

Bovine Lives and the Making of a Nineteenth-Century American Carceral Archipelago

Karen M. Morin

14.1 INTRODUCTION

Thousands of scholarly books and articles, films and documentaries, memoirs, biographies, illustrated weeklies, paintings and other artistic works, and museum artifacts and displays have depicted the history and geography of the nineteenth-century western American “cattle trails” and the small rural towns that sprang up at their termini.¹ This outsized body of American West literature and culture has collectively depicted bovine animals as an instrument, albeit an integral one, of cowboys, ranchers, cattle barons, and a multitude of other enterprising entrepreneurs who economically, politically, and culturally maneuvered control over the emerging livestock (beef) industry in the United States. From the classic John Hawkes 1948 Western film *Red River* to the more recent 2018 Coen brothers’ *The Ballad of Buster Scruggs*, key sites of this emergent industry such as Abilene and Dodge City, Kansas, figure prominently, while the animals themselves appear only as figures on the landscape, without lives, experiences, or agency. In such Western films the animals are typically portrayed as either peacefully grazing in beautiful pastoral landscapes or wholly out of control and wildly stampeding in clouds of dust. Once captured within the Abilene or Dodge City “cow town” we find them obediently if anxiously being herded into stock pens or other controlling devices,

¹ For a couple of well-trod examples, see, e.g., ROBERT R. DYKSTRA, *THE CATTLE TOWNS* (1968); JIMMY SKAGGS, *THE CATTLE-TRAILING INDUSTRY* (1973). KATHRYN GILLESPIE, *THE COW WITH EAR TAG #1389* (2018), offers an apt explanation about why referring to the animals under study here as “cattle” is problematical, as the term has etymological roots in the word chattel, meaning property, and these animals were more than mere property. While I cannot avoid use of the term “cattle” when referring to the many actors, practices, and processes that indeed treated and named them as property, I opt for the terms “bovine animals” or the more colloquial “cow” whenever possible (and regardless of gender and breeding history of the animals under discussion, which in many cases will not be known).

being made ready for shipment by railroad to slaughterhouses in Chicago and beyond.

My assessment of this body of work is that real animal lives and stories are nearly totally absent and remain to be studied and documented. My ultimate aim in this chapter is to begin to center these animals' experiences within the "carceral archipelago" of the cattle trails and towns into which they were forced, identifying some of the material, social, and psychological experiences and trauma of becoming an animalized commodity within the carceral practices and infrastructures of the emergent cattle industry. Studying these animal lives fundamentally involves understanding their gradual commodification – these formerly free-roaming lives were literally turned into money, "free for the taking," with virtually no official regulatory apparatus at the time guiding their capture, enclosure, movement, exploitation, and eventual death.

Animals had not heretofore figured in my field of carceral geography until my attempt to conceptualize a "trans-species carceral geography" in *Carceral Space, Prisoners and Animals* (2018), a book which considered factory farms, slaughterhouses, research labs, and zoos as prisons or prisonlike spaces, with those incarcerated within them as animalized prisoners. In the book I placed into parallel conversation the connected and entangled spatial, structural, operational, and embodied carceral practices and processes of a number of industrial sites and institutions in the present-day United States. I aimed to uncover the epistemic violence that pervades spaces of both human and nonhuman animal captivity, confinement, exploitation, and death, a violence that is normalized and neutralized in countless ways in everyday life. Naming spaces of animal captivity and confinement as prisonlike allowed insights into the way that "carceral logics"² extend throughout the prison-, agricultural-, and medical-industrial complexes in similar ways. These logics impact both human and nonhuman animals in consistent and detrimental ways via processes of animalization, racialization (particularly via anti-blackness), and criminalization.

My conceptual intervention in this chapter occurs at the interface of carceral geography, critical animal histories, and material culture. Such an intervention requires a new understanding or remapping of the historical and empirical context of the Texas-Oklahoma-Kansas cattle trails and towns as a "rural carceral archipelago" – an archipelago with a very specific rural spatiality.³ Unlike the scores of works that have focused on these trails and towns from cultural, economic, political,

² On carceral logics from different disciplinary perspectives, see, for example, LORI GRUEN, *THE ETHICS OF CAPTIVITY* (2014); D. Moran, J. Turner & A. Schliehe, *Conceptualizing the Carceral in Carceral Geography*, 42 *PROGRESS IN HUM. GEOGRAPHY* 666, 666–86 (2018); JUSTIN MARCEAU, *BEYOND CAGES: ANIMAL LAW AND CRIMINAL PUNISHMENT* (2019).

³ For a discussion of this archipelago as a specifically rural one, see Karen M. Morin, *Cattle Towns, Prison Towns: Historical Geographies of Rural Carceral Archipelagoes*, 47 *HIST. GEOGRAPHY AT 141* (2019).

agricultural, or social lenses, I chart new ground by thinking about historical animal lives as those lived within carceral practices, operations, structures, and logics. Framing the carceral as a lived experience for bovine animals, as well as how this space developed as a specifically carceral archipelago, structures what follows in this chapter.

