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[*1027] CHAIN-GANG ALL-STARS. By *Nana Kwame Adjei-Brenyah*. New York: Pantheon Books. 2023. Pp. xi, 363. Hardcover, \$ 27; paper, \$ 18.

I thought of how the world can be anything and how sad it is that it's this.

*Nana Kwame Adjei-Brenyah*¹

INTRODUCTION

In recent years, many of the most significant cultural artifacts about American prisons have featured a protagonist convicted of a crime they did not commit: *The Shawshank Redemption*,² *The Green Mile*,³ *Nickel Boys*,⁴ *An American Marriage*, and so on.⁵ Bryan Stevenson, one of our generation's most important public speakers and advocates,⁶ authored perhaps the most influential such artifact *Just Mercy*.⁷ As a lawyer, Stevenson has brought several pathbreaking cases limiting extreme punishment.⁸ And in *Just Mercy*, he popularized a longstanding slogan of public defense offices: "Each of us is more than the worst thing we've ever done."⁹ Following the book's

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¹ Pp. 198-99.

² THE SHAWSHANK REDEMPTION (Castle Rock Entertainment 1994).

³ STEPHEN KING, THE GREEN MILE: THE COMPLETE SERIAL NOVEL (Scribner 2018) (1999); THE GREEN MILE (Castle Rock Entertainment 1999).

⁴ COLSON WHITEHEAD, THE NICKEL BOYS (2019).

⁵ TAYARI JONES, AN AMERICAN MARRIAGE (2018).

⁶ Lydialyle Gibson, *Bryan Stevenson; National Humanities Medal 2021*, NAT'L ENDOWMENT FOR THE HUMANS. (2021), <https://www.neh.gov/award/bryan-stevenson> [perma.cc/KT96-KHH6].

⁷ BRYAN STEVENSON, JUST MERCY (2014).

⁸ Gibson, *supra* note 6.

publication, Desmond Tutu dubbed Stevenson "America's young Nelson Mandela" and wrote that *Just Mercy* "should be read by people of conscience in every civilized country in the world to discover what happens when revenge and retribution replace [*1028] justice and mercy."¹⁰ The book's central protagonist is Walter McMillian, a Black man on Alabama's death row. Walter, though, did not deserve any retribution nor did he require any mercy. He had not *actually* done the "worst thing [he'd] ever done."¹¹ He was innocent.

Telling the story of incarceration through the eyes of an innocent has undeniable artistic appeal. The innocent person entering prison can easily stand in for the reader or viewer, encountering a new and unfamiliar world. And indeed, works like *Just Mercy*, *The Nickel Boys*, and *The Shawshank Redemption* are wildly successful pieces of art.¹²

But the overrepresentation of innocent protagonists may mean that popular and reformist critiques of American prisons are shallower than they appear. Although many insist that these stories of innocence are the beginning and not the end of a broader social critique, they may do more harm than good. A selective focus on actual or moral innocence can reflect an indifference or even hostility to other forms of injustice.¹³ Two decades ago, Carol and Jordan Steiker wrote about their wariness toward anti-death penalty advocates' emphasis on innocence.¹⁴ They noted that, under the Warren Court, criminal processes served to adjudicate individual cases; dissuade police and prosecutorial misconduct; and advance abstract values like dignity, fairness, and equality.¹⁵ But starting in the 1970s, federal courts began weaponizing innocence to reject such values. The demise of the exclusionary rule offers a striking example. That rule deters police misconduct, so when courts cut back on the rule's reach which they've done, repeatedly they trade off deterrence [*1029] for "greater accuracy of criminal dispositions."¹⁶ Such a result elevates innocence but does so at the expense of procedural fairness and justice.

⁹ STEVENSON, *supra* note 7, at 17-18.

¹⁰ Books: "*Just Mercy*" by Bryan Stevenson, DEATH PENALTY INFO. CTR. (March 14, 2025), <https://deathpenaltyinfo.org/books-just-mercy-by-bryan-stevenson> [perma.cc/PC2FZ69E].

¹¹ See STEVENSON, *supra* note 7, at 17-18.

¹² *Just Mercy* won the Andrew Carnegie Medal for Excellence in Nonfiction. *Bryan Stevenson Wins 2015 Carnegie Medal for Nonfiction for His First Book*, Just Mercy, N.Y.U. L. NEWS (June 29, 2015), <https://www.law.nyu.edu/news/bryan-stevenson-just-mercy-carnegie-medal> [perma.cc/K2WF-ES4S]. *The Nickel Boys* won the 2020 Pulitzer Prize for Fiction. *The 2020 Pulitzer Prize Winner in Fiction*, PULITZER PRIZES, <https://www.pulitzer.org/winners/colson-whitehead-0> [perma.cc/N3FA-SMYG]. *The Shawshank Redemption* was nominated for seven Academy Awards and is often listed amongst the greatest movies of all time. *67th Academy Awards, 1995*, ACAD. OF MOTION PICTURES ARTS & SCI., <https://www.oscars.org/oscars/ceremonies/1995> [perma.cc/TQ4S-3LBN]; *IMDb Top 250 Movies*, INTERNET MOVIE DATABASE, <https://imdb.com/chart/top> [perma.cc/U6Y5-8L67] (listing *Shawshank* as the highest rated film on the site).

¹³ Abbe Smith, *In Praise of the Guilty Project: A Criminal Defense Lawyer's Growing Anxiety About Innocence Projects*, 13 U. PA. J.L. & SOC. CHANGE 315, 324, 329 (2010) (exploring how a focus on actual innocence poses the danger of reducing concern about more pervasive forms of injustice and brutality in the criminal process, particularly in the treatment of "guilty" persons).

¹⁴ Carol S. Steiker & Jordan M. Steiker, *The Seduction of Innocence: The Attraction and Limitations of the Focus on Innocence in Capital Punishment Law and Advocacy*, 95 J. CRIM. L. & CRIMINOLOGY 587 (2005).

¹⁵ *Id.* at 612.

¹⁶ *Id.*

More recently, Thomas Frampton has observed that taking prison abolition seriously as legal academia increasingly purports to do¹⁷ requires focusing on "the dangerous few," or the most difficult-to-reform members of society.¹⁸ Focusing on "the innocent few" inverts this necessary work by addressing the least challenging cases instead of the hardest ones. Brutality towards the innocent might be particularly abhorrent, but truly reimagining the criminal system requires extending humanity to those who are guilty.¹⁹

Nana Kwame Adjei-Brenyah's *Chain-Gang All-Stars*²⁰ boldly picks up this mantle. The critically acclaimed novel revolves around the Criminal Action Penal Entertainment (CAPE) program, which subjects prisoners to deathmatches in large arenas as fans at home watch on television. To be eligible, a prisoner must either be on death row or have been sentenced to at least twenty-five years imprisonment; any prisoner who survives three years of fighting wins their freedom (p. 27).

Had Adjei-Brenyah followed in the footsteps of *Just Mercy* or *Nickel Boys* or *Shawshank Redemption* (or, to borrow another literary forebear, *The Hunger Games*²¹), the protagonist in *Chain-Gang* may well have been innocent. Instead, nearly every major character in the novel has committed a serious crime, often murder. The central protagonist, Loretta Thurwar, survives a thrilling match in the opening chapter (ch. 1). But readers soon learn even as they root for Thurwar's survival that she murdered her partner (pp. 208-09). That act was, Thurwar admits, not a fluke but the culmination of a larger pattern of violence and abuse against a "beautiful, sweet" human being (pp. 213, 300). And though Thurwar insists she is "no longer the person who'd killed her [partner]," she can only "hope[] for a forgiveness she didn't believe she was worthy of" (pp. 208-09, 213). Sunset Harkless, another major character, believes that because of his past crimes, he cannot reenter society even if he survives CAPE: "I do not forgive myself. I will not. And I will not force anyone else to have to consider forgiving me either" (p. 283). A third, Hamara Stacker, openly calls herself a "criminal" (p. 240).

Of the many CAPE participants *Chain-Gang All-Stars* describes, only one is innocent an ancillary character named Walter Crousey. He references his own innocence in passing, thinking to himself that, when entering prison, he'd [*1030] been innocent. "[N]ow," though, "he wasn't in the same way. Now he'd killed" (p. 262). In discussing Walter's innocence, Adjei-Brenyah drops a footnote to explain that Walter is neither an extreme outlier nor an everyman; an estimated 2.3% to 5% of people in prison today are factually innocent (p. 262). Significantly, Adjei-Brenyah uses this same method to explore solitary confinement, racial disparities in incarceration, and women imprisoned for killing their abusers. He thus treats innocence not as a special type of injustice, but as a piece within the American incarceration mosaic.

Adjei-Brenyah's deviation from standard tropes of prison storytelling stems from the intellectual influences that inspired his work. The novel's acknowledgments section opens by thanking several prison abolitionist thinkers: Ruth Wilson Gilmore, Angela Davis, and Mariame Kaba (p. 361). Gilmore also appears in the text, both as an inspiration to anti-CAPE activists and as a source for the language these activists use to critique CAPE (p. 154).

Consistent with its inspiration from these systemic critiques of American incarceration, *Chain-Gang* unlike its literary predecessors adopts a kaleidoscopic approach. Rather than focus on the perspective of a single character, the novel's voices shift between anti-CAPE activists; corporate executives who profit from running and airing CAPE; incarcerated people who remain in traditional prisons; scientists who developed the technology that prisons use to torture incarcerated people; and a wide swath of incarcerated people "Links" in their respective "Chains" who have

¹⁷ See, e.g., Rachel E. Barkow, *Promise or Peril?: The Political Path of Prison Abolition in America*, 58 WAKE FOREST L. REV. 245, 248 & n.2 (2023) (describing the "burgeoning abolitionist movement" and collecting scholarship).

