling,
Aesthetic Genesis: The Origins of Consciousness in the Intentional Being of Nature (Lanham, MD: University Press of America, 2010). Mitscherling has also written one of the best guides to Ingarden’s thought; see Jeffrey A. Mitscherling, Roman Ingarden’s Ontology and Aesthetics (Ottawa: University of Ottawa Press, 1997).


53. To be technical, we can say that architectural works have both historical and constant dependence. They depend on a historical act of
creation (historical dependence) like an architect’s decision to build a church. They also depend on conscious beings bringing together mental, physical, and formal realities (constant dependence). I take these distinctions from Amie Thomasson’s work; see Thomasson, *Fiction and Metaphysics*, 24–34.

54. A theological analysis of consecration would complicate my analysis of the church as a cultural object. God’s existence might mean that churches exist in the mind of God even after they are destroyed. Additionally, a theological account of consecration would focus on both divine and human action.


57. Ibid.


59. Ibid., 305.

60. For a detailed analysis of how the present sinks into the past, see Ingarden, *The Cognition of the Literary Work of Art*, 116–117.


66. Ibid., 362.

67. Ibid., 363. For an extraordinary nineteenth-century discussion of the effects of solitary confinement, see Harry Mayhew and John Binny, *The Criminal Prisons of London and Scenes of Prison Life*


70. Ibid., 278.


77. Ingarden uses the technical term “concretization” to describe individual experiences of works of art. For one of his most extensive accounts of this process, see Ingarden, *The Literary Work of Art*, 331–355. His discussion of this concept provoked controversy in Poland and Germany. For one good discussion of this controversy, see Michael Glowinski, “On Concretization,” *Roman Ingarden and Contemporary Polish Aesthetics*. Edited by Piotr Graff and Slaw Krzemien-Ojak (Warsaw: PWN, 1975), 33–45.


**Chapter 2**


5. Ibid.


9. Ibid.


15. Ibid., 319.

16. Ibid.


20. Ibid.


26. Ibid.


29. Ibid., 30.

31. Ibid., 242.
34. Ibid., Section 79.
39. Ibid., 278.
40. Ibid., 286–324.
43. For a careful discussion of different kinds of power, see Morgenthau and Thompson, *Politics among Nations: The Struggle for Power and Peace*, 31–52.
45. Ibid., 47.
46. Ibid., 49.


55. Ibid.


61. Ibid., 174.

62. Ibid.


the dangers of solitary confinement, and I don’t find their analysis persuasive.


76. Shalev, *Supermax: Controlling Risk through Solitary Confinement*, 22. Also see *Supermax Prisons: Overview and General Considerations*; and Daniel P. Mears, *Evaluating the Effectiveness of Supermax Prisons*.

77. I will return to the Mississippi case in the Conclusion.

78. Shalev, *Supermax: Controlling Risk through Solitary Confinement*, 141.

79. Ibid., 167.

80. Ibid., 165–168.


84. Ibid., 54.


87. Ibid., 409.

88. Ibid., 2.

3. Ibid.
7. Ibid., 106
8. Ibid.
9. Maryland’s supermax is an exception to this general pattern because it is located in the city of Baltimore; see Daniel P. Mears, “Evaluating the Effectiveness of Supermax Prisons,” Urban Institute Research Report (March, 2006), 16, available at http://www.urban.org/uploadedPDF/411326_supermax_prisons.pdf.
12. Shalev, *Supermax: Controlling Risk through Solitary Confinement*, 110. In my discussion of solitary architecture, I rely heavily on Shalev’s work. She first alerted me about the issues surrounding the architecture of supermax institutions.
17. As I noted in Chapter 1, philosophers call this status derived or borrowed intentionality.


32. Ibid., 55.


36. For reflections on the process of reading, see Ingarden, *Cognition of the Literary Work of Art*, 19–21.


38. Cummings, *The Rise and Fall of California’s Radical Prison Movement*.


44. *Beard v. Banks*, Section 543.

45. Ibid., Section 552.


53. Quoted in George Pawlaczky and Beth Hundsdorfer, “Trapped in Tamms: In Illinois’ Only Supermax Facility, Inmates Are in Cells 23 Hours a Day,” *Belleville News-Democrat* (August 2, 2009),


61. Readers may wonder why I have not mentioned the famous Stanford Prison Experiment, which purports to explain dehumanization in prison. I have not done so first because I think these experiments were immoral at the time they were conducted in 1971. They willfully disregarded the 1946 Nuremberg Conventions on human experiments. Second, I think Philip Zimbardo’s direct involvement in his experiment tainted its results. Finally, I think Zimbardo’s emphasis on social dynamics ignores important aspects of human nature. Zimbardo has applied the results of his experiment to the Abu Ghraib atrocities; see Philip G. Zimbardo, *The Lucifer Effect: Understanding How Good People Turn Evil* (New York: Random House, 2008). For a strong contemporaneous critique of the Stanford Prison Experiment, see Erich Fromm, *The Anatomy of Human Destructiveness* (New York: Holt Rinehart, and Winston, 1973), 76–90. For a critical (and persuasive) indictment of deception and ethics in social psychology, see James H. Korn, *Illusions of Reality: A History of Deception in Social Psychology* (Albany: State University of New York Press, 1997).


