

Law, Prison, and Double-Double Consciousness: A Phenomenological View of the Black Prisoner's Experience

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ABSTRACT. This Essay introduces double-double consciousness as a new way of conceptualizing the psychological ramifications of being a black prisoner. It begins by revisiting W.E.B. DuBois's theory of double-consciousness. It then offers a phenomenological exposition of double-double consciousness—the double consciousness that the black prisoner came to prison with, coupled with the double consciousness that the black prisoner develops in prison. Thought and feeling, time and space are all different in the prison. This world relentlessly imposes the prisoner identity on all those who inhabit it, requiring them to reconcile their new status with their conceptions of self. Based on my own experience as a black prisoner, I conclude that double-double consciousness is a mechanism through which the prisoner can maintain dignity despite living in captivity.

INTRODUCTION

Mass incarceration is like a plague that has been passed among generations of young black and brown men with seemingly no end. Conversations abound concerning mass incarceration. Much of the scholarship on prison has focused on the mechanisms by which our massive carceral state has been constructed and maintained. Scholars such as Angela Davis,¹ Khalil Gibran Muhammad,² Michelle Alexander,³ and James Forman Jr.⁴ have examined mass incarceration

1. See ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? (2003).

2. See KHALIL GIBRAN MUHAMMAD, THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA (2011).

3. See MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS (2012).

from a number of different perspectives, expanding our collective understandings of how it perpetuates racism, and inequality.

But at some point, we must also explore how prison affects the mind of the incarcerated. One aspect of mass incarceration that has not been thoroughly discussed is that of the lived experience of the prisoner. Prisoners have primarily been talked *about*; rarely have they had the opportunity to give first-person accounts of their experiences.⁵ Here I add my voice to those of George Jackson,⁶ Reginald Dwayne Betts,⁷ Michelle Jones,⁸ David Evans,⁹ and others to use our experiences as opportunities to capture a glimpse of life in prison.

The rule of law has been the justification most widely invoked to sustain the systematic oppression of black people in the United States.¹⁰ The colonial project created the context within which the construction and application of law came to rule the body and mind through institutionalized enslavement. The prison-industrial complex is a relatively recent iteration of that historical project. Mass incarceration and the rule of law are inextricably linked as they signify an assault on one's identity, threatening to colonialize the mind while dominating the body.

I must first acknowledge that for everyone, prison is an extremely traumatic experience whose effects are magnified with the passage of time. In speaking about my experience of race philosophically, it is not from the perspective of having the privilege *not to do so*; it is out of existential necessity.¹¹ I am a black prisoner. When I say "the prisoner" I am talking about myself. But I also dis-

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4. See JAMES FORMAN, JR., *LOCKING UP OUR OWN: CRIME AND PUNISHMENT IN BLACK AMERICA* (2017).
 5. For reflections on scholarship and "the historic and simultaneous silencing and appropriation of the voices and experiences of people incarcerated," see Erin L. Castro & Mary R. Gould, *What Is Higher Education in Prison? Introduction to Radical Departures: Ruminations on the Purposes of Higher Education in Prison*, CRITICAL EDUC., July 1, 2018, at 1, 10.
 6. GEORGE JACKSON, *SOLEDAD BROTHER: THE PRISON LETTERS OF GEORGE JACKSON* (Chi. Review Press 1994) (1970).
 7. DWAYNE BETTS, *A QUESTION OF FREEDOM: A MEMOIR OF LEARNING, SURVIVAL, AND COMING OF AGE IN PRISON* (2010).
 8. Karen Jones et al., *Student Voices, in EDUCATION FOR LIBERATION: THE POLITICS OF PROMISE AND REFORM INSIDE AND BEYOND AMERICA'S PRISONS* 149 (Gerard Robinson & Elizabeth English Smith eds., 2019).
 9. David Evans, *The Elevating Connection of Higher Education in Prison: An Incarcerated Student's Perspective*, CRITICAL EDUC., Aug. 1, 2018 at 1.
 10. See generally ALEXANDER, *supra* note 3.
 11. See George Yancy, *Through the Crucible of Pain and Suffering: African-American Philosophy as a Gift and the Countering of the Western Philosophical Metanarrative*, 47 EDUC. PHIL. & THEORY 1143, 1144 (2015) ("Abstract spectatorship is a privilege that Black bodies, within a context of anti-Black racism, cannot afford.").

cuss the experience of prison in general—the experience of any prisoner who lives in the United States’ system of “corrections.” So when I say “the prisoner,” I am also talking about others. Using “I” would be too exclusive a term, while using “we” would be too inclusive.¹²

For the black prisoner specifically, the psychological effect of incarceration is concomitant to the resentment implicit in the reality of being black in spaces that are anti-black . . .¹³ Mass incarceration, as a manifestation of the law, embodies this enmity.¹⁴ For everyone, lives lived within the prison occur in a space where the individual’s sense of self is refracted through an antagonism to individuality: the prison does not recognize the prisoner’s sense of self, and for that reason, the prisoner’s self is altered. Moreover, black prisoners have always lived their lives behind a DuBoisian veil.¹⁵ Separated from equality and recognition not once but twice, the black prisoner is held captive by the numerous conflicts and contradictions that play an integral role in his conception of himself. Convicted of a crime, he must grapple with his criminality, but being perceived as a criminal was his reality before committing any criminal act. He was born guilty of possessing black skin and was later convicted of being a black man. Double-double consciousness is the prisoner’s response to his oppression, but also an affirmation of his own humanity.¹⁶

12. I have tried to keep in mind that the general experience is, in practice, never really general. I will speak about the experiences I have had as a black, heterosexual male prisoner. Gender and race lead to different experiences, and different perceptions of experience. I cannot speak for anyone else, though I understand that our experiences as prisoners overlap in many ways.

