Solitary Confinement and the Rhetoric of Accountability: A Levinasian Critique

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Abstract:

Solitary confinement is often justified through an appeal to accountability. But what can accountability mean in isolation from others who demand an account of oneself? Levinas offers an account of *critique* as the provocation of the other to justify oneself and invest one's arbitrary freedom as ethical responsibility and political solidarity. Rhetoric, as the use of language to overpower the other, is the opposite of critique. For Levinas, the task of philosophy is to perform an *ethical reduction* of rhetoric: in other words, to trace anti-language back to the ethical responsibility that it both presupposes and denies.

In 1982, psychiatrist Stuart Grassian interviewed prisoners held in solitary confinement at Walpole Penitentiary. This is how they described their experience:

> I went to a standstill psychologically once – lapse of memory. I didn't talk for 15 days. I couldn't hear clearly. You can't see – you're blind – block everything out – disoriented, awareness is very bad. Did someone say he's coming out of it? I think what I'm saying is true – not sure. I think I was drooling – a complete standstill. (1453)

> I seem to see movements – real fast motions in front of me. Then seems like they're doing things behind your back – can't quite see them. Did someone just hit me? I dwell on it for hours. (1452)

> I overhear the guards talking. Did they say that? Yes? No? It gets confusing. I tried to check it out with [a prisoner in the <u>next</u> cell]; sometimes he hears something and I don't. I know one of us is crazy, but which one? Am I losing my mind? (1452)

> I can't concentrate, can't read . . . Your mind's narcotized . . . sometimes can't grasp words in my mind that I know. Get stuck, have to think of another word. Memory is going. You feel you are losing something you might not get back. (1453)

Grassian coined the term "SHU Syndrome" to name the cluster of systems produced by long term confinement in a Special Housing Unit [SHU] or other supermax-level prison cell. He identifies six basic components of SHU syndrome: 1) Hyperresponsivity to External Stimuli; 2) Perceptual Distortions, Illusions, and Hallucinations; 3) Panic Attacks, 4) Difficulties with Thinking, Concentration, and Memory; 5) Intrusive Obsessional Thoughts; and 6) Overt Paranoia (Grassian 2006, 335-6). He notes that this particular configuration of symptoms is "strikingly unique" and that the perceptual disturbances in particular are "virtually found nowhere else" (Grassian 2006, 337).

At the time of these interviews, supermax prisons were just being introduced. Today, there are more than 80,000 prisoners held in some form of restricted housing in prisons and jails across the US.[1] "Restricted housing" is prison code for punitive isolation or solitary confinement; other terms include Special Housing Unit or Security Housing Unit (SHU), Control Unit (CU), Special Control Unit (SCU), Administrative Segregation Unit (ASU or Ad-Seg), Administrative Maximum Facility (ADX or Ad-Max), Intensive Management Unit (IMU), and even the brutally frank Communication

Management Unit (CMU). In a recent Senate Subcommittee hearing on solitary confinement, director of the Federal Bureau of Prisons, Charles Samuels, defended restrictive housing as "a critical management tool that helps us maintain safety, security, and effective reentry programming for all federal inmates" (Solitary Watch 2012, 6). While he admitted that the Federal Bureau of Prisons had not undertaken a single study to determine the mental health effects of restricted housing, he added that the bureau would "welcome any research or literature regarding concerns in that area" (8). According to Samuels, the BOP does "not consider any inmate to be held in isolation, though we are aware that some might use this term to refer to all restricted housing placement, regardless of the extent of contact with other individuals" (5).

Samuels represents restricted housing not as an instrument of punishment and control, but rather of protection and care:

> Inmate safety and wellbeing is of the utmost importance to the bureau, as is the safety of our staff and the community at large. As such, we do all that we can to ensure that we provide outstanding care, treatment and programming to federal inmates, giving them the best opportunity for successful reentry into their communities. (Solitary Watch 2012, 4-5)[2]

When asked how many on-site mental health professionals were employed to administer to the needs of 490 inmates on continuous lockdown at Florence ADX, a federal supermax prison, Samuels replied (after repeated efforts to evade the question by quoting more general statistics) that there were only two.[3] When pressed by Senator Dick Durban to comment on whether he thinks this is sufficient, and whether he "could live in a box like that 23 hours a day" without "any negative impact," Samuels said, "I don't believe it is the preferred option" (Solitary Watch 2012, 10).

Samuels' testimony is an example of the kettle logic that structures much of supermax rhetoric: prisoners are not harmed by isolation, and even if they were, we could not have known because we do not have the research (although we welcome it), and besides, we do not isolate prisoners, we only place them in restricted housing for the safety and well-being of themselves and others. A California supermax prison administrator interviewed by Sharon Shalev defines the purpose of solitary confinement as the isolation of "predators" and those who "cannot be controlled or do not want to be controlled' so that the rest of the prison can function smoothly (Shalev 2009, 56; see also 208). This makes sense from a wildlife management perspective; if there are dangerous predators, then a good manager will identify and remove them to protect the health and safety of the general population. Gone are the religious motivations of solitary confinement in the early penitentiary system; they have been replaced with a new form of neoliberal biopower, where the management and optimization of populations takes precedence over the spectacular punishment of bodies or the surveillance and discipline of individual subjects (Foucault 1979, Foucault 2003, Wacquant 2001).