The illegal enclosure of the land by the emergent “cattle baron” class in the nineteenth century, enabled with new technologies such as barbed wire and governments lacking the interest, will, or ability to challenge it, offers important insights into how carceral logic works in place, and the impact of these practices and institutions on animals. Fencing became a primary mode of seizure of public land and resources for the benefit of individual ranching enterprises in the West. Despite the fact that land laws prohibited taking public lands, there were usually no repercussions for doing so. What then does it mean to think of the enclosure of public lands as illegal? The evolution of land law, with its ostensible legal remedies to resolve conflict among big-enterprise cattlemen and between smaller-scale farmers and ranchers, is an important component of carceral logics, particularly when considering who is helped by such legal remedies and who is not. Certain legal as well as extragovernment actions mediated human relations at the time, for example the “fence-cutting wars” emerged as one human resistance to carceral enclosure. But an equally important part of the story is about carceral practices mediating relations among humans (mostly men) and animals.

So rather than thinking of cattle trails and towns as sites of adventure, work, endurance, and romance for some humans, then, we can also focus on these places as sites of violence enacted upon animals – the capturing, transporting, fencing, corralling, branding, ear-marking, whipping, and shipping of animals as commodities for distant markets. What was it like for the animals to be “driven” quickly by workers (cowboys) who were themselves laboring under difficult circumstances? How did the cattle experience the new technologies such as wire fencing? What forms of bodily modification and appropriation were the animals subjected to – for example, the brutality of branding, whipping, and harnessing that marked them as property? What were the physical, emotional, and psychological implications of existing as beings with no legal standing, outside of the informal claims made by cattle barons and others? Any “laws” with oversight to the emergent cattle industry related only to access and control over land and water, not treatment of animals. No ostensible “protections” for farmed or ranched animals would appear in the United States until well into the twentieth century, and these to an extremely restricted degree. Even today, the only law that governs treatment of farm animals is the Humane Slaughter Act of 1958.

In this work I focus on the period prior to extensive railroad advancement onto the Great Plains and West and shipment via train of live animals or carcasses to slaughterhouses beyond – a period with practices that have received much needed

and important scholarly attention.⁴ This project requires a creative methodological engagement with historical sources that offer insights into animals' lived experiences and thus the foundational, violent building blocks of the beef industry.⁵

14.2 THE COLONIAL CARCERAL ARCHIPELAGO: LAND AND LAW

In her *Creatures of Empire* (2004), Virginia Anderson details the important, agenic role of farm animals – especially cows and horses – in the North American colonial project. Anderson argues that animals were one of two “immigrant groups,” human and nonhuman, who were “central to the plot” of colonization. Though highly mobile under a free-range style of animal husbandry – the animals foraged and fed themselves, found their own shelter, transported themselves to new areas, and cared for their young – they not only altered whole ecosystems but were key to English colonists' land claims and the “cause of permanence.”⁶ Though they required little human labor, these animals required vast acreages for foraging – five-to-twenty acres per animal⁷ – which quickly led to overgrazing, moving on to new lands, and ultimately complete appropriation and displacement of indigenous land and peoples (the carceral effect writ large). As such the animals functioned as what Specht calls a “technology” or “biotechnology” of conquest.⁸ While authors such as Anderson focus primarily on the eastern colonies, similar colonial processes and increasing land acquisitions were in play in western cattle enterprises as well, if on a remarkably larger scale than the small-scale farming enterprises in the East.

Southern Texas as the epicenter of US cattle ranching and origin point of the cattle trails dates to the Spanish colonial period. The first bovine animals were shipped to North America by Spanish explorers and conquistadors in the fifteenth and sixteenth centuries. Fast forward to the last quarter of the eighteenth century, and Franciscan clergy had established more than fifty missions in what is now Texas, each with their own small herds. After Mexican independence in 1821 most clergymen refused loyalty to the Mexican government and abandoned their missions, with their animals free to run loose, allowing wild herds to flourish. Estimates are that

⁴ Among many examples, see, e.g., JEREMY RIFKIN, *BEYOND BEEF: THE RISE AND FALL OF THE CATTLE CULTURE* (1992); JEREMY D.A. PACYGA, *SLAUGHTERHOUSE: CHICAGO'S UNION STOCK YARD AND THE WORLD IT MADE* (2015).

⁵ Among those scholars who offer models, see Erica Fudge, *What Was It Like to Be a Cow: History and Animal Studies*, in *THE OXFORD HANDBOOK OF ANIMAL STUDIES* 258, 258–78 (Linda Kalof ed., 2017); GILLESPIE, *supra* note 1; SHARON WILCOX & STEPHANIE RUTHERFORD, EDS., *HIST. ANIMAL GEOGRAPHIES* (2018).

⁶ VIRGINIA ANDERSON, *CREATURES OF EMPIRE* 3–10 (2004).

⁷ MAUREEN OGLE, IN *MEAT WE TRUST: AN UNEXPECTED HISTORY OF CARNIVORE AMERICA* 4–5 (2013).