13. For incisive analyses of the psychological effects of anti-black racism, see W.E.B. DU BOIS, *DUSK OF DAWN: AN ESSAY TOWARD AN AUTOBIOGRAPHY OF A RACE CONCEPT* (1940) [hereinafter DU BOIS, *DUSK OF DAWN*]; W.E.B. DU BOIS, *THE SOULS OF BLACK FOLK* (1903) [hereinafter DU BOIS, *SOULS*]; IF THEY COME IN THE MORNING . . . : VOICES OF RESISTANCE (Angela Davis ed., Verso 2016) (1971) (focusing on anti-black racism in the criminal legal system); and Yancy, *supra* note 11.

14. Wherever I say “black,” I am speaking about all peoples of color who have been the object of an enmity that cannot be justified.

15. See *infra* note 17 and accompanying text.

16. The term “double-double consciousness” arose from a conversation between Professor Lisa Guenther and myself during Professor Lori Gruen’s philosophy seminar at Cheshire Correctional Institution as part of Wesleyan University’s Center for Prison Education program. I made a comment to Professor Guenther about the ways in which prison affects consciousness and the threats that this can pose to one’s identity. I referred to the coercive relationships that I am part of in prison and how my consciousness is affected. Professor Guenther replied that what I was describing was something akin to a kind of defense mechanism in which a new consciousness may emerge, and she seemed to want to say more but stopped herself. Following her train of thought, I immediately saw how the prison’s extremely oppressive existence demanded a new consciousness among prisoners, and that what Professor

I. BEYOND THE VEIL

America is a nation founded upon freedom and equality, a nation whose founding documents proclaim that all men are created equal and that each man is born with certain inalienable rights. America's liberal democratic principles allude to fairness and equal opportunity in pursuing happiness, and for the white majority the experience is, predominantly, consistent with America's founding principles. For the black minority the world is exclusionary and bifurcated along racial lines; blacks live behind a veil that leaves them unrecognized by whites. This lack of recognition in a world socio-economically and politically dominated by whites distorts their reality.

DuBois, who wrote during the time of Jim Crow, spoke of the veil as a complete separation; whites live on one side of the veil in one reality, while blacks occupy another side—another reality. These realities are as separate from one another as justice is to injustice, as equality is to inequality. Two realities, separate yet inseparable, because each is partially defined by reference to the other; a life of freedom and prosperity lived by whites in full view of blacks, whose lives are hindered by nothing but the pigmentation of their black skin and what it represents. The veil represents the division that develops as a result. DuBois wrote:

It is as though one, looking out from a dark cave in a side of an impending mountain, sees the world passing and speaks to it; speaks courteously and persuasively, showing them how these entombed souls are hindered in their natural movement, expression, and development; and how their loosening from prison would be a matter not simply of courtesy, sympathy, and help to them, but aid to all the world. . . . It gradually penetrates the minds of the prisoners that the people passing by do not hear; that some thick sheet of invisible but horribly tangible plate glass is between them and the world.¹⁷

As a direct result of living in a world divided, blacks develop a special consciousness: they become aware of how whites see them from the other side of the glass. This consciousness acts as a mechanism that can be used to survive existing in a world that fails to acknowledge their complete lived experience, one where they are never fully accepted as peers. Du Bois called this phenomenon “double-consciousness” and described it as “a peculiar sensation, this double-consciousness One ever feels his two-ness—an American, a Negro;

Guenther and I were describing was a consciousness that opposed the prison's prescribed consciousness. What we were describing was what I call “double-double consciousness.”

17. DU BOIS, *DUSK OF DAWN*, *supra* note 13, at 130–31.

two souls, two thoughts, two unreconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder.”¹⁸ Blacks in the twenty-first century face a similar existence.

To be black is to ask yourself, “who am I?” “[B]eing black is to feel the air around you shift when you enter certain spaces; it is to know that equality is forever a few steps away and fairness here or there depending on the day. To be black is to know that something is wrong in the world while white people act as if they do not know this; it is to feel that at times, the whole world is against you,”¹⁹ while at other times you begin to question if what you think of as the world is real. “[T]o be a black prisoner is to feel all of these things acutely”²⁰ DuBois’s veil takes on added meaning when invisible glass is replaced by solid brick, concrete, and steel. Prisoners are left stranded in a world created for intentional oppression. This, after living for years behind the veil that DuBois describes, leaves the black prisoner further removed from the elusive promise of equality. In fact, the prison creates a concrete separation from *everything* outside its boundaries.