¹⁸ See Thomas Ward Frampton, *The Dangerous Few: Taking Seriously Prison Abolition and Its Skeptics*, 135 HARV. L. REV. 2013 (2022).

¹⁹ See Allegra M. McLeod, *Prison Abolition and Grounded Justice*, 62 UCLA L. REV. 1156, 1216 (2015).

²⁰ Nana Kwame Adjei-Brenyah is an American speculative fiction writer.

²¹ SUZANNE COLLINS, *THE HUNGER GAMES* (2008).

chosen to fight to the death rather than live in an American prison. Perhaps most potently, the novel also shows fans of CAPE experiencing the events of the novel as the reader does: after a shocking twist early in the book, the perspective shifts for a moment to a stunned fan learning the news from her television (p. 92). Adjei-Brenyah thus holds a mirror up to the reader, reminding them, as they enjoy the sordid violence the novel both offers and critiques, that they are perhaps less different from the fans of CAPE than they would imagine.

These departures from convention give Adjei-Brenyah a broad canvas to paint a fictional world while simultaneously examining the real one we inhabit. Although the novel offers commentary on issues ranging from sports fandom to meat production to celebrity obsession, it primarily critiques incarceration. That is where we focus. Prisons are brutal places. Much existing analysis, whether legal or cultural, simplifies or caricaturizes them. Those defending prisons often dehumanize incarcerated people, while those sympathetic to reform may patronize them in an effort to soften the complications prisons present.²²

[*1031] Our core argument is that because of its more radical lens, *Chain-Gang All-Stars* takes up and rejects many of the most salient myths about the prison system. As both a widely read and widely acclaimed work, that is a welcome development.²³ But *Chain-Gang* also, at times, falls into the tropes of conventional prison critique. This Review examines three such axes.

First, the novel rightly addresses the reality of pervasive prison violence that many critics, defenders, and (especially) administrators of the American prison system prefer to ignore. But at the same time, *Chain-Gang's* narrative rests on public voyeurism of prison violence as entertainment when the reality is exactly backwards. Our actual prison system is purposefully designed to be opaque or invisible, shielding violence from public view.

Second, Adjei-Brenyah highlights and satirizes the role of euphemism, which prisons and their defenders today require to justify aspects of American incarceration. But *Chain-Gang* ties euphemism almost exclusively to the quest for private profits. We argue that the role of euphemism is far more varied. In one significant example, *Chain-Gang's* emphasis on profit misleadingly focuses on the abuses of prison labor when far more harm occurs through enforced idleness, such as when public supermax prisons place people in solitary confinement for years or even decades.

Third, *Chain-Gang* acknowledges the heterogeneity of the prison population across every variable, including race, gender, and attitudes towards the justice of incarceration itself that many prison critics ignore but that requires resolution for a radical critique to cohere. But in the end, the novel declines to acknowledge the structural heterogeneity of prisons themselves. In *Chain-Gang*, prison policy is dictated top-down, with presidents creating the CAPE program and CEOs implementing it. Yet prisons in America are not organized within a single centralized system. Instead, hundreds if not thousands of decentralized systems exist, all with little federal regulation or

²² Compare John J. Dilulio, Jr., *The Coming of the Super-Predators*, WKLY. STANDARD, Nov. 27, 1995, at 23 (claiming in a highly influential essay that a coming generation of "superpredators" is irrational and animal-like), and Ravi Mangla & Erin George, *How Dehumanizing Language Fuels Mass Incarceration*, COMMON DREAMS (Oct. 1, 2019), <https://www.commondreams.org/views/2019/10/01/how-dehumanizing-language-fuels-mass-incarceration> [perma.cc/EZ2Q-9T5S], with ANGELA DAVIS, ARE PRISONS OBSOLETE? 20 (2003) (noting that "[d]ebates about strategies of decarceration, which should be the focal point of our conversations on the prison crisis, tend to be marginalized when reform takes the center stage").

²³ *Chain-Gang All-Stars* was a finalist for the National Book Award and was recognized as one of the best books of 2023 by *The New York Times Book Review* and a notable work of fiction by *The Washington Post*. Sophia Nguyen, *Here Are the Finalists for the 2023 National Book Awards*, WASH. POST (Feb. 29, 2024, 12:32 PM), <https://www.washingtonpost.com/books/2023/10/03/national-book-awards-shortlist> [perma.cc/2MJ3-2K7K]; *The 10 Best Books of 2023*, N.Y. TIMES (Nov. 28, 2023), <https://www.nytimes.com/2023/11/28/books/review/best-books-2023.html> [perma.cc/9BGR-4LAA]; *50 Notable Works of Fiction*, WASH. POST (Nov. 15, 2023, 7:00 AM), <https://www.washingtonpost.com/books/2023/11/15/best-fiction> [perma.cc/3B6Q-92R9].

oversight.²⁴ This distinction is not pedantic legalism but a significant complication for those seeking either meaningful reform or abolition.

[*1032]

I. VIOLENCE OUT OF VIEW

Prisons are violent places. Many incarcerated people are both past perpetrators and past victims of violence.²⁵ Violence by staff is common, as is violence by incarcerated people against one another.²⁶ The same is true of sexual violence.²⁷ Then there is long-term solitary confinement, which the United Nations and every major medical and psychological association has deemed a form of torture.²⁸ By simply working in this atmosphere, prison guards are both at a disproportionate risk of suicide and likely to perpetrate domestic violence themselves.²⁹

Adjei-Brenyah makes two choices that, taken together, underscore the brutality of violence in American prisons. First, despite placing much of the story in the world of CAPE, he describes several scenes in conventional prisons. Their brutality is less dramatic but just as extreme. In a chapter describing one character's solitary confinement, for instance, Adjei-Brenyah excerpts subsections of 18 U.S.C. § 2340A, which defines "torture" under federal law (p. 146). As that character unravels, Adjei drops a footnote referencing Albert Woodfox, Robert King, and Herman Wallace three real men who combined spent more than one hundred years in solitary in the Louisiana State Penitentiary, or "Angola," for murder convictions that were later overturned.³⁰ Elsewhere, Adjei-Brenyah peppers *Chain-Gang* with statistics, highlighting the 14,700 complaints of sexual and physical abuse lodged against Immigration and Customs Enforcement between 2010 and 2016, and how state prison suicides have skyrocketed in the past two decades (pp. 245, 255). In still another **[*1033]** scene, prisoners are fitted with a technology that hurts them whenever they speak. The technology, the narrator explains, is "modeled after the Auburn System created in the nineteenth century," which "required that prisoners live silently" and "was designed to strip prisoners of a sense of self" (p. 54).³¹

²⁴ David C. Fathi, *The Challenge of Prison Oversight*, 47 AM. CRIM. L. REV. 1453, 1460 (2010).

²⁵ NONI GAYLORD-HARDEN, VIOLENCE EXPOSURE, CONTINUOUS TRAUMA, AND REPEAT OFFENDING IN FEMALE AND MALE SERIOUS ADOLESCENT OFFENDERS 10 (2018), <https://www.ojp.gov/pdffiles1/ojdp/grants/254493.pdf> [perma.cc/MB9A-KQMA]; BUREAU OF JUST. STATS., DEP'T OF JUST., NCJ 172879, PRIOR ABUSE REPORTED BY INMATES AND PROBATIONERS 1 (Apr. 1999).

²⁶ See U.S. DEP'T OF JUST., CIV. RTS. DIV., INVESTIGATION OF ALABAMA'S STATE PRISONS FOR MEN 3 (2020); KIMMETT EDGAR, IAN O'DONNELL & CAROL MARTIN, PRISON VIOLENCE: THE DYNAMICS OF CONFLICT, FEAR AND POWER (2003).

²⁷ BUREAU OF JUST. STATS., U.S. DEP'T OF JUST., NCJ 304834, SUBSTANTIATED INCIDENTS OF SEXUAL VICTIMIZATION REPORTED BY ADULT CORRECTIONAL AUTHORITIES, 2016-2018, at 1 (2023).

²⁸ Press Release, U.N. High Commissioner, United States: Prolonged Solitary Confinement Amounts to Psychological Torture (Feb. 28, 2020), <https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amounts-psychological-torture> [perma.cc/849J-LJBR]; Justin D. Strong et al., *The Body in Isolation: The Physical Health Impacts of Incarceration in Solitary Confinement*, PLOS ONE, Oct. 9, 2020, at 1, 10.

²⁹ Natasha A. Frost, *Understanding the Impacts of Corrections Officer Suicide*, NAT'L INST. OF JUST. (Apr. 30, 2020), <https://nij.ojp.gov/topics/articles/understanding-impacts-corrections-officer-suicide#1-0> [perma.cc/6DZH-ML9L]; Colby Valentine, Karen Oehme & Annelise Martin, *Correctional Officers and Domestic Violence: Experiences and Attitudes*, 27 J. FAM. VIOLENCE 531 (2012).

³⁰ P. 109; *After Decades in Solitary, Last of the 'Angola 3' Carry on Their Struggle*, NPR (Mar. 19, 2016, 5:36 PM), <https://www.npr.org/2016/03/19/470828257/after-decades-in-solitary-last-of-the-angola-3-carry-on-their-struggle> [perma.cc/9XHP-7DRU].

³¹ See also *Auburn System*, BRITANNICA, <https://www.britannica.com/topic/Aburn-system> [perma.cc/3N7E-W2XM].

