# Trans Aff

## Part 1 is Framing

#### Structural violence excludes people from our decision calculus, causing separatism based on arbitrary differences that is not chosen by the victim. Winter and Leighton 99

Winter, Deborah Winter and Leighton, Dana. |[Winter is a Psychologist that specializes in Social Psych, Counseling Psych, Historical and Contemporary Issues, Peace Psychology. Leighton is a PhD graduate student in the Psychology Department at the University of Arkansas. Knowledgable in the fields of social psychology, peace psychology, and justice and intergroup responses to transgressions of justice] “Peace, conflict, and violence: Peace psychology in the 21st century.” Pg 4-5

Finally, to recognize the operation of structural violence forces us to ask questions about how and why we tolerate it, questions which often have painful answers for the privileged elite who unconsciously support it. A final question of this section is how and why we allow ourselves to be so oblivious to structural violence. Susan Opotow offers an intriguing set of answers, in her article Social Injustice. She argues that our normal perceptual cognitive processes divide people into in-groups and out-groups. Those outside our group lie outside our scope of justice. Injustice that would be instantaneously confronted if it occurred to someone we love or know is barely noticed if it occurs to strangers or those who are invisible or irrelevant. We do not seem to be able to open our minds and our hearts to everyone, so we draw conceptual lines between those who are in and out of our moral circle. Those who fall outside are morally excluded, and become either invisible, or demeaned in some way so that we do not have to acknowledge the injustice they suffer. Moral exclusion is a human failing, but Opotow argues convincingly that it is an outcome of everyday social cognition. To reduce its nefarious effects, we must be vigilant in noticing and listening to oppressed, invisible, outsiders. Inclusionary thinking can be fostered by relationships, communication, and appreciation of diversity. Like Opotow, all the authors in this section point out that structural violence is not inevitable if we become aware of its operation, and build systematic ways to mitigate its effects. Learning about structural violence may be discouraging, overwhelming, or maddening, but these papers encourage us to step beyond guilt and anger, and begin to think about how to reduce structural violence. All the authors in this section note that the same structures (such as global communication and normal social cognition) which feed structural violence, can also be used to empower citizens to reduce it. In the long run, reducing structural violence by reclaiming neighborhoods, demanding social justice and living wages, providing prenatal care, alleviating sexism, and celebrating local cultures, will be our most surefooted path to building lasting peace.

#### The 1AC critiques the normalcy that is the starting point for other forms of oppression

Shlasko 05 G. D. Shlasko, University of. Massachusetts Amherst, Social Justice Education Program, Hills South, "Queer (v.) pedagogy." Equity & Excellence in Education 38.2 (2005): 123-134.

Finally, Greene (1996) suggests reading “queer the-ory’’ with queer as a verb that acts on theory. Hence the phrase is an imperative to queer one’s theory, to look at it from a different perspective such that its shortcomings, underlying assumptions, and possibilities become visi- ble. Morris’s (1998) concept of a queer aesthetic is useful here. A queer theorist might take a theory that does not explicitly define itself as queer or politically radical, and interrogate it through the lens of queer sensibility, ask- ing, “How might this theory have radical implications?’’ Davis and Sumara’s (2000) queer reading of the complex- ity theory in physics, which I discuss later, is an excellent example. Given permission to view any theory in terms of its queerness, we can again use queer as an adjective to describe theories in which we discover queer character- istics or implications. For example, a theory that centers a usually marginal subject position or that challenges normalcy could be described as queer.¶ Queer theory emerges from a study of and from the viewpoint of people who are outsiders in terms of gender and sexuality—those against whom the word “queer’’ first became a violent epithet. Yet it does not limit itself to theorizing about gender and sexuality. Queer theory problematizes gender and sexual identities, and also the very concept of identity (Britzman, 1998; Green, 1996; Morris, 2000). It critiques the enforced norms of gender and sexuality, and also all claims of normalcy, and the processes by which the borders of the normal are de- fined and policed (Britzman, 1998; Green, 1996; Morris, 2000). By interrogating the implicit assumptions of het- eronormativity, queer theory [it] “offers a critique of reigning ideologies of subjectivity, power, and meaning’’ (Greene, 1996, p. 326) that can be extended to shed light on many forms of difference, categorization, and inequality.¶ Sullivan’s (2003) chapter, “Queer Race,’’ reviews litera- ture on intersections and conflicts between academic and political discourses centered on race and those centered on sexuality, and presents several examples of how queer theoretical inquiries can help to shed light on manifesta- tions of racism. Sullivan demonstrates that heteronormativity is not premised on homophobia alone, but rather on a vast “coincidence’’ between racism, sexism, and homophobia. An extreme example is the case of laws that prohibit interracial marriage. The overt purpose of such laws was to define and maintain boundaries between racial groups (so as to justify unequal and inhumane treatment of people of color), and to maintain racial “pu- rity’’ for Whites (Sullivan, 2003). By implication, the laws also served to define white womanhood very narrowly in terms of marriage and procreation. White women who were sexually active outside of marriage, and white peo- ple of whatever gender and sexual orientation who did not marry, were defined as practically criminal in their refusal to participate in the racist/sexist/homophobic project of reproducing the normal white family (Sullivan, 2003). Racism, sexism, and homophobia together seek to¶ regulate people’s sexuality in specific ways that make meaning not only for sexuality as such but also for gender and race. Given this entanglement, Sullivan argues that queer theory not only allows for a queer critique of sexism and racism (and I would add class-, ability-, and age-based oppressions as well), but actually requires it.