Today's prisons are under pressure to demonstrate a certain level of efficiency, effectiveness and accountability, whether or not they are run for profit. Prison administrators are accountable to the state or corporate entity that funds their operations, to the state and federal legislators that tolerate or support their existence, to the general prison population that apparently benefits from the removal of predators, and to the public that they claim to keep safe and secure. But it is not clear that they are accountable to prisoners themselves. One supermax correctional officer reflects:

Do we have an obligation to take care of them? Yes. But do I have an obligation to provide him touching, feeling, contact with another human being? I would say no. He has earned his way to this unit and he's earned just the opposite. He's earned the need for me to keep him from other people. (Shalev 2009, 142)

Prisoners who have "earned" their way into isolation must "earn" their way out by working their way up the security ladder, one segment of good behavior at a time. Those with a "personal intent to disobey or not to follow directions," a desire "not to be controlled," or a commitment to creating (or becoming) a "management problem" remain in isolation (Shalev 2009, 56). As a prison architect in California explains, supermax confinement is intended "to give the inmate a chance to *decide* whether they want to stay there or not, and I think that's key to the success of a [supermax] is that the inmates now *decide their destiny*" (Shalev 2009, 134; emphasis added).

This appeal to individual choice and accountability may sound reasonable enough as long as the power dynamics of the control prison are overlooked. But what is the meaning of individual choice in a situation that is deliberately constructed to create the most restrictive conditions possible under current case law (Reiter 2012)? What is the meaning of accountability in 23½-hour-a-day lockdown, when there is literally no one available to whom one may give an account of oneself? Lorna Rhodes observes:

Prisoners like these have received the ultimate call to account for themselves, to hold still as icons of bad behavior. But no matter how many times they are counted and accounted for, they cannot account for themselves because their words are not allowed to "grab" those who contain them. (Rhodes 2004, 188; see also Butler 2005)

The prisoner who is enjoined to "decide her destiny" in a control prison is positioned simultaneously as an object of supermaximum control and as an independent, rational subject with a free will that makes good or bad choices for which it can and must be held accountable.

The representation of inmates as both willful subjects and inert objects--while incoherent in itself--also overlooks the complexity of a system that, more often than not, puts prisoners in a double-bind from which there is no exit. In California, prisoners classified as gang members or associates are routinely confined in the SHU, regardless of their actions; they are punished for who they are (or are presumed to be) rather than for their actions and choices within prison.[4] Even at lower-security prisons and jails, prisoners can find themselves in a situation where breaking a rule is the only way to protect themselves against physical and/or sexual violence. One prisoner explains:

> I have a choice, and I don't have a choice. . . . OK, [another inmate] is bad-mouthing me . . . Right then and there I have a choice to go in there and beat him up and go to the hole . . . or ignore him and suffer greater consequences than going to the hole . . . [my cellmates] would [say], "He is weak. He has no heart. He doesn't stand up for himself." (Rhodes 2004, 67)

Mentally-ill or cognitively-impaired inmates may not understand when they are breaking rules, or they may be mentally, physically or emotionally unable to follow the rules, even if they do understand. Since solitary confinement exacerbates and even produces mental illness and cognitive difficulties in many prisoners, the longer an inmate spends in the SHU, the less likely she is able to make the sort of "choices" that will allow her to be reintegrated into general population.

Under circumstances such as these, the appeal to accountability in a control prison both *demands* responsibility from prisoners and *undermines* their capacity to respond ethically to others. At the same time, it shifts the weight of responsibility away from the prison system and onto individual prisoners who are likely to appear incorrigible and resistant to rehabilitation, whether or not they actively fight the system. This logic both *binds the prisoner to his actions* by tracking and recording every act, outburst or example of (bad) "behavior," and also *unbinds the prisoner from his actions*, such that it does not matter what he does or refrains from doing, if he has been already classified as a certain kind of security risk. In either case, the prisoner is assumed to be an independent, autonomous, and ultimately non-relational subject: in control of his actions but not completely determined by them, and always capable of making a different choice in accordance with his will. But the more extreme the isolation in a control prison, the more difficult it becomes for the prisoner to support themselves as a separate individual with a free will to make choices and to bear the consequences of these choices. Prisoners find themselves in a Catch-22 situation where they can't follow the rules even if they want to, or where they are punished whether or not they break the rules, or where the only avenue left for exercising some form of autonomy or self-defense is to break the rules, even if this means exposing oneself to an even harsher imposition of rules.

In short, the supermax prisoner is set up to fail. He is told to conduct himself as an autonomous subject while subject to near-total control. He is told to reflect on the consequences of his actions in a situation that typically produces cognitive impairment and mental illness. He is told to accomplish a social and ethical transformation in a situation that blocks social and ethical relationships to others. He is *told* this in a way

that both uses language and abuses it: by demanding accountability while excluding in advance the possibility of an interlocutor to whom one may give an account of oneself. Supermax rhetoric declares war on the prisoner, while demanding that he or she become a perfect icon of peace. But does war exhaust the meaning of being?