Second, in *Chain-Gang*, CAPE is not mandatory. In a darkly comic scene, a government bureaucrat drily goes through the legalese with a prospective CAPE participant before asking the character to sign on the dotted line (pp. 59-60). A more straightforward storytelling device would have been to put everyone sentenced to death in the arena. But by making the choice optional, it shows the reader that the nightmare of CAPE (i.e., literal deathmatches) is for some preferable to incarceration. Over the course of the novel, we see character after character explain why they signed up for CAPE. One explains that he signed up because he "knew [he] couldn't live inside. Decided [he'd] rather die out" (p. 125). Another "didn't wanna die. But [he] didn't wanna be there. [He] couldn't stay in the cages" (p. 168). Yet another signs up to stop a repeated cycle of solitary confinement and violence from other prisoners (pp. 179-80). Prisons also vary widely in just how violent they are, a point Adjei-Brenyah makes by describing different forms of incarceration as different levels of hell. When a character, for instance, leaves solitary confinement and walks by general population, he describes entering a "lighter layer of hell" (p. 175). When that same character signs up for CAPE, he's greeted by another participant who explains, "in this level of hell, I'll be your overseer" (p. 293).³²

In short, *Chain-Gang* forces readers to view prisons as inherent sites of violence. In so doing, the novel situates itself firmly within the radical abolitionist critique. Allegra McLeod, for example, has written that barbaric acts of violence "are produced by the structure of U.S. imprisonment by the basic manner in which caging or confining human beings strips individuals of their personhood and humanity, and sets in motion dynamics of domination and subordination."³³

Legal regulations, furthermore, allow for such violence to happen. At the Founding, judges closely regulated the use of solitary confinement.³⁴ In 1890, the Supreme Court required a court to convict and sentence an individual to solitary confinement, even if the confinement was only a few weeks. Individuals could not be sentenced by a generic statute, even to death, and have solitary imposed retroactively.³⁵ These sorts of protections, however, are now in the [*1034] rear view. Today, if an inmate wants to challenge prison discipline, they must first show a liberty interest under the Due Process Clause.³⁶ But nothing short of an indefinite transfer to a supermax prison amounts to a liberty interest. Instead, as courts have made clear, "an inmate has no justifiable expectation that he will be incarcerated in any particular prison within a State,"³⁷ nor any classification status within a prison.³⁸

Still, while Adjei-Brenyah's use of abolitionist thought gestures to the *existence* of prison violence, *how* that violence manifests veers sharply from reality. People's excitement at a demonstrative, hyperbolic presentation of prison life is crucial to *Chain-Gang's* conceit. In Adjei-Brenyah's fictional world, prisons choose to put their cruelty on live broadcast, and the public chooses to watch. But in the real world, prisons do much to hide their violence, and the public consciously or unconsciously looks away. Unlike other public institutions, media access to prisons is limited and discretionary.³⁹ Comprehensive government data is virtually nonexistent.⁴⁰ Correctional facilities are

³² This description of different levels of hell evokes Aleksandr Solzhenitsyn's great novel of the Gulags, which borrows this device from Dante and applies it to prisons. ALEKSANDR SOLZHENITSYN, *IN THE FIRST CIRCLE* (Harry T. Willetts trans., Harper Perennial 2009).

³³ McLeod, *supra* note 19, at 1182.

³⁴ See, e.g., David M. Shapiro, *Solitary Confinement in the Young Republic*, 133 HARV. L. REV. 542, 595 (2019).

³⁵ *In re Medley*, 134 U.S. 160, 167 (1890).

³⁶ *Olim v. Wakinekona*, 461 U.S. 238, 240 (1983).

³⁷ *Id.* at 245.

³⁸ See, e.g., *Bey v. Simmons*, 69 F. App'x 931, 932 (10th Cir. 2003).

³⁹ Andrea C. Armstrong, *No Prisoner Left Behind? Enhancing Public Transparency of Penal Institutions*, 25 STAN. L. & POL'Y REV. 435, 462 (2014).

disproportionately located in rural areas, so that information about conditions trickles back to families and friends (if it makes it to them at all).⁴¹ A culture of secrecy from line staff to high-level administrators encourages prison employees not to discuss or document problems.⁴² As a 2006 report by the Commission on Safety and Abuse in America's Prisons summarizes, "[m]ost correctional facilities are surrounded by more than physical walls; they are walled off from external monitoring and public scrutiny to a degree inconsistent with the responsibility of public institutions."⁴³ Or, in Angela Davis's words, "prisons do not disappear problems, they disappear human beings."⁴⁴ That is to say, violence, poverty, mental illness, and illiteracy may "disappear from public view when the human beings contending with them [*1035] are relegated to cages."⁴⁵ No magic trick, however, has happened. Imprisonment merely relocates these social problems to a place where many choose not to look.

What all this means, in practice, is that piecemeal litigation has become the primary source of regulation and insight into American prison life. Such factfinding, though, falls far short of any comprehensive effort to illuminate prison conditions: over 90 percent of prison civil rights cases are pro se,⁴⁶ and prisons can stymie virtually all factfinding in these cases through spoliation (intentional or otherwise)⁴⁷ and the invocation of security concerns to avoid turning over information.⁴⁸ Public prisons and jails are often unresponsive to public records requests for the limited information that does exist⁴⁹ while private prisons are not subject to public records statutes at all.⁵⁰

⁴⁰ See *id.*

⁴¹ See Sonya R. Porter, John L. Voorheis & William Sabol, *Correctional Facility and Inmate Locations: Urban and Rural Status Patterns* (Ctr. for Admin. Recs. Rsch. & Applications, U.S. Census Bureau, Working Paper 2017-08, 2017), <https://www.census.gov/content/dam/Census/library/working-papers/2017/adrm/carra-wp-2017-08.pdf> [perma.cc/38DJ-3CRJ]; Nicole Lewis, "They Don't Care:" Families of the Incarcerated Fear the Worst as Coronavirus Spreads, MARSHALL PROJECT (Mar. 26, 2020, 6:00 AM), <https://www.themarshallproject.org/2020/03/26/they-don-t-care-families-of-the-incarcerated-fear-the-worst-as-coronavirus-spreads> [perma.cc/KA3Z-X746].

⁴² See John J. Gibbons & Nicholas de B. Katzenbach, *Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons*, 22 WASH. U. J.L. & POL'Y 325, 385, 408 (2006).

⁴³ *Id.*

⁴⁴ Angela Davis, *Masked Racism: Reflections on the Prison Industrial Complex*, COLORLINES (Sept. 10, 1998), <https://colorlines.com/article/masked-racism-reflections-prison-industrial-complex> [perma.cc/6HQT-QJB].

⁴⁵ *Id.*

⁴⁶ *Just the Facts: Trends in Pro Se Civil Litigation from 2000 to 2019*, U.S. CTS. (Feb. 11, 2021), https://www.uscourts.gov/data-news/judiciary-news/2021/02/11/just-facts-trends-prose-civil-litigation-2000-2019#figures_map [perma.cc/SX8X-A68E]; see Margo Schlanger, *Prison and Jail Civil Rights/Conditions Cases: Longitudinal Statistics, 1970-2021*, (Univ. Mich. L. Sch., Law & Economics Working Paper No. 232, 2022), https://repository.law.umich.edu/law_econ_current/232 [perma.cc/P8Q4-WQNS].

⁴⁷ See, e.g., *Ball v. LeBlanc*, 300 F.R.D. 270, 286 (M.D. La. 2013) (finding spoliation where prison erected awnings in violation of court order to allow prisoner recording of heat measurements); Leslie Rubin, *Federal Magistrate Baffled by Failure to Preserve Evidence in Southern Regional Jail Class-Action Lawsuit*, WCHSTV (Oct. 3, 2023, 6:52 PM), <https://wchstv.com/news/local/federal-magistrate-baffled-by-failure-to-preserve-evidence-in-southern-regional-jail-class-action-lawsuit> [perma.cc/4NX7-8A9P]; Mark Wilson, *New York Prisoner Awarded Sanctions for Spoliation of Evidence; Case Settles for \$ 500,000*, PRISON LEGAL NEWS (July 10, 2014), <https://www.prisonlegalnews.org/news/2014/jul/10/new-york-prisoner-awarded-sanctions-spoliation-evidence-case-settles-500000> [perma.cc/ZS6K-QGUU].

⁴⁸ See, e.g., Wanda Bertram, *What Can Journalists Do when Prisons and Jails Cite HIPAA to Withhold Information About Deaths in Custody?*, PRISON POLICY INITIATIVE (June 11, 2024), <https://www.prisonpolicy.org/blog/2024/06/11/hipaa> [perma.cc/YCM7-5SHF]; Press Release, ACLU, *ACLU Demands Information About Bureau of Prisons Attempts to Ban Religious Material* (Nov. 12, 2009, 12:29 PM), <https://www.aclu.org/press-releases/aclu-demands-information-about-bureau-prisons-attempts-ban-religious-material> [perma.cc/4B9N-RRKU].

It would be easy, given these circumstances, to simply hold prison administrators responsible for downplaying prison violence. But even liberal reformers who often prefer to avert focus on the trauma perpetrated by and against incarcerated people shoulder some blame too.

