



Dayan, J. (2000). Ruses of beneficence and rituals of exclusion. *Workplace*, 6, 14-22.

JOAN DAYAN

RUSES OF BENEFICENCE AND RITUALS OF EXCLUSION

The pure products of America go crazy
—William Carlos Williams, *Spring and All* (1923)

Dogs and blood. Obedience and belief. She could not be sure what the voices told her. She remembered asking to see a doctor. She could still smell the feces she had smeared on the walls. She started a fire in her cell. They took her to another smaller, darker cell. She heard them say, "crazy bitch in the hole." Locked down 24 hours a day in a 4' by 4' cell. Cuffed and chained, she was allowed three fifteen minute showers and three one hour periods of exercise per week. But the correctional officers said she made odd gestures. She was left alone. This was her punishment. Convicted of aggravated assault and sentenced to ten years in prison, Corey Baker, who had been diagnosed with chronic schizophrenia, had been put in lockdown, where she remained, intermittently, for the duration of her confinement, without medication, terrified by gorillas and the devil in her cell. Unlike male inmates moved back and forth between prison cell and holding cell, in and out of full restraints, Corey Baker once remained in lockdown for eleven and one-half months.

1.1 The holes of oblivion do not exist. Nothing human is that perfect. . . .
—Hannah Arendt, *Eichmann in Jerusalem*

In June 1996, I spent the last weeks of summer in Florence, Arizona, walking through the Special Management Units I and II in the Eyman Complex of the Florence State Prison. Escorted by deputy wardens, I completed a series of interviews in an attempt to understand the meaning of punishment. By confining myself to the most extreme examples of incapacitation, these massive, state-of-the-art control, treatment, or management units for the "worst of the worst," I wanted to demonstrate how, during the last twenty years, the bounds of human endurance had been tested, the limits of cruel and unusual punishment extended, and the definition of "human" had been redefined.

The high-tech "prison of the future," designed within the limits of the law, is a clean, well-lighted place. There is no darkness, decay, or dirt. This is not the "hole" popularized in movies like *Murder in the First* or *Shawshank Redemption*. Instead, these locales are called—with that penchant for euphemism so prevalent in the prison surround—"special management," "special treatment," or "special housing units." The old term "solitary" has been vacated, leaving the benign and evasive terminology that allows public discourse to remain non-committal in the face of atrocity. By distorting the term's core meaning, the most severe of deprivations—coerced isolation and enforced idleness—becomes "special care" for those with

"special needs."

Nowhere does the power of legality to ensure the extinction of civil rights and legal capacities become so evident as in the restricted settings of special security units. Prisons in the United States have always contained harsh solitary punishment cells where prisoners are sent for breaking rules. But what distinguishes the new generation of super-maximum facilities are the increasingly long terms prisoners spend in them, their use as a management tool rather than just for disciplinary purposes, and their sophisticated technology for enforcing isolation and control. Prisoners are locked alone in their cells for twenty-three hours a day. They eat alone. Their food is delivered through a food slot in the door of their eighty square foot cell. They stare at the unpainted concrete, the windowless walls onto which nothing can be put. They look through doors of perforated steel, what one officer described as "irregular-shaped swiss cheese." Except for the occasional touch of a guard's hand as they are handcuffed and chained when they leave their cells, they have no contact with another human being.

The Arizona Department of Corrections places seriously mentally ill prisoners in the Special Management Units. Group therapy is sometimes available. Each inmate is placed in a cage, which officers call "dog pens." If they become violent or abusive, lockdown is the prescribed treatment. These isolation cells or temporary holding cells are triangular cells with a bench that is six inches deep. It runs the length of the hypotenuse of the triangular cell. Prisoners are dumped in there for unspecified lengths of time. I was told that if "you act out, you've got two choices, the 'holding cell' or the 'self-abuser pod.'" In each case, inmates are "four-pointed": held face down with ankles secured by leg-irons and hands cuffed to wall or floor rings. Though security staff allegedly make an assessment of inmate mental health, records are fragmentary. The logs register only intermittent observation. During these critical days and weeks when officers move inmates back and forth between prison and holding cell, in and out of full restraints, the prisoners are never seen by psychiatrists, and rarely seen by nurses.