II. NEW WORLD—NEW CONSCIOUSNESS

Prisoners refer to everything that exists outside the prison walls as “the world.” In so doing, prisoners are signaling the alienation that they experience. They experience this alienation completely. Everything that once constituted their identity, their sense of self, exists in that world. They are signaling that a dramatic shift in their existence has occurred. They are also signaling that everything within the prison walls constitutes something distinctly different from “the world.” The world is where their family and loved ones live. The world is where they once had self-determined relationships with others. Prison is a space without the most natural of loving relationships. The prisoner is separated from his children, his family, and friends. But he is also separated from all the houses, stores, streets, and other spaces that constitute his environment. He is separated from all of the pieces that he used to construct his identity. Such separation has consequences—consequences that manifest in thoughts, feelings, and actions. The absence of sustained contact, and of maintaining loving relationships with women and children, leaves him in an emotional no man’s land. His identity as a father, husband, brother, friend, lover, and provider is undermined. He may go years without receiving a loving embrace, without a kiss. This assault on his identity is a profound psychological trauma.

18. DU BOIS, SOULS, *supra* note 13, at 3.

19. James Davis III, *Caught Somewhere Between . . .*, CRITICAL EDUC., Oct. 1, 2018, at 1, 4.

20. *Id.*

The complete separation of the “new world” the prisoner inhabits from the old is as complete as is the separation of the left hand from the right. This separation may only be understood by those who have experienced life under such conditions, but it cannot be questioned by any who have not had such an experience. Thought and feeling, time and space are all different in the prison.

The prisoner lands in this “new world” and is given a new identity, conferred through the impersonal numeric digits that become his primary marker. He is reduced to being this number, in a long line of others who have been similarly reduced to numbers. This separation from his name immediately assails his sense of self. His psyche is traumatized by the separation from his prior existence, even as he must contend with the new consciousness that has been imposed upon his old. This psychological violence is etched into him at once. Immediately upon entry to the prison space he is stripped, literally and figuratively. He stands powerless as another man demands his clothing. As he hands over his clothes, he feels that he is relinquishing a piece of his dignity. He looks around in search of some humanity but sees little evidence of its existence in this alien space.

The prisoner undergoes an ontological shift in the prison space which produces new meanings that supplant the old. This shift is forced upon him, but it is also necessary for survival in a world whose values and norms are abnormal.²¹ The prisoner must accustom himself with the meanings of his “new world” and the demands that it places upon him. These new meanings are not only thought, but felt. The clicking, clanking, and crashing of keys, metal doors, and iron gates reverberate through his soul. Click, clank, crash, keeping him off kilter so that he is in a constant state of imbalance, resulting in an anxiety filled with self-hatred and self-pity. The sounds, the nonstop sounds of an institution of unliving grates against the reality that is life-outside-the-walls, a world glimpsed through the barbed wire of criminal injustice. A world of criminal injustice where the unforgiven are sentenced to a sad, hate-filled state of unliving, as if unliving is a state that only they visit.

“[O]ne cannot deprive individuals of their world without doing grievous damage to their beings as consciousness.”²² This damage is critical to understanding the prison experience. Every aspect of prison is centered around this often overlooked point. Prison is a site of trauma, a site of psychological, emotional, and sometimes physical harm.²³ These harms shape consciousness as

21. See generally Thomas J. Schmid & Richard S. Jones, *Suspended Identity: Identity Transformation in a Maximum Security Prison*, 14 *SYMBOLIC INTERACTION* 415 (1991).

22. See LISA GUENTHER, *SOLITARY CONFINEMENT: SOCIAL DEATH AND ITS AFTERLIVES* 24 (2013).

23. See generally Mika'il DeVaux, *The Trauma of the Incarceration Experience*, 48 *HARV. C.R.-C.L. L. REV.* 257 (2013).

surely as the hand shapes clay. The prisoner relates to his space as a site where harm is pervasive and continuous. Survival becomes something to be accomplished as opposed to something that is expected. It is his sense of self, his consciousness that is threatened, that must fight for survival.

The prisoner identity is imposed through different means. The way the prisoner relates to the prison space is one of unnatural vigilance in his constant attempts to mitigate harm. He must always be conscious of his surroundings, and he perceives any type of relaxing as putting himself in a position of vulnerability. In this way, his surroundings oppress him. This constant state of oppression changes the way the prisoner relates to objects. It is as if his brain has been rewired, separated from “the world.”

He is forced into a cold, new world of brick, old concrete, and steel—all of which is surrounded by the quiet violence of razor-wire fencing whose very existence proclaims that he is dangerous and deserving of punishment. At all times he is watched, never trusted. The cloak of untrustworthiness, which the constant surveillance relentlessly refuses to remove, threatens to undermine his humanity. His cellmate is a constant presence. This, too, subtly undermines his humanity. Supplementing the informal surveillance of his cellmate is the formal surveillance of correctional staff whose watchful eye sees everything. In sleep, in thought, and in conversation the prisoner is watched. He is stalked every second of every day. Cameras are set to record movement in corridors and in housing units. He cannot even use the bathroom in private.

Prison does not recognize the prisoner’s right to privacy. Such a right does not exist. His humanity thus affords him no escape from his inhumane treatment. The loss of this most natural right represents one of the most traumatizing, yet casually implemented, aspects of prison. Prison rules and practices—often arbitrary and always indifferent—so dictate his every move that he feels like a pantomime: only living superficially, having superficial relationships within a “superficial” world. This makes him vulnerable to the prison and to prisoner ideologies, to societal and to institutional stigmas, and to the coercion inherent in the prisoner identity.