Levinas and the Ethical Reduction of War

Levinas opens his book, <u>Totality and Infinity</u>, with a critique of war. He begins with an ancient question: Are we not "duped by morality" (TI 21)? Is it naïve to think that justice could mean anything other than the advantage of the stronger? If not, then the logic of justice is war, and politics is nothing more than the "art of foreseeing war and of winning it by every means" (TI 21). Rhetoric is, in effect, language in the service of war; it is the use of words to secure and enhance one's power, rather than a way of encountering the other in conversation. Levinas connects the logic of war to the "harsh reality" or "harsh object-lesson" of a regime that crushes everything and everyone that gets in its way, but he also connects war to "the very patency, or the truth, of the real" for Western philosophical thought (TI 21). To the extent that knowledge is a matter of grasping something, penetrating the real and possessing it as an object of knowledge, then philosophy is an art of war. Its aim is to cut through the opaque resistance of the world, cancelling its otherness and securing it within a defensible theory. The totalizing ambitions of Western philosophy yield to a totalitarian logic of being and of politics in which people are condemned to "an objective order from which there is no escape" and forced to "play roles in which they no longer recognize themselves, making them betray not only commitments but their own substance, making them carry out actions that will

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destroy every possibility for action" (TI 21). War does not challenge the identity of subjects and command them to justify themselves, but rather unhinges this identity and threatens to destroy it.

In this paper, I develop a critique of solitary confinement and of the rhetoric of "accountability" that underwrites it. The practice of solitary confinement, like the logic of war, undermines the identity of subjects and objects, even while attempting to secure it, by foreclosing a relation to the outside beyond the totality. My guiding questions are as follows: What must subjectivity be like in order for SHU syndrome to be possible? What is the relationship between our experience of other people and our capacity to think clearly, to trust our experience of the world, and even to relate to the world as a stable context for meaning? To what extent do questions of truth and knowledge imply an ethical meaning that exceeds the scope of epistemology as such?

I will argue that the debilitating effects of prolonged solitary confinement presuppose the *ethical* orientation of the separated subject to an absolute or transcendent other. This ethical orientation may not be affirmed as such; one need not be a "good person" to be ethically oriented towards others in a way that is constitutive of one's experience of the world as the site of truth. But whether or not I affirm it, what makes truth meaningful or even possible for me as a separated subject is what Levinas calls "justice" or "veritable conversation" (TI 71): an ethical face-to-face relation to an absolute Other.[5] Levinas writes in *Totality and Infinity*:

> *We call justice this face to face approach, in conversation*. If truth arises in the
> absolute *experience* in which being gleams with its own light, then truth is
> produced only in veritable conversation or in justice. (TI 71)

In order to show how truth presupposes justice – even, or perhaps especially, in the SHU – I propose an *ethical reduction* of prolonged solitary confinement in supermax prisons. By ethical reduction I mean the method by which Levinas traces the conditions of what he calls "*objectifying cognition*" (TI 67) or "objectifying thought" (TI 28) back to the "forgotten experience from which it lives" (TI 28): the experience of an absolute Other who teaches me something that I could not have derived from my own cognitive powers, namely, the ethical significance of the world. While Husserl reduced natural experience to transcendental consciousness, and Heidegger reduced consciousness to the more primordial structure of Being-in-the-world, Levinas' ethical reduction radicalizes the phenomenological project further, tracing both consciousness and Being-in-the-world to the hinged structure of created being, or the *creature.*

The creature is a consciousness who discovers in itself a *conscience*; it is a separated being who finds itself in relation to an absolute Other who puts in question its spontaneous freedom and commands it to justify itself. In this sense, the creature is both for-itself and for-the-other; it is the "unity of spontaneous freedom, working on straight ahead, and critique, where freedom is capable of being called in question and thus preceding itself" (TI 89). The creature is not a subject who *needs* the other in order to be itself, but rather a subject whose *desire* for the other reorients its existence in a critical and ethical direction, thus opening the possibility of ethical reduction.

> And if the tracing back from a condition to what precedes that condition describes the status of the creature, in which the uncertainty of freedom and its recourse to justification are bound up, if knowing is a creature activity, this unsettling of the condition and this justification come from the other. (TI 86)

In other words, the creature is a subject for whom truth is social justice.

Levinas begins his ethical reduction of war with a series of questions:

Does objectivity, whose harshness and universal power is revealed in war, provide the unique and primordial form in which Being, when it is distinguished from image, dream, and subjective abstraction, *imposes itself* on consciousness? Is the apprehension of an object equivalent to the very movement in which the bonds with truth are woven? (TI 24)

His answer to these questions is No. The basic concepts of Western philosophy--truth, reality, being, objectivity--must be critically interrogated and reduced or "led back" to their more primordial, or even anarchic, ethical condition: the figure of the one-for-the-other, the other-in-the-same, infinity in the finite, the transcendence of the other in a separated, yet responsible self. These relations of separation and transcendence "form the fabric of being itself" (TI 81). Levinas' ethical reduction reveals ethical desire as the anarchic condition of what is commonly understood as a social, biological and/or economic need for social relations. In order to see how this is the case, we must follow Levinas' ethical reduction of war and of the "politics" that continues war by other means, back to a revelation of truth as social justice. This reduction unfolds through the practice of what Levinas calls critique.

