

due to the seriousness of her offence, but also because her Aboriginality “was a question of evidence” (p. 88). One of the strongest elements of Murdocca’s analysis is the evidentiary absence of Jamie Lynn Gladue’s victimization—and indeed the normalization of violence against Aboriginal women through the application of section 718.2(e). Thus, the legal discourses of the *Gladue* decision reveal how the Court excludes gender from its evaluation of the impacts of colonialism. Chapter 4 grapples with the question of why section 718.2(e)—intended to address “systemic discrimination and widespread racism by the courts” (p. 113)—cannot be extended to the unique circumstances of the lives of criminalized Black women and men. Through a textual analysis of court transcripts in the cases of *R v Hamilton* and *R v Mason*—involving two young Black women convicted drug trafficking—Murdocca exposes how the practice of sentencing law works to reproduce the identity of the essential (Aboriginal) colonial subject and to disallow Black peoples in Canada from claiming harms through Canada’s slave histories.

In my view, chapter 4 is the most important chapter in the book. Here, Murdocca grapples with an intersectional analysis that lays bare how law’s use of social context as a mitigating strategy continues to pathologize the racialized subject (e.g., how she chooses to “make do” in her circumstances of single motherhood and poverty). Despite the depth of her critique, she reminds us, at the end of the book, of the importance of retaining what little authority we have in the legal field to challenge the state’s capacity to punish. As the Canadian state moves relentlessly toward greater use of incarceration and regressive law reforms, key appeal court decisions are reaffirming the principles of *Gladue* beyond sentencing and into the juridical spaces of bail and parole hearings. The analytical depth of Murdocca’s study of textual documents and key sentencing decisions provides us with the way forward, showing us how to think about sentencing practices as bound up in “racial governance” for Aboriginal and Black peoples.

Gillian Balfour, Ph.D.
Department of Sociology
Trent University

Review of Lisa Guenther

Solitary Confinement: Social Death and its Afterlives. Minneapolis: University of Minnesota Press, 2013. 321 pp.

Lisa Guenther opens her book, *Solitary Confinement: Social Death and its Afterlives*, by remarking that “[t]here are many ways to destroy a person, but one of the simplest and most devastating is through prolonged solitary confinement.”¹ Drawing on the work of philosophers such as Edmund Husserl, Frantz Fanon, Maurice Merleau-Ponty, and Emmanuel Levinas, Guenther’s analysis develops “a critical

¹ Guenther, xi.

phenomenology of unhinged (inter)subjectivity by tracking the effects of solitary confinement in the U.S. penitentiary system from the mid-nineteenth century to the present.”²

Guenther considers three waves of solitary confinement—the early US penitentiary system, the modern penitentiary, and the contemporary supermax—in relation to the broader context of racialized mass incarceration. She presents a rich, nuanced critique of “intensive confinement” (forced isolation from others), overcrowding (forced contact with others), and the punitive, neoliberal rhetoric that undergirds the American carceral state. Her insights shed light on contemporary Canadian punishment practices, including the widespread use of solitary confinement in increasingly crowded prisons.

While Guenther roots her critical phenomenology in first-person prisoner accounts, she remains critical of claims that individual subjectivity exists prior to social relations. She argues that a person in intensive confinement becomes unhinged:

Solitary confinement works by turning prisoners’ constitutive relationality against themselves, turning their own capacities to feel, perceive, and relate to others in a meaningful world into instruments of their own undoing. This self-betrayal is only possible for beings who are complicated, whose subjectivity is not merely a point but a hinge, a self-relation that cannot be sustained in absolute solitude but only in relation to others.³

Supermax imprisonment in the United States and prolonged solitary confinement suffered by prisoners in Canada assumes that prisoners need to learn to contain themselves. In contrast, Guenther argues that these forms of “punitive individualism”⁴ undermine agency by blocking the prisoners’ experience of spatial and social depth. Guenther argues that a prisoner who bashes his or her body against the cell walls is both rejecting and succumbing to the logic of punitive individualism.

Guenther’s critique of US litigation aimed at limiting solitary confinement in the 1970s and 1980s may be of particular interest to Canadian scholars and advocates. She argues against negotiating ostensible improvements in solitary confinement, as occurred in the United States. Prisoner litigation in Canada has similarly failed to condemn solitary confinement outright and the prohibition against cruel and unusual treatment or punishment in the *Canadian Charter of Rights and Freedoms* has been given little substantive content and almost no application in prison cases.⁵

In an interesting move, Guenther draws on research about factory farming and animal experimentation to argue that the concepts of human rights, human dignity, and “dehumanization” do not capture the violence to which prisoners are subjected. She suggests that a concept of “de-animallization” better describes the impact of intensive confinement. Human rights strategies, while perhaps strategically useful for some prisoners, distract from the need for a more pervasive,

² Guenther, xiii.

³ Guenther, xiii.

⁴ Guenther, 84.

⁵ Debra Parkes, “The Punishment Agenda in the Courts,” (2014) 67 *Supreme Court Law Review* 589.

abolitionist critique of imprisonment and punishment. Yet Guenther remains, at the same time, hopeful, and even pragmatic, about the need for advocacy and reform.

One of the strengths of the book lies in its focus on solitary confinement. However, Guenther repeatedly links practices of solitary confinement to the broader context of punishment and imprisonment as well as to colonization and racialized inequality. She does not simply gesture to these larger questions but regularly draws connections between the extreme or exceptional forms of punishment and the everyday violence of incarceration.

The book resonates in the light of a grainy Canadian prison surveillance video showing 19-year-old Ashley Smith tie a ligature around her neck and, after 45 minutes, turn lifeless in her segregation cell. A coroner's inquest jury labeled Ashley's death a homicide. She spent all of her eleven and a half months in federal prison in solitary confinement, having been transferred from the youth correctional system in New Brunswick where she had also been held in isolation. Guenther provides a compelling account of the focus on control and management of bodies that is pervasive in contemporary penalty and the way prisoners like Ashley can become unhinged in prolonged segregation.

According to Guenther, intensive confinement for social beings operates as social death in a manner that implicates the broader society. With this original work, Guenther adds her voice to the growing chorus calling for an end to the entrenched, inhumane practice of solitary confinement. She provides new avenues of analysis for prisoner advocates, abolitionists, and academics from a range of disciplines who are interested in social justice and are critical of contemporary penalty.

Debra Parkes
Associate Dean (Research & Graduate Studies)
Faculty of Law
University of Manitoba