He knows who he is for a time, but time erodes his notion of self. This is what enables the prisoner identity or “third” consciousness—the first American, the second black, the third prisoner—to take hold. This “third” consciousness feels false even as it is imposed upon him. Prison is an attack on his identity, his consciousness. Over time it threatens to consume his original sense of self, as the formerly “false” feelings become his new, true identity. He must adjust to his new reality, even before he can accept it. He came to prison with double consciousness, and then a new consciousness is forced upon him by his new world. Its purpose is to reconcile him to his new reality.

The prisoner identity is imposed on all prisoners, but this identity is not the third consciousness for all prisoners. Prison is a space where some semblance of racial equality is almost achieved. The imposition of the prisoner consciousness does not respect race. In relation to prison staff, the white prisoner, like the black prisoner, is seen as something other than what he sees in himself. The white prisoner must develop a new consciousness to contend with his new predicament. While the black prisoner is familiar with being perceived as less than, the white prisoner may be new to such a reality. The white prisoner may still enjoy some measure of white privilege.²⁴ Such privilege is only in relation to the black prisoner, as the white prisoner will be more likely to receive better job assignments; the black prisoner will be more likely to be fired. While the white prisoner wears the same uniform and so experiences the prison space as a “colored” man, he is not black. For the black prisoner, his prison uniform replaces his black skin as the mark of his oppression.

The black prisoner has forever faced a world that believes him to be something other than himself. He developed double consciousness to become accustomed to the two realities that he lives simultaneously. One reality, one consciousness, forever superimposed upon the other. Many come to see their blackness as problematic, reflecting the view that their world has of them. For some fortunate souls, their consciousness of self serves as their citadel. They are conscious of the way that their world views them without it becoming their view of themselves. DuBois’s twoness is his first reality; prison is his second and here his perceptions take on new meanings as they play on his conceptual connection to himself and the worlds he inhabits. In prison, in his new world, the black prisoner must contend with the same formula of potential self-destruction.

His identity as a prisoner is socially stigmatized, but as a black man he has been imprisoned by stigma before, imprisoned by the perceptions of his black skin that he glimpses through the veil. Once in prison the prisoner must contend with new conceptions that are intended to define him as other than who he is. His identity is reflected by the coercive relationships inherent to prisons, his uniform which proclaims his inferior and defective status, and his physical

24. See generally Peggy McIntosh, *White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women’s Studies* (Wellesley Ctrs. for Women, Working Paper 189, 1988), https://nationalseedproject.org/images/documents/White_Privilege_and_Male_Privilege_Personal_Account-Peggy_McIntosh.pdf [<https://perma.cc/AKY3-AXZM>] (describing white privilege as “an invisible package of unearned assets that I can count on cashing in each day” and “unpacking this invisible knapsack” by providing forty-six examples of white privilege and eight examples of heterosexual privilege).

surroundings which conspire with space and time to erode his sense of self.²⁵ Time, a lack of individuality, and the absence of empathy distort the depth experienced by the prisoner.

III. THE DISTORTION OF DEPTH

The prisoner's vulnerability is exacerbated by time. Time and space take on different meanings as they operate, second by second, day by day, to construct a new consciousness within the prisoner. Consciousness and identity are tied to experience. As memories of freedom fade memories of imprisonment are made. Because memory is integral to identity, time seems to erode his former identity as the prisoner identity is fed a steady diet of experiences that threaten to shape his consciousness. The prisoner consciousness comes to be a psychological protection against the emotional harms attendant to being so totally separated from "the world," and from all the relationships that constituted his old life.

Discussing the work of Maurice Merleau-Ponty, Lisa Guenther writes, "For Merleau-Ponty, the body is both *in* space and *of* it. . . . The body is a spatial object But it also is the site of lived experience; I feel things not just *in* my body but *as* a body."²⁶ What does it mean for the prisoner's body to be both *in* the prison space and *of* it? Space is experienced differently and uniquely in prison. Lisa Guenther argues that prison represents a "coercive rearrangement of space" that is unique to prisoners.²⁷ To others, the prisoner's existence is nonfiction. Yet he is subjected to time and space in a way that is alien to those in the real world. He exists in a world of fictions where remembered yesterdays lead to forgotten todays, where progression is often arrested, and aspirations misplaced. Prison is a space that has been arranged for the specific purpose of repression and control.

Because prison is not a natural environment that prisoners enter willfully or that sustains meaningful relationships, his world represents something alien. He feels the unnaturalness in the air—he can smell the tension, the fear, the breath of a thousand bodies. But none of these things makes sense. He feels unnatural in this unnatural space peopled by so many men, too many men. Their close proximity creates a tension that he feels in every fiber of his body. He fears that he will lose himself to the misery that is reflected back at him

25. See generally Lisa Guenther, *The Psychopathology of Space: A Phenomenological Critique of Solitary Confinement*, in *MEDICINE AND SOCIETY, NEW PERSPECTIVES IN CONTINENTAL PHILOSOPHY* 233 (Darian Meacham ed., 2015).