⁸ Joshua Specht, *The Rise, Fall, and Rebirth of the Texas Longhorn: An Evolutionary History*, 21 *ENV. HIST.* 343, 343–63 (2016).

100,000 bovine animals roamed Texas by 1830. Three decades later, on the eve of the Civil War, that number had increased to an estimated 3.5–5 million.⁹

The history of grazing “rights” on western land tells us a great deal about the evolution of the carceral landscape under study here, and can also tell us a great deal about the experiences of animals ensnared within it. In the boom years of the 1870s and 1880s, the cattle barons enjoyed “near hegemony” over western public lands by declaring a simple right of sovereignty. An informal code of entitlement, range rights if you will, was established if a rancher could claim to be the first to appropriate a local stream. The aspiring cattle grazer could, by claiming the water supply, control the surrounding terrain. Thus, the first step in consolidating power over the herds was in gaining control over grazing land – grass for food – and water. Richard White describes cattlemen as “the most prone to violence of any economic interest group in the West,” with their predilection for violence “largely result[ing] from the tenuousness of their own legal claims to the land.”¹⁰ Legal ownership of the land was secondary to simply gaining access to it, and ranchers employed various means to graze animals on land to which they had no legal title. Most conflicts over land and grazing rights related to attempts to maintain an illegal monopoly on public-domain lands, and the ranchers’ preference was to physically drive out the competition rather than fight them in courts.

A number of scholars have shown how the “Wild West” get-rich schemes of turning public land and other resources into private ownership was largely unregulated, and cattlemen sought control over vast acreages mostly by simply claiming them, as well as through manipulation of federal law such as the Homestead Act of 1862. Land fraud of various flavors was used to create large blocks of real estate under a single title, and involved an intersection of war widows, children, and family members working together with land agents and local politicians. In the mid-nineteenth century, Texas was particularly ripe for land schemes due to overlapping and contested Mexican, Texan, and US sovereignty claims, but so were numerous other locations throughout the Plains and West. On such illegally acquired land, animals could be fed for free, guaranteeing an enormous profit margin at the point of sale north. Thus, part and parcel of the American colonial project was this type of land acquisition – the process of turning the public domain into private property – yet the General Land Office, a Bureau under the Secretary of the Treasury, was inefficient and ill-equipped to handle the highly complex machinations of surveying, selling, and registering of public lands. This was particularly the case when prior appropriation or “getting there first” bumped up against the complexity and overlapping nature of the 375 land laws passed by Congress from

⁹ See RIFKIN, *supra* note 4, at 68–70; RICHARD WHITE, “IT’S YOUR MISFORTUNE AND NONE OF MY OWN”: A HISTORY OF THE AMERICAN WEST 220–25 (1991); PAUL F. STARRS, LET THE COWBOY RIDE: CATTLE RANCHING IN THE AMERICAN WEST (1998).

¹⁰ WHITE, *supra* note 9, at 344–45.

1789 to 1834 – laws adjusting the size of lots for sale, shifting the price per acre, altering the requirements for payment, and granting rights of preemption in specific regions.¹¹ As Limerick argued, “first arrival” made the distinction between legitimate acquisition and theft a fine one. In both cases, the act was similar – one simply appropriated something for one’s own use – but, by a sometimes-subtle difference of timing, one act was honored and protected by law, and the other was punished. This would provide a basis for the carceral logic of the time and place.

As the railroads began to extend and connect to rural outposts in the Plains states, entrepreneurs in the new cow towns such as Abilene, Kansas, sought out Texas livestock trails to reach them, benefiting greatly from the new trade. The most-well-known of the western cattle trails ran from Texas northward to the state of Kansas, as herders drove millions of cows north from the mid-nineteenth century through the 1880s. From 1867 until 1871, the 1,000-mile-long Chisholm Trail was the main livestock trail from Texas, a trail that ran from San Antonio to Fort Worth, Texas, through Oklahoma and ended at Abilene.¹² An individual cowboy would oversee the movement of 245–350 animals, and they collectively drove 600,000–700,000 of them north from Texas during 1871 alone, all eventually bound for abattoirs in St. Louis and Chicago. These animals generally covered between ten and twelve miles per day on their three-month trek north to the rail link, becoming more “trail broke” as days and weeks wore on and thus becoming “easier to handle” – or to put another way, less able to resist their circumstances. Stock breeding and domestication always have the effect of “breaking” animals and thus reducing their potential for resisting their conditions, even if they also then appear to be colluding with or somehow collaborating with their oppressors.¹³ In the case of the cattle trails, as cowboys needed to minimize the weight loss of their herds, they moved them slowly, pasturing them along the way.