64. Scheler seems to think that using the self as a medium blocks empathy. Crosby disagrees, and shows how we can respond to Scheler’s criticism, see Crosby, “The Emphatic Understanding of Other Persons,” 51–56.


68. Nussbaum, *Upheavals of Thought: The Intelligence of Emotions*, 316. Nussbaum develops this point in great detail, and I draw from her discussion. However, she employs a conception of intentionality and emotion that differs substantially from a phenomenological one.

69. Citing Aristotle’s work, Nussbaum argues that we should feel compassion only for those who deserve to suffer. On her account, we
should have no compassion for criminals who deserve to be in prison. I reject this position entirely, and think we can extend compassion even to those who deserve their fate. For Nussbaum’s argument, see Nussbaum, *Upheavals of Thought: The Intelligence of Emotions*, 312–314.

70. Sociologists and historians develop the idea of a “moral panic,” a collective response to a perceived threat to society that is disproportionate to the threat. I find this concept insightful, but think it sometimes ignores the reality of a threat. Stanley Cohen wrote a well-known work on moral panics; see Stanley Cohen, *Folk Devils and Moral Panics*. Third Edition (New York: Routledge, 2003).

71. I will address these questions in the Conclusion.


73. Ibid., 263.


**Chapter 4**


5. Hart defends a mixed view; see endnote 4.


12. For the argument that emotions are intentional, see Max Scheler, Formalism in Ethics and Non-formal Ethics of Values: A New Attempt toward the Foundation of an Ethical Personalism. Translated by Manfred S. Frings and Roger L. Funk (Evanston, IL: Northwestern University Press, 1973); and Nussbaum, Upheavals of Thought: The Intelligence of Emotions, 27–28.


21. To put matters technically, punishment is a “semantic vehicle”; see Igor Primoratz, “Punishment as Language,” 515.
24. Philosophers differ on whether punishment’s symbols are purely conventional or have some universal meaning. Feinberg argues that they are conventional, while Skillen maintains that some symbols are naturally linked to human emotions. I find Skillen’s argument persuasive, but will not pursue this issue here. For this discussion, see Skillen, “How to Say Things with Walls,” 514–515.
26. Hampton, “Righting Wrongs,” 124. Hampton discusses various ways we can degrade human value, but argues that we cannot destroy it altogether. I will discuss this question when I consider dignity in Chapter 5.
30. Ibid.
34. This movement has been morally ambiguous. In some cases, it has led to draconian punishments. For a critical look at the victims’ rights movement, see Maria Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge, England: Cambridge University Press, 2006), 115–197.


40. Ibid., 97.

41. Ibid., 102.

42. Ibid., 101. In my treatment of annulment, I follow Ewing’s discussion.


44. Unfortunately, the US government failed to condemn or prosecute those who tortured during the Bush Administration. Torture remains a precedent for future action, and many pundits and citizens continue to think it is morally justified.


46. For a good analysis of this point, see Primoratz, “Punishment as Language.”

47. In this paragraph, I draw on Skillen, “How to Say Things with Walls.”

48. Hampton develops an argument for the intrinsic value of a person by using Kant’s value theory. In contrast, I draw on a conception of the person as embodied spirit.


50. Ibid., 136–137.


56. Herbert Fingarette maintains that punishment must humble to will of the offender. However, he focuses less on value than on the nature of laws, and on this point, I disagree with him; see Herbert Fingarette, “Punishment and Suffering,” Proceedings and Addresses of the American Philosophical Association, Volume 50, No. 6 (August, 1977), 499–525
64. David Boonin develops such a proposal in detail; see Boonin, *The Problem of Punishment*, 207–276.
65. Simon, “Political Society,” 120.
71. This phrase came from Robert Martinson’s controversial article on rehabilitation; see Robert Martinson, “What Works?—Questions and Answers about Prison Reform,” *The Public Interest*, 10 (1974): 22–54. Martinson later distanced himself from conservative interpretations of his study. However, other scholars drew on his views to argue


73. Ibid., 127.

74. Ibid., 130. In this paragraph, I draw heavily on Moberly’s work.

75. Some thinkers hold that the definition of punishment necessarily included the idea of the offender’s guilt. Punishing the guilty would then implicate a person in a logical contradiction. I don’t find this argument persuasive. For one discussion of it, see F. H. Bradley, “Some Remarks on Punishment,” *International Journal of Ethics*, Volume 4, No. 3 (1894), 269–284. For a response, see Flew, “The Justification of Punishment.”