Plaintiff's Exhibit 49, 2/23/89 log. Goolen's eyes were bright; totally unresponsive; talking gibberish; left on ten-minute close watch. 2/28/89. Goolen is doing well but not well enough to put back in cell; medications will be doubled today; remains in restraints.

Plaintiff's Exhibit 49, 2/27/89 log. Hernandez is totally out of it, given shot of benadryl and four-pointed. 2/28/89. Hernandez still four-pointed; tried to take a shower but security had to forcibly remove from shower. 3/2/89. Hernandez is still in holding Cell on close watch. Started on medication; in full restraints, arms and ankles swollen badly. 3/7/89. Hernandez still in bad shape.

Plaintiff's Exhibit 50, 12/7/89. Sanchez swallowed a piece of razor blade. Medical staff did not take him to health unit. Told officer to check for blood. 12/23/89. Sanchez cut himself on chest. 1/23/90. Cut himself, moved to holding cell. Heard saying that the devil was talking to him.

Plaintiff's Exhibit 51, 2/21/89. Mendez throwing himself against wall and banging head; refused medication; stripped and four-pointed. 2/28/89. Mendez taken off close watch last night.

1.2. Only when these events are brought back to their 'humanitarian' context can their inhumanity be measured.—Giorgio Agamben, *Homo Sacer*

The Eighth Amendment to the U.S. Constitution reads: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Though brief, almost ghostly in its final clause, as if punishment were an afterthought, the Eighth Amendment is the only provision of the

Bill of Rights that is applicable by its own terms to prisoners. As a limit on the state's power to punish, the importance of this negative guaranty expands in the prison context. Because it includes nearly all parts of prison life that might be considered unconstitutional punishment, the Eighth Amendment remains the crucial ground for prisoner's rights. Words like *decency*, *humane*, and *dignity* jockey for preeminence in these cases, and alternate with less expansive, more constrictive words like *basic human needs* or *minimal civilized measure of life's necessities*.

Legal language has construed the alternating debates between abstract calls for dignity and decency and concrete examples of specific needs and quantifiable allowances in order to vacate the meaning of *human* when applied to prisoners. To understand how this double language or two-sided tactic works is to confront the unsettling possibility that the very notion of "evolving standards of decency" in *Weems v. United States* (1910) and the "dignity of man" in *Trop v. Dulles* (1958) narrowed the divide between the civilized and inhuman treatment of prisoners. We must examine in this light the rite of punishment in *Trop* as contributing to what will become, due to the cynical logic of some contemporary justices, a ruse of beneficence. The Rehnquist Court's ability to define away the substance of an Eighth Amendment violation depends upon a verbal maneuvering that renames "cruel and unusual," even as it reclaims "human status" for its own uses. Out of an assumption of barbarism comes a new understanding of the limits of civilization.

The use of this dichotomy (brutality vs. decency) to allow ever more sophisticated torture to pass constitutional muster depends on manipulating language in such a way that the distinction between apparent opposites can be emptied of meaning. On a kind of sliding scale back and forth between extremes, difference is neutralized. Distinctions are offered the more effectively to be qualified out of existence. Perhaps this maneuver can better be understood by turning briefly to Errol Morris's documentary *Mr. Death: The Rise and Fall of Fred A. Leuchter, Jr.* Concerned about the "deplorable condition" of execution hardware in prisons, Leuchter explained how he designed an electric chair that would perform "humane" killings. State-sanctioned murder is never questioned, nor need it be, since the terms of the argument are designated as two extreme conditions, one of which must be preferable to the other. On one hand, "torture" if the chair malfunctions and too much voltage makes "the meat come off the executee like meat off a cooked chicken." On the other, the "decency" of lethal injection and its promise of "more humane, painless executions." But even Leuchter wonders if the absence of smoke and burning flesh masks a more awful though unseen agony. For it's more difficult, he reflects, to take away than to give life. At what point, we might ask, do executions become "humane" or "painless"? With whom does that ritual of definition lie?