They arrived at sites such as Abilene that were still relatively unpeopled, well watered, and offered plentiful grass for the incoming herds. The geography and carceral infrastructures that developed in Abilene and other towns would reflect their central nodal function in the developing cattle beef industry. These also collectively constituted what I call a colonial “carceral archipelago” of cattle trails and cattle towns. In using that term I am borrowing from Foucault’s *Discipline and Punish* (1978), wherein he argued that this island concept can be applied to a set of institutions, surveillance systems, and technologies that “discipline” and exert power

¹¹ PATRICIA NELSON LIMERICK, *LEGACY OF CONQUEST: THE UNBROKEN PAST OF THE AMERICAN WEST* 59–72 (1987); WHITE, *supra* note 9, at 223.

¹² WAYNE LUDWIG, *THE OLD CHISHOLM TRAIL: FROM COW PATH TO TOURIST STOP* (2018).

¹³ David Lambert, *Runaways and Strays: Rethinking (Non)human Agency in Caribbean Slave Societies*, in *HIST. ANIMAL GEOGRAPHIES* 185, 185–89 (Sharon Wilcox & Stephanie Rutherford eds., 2018); FUDGE, *supra* note 5; WILLIAM CRONON, *NATURE’S METROPOLIS: CHICAGO AND THE GREAT WEST* 217–24 (1991).

and control over populations and indeed whole societies in a spatially ordered and universalizing way.¹⁴

Importantly again, though, the Texas longhorns of the emergent beef industry were nearly wild, and thus their capture, movement, and enclosure, by fencing and other means, was an important piece of this historical carceral logic. At the time, acquiring physical control over herds was more efficacious for the cattlemen and cattle barons than seeking legal control over them. Those who were most successful at turning these animal lives into personal property simply rounded them up, claimed them, branded them, and enclosed them. Sometimes whole herds would be collected through rustling or “mavericking” (hunting and branding wild calves).¹⁵ As the herds were gradually declared property of individual humans and commodities for capital accumulation, not only their status but their lives and experiences dramatically changed. While the animals’ status as property, much discussed among animal scholars, had a violent impact on their lives, it does not explain all the violence.¹⁶ Violence toward animals occurs whether they are “owned” or not. Having particular status within the law would not have likely changed much about their treatment; despite certain protections for certain animals within the law, then and now, the lack of bovine animals’ legal “standing” simply made it easier to claim, buy, sell, and kill them.

14.3 THE CARCERAL INFRASTRUCTURE AND TECHNOLOGICAL DEVELOPMENTS

Infrastructural and technological developments at towns such as Abilene where bovine animals were corralled and then loaded onto railroad cars at the termini of the cattle trails also represent a singularly important carceral phenomenon of the nineteenth-century United States. Innovations in transportation, specifically, the “cattle car” (and by 1869, the refrigerated car that hauled dead animal carcasses) was one of the most important technological developments that impacted and

¹⁴ MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (1978). As I discuss in KAREN M. MORIN, *CARCERAL SPACE, PRISONERS AND ANIMALS* 11–12 (2018), Foucault’s theorizing of this universality of the carceral can and has been challenged. If everything and everywhere is carceral, then the concept becomes evacuated of meaning and loses its potential for helping us understand how a very specific carceral logic extends only or mainly to certain bodies and certain populations – and not to others – incapacitating and disposing of them in particular kinds of ways and in particular kinds of spaces. Carceral sites and institutions do share a particular spatiality encompassing animalized bodies – creating, in the case argued here, one particular carceral archipelago of cattle trails and cattle towns that diffused in specific ways throughout the rural American landscape in the nineteenth century.

¹⁵ REVIEL NETZ, *BARBED WIRE: AN ECOLOGY OF MODERNITY* 12, 20 (2004).

¹⁶ For example, see Gary L. Francione, *Animals – Property or Persons?* in *ANIMAL RIGHTS: CURRENT DEBATES AND NEW DIRECTIONS* 108–42 (Cass R. Sunstein & Martha C. Nussbaum eds., 2004); see, e.g., STEVEN M WISE, *RATTLING THE CAGE: TOWARD LEGAL RIGHTS FOR ANIMALS* (2000); DINESH J. WADIWEL, *THE WAR AGAINST ANIMALS* (2015).

increased the trade in bovine animals, and indeed, that structured so much of their lived experience. It was primarily British companies that played a major role in developing the transcontinental railroad in the 1870s and 1880s – the foreign “cattle barons” – and who eventually also shipped refrigerated cow carcasses to Britain in ocean steamers. Railroad development actually included an array of ancillary infrastructural developments in the cow towns that impacted animal lives – railroad stations with telegraph facilities, supervisory personnel, and company-owned cow pens and stockyards.