[*1036] An example slightly outside the scope of prison conditions helps demonstrate this point. In recent decades, lethal injection has been the almost exclusive method of execution in the United States.⁵¹ Poison gas is too evocative of the Holocaust, hanging too evocative of lynchings, the guillotine and firing squad too violent. By contrast, lethal injection borrows from the optics and materials of medical administration. Yet this contrast centers the *witnesses*,⁵² rather than the *condemned person's* perspective. Unlike several other methods of execution, lethal injections are regularly botched and often subject the condemned to horrible pain.⁵³ And those are only the ones we know about despite a lethal injection protocol that paralyzes the prisoner before the injection stops their heart and kills them.⁵⁴

Then-Chief Judge Kozinski of the Ninth Circuit explored this tension a decade ago in his dissenting opinion in *Wood v. Ryan*. As he noted:

Using drugs meant for individuals with medical needs to carry out executions is a misguided effort to mask the brutality of executions by making them look serene and peaceful like something any one of us might experience in our final moments. . . . But executions are, in fact, nothing like that. They are brutal, savage events, and nothing the state tries to do can mask that reality. Nor should it. If we as a society want to carry out executions, we should be willing to face the fact that the state is committing a horrendous brutality on our behalf.⁵⁴

Here then we see a pointed difference between CAPE and the real world. CAPE, despite its barbarity, shows violence in all its transparency. In American prison culture we see the opposite a willingness to turn away, not just by those who operate prisons, but even ostensibly by those who say they want to change them.

II. EUPHEMISM AND ITS SOURCES

Thus political language has to consist largely of euphemism, question-begging and sheer cloudy vagueness.

*George Orwell*⁵⁵

[*1037] *Chain-Gang All-Stars* uses euphemism to mock the way that prisons filter violence through the droll monotone of bureaucratic language or corporate marketing. When Thurwar and her other Chain Gang members are at a pit stop before one of their deathmatches, for instance, a bored prison guard reads a required disclaimer:

⁴⁹ See Michael R. Sisak & Michael Balsamo, *AP Investigation: Prison Boss Beat Inmates, Climbed Ranks*, ASSOCIATED PRESS (Dec. 9, 2022, 1:52 PM), <https://apnews.com/article/prisons-us-department-of-justice-united-states-government-e68aaf2e4ead5c9bfb0659db46275405> [perma.cc/EQP9-7VKU].

⁵⁰ See Libbi Vilher, *Private Prisons and the Need for Greater Transparency: Private Prison Information Act*, 12 BROOK. J. CORP. FIN. & COM. L. 213, 224 (2018).

⁵¹ BUREAU OF JUST. STATS., U.S. DEPT OF JUST., NCJ 305534, CAPITAL PUNISHMENT, 2021 STATISTICAL TABLES 23 tbl.2 (2023), <https://bjs.ojp.gov/document/cp21st.pdf> [perma.cc/2FQ3-FN5V].

⁵² *Botched Executions*, DEATH PENALTY INFO. CTR., <https://deathpenaltyinfo.org/executions/botched-executions> [perma.cc/QM6V-F2FR].

⁵³ Christopher Hickey, Dakin Andone & Will Mullery, *What Happens During a Typical Three-Drug Lethal Injection*, CNN (Nov. 28, 2023), <https://www.cnn.com/interactive/2023/11/us/lethal-injection-execution-explained-dg> [perma.cc/X6BV-P627].

⁵⁴ *Wood v. Ryan*, 759 F.3d 1076, 1102-03 (9th Cir. 2014) (Kozinski, C.J., dissenting), *vacated*, 573 U.S. 976 (2014).

⁵⁵ George Orwell, *Politics and the English Language*, ORWELL FOUND. (1946), <https://www.orwellfoundation.com/the-orwell-foundation/orwell/essays-and-other-works/politics-and-the-english-language> [perma.cc/WT6U-73DQ].

"Noncompliance with, uh, any of the directives . . . can result in immediate termination" by which he means violent killing (p. 234). When guards remove Stacker, a major character, from the arena after a call, the action is captured on a Holo Microphone Camera an allusion to Microsoft's HoloLens and the use of its facial-recognition technology to assist police.⁵⁶ The guards use a Magrod to impose compliance, and a footnote explains that "ArcTech?, the Coldest in Tactical Security," makes and markets the fictional product (p. 22).

If anything, Adjei-Brenyah undersells the use of bad-faith euphemism in real-world prison administration. Consider just a few examples, starting with the names and "mission statements" of various prison providers. The world of *Chain-Gang* is dominated by two corporations: Some Links are incarcerated by the Corrections Corporation of North America, others by GEOD Group Correction Corporation (pp. 38, 43). Both are stand-ins for actual companies: Corrections Corporation of America and GEO Group. But even these realworld companies have tried to distance and disassociate themselves from incarceration; eight years ago, Corrections Corporation of America "rebranded" into CoreCivic, with the motto that it would "[b]etter the public good."⁵⁷ Other private prison companies, like the Management and Training Corporation, use names that convey no meaning.⁵⁸ In a prison where one of the authors extensively litigated, the Management and Training Corporation's logo was splattered across the prison walls, alongside the corporation's slogan: "Making a Social Impact."⁵⁹

These efforts to distinguish, disassociate, and rebrand aren't merely a corporate exercise in dark humor. The largest prison healthcare provider, Corizon, faced so many lawsuits from incarcerated people that it created a subunit called "Yescare," loaded all its assets into it, and then declared bankruptcy.⁶⁰ [*1038] In so doing, Corizon sought to "tak[e] advantage of the bankruptcy system to avoid paying its debts."⁶¹

Similarly, two telecommunications companies, Securus and Global Tel Link, dominate the prison and jail contact services market.⁶² Securus's mission, displayed on the front page of its website, says that "[w]e exist to improve the lives of returning citizens and their families."⁶³ On occasions like Father's Day, Securus emails prospective customers, writing that "[t]o celebrate, JPay is offering free eCards to help you stay connected to the ones who mean the most."⁶⁴ What does that actually mean? It means that sending *any* "message" including an email will

⁵⁶ Pp. 6, 21-22; see also Brien Posey, *What Is HoloLens? The Future of Microsoft AR Tech*, ITPRO TODAY (Apr. 9, 2024), <https://www.itprotoday.com/iot/what-is-hololens-the-future-of-microsoft-ar-tech> [perma.cc/44JV-U27Q]. Microsoft recently pushed a product update, in order to discourage police from using its facial recognition technology. Craig Hale, *Microsoft Doesn't Want Police Forces Using Azure AI for Facial Recognition*, TECHRADAR (May 7, 2024), <https://www.techradar.com/pro/microsoft-doesnt-want-police-forces-using-azure-ai-for-facial-recognition> [perma.cc/C34Z-EA9M].

⁵⁷ *Corrections Corporation of America Rebrands as CoreCivic*, CORECIVIC (Oct. 28, 2016, 12:53 PM), <https://www.corecivic.com/news/corrections-corporation-of-america-rebrands-as-corecivic> [perma.cc/7FSC-UB6Z].

⁵⁸ *About Us*, MTC, <https://www.mtctrains.com/about-us> [perma.cc/K9H4-ZEMU].

⁵⁹ See *2023 MTC Culture of Caring Guidebook*, MGMT. AND TRAINING CORP. (Jan. 25, 2023, 11:22 AM), <https://fliphtml5.com/sndyi/gahb/basic> [perma.cc/2TZZ-5ND4].

⁶⁰ Beth Schwartzapfel, *A Prison Medical Company Faced Lawsuits from Incarcerated People. Then It Went 'Bankrupt.'*, MARSHALL PROJECT (Sept. 19, 2023, 6:00 AM), <https://www.themarshallproject.org/2023/09/19/corizon-yescare-private-prison-healthcare-bankruptcy> [perma.cc/K396-5JKP].

⁶¹ *Id.*

⁶² Kori Hale, *The \$ 1.4 Billion Prison Communications Business Faces New Regulations*, FORBES (Jan. 5, 2023, 9:00 AM), <https://www.forbes.com/sites/korihale/2023/01/05/the-14-billion-prison-communications-business-faces-new-regulations> [perma.cc/R6GC-VBVX].

⁶³ SECURUS TECHNOLOGIES, <https://securustech.net> [perma.cc/NEB8-X3ZW].

⁶⁴ Email from JPay to Samuel Weiss, Happy Father's Day: FREE eCards to Celebrate Father's Day! (June 19, 2020, 3:52 PM) (on file with authors).

(just like any other day) still cost money, but for a single twenty-four hour period attaching an ecard to said message is free. There is hardly anything "free" about that. Worse, several civil rights organizations have demonstrated that both Securus and Global Tel Link advocated for banning in-person family visits so loved ones would be forced to buy more phone and video calls.⁶⁵

In a yet more absurd example, the Washington Department of Corrections has a land acknowledgment on its website:

The Washington State Department of Corrections acknowledges that its facilities, offices and operations are on the ancestral lands and customary territories of Indigenous Peoples, Tribes and Nations. Corrections is thankful to the Tribes for caring for these lands since time immemorial and honors its ongoing connection to these communities past, present and future. We welcome the opportunity to collaborate with the Indigenous populations and communities, and strive to work with our Tribal partners to improve the lives of Indigenous People and non-Indigenous neighbors throughout the state.⁶⁶

The primary "collaboration" the Washington Department of Corrections has with the Native population of its state is imprisoning them. Native Americans in Washington are imprisoned at a rate of 1,227 per 100,000; the rate for white people is 340 per 100,000.⁶⁷ (Canada's incarceration rate of its entire [*1039] population, regardless of race, is 90 per 100,000; Germany's is 68; and Finland's is 52.⁶⁸)

Finally, and significantly to *Chain-Gang's* plot, scientists in the near-future have developed a new technology that delivers unimaginable pain. They call this machine used sometimes to encourage better behavior and sometimes to satisfy masochistic desires "the Influencer." As character Simon Craft describes it, only "fools . . . think the Influencer is some Taser. It ain't. To be Influenced is to be made to feel the most pain your brain can produce at once. To be Influenced is to have your neural pathways rewritten so that you can become a better vessel for physical hurt" (p. 171). The Influencer's key innovation is its ability to torture prisoners without leaving a physical mark, even if its use renders the prisoner mentally unwell. In describing such effects, Adjei-Brenyah invokes solitary confinement an analogy that he makes explicit near the end of *Chain-Gang*. Describing Thurwar's experience of being "Influenced," Adjei-Brenyah writes that "[w]hat she'd thought was pain was just a cheap imitation. In that six-by-six cell they called the Hole," a common nickname for solitary confinement, "she'd discovered the real thing" (pp. 303-04).