#### We should use the academic setting to challenge the heteronormative structures that pervade society – judge as an educator should disrupt heteronormativity.

Elias 3 John Elias, Professor at San Francisco University, Journal of Homosexuality, Vol. 45, no. 2/3/4, p. 64, 2003

Akin to organized religion and the biomedical field, the educational system has been a major offender. Wedded to disseminating the idea that heterosexuality is the ultimate and best form of sexuality, “Schools have maintained, by social custom and with reinforcement from the law, the promotion of the heterosexual family as predominant, and therefore the essence of normal. From having been presumed to be ‘normal,’ heterosexual behavior has gained status as the right, good, and ideal lifestyle” (Leck, 1999, p. 259). School culture in general is fraught with heteronormativity. Our society has long viewed queer sexualities as “. . . deviant, sinful, or both, and our schools are populated by adolescent peers and adult educators who share these heterosexual values” (Ginsberg, 1999, p. 55). Simply put, heteronormativity and sexual prejudice pervade the curriculum at the elementary, secondary, and post-secondary levels (for examples of this and ways of intervening, see: Adams, Bell, & Griffin, 1997; Letts & Sears, 1999; Lovaas, Baroudi, & Collins, 2002; Yep, 2002). Besides the hegemonic hold schools have had regarding a heterosexual bias, school culture continues to devote much energy to maintaining “. . . the status quo of our dominant social institutions, which are hierarchical, authoritarian, and unequal, competitive, racist, sexist, and homophobic” (Arnstine, 1995, p. 183). While there has been modest success in addressing various forms of prejudice in schools (Kumashiro, 2001), what is sorely lacking is serious attention to how the intersections of race, class, sexuality and gender are interwoven and dialectically create prejudice (e.g., racism, classism, and hetero[sexism]). Schools would be an ideal site to interrogate, and begin to erode, the kind of hegemony upon which heterosexism rests and is supported. To date, not much is being done in a systematic fashion to disrupt the ways in which U.S. schooling has perpetuated such hierarchies. It seems to me that sexuality education is ripe for the opportunity to challenge heterosexism in school culture; however, public school-based sexuality education is presently in serious crisis, as it has turned mostly to the business of pushing for abstinence- only sexuality education. According to federal legislation, states that accept funding for this form of sexuality education require that young people are taught to abstain from sexual activity until they get married. This has numerous implications for relationship construction; a more in-depth description and analysis of this form of sexuality education will follow later in this essay.

#### Ethical theories that create moral rules without having referents in the current social context fail to analyze asymmetries in treatment. Mills 09:

Charles Mills explains using the example of discrimination against blacks:

Mills, C. W. (2009), Rawls on Race/Race in Rawls. The Southern Journal of Philosophy, 47: 161–184 “Now how can…ever did arrive.”

Now **how can** this ideal ideal—**a society not merely without** **a past** history **of racism but without races themselves**—**serve to adjudicate** the merits of competing **policies** aimed at correcting for a long history of white supremacy manifest in Native American expropriation, African slavery, residential and educational segregation, large differentials in income and huge differentials in wealth, nonwhite underrepresentation in high-prestige occupations and overrepresentation in the prison system, contested national narratives and cultural representations, widespread white evasion and bad faith on issues of their racial privilege, and a corresponding hostile white backlash against (what remains of) those mild corrective measures already implemented? Obviously, it cannot. As Thomas Nagel concedes: “Ideal theory enables you to say when a society is unjust, because it falls short of the ideal. But it does not tell you what to do[.] if, as is almost always the case, you find yourself in an unjust society, and want to correct that injustice” (2003a, 82). **Ideal theory represents an unattainable target** that would require us to roll back the clock and start over. So in a sense it is an ideal **with** little or **no practical worth**. **What is required is the nonideal** (rectificatory) **ideal that** **starts** **from** **the** **reality** **of** these **injustices** **and** then **seeks** some fair **means** **of correct**[s]**ing** for them, recognizing that in most cases the original prediscrimination situation (even if it can be intelligibly characterized and stipulated) cannot be restored. Trying to rectify systemic black disadvantage through affirmative action is not the equivalent of not discriminating against blacks, especially when there are no blacks to be discriminated against. Far from being indispensable to the elaboration of non- ideal theory, ideal theory would have been revealed to be largely useless for it. But the situation is worse than that. As the example just given illustrates, it is not merely a matter of an ideal with problems of operationalization and relevance, but of an ideal likely to lend itself more readily to retrograde political agendas. If the **ideal** ideal rather than the rectificatory ideal is to guide us, then a world without races and any kind of distinction- drawing by race may seem to be an attractive[.] goal. One takes the ideal to be colorblind nondiscrimination, as appropriate for a **society** beginning from the state of nature, and then—completely **ignor[es**]ing the **nonideal history** that has given whites a systemic illicit advantage [and so] over people of color—conflates together as “discrimination” all attempts to draw racial distinctions for public policy goals, no matter what their motivation, on the grounds that **this perpetuates race and invidious differential treatment by race.** In the magisterial judgment of Chief Justice John Roberts in the June 2007 Supreme Court decision on the Seattle and Louisville cases where schools were using race as a factor to maintain diversity, “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race,”6 a statement achieving the remarkable feat of depicting not merely as true, but as tautologically true, the equating of Jim Crow segregation and the attempt to remedy Jim Crow segregation! [So] [w]hat is ideally called for under ideal circumstances is not, or at least is not necessarily, what is ideally called for under nonideal circumstances. Claiming that all we need to do is to cease (what is here characterized as) discrimination ignores the differential advantages and privileges that have accumulated in the white population because of the past history of discrimination.