26. *Id.* at 241. She further observes, "Even when I reflect on my own consciousness processes . . . my consciousness is oriented towards something other than the pure act of reflecting." *Id.* at 238.

27. GUENTHER, *supra* note 22, at 181.

from the eyes of other captured souls. Even time cannot withstand the unnaturalness of the oppressive prison space. He looks at the clock, hoping to find some measure of normalcy but each clock he sees moves slower than any clock he's seen before. He feels that if prison can oppress time, then it will crush him.

George, a maximum-security prisoner interviewed at Cheshire tells me, "I've been down 18 years and I feel like I've been down for 180 years." But, at the same time, "[t]ime feels like its suspended. I came in when I was 20 and I still feel like I'm 20."²⁸ Merleau-Ponty observes, "The world is not what I think, but what I live through."²⁹ Every relationship the prisoner has is dominated by his environment and identity as a prisoner. His relationships to time and space are no different. They are constantly working on the prisoner's consciousness and this work is accomplished through the coercive nature of the prison experience.

It is the coercion inherent to prison that causes an experience of *distorted depth* for the prisoner. Focusing on solitary confinement, Guenther writes, "[T]he experience of depth is not merely perceptual in a cognitive sense, but also affective or emotional. I am moved by things, and not everything moves me in the same way."³⁰ The prisoner in general population experiences something similar to the complete lack of depth experienced in solitary. I have termed this "distorted depth," to reflect the way that prison distorts reality.

The prisoner is a human being. As such his reality is intertwined with, and connected to, the reality of others. "Intercorporeality" describes the relation between the self and others. "The body of the other is the 'there' to which my own body—my 'here'—is essentially correlated. Likewise, my 'here' is experienced as 'there' for another person's 'here.'"³¹ Intercorporeality is dependent on a clear separation between bodies. Because the prisoner's "there" so closely resembles his "here," distinctions between individuals collapse.³² The result is a distorted depth that all prisoners experience, given enough time. In this way,

28. George Jackson said something similar about his experience of time in prison: "I'm twenty-six now, and I'll be twenty-six when I leave here. Be it 40 years from today." JACKSON, *supra* note 6, at 139. Once one has experienced time this way, he asks himself: time is relative, and experience subjective; is anything in the world objective?

29. MAURICE MERLEAU-PONTY, *PHENOMENOLOGY OF PERCEPTION* xviii (Colin Smith trans. 1958) (1945).

30. Lisa Guenther, *Inhabiting the House that Herman Built: Merleau-Ponty and the Pathological Space of Solitary Confinement*, in MERLEAU-PONTY: SPACE, PLACE, ARCHITECTURE 151, 157 (Patricia M. Locke & Rachel McCann eds., 2016).

31. Guenther, *supra* note 25, at 243.

32. As noted by Guenther, "there is no individual without relations." GUENTHER, *supra* note 22, at xv.

intercorporeality is altered so that the prisoner's perspectives of the world become less varied over time.

The prisoner is left adrift in a world that feels so much larger than what can be measured by ruler. His "here" gains an untold number of shadows that threaten his ability to distinguish himself from who he is not. Experiences in prison are so similar that differences fall prey to the distorted perception that individuality does not exist in such a space. A lived experience becomes something the meaning of which is susceptible to change by someone other than he who has experienced it. The prison space, its practices, and its policies come to dictate meanings separate from the experience of the prisoner. The prisoner may look at a clock and see what time it is and be told by an officer that the time is something else. The prisoner may have been waiting for hours to escape his cell, his hell, only for his sixty minutes out to be transformed into less than the hour that he is due. Such practices shape consciousness over time.

After a time, he finds no escape and no solace, even in sleep. His conscious mind is so thoroughly steeped in his "new world" that even in his dreams he finds himself in a cell or some other prison structure. Prison shapes his subconscious mind so that his dreams constrict and confine him to a consciousness that is completely saturated by the prison experience where he is the victim of constant surveillance and control. Gary, a prisoner interviewed at Cheshire, reflected on the effects of distorted depth as he related to me a dream he had:

I was in my grandmother's living room playing with my daughter and waking to my mother confined in my cell at the same time. The living room/cell door opened up and I was outside with my friends. I was still behind the outside recreation gates with a correctional officer on the yard. Then I went back in the house/facility, back to the living room/cell and woke up in prison/reality.

Gary's experience is the prisoner's experience. When he first came to prison, he could find freedom in his dreams. After a time, he couldn't even *dream* of freedom any longer. What does it mean to his consciousness when the ability to dream of freedom fades?

These same effects can be seen over time in the prisoner's interactions with others. It is true that prisoners can, and do, have meaningful interactions with one another, and that prisoners in general population do not experience a lack of depth. The intimate relationships that can form between cellmates is a good example because of the amount of time they share together. Over time, two men living in such a small space become intimately familiar with one another. Communication becomes less dependent on verbalization as movements and looks take on clear meanings, demonstrating a kind of intimate understanding. This type of intersubjectivity could be viewed as demonstrating a healthy kind

of intimacy that is antithetical to any distortion of depth. In this view, cellmates mutually sustain one another against lack of depth and anchor one another in a self-sustaining sociality that allows them to maintain their sense of the world.