As a practice, solitary confinement has existed for hundreds of years and has a commonly accepted definition: "22 hours or more a day without meaningful human contact."⁶⁹ Charles Dickens condemned the practice.⁷⁰ Alexis de Tocqueville did too.⁷¹ Even the Supreme Court once observed that in short stints of solitary confinement,

⁶⁵ See, e.g., Sarah Stillman, *Do Children Have a "Right to Hug" Their Parents?*, NEW YORKER (May 13, 2024), <https://www.newyorker.com/magazine/2024/05/20/the-jails-that-for-bid-children-from-visiting-their-parents> [perma.cc/3KLP-3MBX].

⁶⁶ WASH. STATE DEP'T OF CORR., <https://www.doc.wa.gov> [perma.cc/6G92-L6VB].

⁶⁷ VERA INST. OF JUST., INCARCERATION TRENDS IN WASHINGTON (Dec. 2019), <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-washington.pdf> [perma.cc/P4G3-FXBY].

⁶⁸ *Highest to Lowest Prison Population Rate*, WORLD PRISON BRIEF, https://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All [perma.cc/T9MJ-MGBB].

⁶⁹ G.A. Res. 70/175, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), at 17 (Dec. 17, 2015).

⁷⁰ 1 CHARLES DICKENS, AMERICAN NOTES FOR GENERAL CIRCULATION 233-68 (Cambridge Univ. Press 2009) (2d ed. 1842).

⁷¹ G. DE BEAUMONT & A. DE TOQUEVILLE, ON THE PENITENTIARY SYSTEM IN THE UNITED STATES AND ITS APPLICATION IN FRANCE 3-4 (Francis Lieber trans., Phila., Carey, Lea & Blanchard 1833).

[a] considerable number of the prisoners fell . . . into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane, others, still, committed suicide, while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.⁷²

So describes Craft's experience: by the time Craft signs up for CAPE, he is "depleted and dull," glossy-eyed, and near catatonic (p. 292). A highly anticipated match between Craft and his partner on one hand and Thurwar and Stacker on the other is delayed so prison officials can investigate whether Craft was sufficiently competent to consent to CAPE (p. 297).

[*1040] Furthermore, by dubbing the device the "Influencer," Adjei-Brenyah coopts tech-adjacent social media terminology to mask the machine's cruelty. In like manner, while the use of solitary confinement has exploded in the last several decades as prisons seek to replace more physically violent forms of behavior regulation, prisons have replaced the term with a long list of euphemisms. Andrew Leon Hanna counted "at least fifteen alternative, often euphemistic names" for solitary confinement in state prison regulations, ranging from "administrative confinement" to "behavior modification."⁷³ The Virginia Department of Corrections moves incarcerated people who refuse to shave their beards, typically for religious reasons, to a solitary confinement unit at Wallens Ridge a supermax prison deemed "the Grooming Standards Violator Housing Unit ('VHU')."⁷⁴

Euphemism, unsurprisingly, has also found its way into the law. As noted, incarcerated people are entitled to procedural due process protections when they can show a protected liberty interest.⁷⁵ But when it comes to solitary confinement, they are only entitled to that liberty interest when the prison's action imposes an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life."⁷⁶ In *Sandin v. Conner*, which articulated this test, the Supreme Court held that thirty days in disciplinary solitary confinement did not qualify.⁷⁷ Post-*Sandin*, lower courts have pushed the boundaries even further; the Fifth Circuit has held that *five years* of solitary confinement was not an "atypical and significant hardship."⁷⁸

What is more, several federal courts have suggested that "administrative" segregation rather than "disciplinary" segregation is *never* an atypical and significant hardship.⁷⁹ Administrative and disciplinary segregation are concededly distinct: the latter punishes misconduct while the former is imposed for any number of operational reasons. The incarcerated person's experience, however, is the same. Both are just solitary confinement. So when courts hold that administrative segregation does not implicate due process, they rely on **[*1041]** the prison's

⁷² *In re Medley*, 134 U.S. 160, 168 (1890).

⁷³ Andrew Leon Hanna, *Solitary Confinement in America*, 21 U. PA. J. CONST. L. ONLINE 1, 6 & n.22 (2019) (quoting ASS'N OF STATE CORR. ADM'RS. & THE LIMAN PROGRAM, YALE L. SCH., TIME-IN-CELL: THE ASCA-LIMAN 2014 NATIONAL SURVEY OF ADMINISTRATIVE SEGREGATION IN PRISON 1 (2015), https://law.yale.edu/sites/default/files/area/center/liman/document/time-in-cell_combined_-web_august_2015.pdf [perma.cc/L4UH-C96R]).

⁷⁴ *Gentry v. Robinson*, 837 F. App'x 952, 954 (4th Cir. 2020); *Smith v. Collins*, 964 F.3d 266, 268 (4th Cir. 2020).

⁷⁵ These protections are minimal: (1) advanced written notice of the claimed violation; (2) a written statement of the factfinders as to the evidence relied upon and the reasons for the disciplinary action; and (3) the ability to call witnesses and present documentary evidence if consistent with institutional safety. *Wolff v. McDonnell*, 418 U.S. 539, 564-66 (1974).

⁷⁶ *Sandin v. Conner*, 515 U.S. 472, 484 (1995).

⁷⁷ *Id.* at 486.

⁷⁸ *LaVergne v. Stutes*, 82 F.4th 433, 436 (5th Cir. 2023) (quoting *Sandin*, 515 U.S. at 484).

⁷⁹ See, e.g., *May v. Baldwin*, 109 F.3d 557, 565 (9th Cir. 1997) ("[A]dministrative segregation falls within the terms of confinement ordinarily contemplated by a sentence."); *Luken v. Scott*, 71 F.3d 192, 193 (5th Cir. 1995) ("[A]dministrative segregation, without more, does not constitute a deprivation of a constitutionally cognizable liberty interest.").

incantation of the term "administrative."⁸⁰ Put differently, they rely on the words used rather than the effect of the confinement itself to deprive prisoners of legal protection.

The reader, however, may notice one major distinction between the euphemisms of *Chain-Gang* and the real-world examples they evoke. In *Chain-Gang*, the Influencer is made in a private lab (pp. 189-90). Corrections Corporation of North America and GEOD Group are private prison operators. One of CAPE's featured sponsors is WholeMarket, a swipe at Whole Foods which for years profited from selling food made by prison labor.⁸¹ When an anti-CAPE activist thinks of her incarcerated mother, she reflects that "as a result of people like her mother being perpetually tortured . . . some CEOs, some leaders, were millionaires" (p. 152).

It is easy to trace these critiques to broader debates today about American incarceration and private prison companies. In the 2016 presidential primaries, for example, Bernie Sanders demonstrated his concern with American criminal justice by drafting a bill to ban private prisons.⁸² Hillary Clinton responded by donating to charity any direct contributions from private prison lobbyists or PACs.⁸³ And it is equally easy to see why private prisons garner criticism. A Department of Justice investigation, for instance, revealed that federal prisons run by private contractors had worse conditions than publicly operated ones. Private companies sometimes earn profits by cutting services to prisoners.⁸⁴ And private corporations may have incentives to sustain and increase the amount of imprisonment rather than lowering it.⁸⁵ Thus the anti-CAPE activist's cri-de-coeur: "more prisoners, bigger contracts" (p. 152).

[*1042] Even so, we think private corporations receive an outsized amount of attention, both in the real world and in *Chain-Gang*. Most of the characters in *Chain-Gang* hail from two "Chains" the Angola-Hammond Chain and the Sing-Attica-Sing Chain. Every correctional facility in these Chains is actually a *public* facility: (1) Angola prison farm is the country's largest maximum-security prison⁸⁶ (and a former slave plantation⁸⁷), (2) Hammond is a city jail in

⁸⁰ *E.g.*, *Hewitt v. Helms*, 459 U.S. 460, 468 (1983) ("The phrase 'administrative segregation,' as used by the state authorities here, appears to be something of a catchall: it may be used to protect the prisoner's safety, to protect other inmates from a particular prisoner, to break up potentially disruptive groups of inmates, or simply to await later classification or transfer. Accordingly, administrative segregation is the sort of confinement that inmates should reasonably anticipate receiving at some point in their incarceration." (citations omitted)).

⁸¹ Allison Aubrey, *Whole Foods Says It Will Stop Selling Foods Made with Prison Labor*, NPR (Sept. 30, 2015, 7:53 PM), <https://www.npr.org/sections/thesalt/2015/09/30/444797169/whole-foods-says-it-will-stop-selling-foods-made-by-prisoners> [perma.cc/79MW-KA5W].

⁸² Press Release, Bernie Sanders: U.S. Senator for Vermont, Sanders, House Leaders Introduce Bill to Ban Private Prisons (Sept. 17, 2015), <https://www.sanders.senate.gov/press-releases/sanders-house-leaders-introduce-bill-to-ban-private-prisons> [perma.cc/RU8Z-NZL7].