Critique begins with the ethical provocation of an other who puts me in question and commands me to justify myself. This command is not an act of war, rhetorical or otherwise; rather, it makes a break with the logic of war by addressing the subject as one who is both free and responsible. It critically engages the identity of the same, asking, in effect: Who do you think you are? What do you have to say for yourself? For Levinas, we question ourselves, and ultimately we question being, because we have been *put in question* by an Other, because we have been called to justify ourselves to one

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whose vulnerability is exposed to the potential violence of our arbitrary freedom. Without this experience of being put in question by an Other, there would be no motivation for critique, nothing to interrupt the spontaneity of the for-itself, no command to reflect on the conditions of one's own freedom. Critique begins in shame-- if by shame we mean the experience of being turned back upon oneself by a feeling of ethical exposure to the face of an Other whose presence commands me to justify myself.[6] Philosophy, the vocation of perpetual questioning, does not antecede this experience of being put in question by another, which marks the birth of the philosopher as an ethical subject *and therefore* also as a speculative theoretical subject. In this sense, conscience precedes consciousness, and ethics is first philosophy. Philosophy may be born in wonder, but wonder is born in shame.

The critical provocation of shame both highlights our freedom and conceals it by subordinating freedom to responsibility. But shame does not destroy my freedom; it merely commands me to justify this freedom, and to invest it in ethical responsibility. A freedom invested is a freedom divested of its arbitrary spontaneity, and so made meaningful. Ultimately, for Levinas, freedom is invested only in "Discourse and Desire, where the Other presents himself as an interlocutor, as him over whom I *can*not have power, whom I cannot kill . . . where, qua I, I am not innocent spontaneity but usurper and murderer" (TI 84). At the very moment I am commanded not to murder, I appear to myself as both a murderer and a responsible subject; I discover both the violence of my arbitrary freedom and the "difficult freedom" of responsibility (Levinas 1997).

In what follows, I draw on Levinas' critique of war and rhetoric, and his ethical reduction of philosophical knowledge to justice and responsibility, to develop a critical phenomenology of accountability and choice in supermax prisons. I argue that the

insistence on prisoners' individual accountability for their choices in a context where they have almost no control over their situation, makes a mockery of ethical responsibility and political justice. Rather than challenging criminal offenders to face others in responsibility, and to join others in solidarity, the control prison declares war on the prisoner, disrupting his identity as a separated subject and condemning him to "an objective order from which there is no escape" (TI 21). An ethical response to crime, motivated by a demand for social justice rather than by punishment, "correction" or behavior modification, can help us to envision new possibilities for criminal justice, both within prisons and beyond them.

Isolated Subjectivity: Plato's Gyges and Descartes' Cogito

In Chapter C, section 3 of *Totality and Infinity*, Levinas challenges us to imagine a world in which Others do not matter, and in which we may not even be sure they exist. In this imaginary world, truth is unhinged from justice, and the spontaneous freedom of the I is left to its own devices, unencumbered by the ethical command of the Other. Levinas situates his account of this imaginary world (if we can even call it a "world") in relation to two philosophical figures: Gyges from Plato's *Republic*, and the cogito from Descartes' *Meditations* 1 and 2.

Gyges is a shepherd who finds a magical ring that allows him to become invisible; he uses this power to rape the queen and murder the king. Plato introduces the figure of Gyges into the narrative of the *Republic* to raise questions about responsibility and freedom: What if you could evade the gaze of others, and you were no longer accountable to others for your actions? Doesn't power reveal that we are

duped by morality, that only the weak have an interest in being responsible to others? Gyges raises the spectre of a world where others do not matter, and because they do not matter, I have no reason to consider them when I act, or to constrain my actions for moral reasons. The implication is that without the gaze of others, I would have no conscience; I would become a will radically unhinged from an ethical orientation towards justice.

Descartes' cogito raises a different set of questions in response to a different scenario, where it is not that others do not *matter*, but that I cannot be sure they *exist*. If the only thing I can know for certain is that I doubt or I think, therefore I am, then I remain in a doubtful relation to the existence of my own body, the world, and other subjects unless I can secure another absolute point outside my own existence, a pivot-point or hinge with which to (re)connect to the world. Meditations 1 and 2 raise the spectre of a cogito radically unhinged from the truth of the world, cut off from the possibility of knowing anything for certain beyond the indubitable fact *that* it exists.

I will address these figures separately, since they raise different issues, both of which are relevant for my ethical reduction of SHU syndrome: a "world" without justice, and a "world" without truth.

"World" Without Justice

Gyges inhabits a "world" of pure spectacle. Endowed with the power to see without being seen, he feels released from the obligation to take others into account. There are no witnesses to his actions, and therefore no need for alibis. Whether or not God is dead, the magic of invisibility grants that everything is permitted. Gyges' ability to

escape the detection of others allows him to act without having to bear the consequences of his actions; it frees his consciousness from the judgment of others, and relieves him of his ethical conscience.

Gyges can do whatever he wants. But is he therefore free? Has he resolved the problem of existence that Levinas analyzed in his early work as the problem of escape, or of "getting out of being by a new path" (OE 73)? Has he secured access to the truth, since no one can contest his possession of the world or punish his transgressions? Or has his life become meaningless in the absence of anyone to witness his actions and to demand from him a reason or justification? Has the world become a spectacle in which everything is permitted only because nothing is real?

Gyges embodies the fantasy of a subject who would be free as long as he is alone and unencumbered by obligations to others. The temptation of Gyges is built into the logic of war: What if I could have it all to myself? What if I could get away with murder? This temptation is arguably one of the motivations of crime. After all, what is Gyges if not a murderer and a rapist? But the same temptation also structures the high-tech panopticon of supermax prisons where wardens are able to monitor inmates 24 hours a day through surveillance cameras, seeing without being seen, where the lights are never turned off in order to facilitate this surveillance, and where in some prisons, even medical and psychiatric consultations are conducted by video monitor in order to minimize direct contact with inmates (Haney 2003, 126). In effect, the control prison sends this message to the inmate: You thought you were Gyges, you thought you could get away with murder. But you were caught in the act, and your punishment is to be put in a position that reverses Gyges' power: exposed to the gaze of Others, but without the chance to return that gaze except in the most cursory way. You must become

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accountable for your actions, without knowing to whom or for whose sake you should give an account of yourself. And finally, you must prove yourself worthy of freedom in a situation that limits, controls and monitors your every movement.