1.3. *Dogs are being used in prisons now in Arizona. Dogs attack us, are put on us by correctional officers for little things that could be handled by talking or pepper gas, but more and more inmates here in the special management unit have become victims to unreasonable dog attacks. People go crazy here in lockdown. People who weren't violent become violent and do strange things. This is a city within a city, another world inside of a larger one where people could care less about what goes on in here. This is an alternate world of hate, pain, and mistreatment. —Letter from inmate in SMU I, Florence, Arizona (1999)*

Whose language matters? When do voices cease to be heard? In the liberal compact of the university, ever consistent with the maintenance of the democracy of "reasonable" persons, there must be exclusion. The pure principle of democracy exacts the most extreme practices of oppression. In *Democracy in America*, Tocqueville struggled to explain how oppression operated in a society of equals. He had searched for the key to a domination so unique that, as he wrote, "old words like 'despotism' and 'tyranny' do not fit." The answer is found in Beaumont and Tocqueville's *On the Penitentiary System in the United States*. With an

introduction by the lawyer Francis Lieber, it was published two years before *Democracy in America*. A dark gloss on Tocqueville's analysis of democracy, this record of a tour through the penitentiaries of the United States has never been reprinted since its publication in 1833.

On the Penitentiary System in the United States bears the same relation to the pure principles of democracy as the 1685 *Code Noir* or *Edict Regarding the Government and the Administration of the French Islands of America, and the Discipline and the Commerce of Blacks and Slaves in the Said Countries* to the humanitarianism of the "Amis des noirs" and of Montesquieu and Rousseau. In three hundred years, the Black Code has never been published in English but, more significant, as Louis Sala-Molins reminded his French readers in *Le Code noir, ou le calvaire de Canaan* (1987), "the worst refinement in wickedness, the most glacial technicality in the commerce of human flesh and in genocide" remains so difficult to find that it has vanished from historiography. This discourse on methodical dispossession, like Beaumont and Tocqueville's narrative of human unfreedom, has been relegated to the bowels of liberal thought. As Beaumont and Tocqueville write in a sentence that Thomas Dumm in *Democracy and Punishment* (1987) makes crucial to his analysis: "While society in the United States gives the example of the most extended liberty, the prisons of the same country offer the spectacle of the most extended despotism."

Like the furies buried beneath Athens so that the ideal city can be born, the United States has long depended on rituals of expulsion and exclusion in order to maintain its image of a just society of free and equal citizens. In the eighteenth-century United States, as I have argued in *Haiti, History, and the Gods* (1995), thoughts of emancipation became coterminous with necessities of evacuation. If the myth of an Anglo-Saxon America demanded rather heavy-handed strategies of prejudice, neatly codified in constitutional law, the fact of a place like Haiti and the realities of its alternately African-American and Black-French presence, forced the rhetoric of coercive necessity and public order to shed its figurative trappings. Haiti was judged, in Thomas Jefferson's words, as an alternative Africa: "a receptacle for that race of men." The move from colonization to colonialism—from sending blacks to Haiti to the need to protect or even annex Haiti in the interests of property—demonstrated the tangled plot of economic greed and race prejudice that no doubt led Aime Cesaire, in his *Discourse on Colonialism* (1955), to warn against "American domination—the only domination from which one never recovers. I mean from which one never recovers unscarred."

In an unforgettable part of *Discourse on Colonialism*, which I never tire of quoting, Cesaire, obsessed by the fecal motives implicit in the rule of law, reflected on the colonies as a safety valve for modern civil society. But he warned that the pristine locale purged of barbarism turns into "a receptacle into which there flow all the dirty waters of history." If we think of our prisons as fit receptacles for the unfit, and recognize that the prison population is growing at a faster rate than that of free citizens in the United States, then Cesaire's dirty flood and all-encroaching dunghill become apt tool and material for theorizing the closed system of recycling set in motion by the rubric of penal legality. The prisons are the new world colonies, the necessary containers for the worst excess of the global market: the appropriate, or at least, the most expedient repository for those deemed the wastes, not of Empire, but of transnational circulation.