I would argue, however, that the level of intimacy between cellmates is extremely problematic. The cell is the ultimate symbol and manifestation of powerlessness. It is here that the prisoner feels an inescapable impotency as the walls communicate his capture, the bunk an uncomfortable permanency, and the toilet a physical manifestation of the indignity of his predicament. Subconsciously he hates his cellmate for witnessing him at his most vulnerable, his weakest moment, almost as if his cellmate were complicit. His cellmate is a constant reminder of his powerlessness and his inability to escape his circumstances; the mere sight of his cellmate, the sound of his voice, his very presence grounds the prisoner in his own experience so that even a moment's escape seems impossible. Over time, this subconscious hate manifests itself verbally, and even physically.

The ability—the opportunity—to retreat from the presence of his cellmate is integral for the prisoner to maintain his self-hood. The greater the intimacy between him and his cellmate the more he feels his individuality eroded. It is as if he is either becoming two people or he and his cellmate are becoming one. This level of inter-subjectivity seems to crush his soul under the weight of the latent force responsible for this unsolicited intrusion on his space. His space, his identity is distorted by so unnatural an intimacy. Interactions in prison are sheathed in violent undertones derived from the institutional violence that stacks bodies in cells, and packs blocks full with cells. Interactions between prisoners are a byproduct of force: they exercise no control over the spaces they occupy or who they come into contact with.

Even when the prisoner tries to empathize with those who share his predicament, he may find himself unable. He is like a drowning man among a thousand other drowning men. He cannot see their suffering because he is completely absorbed in his own suffering. His own fight for survival is worsened by the close proximity of the suffering of others. In the other prisoner he finds his own misery. Almost instinctively, he is moved to eschew other prisoners, which leaves him unanchored.

He remains unanchored because the staff do not moor him to the world. Empathy is the mechanism through which humanity is maintained and relationships built.³³ Yet the staff do not provide this empathy. The veil that sepa-

33. See, e.g., LORI GRUEN, *ENTANGLED EMPATHY: AN ALTERNATIVE ETHIC FOR OUR RELATIONSHIPS WITH ANIMALS* 45 (2015) (“Empathy . . . recognizes connection with and understanding of the circumstances of the other”).

rates the two worlds within which the prisoner and staff exist further distorts the prisoner's ability to experience depth.

In prison, his distorted reality is bound by the distorted depth within which he is confined; but upon release, his adaptation to this distortion makes it difficult to experience full depth. He believes that in leaving prison he is leaving behind its distortions and will attempt to fully integrate himself into society without accounting for the social effects of living with distorted depth for some time.

Upon his release, he will approach interactions without being conscious of the completely different nature of his interactions outside of the prison space. Intercorporeality in prison is distorted such that every interaction is corrupted, but the prisoner may believe that his distorted interactions are normal. Time and space have created in the prisoner a new conception of what "normal" interactions entail. Upon his release, "normal" interactions may replicate prison interactions—where the showing of emotions is a sign of weakness, suspicion is casually displayed, and verbalizations and body-language are overtly "masculine" and aggressive. Jason Torello, a formerly incarcerated scholar interviewed in Cheshire prior to his release, spoke to this phenomenon when he described his interactions post-release:

Six years in prison reorganized my interactions with people both physically and emotionally. The subtle and intimate interactions which brought people into my personal space had to be systematically rejected in the masculine hyperbole of the prison space. As a result, physical interactions were disconnected to the emotional responses normally accompanying them. Upon my release I was forced to confront the impacts of this disconnect when I first began to become intimate with women. My disconnection with the emotions associated with intimacy created an over emphasis on the physical aspects of relationships. By rejecting the emotional response to the physical for so long, I became reprogrammed and was left unprepared for the full range of feelings necessary for true intimacy.

In prison, perception plays a key role in mediating intimacy in relationships. Perception shapes self-concept and takes on special importance as the real and imagined often become indistinguishable. The prisoner's distorted depth is based on the lack of mutual recognition between the prisoner and the white supremacist structure of the society that imprisons him. The truth of his humanity is lived on his side of the veil, but it is devalued and eroded by perception on the other. This perception structures his lived reality in such a way that his every act to assert his humanity is either ignored, or seen as rebellion.

Not all prisoners can transcend the prisoner identity. Many prisoners have identified the harms caused by adopting such identities, and their response is to survive.³⁴ “Inmates” make a life for themselves within the distinct lines drawn by the institution.³⁵ Their lives are lived according to the rules and their identity is related to their compliance. “Convicts” are bound by the rules in a different way.³⁶ They often get caught in a manipulation game where they seek to carve out a life for themselves in spite of or outside of the rules. Sometimes, part of their game is to challenge the rules in every way they can. But either the inmate or the convict is capable of moving beyond their particular consciousness.

Prisoners who have moved beyond the inmate or convict identity choose to live a life of meaning in a space that attempts to relegate them to living a life without meaning.³⁷ The prisoner is not content to merely survive, but must thrive.³⁸ The prisoner develops double-double consciousness in response to living in the dominant prison culture which resembles an almost Hobbesian state of nature of hyper-masculinity and casual violence. Double-double consciousness allows the prisoner to recognize the fiction of his surroundings and, even further, the false perceptions that created the social structure within which the prison is situated.