⁸³ Josh Gerstein, *Clinton Campaign Gives Private Prison Lobbyist Cash to Charity*, POLITICO (Feb. 1, 2016, 11:33 AM), <https://www.politico.com/blogs/under-the-radar/2016/02/clinton-campaign-gives-private-prison-lobbyist-cash-to-charity-218524> [perma.cc/9L4C-GBLD].

⁸⁴ OFF. OF THE INSPECTOR GEN., U.S. DEP'T OF JUST., REVIEW OF THE FEDERAL BUREAU OF PRISONS' MONITORING OF CONTRACT PRISONS, at ii (Aug. 2016), <https://oig.justice.gov/reports/2016/e1606.pdf> [perma.cc/897V-HNRK].

⁸⁵ *E.g.*, Press Release, Bernie Sanders: U.S. Senator for Vermont, Sanders Statement on Private Prisons (Feb. 23, 2017), <https://www.sanders.senate.gov/press-releases/sanders-statement-on-private-prisons> [perma.cc/2XWZ-B8F6] ("At a time when we already have more people behind bars than any other country, Trump just opened the floodgates for private prisons to make huge profits by building more prisons and keeping even more Americans in jail.").

⁸⁶ Margie Mason & Robin McDowell, *Inmates at Louisiana's Angola Prison Sue to End Working Farm Lines in Brutal Heat*, PBS NEWS (July 25, 2024, 1:53 PM), <https://www.pbs.org/newshour/nation/inmates-at-louisianas-angola-prison-sue-to-end-working-farm-lines-in-brutal-heat> [perma.cc/599E-MJ64].

eastern Louisiana,⁸⁸ (3) Sing Sing is a maximum security prison between New York and New Haven,⁸⁹ and (4) Attica is a maximum security facility in upstate New York.⁹⁰ That's no accident. Only about 8 percent of incarcerated people are in private facilities, with the number shrinking, not growing.⁹¹ When we think about prison, in other words, we think of public prisons. Moreover, while private prisons appear to have worse conditions than public prisons in many measures,⁹² that conditions are terrible in both is more significant than any marginal difference between them.

This is not to say that economics does not matter in maintaining American prisons. Even here, though, a focus on private profit obscures rather than illuminates. Whether publicly or privately employed, every prison guard has a job that incarceration creates and that falling rates of incarceration could jeopardize. Every dollar that could be spent on prison services or healthcare comes from taxation, whether that money is routed through a private firm or not.

Indeed, whereas liberal reformers often either decry private prison corporations or suggest that smarter contracts might push them to improve, abolitionists criticize the undue emphasis placed on private prisons. As Ruth Wilson Gilmore notes, "it should be obvious that private prison firms and other corporations are opportunists slurping at the public trough rather than [*1043] the prime movers behind" mass incarceration.⁹³ Further, of "the prisoners who work (and fewer and fewer do), 97 percent work for the public agencies holding them in bondage."⁹⁴ Similarly, Angela Davis has observed that "even if private prison companies were prohibited . . . the prison industrial complex and its many strategies for profit would remain relatively intact," because public prisons purchase goods and services just as private ones do.⁹⁵ Consequently, "[c]ampaigns against privatization that represent public prisons as an adequate alternative to private prisons can be misleading."⁹⁶ Silky Shah has similarly observed that the Biden Administration moved to stop the Bureau of Prisons from contracting with private providers not because it would have a large effect on incarceration but because it would *not*.⁹⁷

Focusing on profit over incarcerated people's experiences also fosters a skewed view on prison labor. Adjei-Brenyah, with plenty of basis, references symbols of slavery and Jim Crow in describing *Chain-Gang's* characters;

⁸⁷ See Krissah Thompson, *From a Slave House to a Prison Cell: The History of Angola Plantation*, WASH. POST (Sept. 21, 2016, 8:50 AM), https://www.washingtonpost.com/entertainment/museums/from-a-slave-house-to-a-prison-cell-the-history-of-angola-plantation/2016/09/21/7712eeac-63ee-11e6-96c0-37533479f3f5_story.html [perma.cc/B84M-CHXR].

⁸⁸ See HAMMOND CITY JAIL ROSTER, <https://hammondcityjail.org> [perma.cc/UAD8-R2NX].

⁸⁹ See *Sing Sing Correctional Facility*, N. Y. STATE DEP'T OF CORR. & CMTY. SUPERVISION, <https://doccs.ny.gov/location/sing-sing-correctional-facility> [perma.cc/TXU6-8XNY].

⁹⁰ See *Attica Correctional Facility*, N. Y. STATE DEP'T OF CORR. & CMTY. SUPERVISION, <https://doccs.ny.gov/location/attica-correctional-facility> [perma.cc/K3UX-FNPE].

⁹¹ Kristen M. Budd, *Private Prisons in the United States*, SENT'G PROJECT (Feb. 21, 2024), <https://www.sentencingproject.org/reports/private-prisons-in-the-united-states> [perma.cc/9KAK-FVD4].

⁹² OFF. OF THE INSPECTOR GEN., U.S. DEP'T OF JUST., *supra* note 84.

⁹³ RUTH WILSON GILMORE, *ABOLITION GEOGRAPHY: ESSAYS TOWARDS LIBERATION* 273 (Brenna Bhandar & Alberto Toscano eds., 2022).

⁹⁴ *Id.*

⁹⁵ ANGELA DAVIS, *ARE PRISONS OBSOLETE?* 99 (2003).

⁹⁶ *Id.* at 100.

⁹⁷ Silky Shah, *Beyond Private Prisons*, INQUEST (Mar. 3, 2000), <https://inquest.org/beyond-private-prisons> [perma.cc/KRV9-YXBD].

the novel's title itself is of course a nod to the Jim Crow South's use of prison labor. Current practices at the real-life Angola, however, complicate the picture.

A class of incarcerated people at Angola filed a lawsuit challenging labor practices in September 2023, alleging that Angola forces them to work the prison's fields in Louisiana heat for twelve hours a day, regardless of medical issues or disabilities.⁹⁸ While this image is obviously evocative of slavery, their claim itself hinges on the work's pointlessness, not its exploitation.⁹⁹ Staff force some to dig holes and fill them back up.¹⁰⁰ Others pick grass.¹⁰¹ The labor serves no purpose, builds no skills, provides no benefit to anyone, and for these very reasons psychologically breaks and punishes incarcerated people who, like anyone else, want to contribute to something larger than themselves.¹⁰² The punishment for failing to complete work is solitary confinement, a more intense form of mandatory idleness.¹⁰³

While the Angola Farm Line is extreme, dozens of pro se civil rights cases likewise allege that the taking away of jobs or the failure to provide jobs that **[*1044]** accommodate disabilities is discipline without due process.¹⁰⁴ These plaintiffs are seeking court intervention that is, to be able to work not to escape it. Admittedly, these are coerced choices, and we do not deny the existence of exploited labor. Rather, we point out that the problem of exploited labor seems to easily capture the imagination of incarceration critics in a way that the larger problem of forced idleness does not.

This is another point where the abolitionists that inspired Adjei-Brenyah traverse a thornier landscape. Liberal reformers may prefer to wash their hands of exploitative labor, but abolitionists who interrogate incarceration's legitimacy often ask the necessary follow-up question if people in prison are not working, what *are* they doing? The answer, following the death of the rehabilitative ideal,¹⁰⁵ is mostly nothing. As Ruth Wilson Gilmore writes, "prisons enable money to move because of the enforced *inactivity* of people locked in them," not as a "recapitulation of slavery's money-making scheme."¹⁰⁶ In the same vein, James Kilgore explains that a tiny percentage of prisoners are exploited for private profit and that when prison laborers have gone on strike, as has happened several times in the past decade, they have done so to protest dehumanizing prison conditions, not to seek higher wages or different labor practices.¹⁰⁷

⁹⁸ Class Action Complaint for Declaratory and Injunctive Relief at 26, *Voice of the Experienced v. LeBlanc*, No. 3:23-cv-01304 (M.D. La. filed Sept. 16, 2023); see also *Voices of the Experienced (VOTE) et al. v. James LeBlanc et al.*, RIGHTS BEHIND BARS (Sept. 18, 2023), <https://www.rightsbehindbars.org/cases/voicesof-the-experienced-vote-et-al-v-james-leblancet-al> [perma.cc/L6LL-6M44].

⁹⁹ Class Action Complaint, *supra* note 98, at 26.

¹⁰⁰ *Id.* at 15.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.* at 14.

¹⁰⁴ See, e.g., *Bowman v. Wahl*, No. 19-cv-03092, 2019 WL 3713880, at *3 (E.D. Pa. Aug. 6, 2019); *Rosa v. Bowker*, No. 07-cv-00519, 2007 WL 3306680, at *2 (W.D. Va. Nov. 6, 2007); *Bulger v. U.S. Bureau of Prisons*, 65 F.3d 48, 49 (5th Cir. 1995); *Battle v. Minn. Dep't of Corr.*, 40 F. App'x 308, 309 (8th Cir. 2002); *Haston v. Tatham*, 842 F. Supp. 483, 486 (D. Utah 1994).

¹⁰⁵ See generally Louis A. Jacobs, *The Decline of the Rehabilitative Ideal: Penal Policy and Social Idea*, 35 VAND. L. REV. 769 (1982).

¹⁰⁶ GILMORE, *supra* note 93, at 473-74.

¹⁰⁷ Ruth Wilson Gilmore & James Kilgore, *Some Reflections on Prison Labor*, BROOKLYN RAIL (June 2019), <https://brooklynrail.org/2019/06/field-notes/Some-Reflections-on-Prison-Labor> [perma.cc/DB25-U5LM].