1.4.

As V.S. Naipaul recognized in *The Loss of El Dorado*, the most haunting book he ever wrote, the quest for gold led to waste, garbage, and violation. The language of excrement matters. Certain kinds of language and the persons attached to that language are effectively disappeared in theories that appear to privilege hybridity and difference, but work even more effectively to expel. As local realities are subsumed in the global market, with "cross-cultural circulation" and "diasporic cultural innovation" supporting the vanishing act, transgressive materials need to be dredged up in order to block the flow of the "Black Atlantic." What is happening in the prisons of our nation-state qualifies the free play of global ethnicities.

On the one hand, the language of incarceration, stigma and control. On the other, its academic alter-ego, celebratory nomadism and transnational hybridity. The rhetoric of cosmopolitan humanism has become fashionable. Since words like "politics," "history," and "neo-colonialism" lack the cultural enhancement of terms like "post-colonial," "mestiza consciousness," or "post-modern," they have been condemned as naive. Who gains what by the overuse of such evasive clichés like diaspora, decentering, and displacement in the reasonable pluralism of the university? The academy has been crucial to the construction of a language that admits some into its precincts and casts others forever outside of its universalizing promise of beneficence. Gramsci's warning that intellectuals are "experts in legitimation" matters more now than ever, as prisons become fit receptacles for society's wastes, as well as depositories for the byproducts of free-market capitalism.

1.5 I like seeing them in chains. Wish we could put them back in the cotton fields.

A woman watching the return to chain in 1995 outside Limestone Correctional Facility in Alabama understood the history happening outside the pages of theory. The hermeneutics of de-centered identities, once put alongside another kind of rhetorical practice outside the academy, helps us to understand how culture and politics are reciprocal, how they operate in tandem with each other. As our theorizing becomes more rarified and exclusive in one direction, conjuring the image of migrant intellectuals or, in Edward Said's wonderful description, "cultural amphibians," another kind of theorizing summons the wrong kinds of migrants, necessary deportees, or criminals. The margins of the latter groups do not shift, although they too are the products of histories of cultural displacement. Against the fashionable cartography of celebratory journeys, I want to oppose the postcolonial predicament of those two million persons institutionalized in our prisons whose lives do not span borders, those 1.5 million African-American men who remain disenfranchised, who are civilly dead.

Matters of terminology delimit privilege, as they dispossess those not granted an acceptable identity. But who does the defining? And what is gained when territories are so claimed? Who's at the bottom? Who's on top? Not long ago I was warned by a colleague: "Students don't want to speak from the bottom up. They like to hear from the top. They want theory." What do we mean by theory? What does it mean to claim it as our own? And, finally, how can we project a theory bonded by historical and social contexts, marked by a return to the use of more precise terms than is now common practice? Ultimately, the question we must ask is which history do we look at as history, or whose story matters?

In a class on post-colonial theory four years ago, a Chicana student expressed her concerns about a surfeit of representation that silenced, that made her entry into the very theory that claimed to represent her not only difficult, but impossible. She argued that the words floated somewhere outside her experience, outside the local and daily facts that undergird her identity in time. The professor condemned her as naïve and advised that in the future she should leave her feelings outside the classroom. "Take off your coat at the door." For many, the privilege of shedding that coat is neither possible nor desirable. Under cover of beneficence, the subtle complicities between so-called Third-World Studies, Global Studies, and Cultural Studies have somehow eviscerated the communities of those we claim to be speaking about. In an academy that has relentlessly assembled varying eclectic borrowings and positions—always in reasonable consensus—words have lost their analytic power.