Following Elliott Currie, Lorna Rhodes calls this policy of making supermax inmates "accountable" for their actions even in the absence of anyone *to whom* to give an account of themselves--in the absence of an intercorporeal context that could make accountability meaningful as a form of responsibility to others rather than adherence to rules and regulations--"punitive individualism" (Rhodes 2004, 84). The inmate is both commanded to be an individual--to stand on her own, to rely on no one but herself, to be autonomous--and also punished for being an individual, to the extent that individual autonomy involves the freedom to depart from the rules as well as to follow them. She is also punished for *not* being an individual: for falling apart in the social and sensory isolation of the SHU.

What would it take to "ethically reduce" the control prison and its Gygean structure to the ethical relations that make it possible, and that are distorted and represented in the control prison as "accountability"? We must follow the rhetoric of individual choice and accountability back to the investment of spontaneous subjective freedom in an ethical responsibility that justifies it and so makes freedom meaningful beyond mere spontaneity. But before we can perform this ethical reduction of supermax rhetoric, we must examine another aspect of war and the rhetoric that sustains it: the solitary cogito and its "world" without truth.

"World" without Truth

If Gyges inhabits "world" without justice, then the cogito in Descartes' *Meditations* I and II--the solitary cogito, prior to the discovery of an absolute point of reference outside of itself--inhabits a "world" without truth. The *Meditations on First Philosophy* begin with the philosopher's attempt, for once in his life, to rid himself of false opinions and to establish an indubitable foundation for true knowledge. In the First Meditation, Descartes proves that as long as I am thinking--even if my thought takes the form of radical doubt--I know for certain that I exist. But this cogito remains threatened by the possibility of global deception by an evil genius until it can secure another absolute point outside its own existence: a hinge with which to (re)connect to the world. Descartes discovers this other absolute in Meditation 3, when he proves the existence of an omniscient, omnipotent, and perfect God by locating the idea of infinity within its own finite subjectivity, and tracing this idea back to its only possible origin or cause: the existence of God himself. For Descartes, the possibility of a cogito that is radically deceived about everything but its own existence is merely a speculative possibility that emerges in the course of securing an indubitable ground for true knowledge of the world as it really is. But what if the Meditations had stalled here? What if the radical skepticism of the cogito became interminable? What if it failed to discover within itself something greater and older than itself?

Levinas argues that, for such a cogito, "Thought would strike nothing substantial. On first contact the *phenomenon* would degrade into *appearance* and in this sense would remain in equivocation, under suspicion of an evil genius" (TI 90). Levinas describes this relation to the world as a parody of knowledge:

He to whom the real had just presented itself, with an appearance that shone

forth as the very *skin* of being, is being made game of. For already the *primordial*

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or the ultimate abandons the very skin in which it shone in its nudity, as a

covering that announces, dissimulates, imitates, or deforms it. (TI 91)

Without a relation to an absolute beyond the cogito's own self-evident existence,

nothing could be known with any confidence; perception would become equivocal, no

longer a site of access to the world, but rather a source of illusion. What would this

experience--or this unraveling of experience--be like?

Consider the testimony of prisoners interviewed by Stuart Grassian at Walpole

Penitentiary:

The cell walls start wavering. (Grassian 1983, 1452)

Melting, everything in the cell starts moving; everything gets darker, you feel

you are losing your vision. (1452)

They come by [for breakfast] with four trays; the first has big pancakes--I think

I'm going to get them. Then someone comes up and gives me tiny ones--they get

real small, like silver dollars. I seem to see movements--real fast motions in front

of me. Then seems like they're doing things behind your back--can't quite see

them. Did someone just hit me? I dwell on it for hours. (1452)

Is this person not living the nightmare that Levinas, through his reading of Descartes, is

asking us to imagine? A nightmare in which the distinction between reality and illusion

becomes blurred to the point of unhinging the subject from an objective world?

By posing this question, I do not mean to suggest that the prisoner in solitary

confinement actively doubts whether or not other people exist, nor even that he has

been reduced to a pure cogito, absolutely deprived of any relation to other subjects.

After all, every inmate has some sort of contact with guards and other prison staff, and some are even able to communicate with other prisoners by sending "kites" (written notes) or by yelling across the cell tier. On a certain level, the prisoner *knows* that the cell walls are not wavering, that the pancakes are not shrinking, that the world is not melting. But the more radically he is deprived of everyday, embodied relations to others in the flesh, face-to-face, the more likely it seems that the world will become equivocal for him, as if phenomena dissolved into mere appearances, as if "the skin of being" were a source of illusion rather than a true manifestation of what is, as if he were being deceived or "made game of."

This perceptual equivocation is compounded by cognitive and even ontological confusion. To *dwell on something for hours*, without clarifying one's experience, is to be caught in a situation where the sheer capacity for thought--however absolute and indubitable--has become less a foundation for true knowledge than a source of pain and despair, producing panic, anxiety and obsessive repetition. This is a situation where time stands still even as it slips away, where there is no escape from the weight of one's own indubitable, but therefore irremissible, existence.