One of the earliest and most successful Kansas entrepreneurs to link the cattle trails with the railroad, the dealer and town promotor Joseph McCoy built stock pens near the rail depot on 250 acres of land in Abilene, Kansas, to hold cows awaiting shipment north on the Kansas Pacific Railroad. The first twenty-car shipment of cows from Abilene to Chicago was in September of 1867. McCoy convinced the railroad to construct a rail siding for a cow pen at the Abilene depot, and then pay him a commission on every carload of animals shipped. This north-south cattle complex expanded in the 1870s, as the demand for beef, tallow, and hides greatly expanded amid postwar prosperity.¹⁷

Concomitantly, one of the most significant instruments of violence and spatial control within the emergent bovine and other livestock industry of the time was the revolutionary invention of wire fencing, which facilitated the enclosure of public pasture land for private use. The traditional wooden fence of the East or Europe would not be feasible in a landscape lacking trees for lumber; large-scale fencing only became possible in this region with the invention of barbed wire. Netz argues for the critical importance of examination of this technology across species lines – and in the case of barbed wire, the violent enclosure and control of bovine animals during colonization of the American West.¹⁸

Joseph Glidden patented barbed wire in 1874 and opened a small manufacturing plant in DeKalb, Illinois, for its production, with large-scale production and sale eventually located to Washburn and Moen Manufacturing in Worcester, Massachusetts. More than 350 barbed wire patents were issued between 1875 and

¹⁷ OGLE, *supra* note 7, at 18–19; SKAGGS, *supra* note 1, at 73–77; CLAIRE STROM, MAKING CATFISH BAIT OUT OF GOVERNMENT BOYS: THE FIGHT AGAINST CATTLE TICKS AND THE TRANSFORMATION OF THE YEOMAN SOUTH (2010); JOSHUA SPECHT, RED MEAT REPUBLIC: A HOOF-TO-TABLE HISTORY OF HOW BEEF CHANGED AMERICA 153–60 (2019). J. Specht also provides a detailed portrait of another of the five main Kansas cow towns, Ellsworth, Kansas, in his article, Joshua Specht, *For the Future in the Distance: Cattle Trailing, Social Conflict, and the Development of Ellsworth, Kansas*, 40 KAN. HIST.: J. CENTRAL PLAINS 104, 104–19.

¹⁸ NETZ, *supra* note 15, at 29, after CRONON, *supra* note 13, argues that because wooden posts were required to hold the barbed wire in place, the new fences actually increased demand for timber from the North. Many books have been written about the history and uses of barbed wire; for example see also, e.g., LYN ELLEN BENNETT & SCOTT ABBOT, THE PERFECT FENCE: UNTANGLING THE MEANINGS OF BARBED WIRE (2017); OLIVIER RAZAC, BARBED WIRE: A POLITICAL HISTORY (2002); JOANNE S. LIU, BARBED WIRE: THE FENCE THAT CHANGED THE WEST (2009).

1890, although it was the Glidden patent that came to monopolize the market (and indeed, is the fence still in use today). The ideal barbed wire purportedly prevented injury to animals – or at least purportedly did not cause open wounds that would become infected – and aimed to increase a wire’s visibility to humans and animals alike (including horses). Marketing of the wire fence was an important piece of advancing this carceral technology, as were improvements in iron and steel production. Glidden’s patent (no. 157,124) is an interesting document of torture unto itself,¹⁹ declaring that unlike other wires that seriously harmed animals, “the double, machine-twisted stand of galvanized steel wire, carrying four-pointed steel barbs . . . prick[s] smartly on contact and warning, but not wounding the animal.” This “perfect fence . . . borrowed from nature the principle of the sharp pricking thorn thus appealing to the sense of pain and danger that resides in the skin of the farm animal.” Many of the proposed wires caused too much injury and loss of animals; competition among wire makers thus focused on loss of one’s property value rather than concern for animal welfare or suffering. The barbs were intended to domesticate or “retame” by shock an entire breed of animals through such immediate painful impact,²⁰ but also ultimately served as an efficient biotechnology through which enclosed animals could be more easily bred, fed, and controlled.

One rather infamous early adopter in the Texas Panhandle, Charles Goodnight, fenced in over 3 million acres of public range with illegal fences while others followed suit, fencing land over which they had no legal claim.²¹ Also in the Texas Panhandle, the Scottish-backed XIT ranch pursued its own 3 million acre fencing project, operating on a grant from the state with an estimated 6,000 miles of fence. Fencing provided greater control over animals for ranchers who had possession, if not the title, to large sections of land.

Such fraudulent or at best questionable fencing activities led to what has been called the “Fence Cutting Wars” in the early 1880s, which pitted such large cattle companies that had illegally fenced thousands of acres of public lands against the smaller scale “open range” ranchers – many of whom were former cowboys trying to eke a living from ranching – as well as pitting farmers against ranchers, the latter of whom argued that farmers should fence their crops to protect them from free-grazing animals. Widespread fence cutting ensued by the small-scale ranchers and farmers in 1883–84, with more than half of Texas counties reporting fence cutting and pasture burning, and episodes of violence including gunfights and deaths in places like Dodge City, Kansas. Local, state, and federal governments attempted to legislatively prevent fencing of public land. Many small farmers and ranchers wrote

¹⁹ Pamphlet of Washburn and Moen Manufacturing Glidden Patent, in NAT’L COWBOY HALL OF FAME & W. HERITAGE MUSEUM, DONALD C. & ELIZABETH M. DICKINSON RESEARCH CENTER.