1.6 In my view, a use of force that causes only insignificant harm to a prisoner may be immoral, it may be tortuous, it may be criminal, and it may even be remediable under other provisions of the Federal Constitution, but it is not "cruel and unusual punishment."—Justice Clarence Thomas, Hudson v. McMillian (1992)

In his *Essay Concerning Human Understanding*, John Locke condemned innate ideas and vagueness "mistaken for deep learning and the height of speculation." He warned against the "perfect cheats" of language: "*affected obscurity*; by either applying old words to new and unusual significations; or introducing new and ambiguous terms, without defining either; or else putting them so together, as may confound their ordinary meaning." Obscurity of terms, which confound meaning and act "like a mist before people's eyes, might hinder their weak parts from being discovered." Can what Aijaz Ahmad described *In Theory* as "the structural offensive of capital" entail theoretical disorientation? Is it too far-fetched to claim that the terminological evacuation of difference in the multicultural, transhistorical academy works with the deterritorialized vision of the new multinational corporations? Is it inconceivable that, as Ahmad put it, "transnational cultural hybridity, and the politics of contingency, amounts, in effect, to endorsing the cultural claims of transnational capital itself"?

If there is any doubt that this or that theoretical articulation matters in the academy, a brief turn to the reception of *In Theory* proves otherwise. Ahmad questioned the strategic march of essences, poorly understood but ravenously consumed. He dared to put forth such unfashionable, or as he said, "unspeakable" things—as class location—and to contaminate literary study with political circumstances: the relation between "the internal structure" of "rhetorical forms and the historical coordinates within which they arise." For this attempt to scrutinize literary representation Ahmad was called "pitiably puerile," "sociological," "positivist, precritical," "shockingly simpleminded," "retrograde, and moralistic." *In Theory* was condemned as both an "ethnic cleansing" and a "jihad." When anything in our consensus-driven, increasingly corporate-styled academy gets condemned this strongly, we must wonder what and whose interests does it threaten? What should have remained unsaid? Was his combination of metropolitan theory with the concerns of the dispossessed too threatening a combination for those who make politics out of privilege—an exclusive hermeneutics fashioned for those who already have the goods?

1.7.

The question of reading literature is never a purely literary issue. It is always philosophical, political, and social at the same time. What happens to language in duration, in the vicissitudes of power applied and power suffered? It is not yet time to look back to some fossilized theme of slavery, for slavery still exists under other names in a world falsely divided up into the "first" and the "third." As none other than Thomas Carlyle warned in his infamous "The Nigger Question" in 1849, writing about the "tropical dog kennel" of Haiti and presenting emancipated blacks in Jamaica as "up to the ears in pumpkin-induced indolence": "My friends, I have come to the sad conclusion that SLAVERY, whether established by law, or by law abrogated, exists very extensively in this world, in and out of the West Indies; and, in fact, that you cannot abolish slavery by act of parliament, but can only abolish the *name* of it, which is very little!" Language (or the desire to change our language) is driven by contexts other than textual. Interpretation, as Robert Cover argued in "Violence and the Word," operates on a "field of pain and death." He was speaking about legal interpretation, but he understood that there is a subtle collusion between the legal and the literary, since both are driven by broader political and economic transformations.

As in our theoretical endeavors, in the new narratives of servitude operating in the corrective torture of the ever-expanding prison system, terminology and strategically changing definitions matter a great deal. The assessment of criminality and control remains a rhetorical endeavor. Discursive obfuscation spares one the need to confront the extreme practices subsumed under the name of "corrections": when "solitary confinement" is retermed "special management" or when those who carry out executions are called "the special operations team." The very notion of "security," like "person," "labor," "hardship," "pain," and "punishment" is redefined within the walls of our prison and in the conclusions of law. The delimitation of liberty required in what one officer described to me as "this other world" produces an environment of

language that is similar to the euphemisms tooled in an academy that contains theory in a rhetoric cleansed of historical realities.