III. MYTH OF THE MONOLITH: CONFRONTING HETEROGENEITY AND IGNORING IT

If prisons have one vision of the model prisoner (white, docile, ashamed of his past but determined to not repeat it), some reformers and even abolitionists have another, embodied by someone like Albert Woodfox. Woodfox was one of the members of the Angola Three described above, who collectively spent over a hundred years in solitary confinement. After his release from prison in 2016, Woodfox penned *Solitary*, a memoir that was a finalist for the Pulitzer Prize.¹⁰⁸ Woodfox was Black, innocent, brilliant, and radicalized against prison policies. He endured unimaginable treatment but emerged unbroken in his ability to deconstruct it. There is no denying Woodfox's extraordinary strength. But adopting someone like Woodfox (or anyone else) as a [*1045] symbol for all people in prison may hurt more than help. Flattening the demographics and experiences of incarcerated people creates problems for liberal reformers and bigger ones for abolitionists.

Consider Michelle Alexander's book, *The New Jim Crow*. In it, she describes the growth of mass incarceration as a direct result of racialized drug enforcement.¹⁰⁹ Then-President Barack Obama echoed the claim in remarks to the NAACP: "[W]e've also locked up more and more nonviolent drug offenders than ever before, for longer than ever before And that is the real reason our prison population is so high."¹¹⁰ It is perhaps unsurprising that what purports to be a radical critique that Jim Crow did not end but merely adapted into racialized drug enforcement is so easily embraced by a sitting President. The critique invites not sweeping changes but marginal ones: letting nonviolent drug offenders out of prison. But as John Pfaff explains, legislation to do so would only marginally affect incarceration rates and could limit attempts at future reform by misleading advocates as to the driver of actual incarceration rates.¹¹¹

Or if one is looking for a fictional analog, take the novel (and now movie), *The Nickel Boys*.¹¹² There, Colson Whitehead sets the story in the old Jim Crow, on penal institutions that existed before the modern-day civil rights movement. The reformatory school of *Nickel Boys* is meticulously based on the all-Black Arthur G. Dozier School for Boys, which operated in Florida during the 1950s.¹¹³ However excellent a piece of art, when critics consider *Nickel Boys* "painfully topical" they risk advancing a reductive view of incarceration's causes rather than considering the many axes of the carceral experience.¹¹⁴

As with the focus on an innocent protagonist, the allure of the idealized prisoner might endanger liberal reforms but is fatal for those seeking wholesale prison abolition. Abolitionists should not and typically do not ignore either the racial disparities of incarceration or the racialized roots of extreme [*1046] punishment. They must, however,

¹⁰⁸ Alex Traub, *Albert Woodfox, Survivor of 42 Years in Solitary Confinement, Dies at 75*, N.Y. TIMES (Aug. 5, 2022), <https://www.nytimes.com/2022/08/05/us/albert-woodfox-dead.html> [perma.cc/M2QZ-8SC6].

¹⁰⁹ MICHELLE ALEXANDER, *THE NEW JIM CROW* 6 (2012).

¹¹⁰ Barack Obama, Remarks at the NAACP Conference (July 14, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/07/14/remarks-president-naacp-conference> [perma.cc/G7YG-63ME].

¹¹¹ See JOHN F. PFAFF, *LOCKED IN: THE TRUE CAUSES OF MASS INCARCERATION AND HOW TO ACHIEVE REAL REFORM* 35 (2017).

¹¹² WHITEHEAD, *supra* note 4.

¹¹³ See Dave Davies, *Colson Whitehead on the True Story of Abuse and Injustice Behind 'Nickel Boys'*, NPR, at 00:27 (July 16, 2019, 1:05 PM), <https://www.npr.org/2019/07/16/742159523/colson-whitehead-on-the-true-story-of-abuse-and-injustice-behind-nickel-boys> [perma.cc/3HG7-HRCD].

¹¹⁴ Maureen Corrigan, *Rooted in History, 'The Nickel Boys' Is a Great American Novel*, NPR (July 16, 2019, 12:24 PM), <https://www.npr.org/2019/07/16/742129946/rooted-in-history-the-nickel-boys-is-a-great-american-novel> [perma.cc/KGY9-YE8T]. And even on race, the vast majority of incarcerated people today are not Black. BUREAU OF JUST. STATS., U.S. DEP'T OF JUST., *NJC 308699, CORRECTIONAL POPULATIONS IN THE UNITED STATES, 2022 STATISTICAL TABLES 10* (May 2024), <https://bjs.ojp.gov/document/cpus22st.pdf> [perma.cc/G3L5-9QN7] ("In 2022, there were 2,507,000 white persons, [and] 1,723,000 black persons . . . under correctional supervision in the United States.").

ensure that their empathy is not limited to certain categories of incarcerated people. In addition to demographics, abolitionists must also grapple with the many different views that prisoners have toward their imprisonment, including those who might well disfavor abolition or even reform.

On this front, *Chain-Gang* excels. The novel portrays a broad cast of complicated, incarcerated individuals with care and nuance. Many of the characters are people of color, but CAPE participants also include Simon Craft, a white man who is the most violently abused person in the book. A set of neo-Nazi triplets is humanized, with two sobbing at the loss of the third (pp. 216, 218).

Adjei-Brenyah also includes voices wrestling with the hard questions that prisons present. One anti-CAPE activist, for example, has a father in CAPE. While she pushes for abolition not just of CAPE but of prisons entirely, she admits she is not sure she wants her father to be freed (p. 249). When a journalist loses her temper while interviewing this anti-CAPE activist at a protest, the journalist, rather than being caricatured, expresses a human reaction to the suggestion that her sister's murderer should be free (p. 250). These conflicting viewpoints extend to the prisoners themselves. When members of Thurwar's Angola-Hammond Chain speak highly of Sunset Harkless, the Chain's leader, Gunny Puddles, a dissenting participant, intervenes: "You all know that man was a murdering rapist fucker and deserved to die how he did. Just like every one of us here deserve the ground that's coming to take us" (p. 91). Puddles, in an internal monologue, even mocks Bryan Stevenson, noting: "And even if we weren't the worst thing we'd ever done, well shit. Gunny Puddles had seen their eyes, their fear, and taken something from their bodies. He knew who and what he was" (p. 90). "They" i.e., the public "called him a monster. He did not deny it" (p. 90). When asked about anti-CAPE protests at a subsequent press conference, Puddles vocalizes this monologue: "We ain't no saints or whatever the people hollering outside think we is" (p. 242). Hendrix Young, a member of a different Chain, offers a more conflicted view, condemning the evil of CAPE while musing that "[s]till, maybe they right. Maybe this what we deserve" (p. 195). *Chain-Gang* does a remarkable job at interrogating the heterogeneity of views toward incarceration, amongst both the viewing public and the prisoners themselves. The implication is that reform (much less abolition) will be difficult and require a coalition of many different viewpoints.

The novel elides another heterogeneity, however one not attitudinal but political and structural. While commentators discuss the "criminal legal system," there is no one such thing. Thousands of municipalities independently police, prosecute, and imprison.¹¹⁵

[*1047] This heterogeneity is unique to America. Many democracies have an "independent national agency that monitors conditions in prisons, jails, and juvenile facilities and enforces minimal standards of health, safety, and humane treatment."¹¹⁶ We do not. Instead, non-judicial "regulation and oversight of correctional facilities in the United States is spotty and in many jurisdictions nonexistent."¹¹⁷ That is because of "the extreme decentralization of incarceration, with each of the 50 states, the federal government, and most of the nation's more than 3,000 counties operating its own detention or corrections system."¹¹⁸

Indeed, instead of moving toward nationalization like the rest of our politics, corrections momentum has trended in the opposite direction. In the 1960s, in "a brief but consequential period," certain federal courts, including many in the South, "subjected to scrutiny virtually every aspect of prison operations" in their jurisdictions and "uniformly condemned the facilities they found to be sites of unspeakable horror, and ordered comprehensive institutional

¹¹⁵ See generally Note, *Prosecuting in the Police-less City: Police Abolition's Impact on Local Prosecutors*, 134 HARV. L. REV. 1859, 1860 (2021) (discussing local prosecutors' offices and local police departments' mutually dependent relationship).

¹¹⁶ *No Equal Justice: The Prison Litigation Reform Act in the United States*, HUM. RTS. WATCH (June 15, 2009), <https://www.hrw.org/report/2009/06/16/no-equal-justice/prison-litigation-reform-act-united-states> [perma.cc/8MM7-UFE6].

¹¹⁷ Mike Tartaglia, Note, *Private Prisons, Private Records*, 94 B.U. L. REV. 1689, 1694 (2014) (quoting Fathi, *supra* note 24, at 1460).