²⁰ NETZ, *supra* note 15, at 38.

²¹ RIFKIN, *supra* note 4, at 101–13; WHITE, *supra* note 9, at 222, 345; SPECHT, *supra* note 17, at 68, 76.

to the Secretary of the Interior angered by “unauthorized fencing” by cattlemen, with their letters presented to Congress in 1884. The letters explicate the extent of large-scale and fraudulent inclosures [sic] of public lands by stockmen, including entire counties in Kansas. As the then–Secretary of the Interior H. M. Teller wrote to Congress,

The cases mentioned in the reports and correspondence herewith submitted are to be regarded merely as indicative of the situation. I am satisfied from the information received that the practice of illegally inclosing the public lands is extensive throughout the grazing regions, and that many millions of acres are thus inclosed and are now being so inclosed to the exclusion of the stock of all others than the fence owners, and to the prevention of settlements and the obstruction of public travel and intercourse.²²

The US Congress finally passed a law in 1885 designed to prosecute anyone who attempted to fence public land for private use. The large British and American cattle companies suffered little repercussion from such legislation, however, and continued large-scale fencing unabated through manipulation of the Homestead Act (1862), the Timber Culture Act (1873), and the Desert Land Act (1887) throughout the Great Plains and West, which awarded land based ostensibly on building construction, planting trees, or installing irrigation (respectively), or they purchased land abutting the railroads and preempted the public lands next to them. Estimates are that up to 7.3 million acres of public land was fraudulently expropriated by cattle companies in this way in the 1870s and 1880s. The endgame of this system of “imprisonment” of cows via fences, of course, legally or illegally, was their eventual death in the northern slaughterhouses.²³

14.4 CENTERING ANIMAL EXPERIENCES IN THE AMERICAN CARCERAL ARCHIPELAGO

Bovine animal experiences that began with their forced migration to North America in slings on Spanish sailing ships in the fifteenth and sixteenth centuries and ended with their boarding railroad cars bound for Chicago abattoirs in the nineteenth represent a singularly poignant historical example of how violence toward nonhuman animals with attendant pain and suffering is a basic ingredient – and

²² Letter from the Secretary of the Interior, H.M. Teller, to the General Land Office, in NAT'L COWBOY HALL OF FAME & W. HERITAGE MUSEUM, DONALD C. & ELIZABETH M. DICKINSON RESEARCH CENTER.

²³ RIFKIN, *supra* note 4, at 104; NETZ, *supra* note 15, at 33 compares the “cow business” driving out the “bison business,” writing that the “comparison is meaningful: in a sense, cows were driven off the land just as surely as the bison had been. The only difference was that whereas the bison were killed, the cows were imprisoned, in an Archipelago Ranch, so to speak, strewn across the plains.” Allow me to add that these cows, too, were killed, after their imprisonment.

outcome – of industries whose design is based on carceral logic.²⁴ Recent scholarship in critical animal studies offers helpful understandings of the lived experiences of captive animals on farms, in zoos, in research labs, and in other carceral spaces within which they undergo harmful processes and practices. Gillespie's *The Cow with Ear Tag #1389* (2018) offers an example of “witnessing” bovine social, emotional, and psychological responses to a number of carceral settings such as auction yards and dairy farms, as well as sites of refuge. But how might one engage such affective, visceral knowing in a historical context? A different or more expansive approach is needed to understand the experiences of historical animals, those long dead and no longer able to be directly “witnessed.” If we consider bovine animals as shapers of histories and geographies as Anderson suggests, we must entertain the notion of them as historical agents with lives, kinship relations, emotions, preferences, interests, and agency along with those of their human captors. Thus, an important question revolves around how to access animal experiences to try to understand the worlds – albeit colonial carceral worlds – that they cocreated with their human captors and for themselves. Many scholars of animal histories and historical geographies have demonstrated that this can be done and have modeled useful approaches.²⁵

Colonial and postcolonial scholars have taught us that the experiences of those heretofore silenced in the historical record or archive can be made accessible – indeed must be made accessible – and in much the same way that we understand the historical experience of any other “other” whose lives and stories were represented in archival, textual, photographic, and so forth, sources by someone else. Erica Fudge reminds us that past subjectivities, human and nonhuman, have always been difficult to access – that the archive is always already fraught as a representational tool. Both humans and nonhumans have been shaped by an archive not of their own making. As Fudge observes, humans can write anything about animals, whether “true” or “false,” but this applies to *all history* and any being written about: “these are problems of history in general and not specifically about the history of animals.”²⁶ It is important to keep in mind meanwhile that animal cultures, identities, experiences, and so on are not simply a function of species habits and characteristics: the spaces and places of their experiences, in the case here, within carceral contexts, is equally important. Different environments or communities will

²⁴ Of course, this applies to human animals as well, particularly those ensnared within the Prison Industrial Complex, numbering 6–7 million people in the United States today (including those on probation or parole).