How would an ethical reduction of SHU syndrome unfold, and where might it begin? I take as my transcendental clue a brief remark in Levinas' analysis of the spectacle unhinged from the conditions of true knowledge: "Apparition is a congealed form from which someone has already withdrawn" (TI 98). The phenomenon that has dissolved into mere appearance or apparition is not a pure experience of the world *without* others, but already an experience of the world *deprived* of others, a world from which others have *withdrawn*. The thinker who sits down by the fire to perform his solitary meditations is not yet the bare cogito whose existence he proves in Meditation

1; rather, the thinker must *go back* to the cogito by withdrawing from the social relations that already support his everyday experience of the world, even if they also distract him with "false opinions" (1:1). Descartes' meditations unfold as a conversation with himself; and yet, precisely as a conversation, Descartes' solitary meditations presuppose the ethical structure of "veritable conversation," in which there is something *about which* to speak because there someone *to whom* to speak, someone who provokes critical reflection by putting me in question. As Levinas puts it, "Attention is attention to something *because* it is attention to someone" (TI 99, emphasis added).

Or as Merleau-Ponty explains in a strikingly Levinasian passage in the *Phenomenology of Perception*:

> The philosopher cannot fail to draw others with him into his reflective retreat, because in the uncertainty of the world, he has for ever learned to treat them as consorts, and because all his knowledge is built on this datum of opinion. Transcendental subjectivity is a revealed subjectivity, revealed to itself and to others, and is for that reason an intersubjectivity. (2002, 421)

This claim may seem far-fetched to readers who are more sympathetic to Descartes' epistemological reduction than to Levinas' ethical reduction. After all, do I not pay attention to things or ask questions about the world, whether or not there is someone there to provoke them? But Levinas is not claiming that the ethical relation to an absolute Other is an *empirical* condition for truth; rather, he is reducing knowledge to its *ethical-transcendental* condition. And even Descartes recognizes the necessity of a relation to something outside the cogito--something older than itself, yet discovered within itself--in order to secure its own true knowledge of the world. How does Levinas explain the ethical significance of truth in a way that both draws on the formal structure

of the cogito in Descartes' Third Meditation and radicalizes his insight? In the following sections, I will track Levinas' ethical reduction of the object to the other, and of rhetoric to language, in order to explain why both perception and cognition come unhinged for many prisoners in solitary confinement.

From the Object to the Other

In the Preface to *Totality and Infinity*, Levinas asks whether "lucidity, the mind's openness upon the true, consist[s] in catching sight of the permanent possibility of war" (TI 21).

> Does objectivity, whose harshness and universal power is revealed in war, provide the unique and primordial form in which Being, when it is distinguished from image, dream, and subjective abstraction, *imposes itself* on consciousness? (TI 24).

From the perspective of war, truth is objectivity; to know is to grasp objects as what they are, to catch them in the web of cognition by attaching my percept to an adequate concept.

But as Stuart Grassian's research demonstrates, this simple task of grasping an object can become complicated for prisoners in prolonged solitary confinement. The distinction between objective reality and "image, dream and subjective abstraction" can become blurred to the point of unhinging the subject from an objective world. The "harsh object-lesson" of war, which "does not manifest exteriority and the other as other" also risks losing touch with the objective world and "destroy[ing] the identity of the same" (TI 21). In order to understand why prisoners' experience of objects, and even

of their own personal identity, comes unraveled in solitary confinement, we need to put in question the logic of war and to trace "objectifying thought" back to the "forgotten experience from which it lives" (TI 28). For Levinas, this forgotten experience is the encounter with an Other who is not an object, an Other who *teaches* me something I did not already know: the idea of infinity. This revelation of the Other as teacher "constitutes a veritable inversion of *objectifying cognition*" (TI 67): an inversion of knowledge as an instrument of war into knowledge "in the absolute sense of the term," namely as truth.

For Levinas, this ethical reduction of objectifying cognition to truth reveals the Other as "the principle of phenomena" (TI 92). This is an extraordinary statement, and it reverses one of the central claims of classical phenomenology. For Husserl, thinking in the wake of Descartes, the "principle" of phenomena is the correlation of noetic acts with noemata in a singular, solitary consciousness. The full sense of objectivity may presuppose a concrete experience of other embodied subjects in a shared world, but the *principle* of phenomena remains the flow of noetic acts in a transcendental ego. But if the Other is the principle of phenomena, then consciousness alone is not sufficient to produce a coherent experience of phenomena; solitary consciousness may have access to *appearances*, but to the extent that these appearances remain disconnected from the ethical revelation of an absolute Other as teacher, they remain mere apparitions rather than phenomena that give me access "to the things themselves!" Levinas' key insight is that these subjective apparitions are not the building blocks of objectifying cognition, but rather "a congealed form from which someone has already withdrawn" (TI 98). Levinas traces even the structure of intentionality, the outward radiation of consciousness towards its objects, to the revelation of the Other who teaches me the

idea of infinity.[7] In other words, he reduces consciousness to conscience, and reveals *ethics as first philosophy*.