We need to transfer Jefferson's ideal of fit receptacle "for that race of men" to the transnational prison projects that regulate citizenship and redefine race. The prison market is open-ended and the movement and choice of bodies often indeterminate. In this aggressive plantocracy of mobile and deterritorialized structures for the transport and incarceration of those deemed vicious, depraved, or useless, the unholy mixture of economic policy, material want, and involuntary servitude calls for a new story, the resurrection of history with a vengeance. Let us follow the metaphoric injunction of Supreme Court justices like Brennan and Stevens, who have been considered by some to lack legal acumen, or to be ahistorical. Again, the question remains: Whose history matters? Who gets to claim it, and to whose detriment? In varied prison cases during these dark days of the Rehnquist Court, Stevens, following in Brennan's footsteps, has exhumed the opinion of the 1871 *Ruffin v. Commonwealth*.

A convicted felon, whom the law in its humanity punishes by confinement in the penitentiary instead of with death...is in a state of penal servitude to the State. He has, as a consequence of his crime, not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords to him. He is, for the time being, the slave of the State.

Though buried in evasive formulae and abstract language, numerous contemporary decisions have retooled the incidents of slavery for the twenty-first century. Under cover of "legitimacy" and "reasonableness," with the terms "decency," "basic human needs," or the "minimal extent of life's necessities" in tow, the Court has ordained a brutalization that might not leave physical marks, but accomplishes a soul death equal to if not worse than what occurred in the slave codes of the Americas. Let me push the analogy as far as it will go, giving blood, taint, and corruption their due. For these materials, the guts and gore of what Orlando Patterson in *Slavery and Social Death* (1982) called "the idiom of power," haunt contemporary legal remedies and correctional policy.

1.8. What , then, according to the conclusion reached by my brethren, is meant in the statute by 'civilly dead'? How much of the convict is civilly dead, and how much civilly alive? —Avery v. Everett, 1888

Just as the terminology of slavery has disappeared from majority legal opinions, the theoretical embrace of academically sanctioned and humane euphemisms has helped to obscure the most radical redefinition of personhood and property since slavery in the Americas. My ghost story, then, should be seen as a necessary ritual or remembrance. As captured in Mumia Abu-Jamal's *Live from Death Row* or Sister Helen Prejean's *Dead Man Walking*, the idea of the incarcerated as the living dead is not ancient history. As the limited meaning accorded civil death in common law, inmates today—whether on death row or in the state-of-the-art control or special management units—are effectively isolated and cut off from any personal possession and enjoyment. And now that *Lewis v. Casey* (1996) has decided that law libraries do not constitute meaningful access to the courts, inmates face the strange anomaly of a contract without mutuality, the subjection to suit without power to bring one. Department Order 902 of the Arizona State Prison system, which imposes disabilities without any statutory basis, disqualifies claims that include divorce proceedings, probate, child custody matters, wills, civil-property matters, disciplinary infractions, and a number of other significant legal issues. The curtailing of procedures for photocopying legal materials, the monitoring of attorney phone calls and legal mail, as well, as the obvious incapacity resulting from lack of access to legal materials such as federal or state case law reporters or annotated statutory material, amount to nothing less than depriving prisoners of their due-process rights, rendering them "dead in law."

In my forthcoming *Held in the Body of the State*, I return to what has been deemed a remnant of obsolete jurisprudence: the state of a person who, though possessing *natural life* has lost all *civil rights*. Unnatural or artificial death as punishment for crime entailed a logic of alienation that could extend perpetually along constructed lines of racial kinship. Its legal paradoxes, its gothic turns between tangible and intangible, life and death became necessary to the racialized idiom of slavery in the American social order. The alternating moves between the idea of civil death and the meaning of servitude operated both forward and backward along a temporal continuum to exclude, subordinate, and annihilate. What William Blackstone in his *Commentaries on the Laws of England* had understood as those few circumstances in which civil death was coextensive with physical death, as caused by profession (as in a monk professed), abjuration from the realm (deportation for crime), and attainder and banishment (for treason), became the terms for a specifically colonial rendition of legal incapacitation.