IV. DOUBLE-DOUBLE CONSCIOUSNESS

The black prisoner’s new socio-political position and the absolute necessity of affirming his humanity creates in him a double-double consciousness that goes beyond the double-consciousness described by Du Bois. *Double-double consciousness* consists of the double consciousness that the black prisoner came to prison with, and the double consciousness that the black prisoner develops in prison. These two sets of consciousness are intimately connected, but they are as distinctly different as the two worlds that precipitate their development.

34. See generally Schmid & Jones, *supra* note 21.

35. John Bryant, James Davis, David Haywood, Clyde Meikle & Andre Pierce, *Life Behind Bars*, in THE ETHICS OF CAPTIVITY 102, 107 (Lori Gruen ed., 2014).

36. *Id.*

37. See *supra* notes 6-8.

38. This same sentiment is captured in the concept of “oppositional culture”—values, beliefs, and practices adopted that serve to mitigate the harmful effects of the dominate culture. See generally Theresa A. Martinez, *The Double-Consciousness of Du Bois & The “Mestiza Consciousness” of Anzaldúa*, 9 RACE, GENDER & CLASS 158 (2002).

Prior to coming to prison the black prisoner was able to find insurmountable evidence proving the falsity of the criminalization of his black skin.³⁹

Upon his conviction of a crime and his subsequent incarceration, the prisoner must contend with the facticity of his criminalization while simultaneously combatting the imposition of the prisoner identity.

Double-double consciousness arises in response to the prisoner identity's claim on the prisoner's consciousness. He is ever conscious of the concrete veil that obscures his humanity, of the lack of recognition that threatens to alienate him from the inalienable rights with which he was born. His new world and circumstances require that he develop a new consciousness if he is to survive. But, as with the double consciousness afflicting the black prisoner before his incarceration, this new consciousness may be transcendent. A black American may recognize how he appears from the other side of the glass without succumbing to this image of himself, and if so, may gain insight into his social reality inaccessible from any other angle.⁴⁰ Double-double consciousness can have the same effect on the black prisoner. Rather than adopt the negative view of himself inherent to the prisoner identity, he instead develops a "critically reflective" consciousness that gives him the means to critique his world.⁴¹

Prisoners with this inflection of double-double consciousness are not content with being inmates. They develop an identity that allows them to thrive under the most hostile of conditions. They come to recognize that the denial of their humanity is predicated on social structures, and so critique those social structures that impose upon their self-consciousness an unnatural unreality.⁴² They recognize that they are not the problem, the structure of society is the problem with its adherence to inhumane practices such as mass incarceration. These prisoners rebuke the prisoner identity.

Such a prisoner cannot resist the imposition of the prisoner identity entirely. This is why he cannot escape his double-double consciousness, which derives from the fact that he must reconcile his status as a prisoner with his conception of his self. Yet for him, double-double consciousness is a refusal to live a life completely within the lines drawn by institutional racism and enforced by law.

39. Jane Anna Gordon, *Legitimacy from Modernity's Underside: Potentiated Double Consciousness*, WORLD & KNOWLEDGES OTHERWISE, Fall 2006, at 5.

40. *Id.* at 1, 4-8; Lewis R. Gordon, *Black Existence in Philosophy of Culture*, 59 *DIAGENES* 96, 100-01 (2014).

41. Lewis R. Gordon, *supra* note 40, at 100.

42. Joy James has referred to these prisoners as "imprisoned intellectuals." See generally *IMPRISONED INTELLECTUALS: AMERICA'S POLITICAL PRISONERS WRITE ON LIFE, LIBERATION, AND REBELLION* (Joy James ed., 2003) [hereinafter *IMPRISONED INTELLECTUALS*].

Double-double consciousness allows the prisoner to stand upright under the weight of the subordination of his new world.⁴³ It allows the prisoner to maintain his dignity through the realization that his dignity is not something that can be taken or lost by someone other than himself. It separates him from the inmate and the convict, who, mistakenly, believe that dignity is something that can be taken and then must be reclaimed.⁴⁴ Double-double consciousness enables the prisoner to anchor his humanity in his being as opposed believing that his humanity is tied to his circumstances.

The prisoner inhabits a world conceived and constructed with the specific intent to break his will.⁴⁵ This world unfolds over time as day becomes day without change. Each day the prisoner and the man, the two inseparable, exist in one world while hearing, feeling echoes of another. In response, an attendant consciousness emerges, constructed through the conscious study of his surroundings. He deliberately constructs a consciousness capable of withstanding the psychological and emotional harms inherent to his new world. The new double consciousness he develops in response to the oppression of prison is coupled with the double consciousness that he developed prior to coming to prison. Together they constitute the double-double consciousness that enable him to withstand the overlapping and interlocking oppressions of race, gender, class, sexuality, crime, and the socio-economic politics of society. But the prisoner does not only withstand such realities, he interrogates them.