78. Boonin uses this example, ibid.


**Chapter 5**


3. Dilulio describes the difficulties in doing prison research; see *Govern-
ing Prisons*, 267–276. I think he became uncritically fascinated with
the famous Texas prison administrator George Beto. His account of
Beto’s years ignores the extraordinary brutality of the Texas system.
4. Shalev, *Supermax: Controlling Risk through Solitary Confinement*,
211–212.
5. See Jesenia M. Pizarro and Vania M.K. Stenius, “Supermax Prisons:
http://www.supermaxed.com/NewSupermaxMaterials/Supermax-
Rise-Erect..pdf.
6. Daniel P. Mears and Jamie Watson, “Toward a Fair and Balanced
2 (June, 2006), 260. I thank Daniel Mears for corresponding with me
about his work.
7. I have written extensively on consequentialism’s weakness; see Jef-
freys, *Defending Human Dignity: John Paul II and Political Realism*,
8. Jesenia Pizarro, Vanja M. K. Stenius, and Travis C. Pratt,
“Supermax Prisons: Myths, Realities, and the Politics of Pun-
ishment in American Society,” *Criminal Justice Policy Review*,
Volume 17, No. 1 (2006), 10, available online at http://
www.sagepub.com/stohrstudy/articles/11/Pizarro.pdf.
9. “Amnesty International Condemns Housing Minors in Wiscon-
*Medical Anthropology Quarterly*, Volume. 14, No. 3 (September,
11. Shalev, *Supermax: Controlling Risk through Solitary Confinement*,
90–93.
12. For a good discussion of disciplinary hearings, see Shalev, *Supermax:
Controlling Risk through Solitary Confinement*, 81–85.
13. Jerry R. Demaio, “If You Build It, They Will Come: The Threat of
Overclassification in Wisconsin’s Supermax,” *Wisconsin Law Review*,
No. 207 (January, 2001), 2.
14. For a discussion of overclassification in the Indiana supermax, see
*Human Rights Watch*, “Cold Storage: Super-Maximum Security Con-
finement in Indiana,” Section V.
15. Steve Hunter, “Kent Attorney Describes Green River Killer Ridgway’s
‘Bleak Existence,’ ” *The Kent Reporter* (February 11, 2011), avail-
able at http://www.kentreporter.com/news/115933534.html. Last
accessed May 1, 2012.
16. I take the details of Willie Bosket’s case from Fox Butterfield, *All God’s
Children: The Bosket Family and the Tradition of American Violence*


19. R. A. Duff, “Can We Punish the Perpetrators of Atrocities?” in *The Religious Responses to Mass Atrocity: Interdisciplinary Perspectives*. Edited by Thomas Brudholm and Thomas Cushman (Cambridge: Cambridge University Press, 2009), 86. In this and the next paragraph, I recapitulate Duff’s argument. I’m grateful to Antony Duff for corresponding with me about this article.


21. Hare presents his arguments in several popular books. For one, see Robert D. Hare, *Without Conscience: The Disturbing World of Psychopaths among Us* (New York: Simon and Schuster, 1995). He also maintains a website with numerous articles; see http://www.hare.org/references/hare.html.


28. Spiegelberg, “Human Dignity: A Challenge to Contemporary Philosophy,” 196. All quotes in the paragraph are from this page.


30. Kolnai, “Dignity,” 253. Kolnai offers a careful analysis of the sublime that I pass over here. He also grounds his view of dignity in a carefully developed value theory. For his essays on value theory and critical commentary on them, see Zoltán Baláza and Francis Dunlop, Exploring the World of Human Practice: Readings in and about the Philosophy of Aurel Kolnai (Budapest: Central European University Press, 2004). I thank Wolfgang Grassl for telling me about this volume.

31. Kolnai, “Dignity,” 254 (the italics are mine).
32. Ibid., 257.
33. Ibid., 262.
34. I take this analysis of Kolnai and dignity from Zoltán Baláza’s work; see Zoltán Baláza, “Kolnai and Kant on (Human)Dignity,” in Baláza and Dunlop, Exploring the World of Human Practice: Readings in and about the Philosophy of Aurel Kolnai, 251–266.
35. Gilbert Meilaender, Neither Beast Nor God: The Dignity of the Human Person (Jackson, TN: Encounter Books, 2009), 99. I use different terms than Meilaender; instead of “personal dignity,” I use the term “inherent dignity.” Nevertheless, the problem of relating kinds of dignity remains the same.

FROM FEAR TO HOPE: CONCLUDING THOUGHTS

2. See Jessica Mitford, Kind and Usual Punishment: The Prison Business. John Irwin wrote many insightful books on prisons. For his discussion of inmate unions, see John Irwin, Prisons in Turmoil (Boston, MA: Little, Brown, 1980). This is a wonderful book describing social organization in different kinds of prisons.


17. Ibid., 7. I rely on this article for my account of the decline of violence in Unit 32.
21. Mendéz, “Torture and other Cruel Inhumane or Degrading Treatment, or Punishment: A Note by the Secretary General, Summary.”


Haney, Craig W. “Mental Issues in Long-Term Solitary and ‘Supermax’ Confinement,” *Crime and Delinquency,* Volume 43 (2003), 124–156,


Hare, Robert D. http://www.hare.org/references/hare.html.


New York State Bar Association, Committee on International Human Rights, Supermax Confinement in U.S. Prisons, September, 2011,

New Mexico County Court, Complaint, Ayers et al. v. Perry et al., No. D-0101-CV-200202294, October 21, 2002.


Works Cited


OpenElement.


United States Supreme Court. *In Re Medley*, 134 U.S. 160 (1890), 134 U.S. 160 (March 3, 1890).


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