²⁵ See MARTHA FEW & ZEB TORTORICI, EDs., *CENTERING ANIMALS IN LATIN AMERICAN HISTORY* (2013); Erica Fudge, *A Left-Handed Blow: Writing the History of Animals*, in *REPRESENTING ANIMALS* 1, 1–18 (Nigel Rothfels ed., 2002); Fudge, *supra* note 5; SUSAN NANCE, ED., *HIST. ANIMAL* 99, 101–5, 110 (2015).

²⁶ Fudge, *supra* note 25; Fudge, *supra* note 5, at 261.

produce different kinds of animals and animal experiences and behaviors.²⁷ As always though, decentering our human, anthropocentric interpretations of animal perspectives and experience, of carceral or any other spaces, remains our collective challenge.²⁸

Obviously, animals express themselves. But as Buller argues, though we may not “share language with non-humans we do share embodied life and movement and, in doing so, different – yet both biologically and socially related – ways of inhabiting the world.”²⁹ But can we even imagine bovine animals creating life-worlds for themselves in nineteenth century western trails and towns? Royle³⁰ argues that such animals have been so thoroughly objectified that to think of them as having any sort of *life* at all is almost unthinkable. What would it mean to discover historical bovine subjectivity – that of beings under intense external human control accompanied nonetheless by the everyday experiences of walking or running across pastures and streams, eating, resting, playing, fighting, caring for one another, procreating, and so on. The Finnish authors and editors of *History according to Cattle* (2015) offer a most provocative attempt to try to capture this embodied way of inhabiting the world for bovine animals, via the Museum of the History of Cattle exhibitions. To these authors, for example, the “cattle tongue is not a written language. In cattle culture, the tongue is a means of touching others.” Installations feature partial, blurry, shadowy images of light, objects, and landscape as well as intensely vibrant magnified images of other objects within close range such as “companion species” dress patterns and the veins on a leaf, all imaginings of bovine perspective.³¹

Historians have typically relied on narrative mechanisms to understand animal pasts. Many refer to animals in historical narratives as “absent presences” – presences in the archive albeit ones who do not speak or control the narrative. Archival documentary sources and narratives produced by humans provide one access point to these lives – films, paintings, photographs, memoirs – even if they offer only traces of historical animals’ lived experiences. A poignant example we might easily return to is one seemingly innocuous but unforgettable scene in the Western film *Red River*, whose depiction of branding restrained animals – searing hot irons onto sizzling animal flesh – is gruesome in its realistic detail. And yet, the overall effect of this filming is wholly artificial and sanitized for a meat-eating postwar American

²⁷ Fudge, *supra* note 5; SUSAN NANCE, ENTERTAINING ELEPHANTS: ANIMAL AGENCY AND THE BUSINESS OF THE AMERICAN CIRCUS 12–13 (2013).

²⁸ Fiona Probyn-Rapsey, *Anthropocentrism*, in CRITICAL TERMS FOR ANIMAL STUDIES 47, 47–63 (Lori Gruen ed., 2018).

²⁹ Henry Buller, *Animal Geographies II: Methods*, 39 PROGRESS HUM. GEOGRAPHY 374, 378 (2015).

³⁰ Camilla Royle, *Shaking the Ground: Histories of Earthworms from Darwin to Niche Construction*, in HIST. ANIMAL GEOGRAPHIES 37, 37–50 (Sharon Wilcox & Stephanie Rutherford eds., 2018); *see also* ANIMAL SPACES, BEASTLY PLACES: NEW GEOGRAPHIES OF HUMAN-ANIMAL RELATIONS 6–14 (Chris Philo & Chris Wilbert eds., 2000).

³¹ LAURA GUSTAFSSON & TERIKE HAAPAJA, EDS., HISTORY ACCORDING TO CATTLE 7 (2015).

audience; the real, live animals undergoing an undoubtedly painful procedure lie still and are portrayed as eliciting no reaction at all. When examining such representations we must think seriously about the extent to which human ideas about bovine animals were “invented” by certain actors whose purpose was to produce certain kinds of bodies and behaviors upon which to profit.

The second access point to past animal lives are historical-material artifacts that can speak to the kinds of bodily management practices and tools that cowboys and ranchers employed to capture and commodify animal lives – for example carceral apparatuses and practices such as barbed wire, stock pens, branding irons, and dehorning tools. Wilcox and Rutherford³² observe that histories and memories are passed down through generations of animals in ways that humans cannot fathom. For scholars attempting to materially reconstruct past animal lives, though, little remains that testifies to these prior existences. Individual lives are erased by chemical, biological, and physical processes acting upon the landscape that wipe away identifiable traces, tracks, and remains. Cox illustrates how material objects in the archive, in her case, veterinary archives, are useful in writing the history of animals.³³ Cox interestingly found that such objects and instruments contained traces of fur, skin, and blood of real, deceased animals that can help formulate theories about emotional and psychological stress. These insights should prompt us to recategorize objects such as fences, branding irons, ropes, whips, and a myriad of restraining devices as important and relevant archival evidence, to human-animal interaction as well as animal-to-animal experience.