Double-double consciousness is also a defense mechanism, a shield developed due to being conscious of subordination when gratuitous subordination or coerciveness infects and affects all of a prisoner's interactions with others and himself. Double-double consciousness is the prisoner recognizing that he is in fact a "prisoner" but not allowing that label to define him. It grants the prisoner the opportunity to find a sense of self, a potent identity strong enough to resist the negative pull that the prison and its pervasive manifestations have on his identity. The prison infects his every moment, every second so that he is unable to turn away from this ever-present reality. In his sleep he is stalked by different manifestations of the prison, and awake he lives and breathes in a space defined by time. In prison a door no longer means access or freedom, it means domination and powerlessness; it means that the prisoner is no longer able to exercise his full personhood. The door oppresses him by reminding him of his inability to change his circumstances. He is ever conscious of his oppression so that the construction of double-double consciousness becomes his bas-

43. See Gordon, *supra* note 40, at 6-7.

44. See Bryant et al., *supra* note 35, at 106.

45. See generally Mutulu Shakur et al., *Genocide Against the Black Nation in the U.S. Penal System (Abridged)*, in IMPRISONED INTELLECTUALS 190, *supra* note 42.

tion where he claims his humanity; his place in a wider world beyond the veil that is predicated on his presence, yet negates and subordinates his very existence at every opportunity.

Prisoners who have developed this double-double consciousness confront the fear of intimacy that prison creates. The fear is irrational because intimacy is what the prisoner yearns for in order to anchor himself in the natural world of human sociality, but the prison context is an unnatural world and intimacy is a state of vulnerability that makes the prisoner self-conscious, and creates an undercurrent of fear that has the potential to overwhelm the prisoner at any moment. Through reflection, they come to understand its source as outside of their own consciousness and imposed on them through state-sanctioned violence: the law.

Double-double consciousness makes the prisoner aware of the ways in which random sounds, random news, random violence affect his mental and emotional state. He moves in a world of contradiction, fully aware of its complexities, as deliberation and reflection become his natural state. He is as conscious of his past as he is conscious of his potential future. The two drive him to him to recognize the moment that he is in, the better to capture both truth and peace. He is ever vigilant to protect both. But he is aware of the structural violence and institutional racism that oppress him, and others like him. He is increasingly sensitive to the oppression of all, whether black or white, female, male, or other.

He seeks out answers because he understands that unanswered questions can wreak havoc on the mind. But double-double consciousness also allows the prisoner to let go when the truth is unknown. Everything cannot be explained through rational means, in life generally but in prison especially, so he learns to let go. He recognizes that the lack of this skill can be debilitating. The heart of the convict is further hardened because he lacks this skill. The will of the inmate is broken even further because he accepts anything because of his inability to explain or understand arbitrary or unreasonable acts.

Double-double consciousness manifests itself in the prisoner's sensitivity to humanity and justice. His sensitivities feed his thirst for knowledge, his thirst for understanding, and his continuous interrogation of the worlds he inhabits. He becomes a scholar with an experiential doctorate in the human condition.⁴⁶ His acute study of oppression is an acute study of everything human. He studies habits and practices to be better able to discern the oppressive patterns that govern his world. When one prisoner does something wrong he is not surprised at being punished along with a thousand others innocents. He is no more surprised than when he sees public backlash towards one particular

46. See Bryant et al., *supra* note 35, at 107.

community during an economic downturn. He is fueled by righteous indignation, but he is not driven by emotion. In short, double-double consciousness gives him a healthy perspective in an unhealthy environment.

CONCLUSION

Double-double consciousness serves multiple purposes for the black incarcerated citizen. It will serve him throughout his life. He will engage life with a penetrating vision that gives him the “capacity to see in surface phenomena the meaning of deeper realities, to see the deep structure below the surface.”⁴⁷ He will seek out balance between the interests of the racialized worlds that he inhabits. His sense of himself will be firmly rooted in the recognition of his humanity as a reflection of the humanity of others. He will value life and what it has to offer in ways that are difficult to put into words. Double-double consciousness saves him from the debilitating social, emotional, and psychological effects of prison. It will also enable him to better interrogate and examine the social, emotional, and psychological effects of being a formerly incarcerated citizen upon his return to “the world.” Upon his release from prison, he will be conscious of his interactions. He will be conscious of the need to develop interactional norms that recognize the dignity, and acknowledge the respect, that he has for others. His experience of mass incarceration instills in him a consciousness that renders him “excruciatingly alive to the world.”⁴⁸

Mass incarceration should raise a multitude of questions about how human beings treat one another. Crime and punishment are intimately connected through law, but how the law operates on all the human beings involved should be considered more closely. How does incarceration affect consciousness? What are the emotional and psychological consequences of incarceration? Double-double consciousness is only the beginning of what has the potential to explain how the law changes consciousness, and how the effects of such change can be understood. If the prisoner’s consciousness is being altered through the execution of laws designed for the betterment of all, then those who practice and actively exercise the law have an added responsibility to understand the consequences. The experiences of victims and their families, defense and prosecutorial attorneys, judges, and lawmakers are all related to the experiences of prisoners and their families, and the communities that they return to, which are often the same communities of victims and their families. As experience can be an excellent medium to confer knowledge, I encourage others with experi-

47. GLORIA ANZALDÚA, *BORDERLANDS/LA FRONTERA: THE NEW MESTIZA* 60 (3d ed. 2007).

48. *Id.*

ences connected or related to mass incarceration to interrogate their own experiences for meaning, and then to share that meaning with others.

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