¹¹⁸ Fathi, *supra* note 24, at 1460.

changes."¹¹⁹ These orders "ushered American corrections into the modern era," which reads as a backhanded compliment only if one ignores what southern prisons were like beforehand.¹²⁰

But in the past several decades, both Congress and the Supreme Court have mostly tried to disentangle federal actors from state and local correctional system regulations. Nearly three decades ago, for instance, Congress enacted the Prison Litigation Reform Act.¹²¹ The PLRA's impact went beyond forcing inhumane conditions on the incarcerated. Its major innovation was to circumscribe the circumstances in which federal courts could regulate *state* prisons.¹²² Congress also tried indirectly to get federal courts out of the prison system by preventing lawyers from taking prison cases: it banned federally funded legal services programs which provide much of the civil legal aid to the indigent from representing prisoners in 1996,¹²³ and the PLRA singled [*1048] out successful prison cases for attorney fees caps far below market rates, largely drying up a private market for prison litigation.¹²⁴

These legislative moves went hand in hand with several Supreme Court decisions. In *Turner v. Safley*, a landmark case that established a deferential standard for constitutional challenges to prison policies, the Court noted that "[w]here a state penal system is involved, federal courts have . . . additional reason to accord deference to the appropriate prison authorities."¹²⁵ In *Lewis v. Casey*, the Court found actual injury in a lawsuit concerning inadequate prison libraries in Arizona but reversed the district court's order for being overbroad.¹²⁶ That order, the Court noted, "was developed through a process that failed to give adequate consideration to the views of state prison authorities. . . . Strong considerations of comity . . . require giving the States the first opportunity to correct the errors made in the internal administration of their prisons."¹²⁷ "And as to the PLRA, the Court has said that respect for and deference "in relation to state corrections systems" is "particularly important," "because it is 'difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures, than the administration of its prisons.'"¹²⁸

To be sure, in recent years, Congress has passed two pieces of legislation protecting prisoner rights: the Prison Rape Elimination Act¹²⁹ and Title II of the Americans with Disabilities Act.¹³⁰ But the overall trendline is

¹¹⁹ Sharon Dolovich, *The Failed Regulation and Oversight of American Prisons*, 5 ANN. REV. CRIMINOLOGY 153, 164 (2022).

¹²⁰ *Id.* at 165.

¹²¹ 42 U.S.C. § 1997e.

¹²² See Andrea Fenster & Margo Schlanger, *Slamming the Courthouse Door: 25 Years of Evidence for Repealing the Prison Litigation Reform Act*, PRISON POLY INITIATIVE (Apr. 26, 2021), https://www.prisonpolicy.org/reports/PLRA_25.html#:~:text=The%20PLRA%20limits%20access%20to,win%2C%20and%20harder%20to%20settle [perma.cc/RG74-K9SC] ("The 'PLRA,' as it is often called, makes it much harder for incarcerated people to file and win federal civil rights lawsuits. For two-and-a-half decades, the legislation has created a double standard that limits incarcerated people's access to the courts at all stages.").

¹²³ See Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, § 504(a)(15), 110 Stat. 1321, 1321-53 to 1321-55.

¹²⁴ 42 U.S.C. § 1997e(d); see also Fenster & Schlanger, *supra* note 122 (arguing caps mean that "civil rights lawyers are deterred from taking [prisoners] on as clients").

¹²⁵ *Turner v. Safley*, 482 U.S. 78, 85 (1987).

¹²⁶ *Lewis v. Casey*, 518 U.S. 343, 349 (1996).

¹²⁷ *Id.* at 362 (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 492 (1973)).

¹²⁸ *Woodford v. Ngo*, 548 U.S. 81, 93-94 (2006) (quoting *Preiser*, 411 U.S. at 491-92).

¹²⁹ Prison Rape Elimination Act of 2003, Pub. L. No. 108-79, 117 Stat. 972 (codified at 34 U.S.C. §§ 30301-09) (creating a mandate for significant research into the incidence and effects of prison rape, creating the National Prison Rape Elimination Commission to draft standards for eliminating prison rape, and supporting efforts in many state correctional facilities).

unmistakable. Critics of American prisons like Adjei-Brenyah who see them as extensions of slavery and Jim Crow would thus be justified and perhaps better placed in situating them in just that context, as part of two centuries-long fights. The first is between the federal government and the states, especially with regard to Black Americans in the South, and the second is within the federal government itself about how much to protect minority rights versus how much to abdicate these responsibilities to the states despite their unwillingness or intransigence.

States and local municipalities, however, are almost entirely absent from *Chain-Gang*. Instead, references are made to former President of the United States Robert Bircher as responsible for implementing CAPE (p. 27). One of the more sympathetic members of the viewing public, for example, tells the [*1049] reader implicitly asking for charity that she had not even voted for "Bircher, the president who had paved the way for hard action-sports" (p. 137). Adjei-Brenyah thus largely replaces the role of states with corporations. However, as we have noted, private prisons are just one part of a larger ecosystem, and even they contract with states to house people convicted by states and are governed by state law. While we can forgive Adjei-Brenyah for not thinking that readers would enjoy a trip through the nuances of the Interstate Compact on Corrections,¹³¹ the fact that characters from Angola and Sing-Sing real-world public prisons in Louisiana and New York, respectively travel the country to fight one another for their freedom strongly implies that American prisons primarily operate under a unified federal system. Indeed, in a telling footnote, the narrator writes of George Stinney, a 14-year-old Black child who was executed in South Carolina based on unreliable evidence in 1944 (p. 47). Stinney, Adjei-Brenyah writes, was "the youngest person ever executed by the United States" (p. 47). But Stinney was investigated by local police officers, prosecuted by Clarendon County, and executed by the state of South Carolina, not the federal government of the United States.¹³²

We know this distinction is on one level technical. But Adjei-Brenyah's elision also reflects one of the biggest challenges facing radical critics of American incarceration. If carceral brutality could be blamed solely on a single President or legislature or court case, as sometimes implied in *Chain-Gang*, it could be undone by targeting the lone source. Yet the thinkers who inspired Adjei-Brenyah do not see mass incarceration as a top-down institution, but as a broader and more pervasive system. Because American incarceration is so decentralized, it can be undone only by a similarly decentralized response: geographically, across modes of advocacy, and across different attitudes towards reform and incarceration among both those in prison and those outside. Insofar as Adjei-Brenyah reduces this complex reality in the name of narrative integrity or simplicity, he departs from the choppy waters of the real world.

CONCLUSION

The abolitionist writing that inspired Adjei-Brenyah is simultaneously more tragic and more optimistic than much other contemporary commentary about the criminal legal system. The tragedy of American incarceration, according to these thinkers, cannot be depicted in the story of an innocent man behind bars or even the thousands of innocent people he would represent. Nor is it that 92 percent of incarcerated people are in public prisons rather than 100 percent,¹³³ nor that sexual assault in prisons is common instead of rare.¹³⁴ [*1050] The entirety of American

¹³⁰ Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327, 337 (codified at 42 U.S.C. §§ 12131-32) (requiring corrections programs to create conditions and accommodations that enable disabled persons to benefit from programs and services).

¹³¹ The Compact permits states to trade prisoners with one another in exchange for money. See generally Emma Kaufman, *The Prisoner Trade*, 113 HARV. L. REV. 1815 (2020).

¹³² See Generally ELI FABER, *THE CHILD IN THE ELECTRIC CHAIR: THE EXECUTION OF GEORGE JUNIUS STINNEY JR. AND THE MAKING OF A TRAGEDY IN THE AMERICAN SOUTH* (2021).

¹³³ Budd, *supra* note 91.

¹³⁴ As an example of this mode of thinking, the Prison Rape Elimination Act was originally titled the Prison Rape *Reduction* Act. Prison Rape Elimination Act of 2003, *supra* note 129; Prison Rape Reduction Act of 2003, H.R. 1765, 108th Cong. (2003). See generally Nancy Wolff et al., *Sexual Violence Inside Prisons: Rates of Victimization*, 83 J. URB. HEALTH 835 (2006); Press

incarceration is the tragedy. It strips millions of dignity. It disappears millions from loved ones. It puts people in cages and keeps them there. All the while, imprisonment does nothing to make victims whole, and in its wake lies a ripped social safety net that prison itself does nothing to repair.

Nevertheless, skeptics and advocates of prison abolition agree that the concept is, at the same time, radically hopeful. Skeptics deem these hopes "utopian" and the society they imagine "unfathomable."¹³⁵ Advocates meanwhile claim that "[a]n abolitionist ethic, by unmasking the hidden violence inherent in this ideological capture and by encouraging conflict about its perpetuation rather than unknowing acquiescence, promises to loosen the capture's hold and renders us . . . able to imagine other frameworks for governance and collective social life."¹³⁶ This very act of imagining, the refusal to accept the current state of American incarceration as a grim necessity, is what makes mass incarceration so tragic. Or as Mariame Kaba, one of the abolitionists thanked by Adjei-Brenyah puts it, "Hope and Grief Can Coexist."¹³⁷

In one *Chain Gang* character's first quiet moment to himself after joining CAPE, he recalls thinking "of how the world can be anything and how sad it is that it's this." (pp. 198-99). And in the book's final sentences, as the reader watches two main characters face existential questions on the battleground about what they ultimately value, Adjei-Brenyah captures the brutal violence of CAPE and, nonetheless, the possibility of love and solidarity flowering amidst it. The book thus ends on a final example of taking both American incarceration and its abolition seriously, by grappling with the tragedy of American incarceration and realizing the possibility of a better world out there to replace it.

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Release, Bureau of Justice Statistics, Substantiated Incidents of Sexual Victimization Reported by Adult Correctional Authorities, 2016-2018 (Jan. 31, 2023), <https://bjs.ojp.gov/press-release/substantiated-incidents-sexual-victimization-reported-adult-correctional-authorities> [perma.cc/KN2Y-HSGG].

¹³⁵ Christopher Slobogin, *The Minimalist Alternative to Abolitionism: Focusing on the Non-Dangerous Many*, 77 VAND. L. REV. 531, 536 (2024). Slobogin notes that abolitionist legal scholarship has exploded in the past decade, with roughly 300 articles adopting the frame since 2015 *Id.* at 533.

¹³⁶ McLeod, *supra* note 19, at 1211.

¹³⁷ KELLY HAYES & MARIAME KABA, LET THIS RADICALIZE YOU 148 (2023).