Examining samples of such instruments and artefacts of torture at museums such as at the National Cowboy Hall of Fame and Western Heritage Museum in Oklahoma City, alongside “cinematographical” tricks of film production such as that of *Red River* against other photographic and artistic images of carceral practices, can help us begin to triangulate important understandings of animals’ lived experiences. As Fudge writes, “material and rhetorical are linked in their context, and the history that recognizes this can, in turn, force a reassessment of the material through its analysis of the rhetorical strategies of the written record.”³⁴

The Barbed Wire Study Collection located at the National Cowboy Hall of Fame museum offers a useful entrée into instruments of animal control and dominance – by the sheer volume of variously pointed and strung iron and steel devices – as well as evidence of how an individual might experience their use. As Netz writes, the “history of barbed wire took place precisely at the level of the flesh . . . the tool was created to control animals by inflicting pain on them . . . the simple and unchanging equation of flesh and iron.”³⁵ On display are 1,300 strands of barbed wire, among a

³² WILCOX & RUTHERFORD, *supra* note 5, at 2.

³³ See Lisa Cox, *Finding Animals in History: Veterinary Artifacts and the Use of Material History*, in *HIST. ANIMAL* 99, 101–5, 110 (Susan Nance ed., 2015).

³⁴ Fudge, *supra* note 25, at 11.

³⁵ NETZ, *supra* note 15, at xiii–xiv.

collection of 8,000 strands, claimed to be the largest such collection in the world. The text accompanying this well-maintained and catalogued collection primarily emphasizes “advancements” in wire technology, belying the pain and trauma inflicted by its samples. Entanglements in wires, suffering open wounds derived from them (which led to insect infestation), and becoming stopped and trapped by fencing have been well documented by human observers. White details eyewitness accounts of impacts of wire fencing during dangerous weather events such as droughts and blizzards. One poignant example involved animals encountering and being stuck by the “drift fences” that the Texas Panhandle Cattlemen’s Association, working with large cattle companies in northern Texas, erected in the 1880s, intended to control the number of animals traveling south. Winter blizzards drove tens of thousands of animals south but the “drift fences” became “death traps” for perhaps two-thirds, who ran into them, piled up against them, and died by freezing or starving.³⁶

The National Cowboy Hall of Fame museum also features a Branding Exhibition, a special collection of branding irons and instruments used (and still used) to differentiate property claims made by various cattlemen by marking cow flesh with a hot, heavy iron poker, typically a symbol about four inches in height. While the collection primarily is focused on the historical evolution of brands and the various “styles” and symbols used by cattlemen, these instruments and accompanying wall text also offer a unique and indispensable insight into the painful procedure of burning a mark onto cow flesh. The “stamp irons,” some now corroded with age, were used to apply a mark in one impression. Wall text accompanying the irons recounts the branding process:

After calves were rounded up they were branded with the same brands and ear marks as their mothers . . . One man sat behind the calf and pulled the upper hind leg back onto his lap as he shoved the lower hind leg forward with his foot, hooking the calf’s leg with his boot heel. Another man placed his knee on the calf’s head and held the upper foreleg while removing the rope from its neck. . . The hot iron burned the hair and seared the hide deep enough to form a scab, which later peeled off to leave a scar where no hair would grow back . . . [Eventually] branding cattle in corrals and chutes reduced the number of men needed for the job. The modern use of squeeze chutes made branding and doctoring chores even easier . . . While calves are held for branding, other chores like castration, vaccination, and worming are usually done at the same time.

As human witnesses have recounted,³⁷ during this gruesome process “there is an acrid odor, strong, repulsive . . . [the animal] will go BAWR-R-R-R, its eyes will bulge alarmingly, its mouth will slaver, and its nose will snort.”

³⁶ WHITE, *supra* note 9, at 223–24.

³⁷ NETZ, *supra* note 15, at 19 (quoting Arnold and Hale, western authors writing in 1940); Anderson, *supra* note 6, at 128–29, discusses related process of making earmarks or simply cutting off a branded animal’s ears.

Both the barbed wire and branding iron museum artifacts force us to consider more nonrepresentational, emotional, affective approaches to the historical study of animal suffering: “visceral knowing.”

14.5 CONCLUDING COMMENT

The nineteenth-century American cattle trails and cattle towns remain an integral piece of American legend and mythology, and though many scholars have made valuable interventions into the “reality” of the political, economic, environmental, and cultural factors that constituted the emergent cattle beef industry, much remains to be studied about animal experience in this story. It is a story of lived animal experiences of carceral spaces, developed within and facilitated by a range of legal or extralegal, technological, and political-economic carceral apparatuses. Certainly use of instruments of torture such as wire fencing and branding have not abated – although perhaps today’s cows are tattooed with identification numbers on their ears or lips or have computer chips inserted under their skin, and owners of the mass production of meat processing have become the twenty-first-century version of the cattle baron. But through study of available historical, especially material cultural, sources and evidence these lives ensnared within an American carceral archipelago can be understood and appreciated anew.