I distinguish civil death from other legal sanctions, since this concept and its attendant disabilities maintained both a strictly hierarchical order and the blood defilement on which that order depends. Corruption of blood operated practically as a severing of blood lines, thus cutting off inheritance, but also metaphorically as an extension of the "sin" or "taint" of the father visited on his children. If we treat *blood* and *property* as metaphors crucial to defining *persons* in civil society, then it is easy to see how "corruption of blood" and "forfeiture of property" could become the operative components of divestment. By a negative kind of birthright, bad blood blocked inheritance, just as loss of property meant disenfranchisement. Yoked together as they are, these terms loosely but powerfully define types of slavery. Whether applied to the slave or the criminal, both are degraded below the rank of human beings, not only politically, but also physically and morally.

The formal appearances of the rule of law have energized the maintenance of a servile order, now unmoored from its racialized episteme in order to resurface, transmuted, under guise of an essentialized criminal agency. Once those incarcerated are circumscribed by lack and characterized by their disregard for property, life, or rules of order, they have entered the purgatory of civil death. The language of the law, amid the current spectacle of chain gangs, control units, and executions, preserves the memory of slavery. Moreover, legal terminology has kept civil death alive in the United States. In thus underwriting the network of images that sustain such antinomies as civility and brutality, ability and deficiency, natural and unnatural, the rules for a modern concept of servility have been introduced. This working strategy of domination and control, producing noncitizens outside the bounds of society, has proved too powerful an apparatus to lose.

1.9. *Oh, the Joys of Solitary Confinement*—New Yorker *ad picturing the interior of the Toyota Avalon*

In the underbelly of global consumption, prisoners are recycled as the interchangeable waste products of free market enterprise. Eight hundred Alaskans are incarcerated in the Corrections Corporation of America private prison in Florence, Arizona; and nearly six hundred Hawaiians in "Prairie Correctional Facility," the CCA private prison in Appleton, Minnesota. The most chilling fantasy of reification is evoked in the much-celebrated conversion of servile bodies into stock shares. The Real Estate Investment Trust, more commonly known as "REIT," allows private property to go public. According to an August 4, 1997 *Newsweek* article, the value of Corrections Corporation of America stock, traded on the NYSE, had jumped almost tenfold in the last three years. Some investors have paid more than \$80,000 for every prisoner who currently sleeps in one of its beds for a year. A bed in a private prison can generate about \$14,000 in annual revenue. The September 29, 1997 cover story in *Fortune*, "Getting Rich with America's Fastest-Growing Companies" opened with performance statistics for CCA. Over the past three years, shares of CCA had appreciated 746%. A month later, *Barron's* admitted that some investors might balk at buying stock in prisons—where profit depends on bodies incapacitated—but reminded readers: "Stock

prices will be largely immune to news of inflation, currency fluctuations, Mideast jitters.... Paradoxically, and almost perversely, bad news, like a rise in the crime rate, will goose these industry's stocks. And a recession, which typically increases crime, would not be bad for these stocks, either."

The novel means of turning "dross into gold" amounts to nothing less than a consummate disposal system, that makes money for investors in a REIT, trusting that the corporation will run the prisons. And there will be ever more prisons to run, as long as mandatory sentencing, the "war on drugs," "three strikes and you're out," and juvenile incarceration ensure the continuous flow of prisoners, detained for ever longer periods of time. Once warehoused, bodies become fit commodities for the public domain; and idling prisoners, once contained, or as one officer confided to me, "freeze-dried" in super-maximum security units, become value-added components to land. This new growth industry recasts slavery for the twentieth-century, with a nod back to convict lease and a look forward to commodities trading. Material considerations and a concern for public stability have not only produced the juridical non-existence of persons through degrees of deprivation, but have combined political, economic, and penal oppression. For in this economics of docile bodies, money can be made whether or not inmates work. Incapacitation both identifies waste and provides for its disposal, while money gets made in and through a land purged of its undesirables.

Joan Dayan, Visiting Fellow, Program in Law and Public Affairs, Princeton University