Even in war, which excludes the other as other, a trace of this excluded or withdrawn Other remains. War does not reveal the harsh truth of objectivity; it obscures this truth, and it even threatens to unhinge the subject from the objective world by excluding the Other and destroying the identity of the same. From the perspective of Levinas' ethical reduction of the totalizing logic of war, the sense of objectivity presupposes language or discourse as a privileged site of ethical relation:

> The objects are not objects when they offer themselves to the hand that uses them, to the mouth and the nose, the eyes and the ears that enjoy them. Objectivity . . . is *posited* in a discourse, in a *con-versation* [*entre-tien*] which *proposes* the world. This *proposition* is held between two points which do not constitute a system, a cosmos, a totality. (TI 96)

The formal structure of this conversation between "two points" is borrowed from Descartes' Third Meditation, in which the cogito discovers within itself an idea of which it is not the cause, and which must have been "taught" or revealed by an absolute Other. And yet the *sense* of conversation is not contained within the formal structure described by Descartes. This sense--both its meaning and its direction or orientation-- can only be discovered by proceeding back from the formal structure to the "forgotten experience from which it lives" (TI 28): the ethical experience of being put in question by an Other and commanded to respond, to justify myself.

This is what it means to do philosophy: it is to perform the transcendental reduction as an ethical reduction, to discover the ethical experience from which our concepts live, but which these concepts obscure to the extent that they are totalized

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within the framework of war. War is not the truth of being; rather, "the locus of truth is society" (TI 101). How might this ethical reduction of philosophy help us to understand the experience of prisoners in solitary confinement?

From Rhetoric to Language

Recall the prisoners who told Stuart Grassian:

> I can't concentrate, can't read . . . Your mind's narcotized . . . sometimes can't grasp words in my mind that I know. Get stuck, have to think of another word. Memory is going. You feel you are losing something you might not get back. (1453)

> I overhear the guards talking. Did they say that? Yes? No? It gets confusing. I tried to check it out with [a prisoner in the adjoining cell]; sometimes he hears something and I don't. I know one of us is crazy, but which one? Am I losing my mind? (1452)

What has happened to these prisoners, such that words they know begin to evade them, and even when they have a chance to speak to another prisoner, they are not sure who is more insane? This is a situation where not only perception, but also language and thought have become equivocal, where meaningful discourse has become indiscernible from what Levinas calls rhetoric.

For Levinas, rhetoric is not merely an interested use of language, but rather an unhinging of language from the ethical situation of "veritable conversation." Rhetoric *inverts* the ethical inversion of war into discourse. In this sense, rhetoric is

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"antilanguage" (TI 92) or "the inverse of language: the interlocutor has given a sign, but has declined every interpretation" (TI 91). Rhetoric broadcasts "a mocking intention," a lie that evades direct refutation because it is not a matter of some particular error or distortion, but rather a global inversion, a key change, a rendering-equivocal of the very status of the word and of the world (TI 91). Someone gestures towards me, throws signs my way, but without opening the way to meaning, without questioning or responding in a conversation. Just as the equivocal world of the bare cogito turns phenomena into mere apparitions, rhetoric turns language against itself, using discourse in a way that *refuses to participate* in discourse, refuses to "propose" the world or to put the world in common. This equivocation of language reinforces the equivocation of phenomena we addressed earlier:

> The inverse of language is like a laughter that seeks to destroy language, a laughter infinitely reverberated where mystification interlocks in mystification without ever resting on a real speech, without ever commencing. The spectacle of the silent world of facts is bewitched: every phenomenon masks, mystifies ad infinitum, making actuality impossible. (TI 92)

A world where language has become equivocal is a world without principle, without the second, "earlier" or anarchic starting-point of an absolute Other, discovered by Descartes' cogito in the Third Meditation, and recovered through Levinas' method of ethical reduction. It is an unworlded world where the idea of infinity has slipped into the bad infinite of endless reverberation and mystification. This connection between the unraveling of language and the unraveling of phenomena suggests that discourse and perception are mutually interrelated, and that both presuppose the Other as

interlocutor. How might this analysis of rhetoric help us to understand the experience of prisoners in solitary confinement?

A Levinasian Critique of Supermax Rhetoric

On the surface, it seems quite reasonable to claim that if you break the law, you must be held accountable for your actions. But in a country where passing a bad check can get you more prison time than massive corporate fraud, where criminal penalties for the possession of crack cocaine are still 18 times greater than the possession of powdered cocaine (reduced from 100 times greater by the Fair Sentencing Act of 2010), where a homeless woman can be arrested for trying to send her child to a better school district (Miller 2011)--this rhetoric of accountability makes a mockery of justice.

Supermax rhetoric demands accountability while undermining the prisoner's capacity to act and to account for his actions. It declares war on the rebellious will of the prisoner, seeking to control, reshape and (to the extent that this is still the goal of our penal system) to reform this transgressive will into a docile, well-behaved peace-keeper. Even when a prisoner does transform himself and others, making significant contributions to a meaningful sense of peace and justice, this is often not enough to spare him from punishment, control, and even execution.[8] As such, the justice system (oxymoron *par excellence*) rivets the prisoner to his past and to his solitary existence, refusing to engage with him as an Other and structurally undermining his integrity as a separated but responsible subject. It confines the prisoner to what Levinas calls the *il y a*--the equivocal par excellence--"beyond affirmation and negation" (TI 93). Alone without solitude, exposed to the gaze of others without the possibility of cultivating a

meaningful relation to them, confined to myself and yet doubled with myself, I am condemned to bear the weight of my own being without escape. The isolated cogito may be able to affirm its own existence with apodictic certainty, even (or especially) in solitude, but it cannot affirm the *world*, or even the phenomenon as a true appearance, without the other. As Levinas puts it, "It is not I, it is the other that can say yes" (TI 93). Even the most successfully-individuated subject cannot evade this ethical, political, and even epistemological imperative for "veritable conversation" with the other.

But if this is the case, then the rhetoric of accountability in control prisons does not just affect prisoners in the SHU, nor prisoners in general population; it affects the entire "prison society" (Wacquant 2001, 121). To the extent that we support or even tolerate a penal policy based on control and isolation as a legitimate part of our justice-system, we risk undermining our own humanity, or better yet our own creaturely existence, as well that of prisoners. Not just the legitimacy of penal institutions and procedures, but *the meaning of the world* is at stake in these issues. By suspending the ethical conditions under which the world is proposed to another, and so becomes meaningful as a shared world or even as the gift of the other, we condemn ourselves as well as others to more or less extreme forms of social and civil death.

When we give up on whole groups of people and put them in cold storage in a control prison, then we deprive these people of the chance for ethical transformation, and we also deprive ourselves of the chance to learn from each other about ethical responsibility and political solidarity. Whether prisoners are held in expensive solitary confinement or cheap, overcrowded prisons, the ethos of intensive confinement undermines both the agency of prisoners and their capacity for ethically meaningful lives. If critical reflection is crucial for the cultivation of a responsible life and a

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commitment to justice, then the justice-system is structurally *unjust* to the extent that it forecloses the ethical provocation of critique and seeks rather to manage, control and contain criminal offenders. The point of prison, if it is to have a point beyond punishment, revenge and--more recently--profit, should be to challenge the offender to justify himself and to give him a chance to be taught, in Levinas' sense of the word: a chance to engage in critique and self-questioning, and to be ethically commanded by an other to put the world in common in language, as the gift of the other. It should be a chance and a challenge to repair one's relations of responsibility to the near and the far, to strangers and kin. When we isolate a prisoner in solitary confinement, we deprive them of both the support of others, which is crucial for a coherent experience of the world, and also the critical provocation through which others call our own interpretation of the world into question and command us to give an account of ourselves. This command is especially important for those who have broken the law, and so violated the trust of others in the community. If we truly want to address the harm of crime, and to challenge criminal offenders to transform their lives, then we must create a situation where they have a chance and an obligation to explain themselves to others, to repair damaged networks of mutual support, and to lend their own singular perspective to the meaning of the world.

We ask too little of prisoners when we lock them into control units where they are neither allowed nor obliged to create and sustain meaningful, supportive relations with others. For the sake of justice, not only for them but for ourselves, we must put an end to the use of solitary confinement in this country, and we must begin the difficult but mutually-rewarding work of bringing the tens of thousands of currently-isolated prisoners back into the world. If Levinas is right, and "justice coincides with the

overcoming of rhetoric," then a philosophical critique of supermax rhetoric is long overdue (TI 72). In the end, even the phrase "solitary confinement" may function as a rhetorical device that obscures the relation of non-incarcerated subjects to the supermax inmate. After all, this "solitude" is managed and enforced by prison staff who conduct 24 hour surveillance of inmates, perform cavity searches and forced cell extractions, dole out toilet paper and sanitary napkins, and interact on a daily basis with inmates in countless other ways (not all of which are sanctioned by law). It is structured by bureaucrats, policy advisors and legislators who promise to "get tough on crime." It is promoted by private prison corporations who reap enormous profits from the warehousing of prisoners in high-tech fortresses, often in communities where there are no other jobs. And it is tolerated by the community at large, to the extent that we are tempted to ask: Why should I care about what happens to a convicted murderer? Am I my brother's keeper? What is Hecuba to me? The tens of thousands of prisoners held in intensive confinement right now, and the over two million prisoners in prisons and jails, demand an ethical reduction of the justice-system to the social justice of which it makes a mockery.

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[1] http://solitarywatch.com/2012/02/01/how-many-prisoners-are-in-solitary-confinement-in-the-united-states/.

[2] The testimony of Samuels, along with that of others cited below, was collected by the website Solitary Watch in 2012: http://solitarywatch.com/resources/testimony/.

[3] The situation at Florence ADX (which, as it happens, was constructed in response to the resistance at Marion Penitentiary in the early 1980s) is currently the subject of a

federal lawsuit alleging that the Bureau of Prisons "turns a blind eye to the needs of the mentally ill at ADX and to deplorable conditions of confinement that are injurious, callous and inhumane to those prisoners" (see Cohen 2012).

[4] This practice is currently under revision in response to over a year of hunger strikes at Pelican Bay and other California supermax prisons. For an update on the situation, see http://prisonerhungerstrikesolidarity.wordpress.com/.

[5] "*We call justice this face to face approach, in conversation*. If truth arises in the absolute *experience* in which being gleams with its own light, then truth is produced only in veritable conversation or in justice" (TI 71).

[6] For a more extended version of this argument, see Guenther 2011.

[7] Even the givenness of phenomena is rooted in ethical experience: "Speech first founds community by giving, by presenting the phenomenon as given; and it gives by thematizing. The given is the work of a sentence" (TI 99).

[8] Witness, for example, the executions of Tookie Williams (2005) and Troy Davis (2011).

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