#### Thus the standard is rejecting heteronormativity

## Part 2 is the Topic

#### The Prison forces normalcy upon the trans body, denying their identity. JDI 13:

JDI.( Just Detention International is a health and human rights organization that seeks to end sexual abuse in all forms of detention) "Targets for Abuse: Transgender Inmates and Prisoner Rape." For Sexual Abuse Fact Sheet Service Providers (n.d.): n. pag. Http://www.justdetention.org/. Mar. 2013. Web. 6 Nov. 2015. <http://www.nsvrc.org/sites/default/files/transgenderfactsheet1.pdf>.

In most cases, corrections agencies make¶ gender classifications based on genitalia and¶ not a person’s gender identity. As such, transgender¶ women are held in men’s facilities¶ and called “he” [and vice-versa]; transgender men are held in¶ women’s facilities and called “she.”5¶ Transgender inmates face unique challenges¶ and extreme danger, fuelled by hostile and ill-informed¶ notions among officials and prisoners alike. In many cases, the gender identity¶ of transgender inmates is simply ignored and¶ they are denied gender-appropriate clothing¶ and hygiene products. Because transgender¶ women are typically housed in men’s facilities,¶ they often have to shower and change¶ their clothes in front of male inmates and¶ staff. Once targeted for abuse, the majority¶ of transgender survivors are subjected to repeated¶ sexual assaults.

#### I defend the resolution as a general principle. I accept negative links and competition based on fair interpretations of the resolution. I will only de-link strategies if I prove they are based on unfair interps. Also, neg has no stable advocacy for aff prep, so it’s unreciprocal for the aff to meet an advocacy burden regarding spec or fiat. Lastly, CX checks all neg advocacy questions and theory violations. I will make concessions given the stipulations above.

#### The aff causes abolishment of the prison system. Leavitt 12 is the solvency advocate:

Leavitt, Adrien (2012) (Trial Attorney at King County Department of Public Defense) "Queering Jury Nullification: Using Jury Nullification as a Tool to Fight Against the Criminalization of Queer and Transgender People," Seattle Journal for Social Justice: Vol. 10: Iss. 2, Article 2. Available at: <http://digitalcommons.law.seattleu.edu/sjsj/vol10/iss2/2>

More expansively, queer jurors who are prison abolitionists can use jury¶ nullification to effect transformative change. Simply put, queer abolitionist¶ jurors should always nullify. In this application, jury nullification becomes a¶ highly effective tool to subvert the racist, homophobic, transphobic, violent,¶ and unjust criminal legal system. While this conception of jury nullification is¶ more expansive than Butler’s—and therefore may exceed the logic used by¶ him to show that black jury nullification is morally permissible—abolition based¶ queer jury nullification is nonetheless morally justifiable. In fact,¶ abolition-based queer jury nullification furthers Butler’s primary goal of¶ reducing the burden of imprisonment on vulnerable communities. Indeed, as¶ highlighted previously, the collateral consequences of imprisoning queer and¶ trans people are intolerably severe and can only be remedied by the abolishing the prison system and replacing it with a more humane and healing method of¶ addressing antisocial behavior.258¶ Like black jury nullification, queer jury nullification is morally justifiable¶ due to the continuing and systematic failure of the democratic system in the¶ United States to protect queer people, typified by the criminalization of queer¶ identities. Queer people and their sympathizers should not be morally¶ obligated to enforce a system that perpetrates violence on them and members¶ of their community. While the ideal of the “rule of law” suggests neutral¶ interpretation and application, in reality this is impossible to achieve. As a¶ result, the law cannot lead to justice in every case, making queer jury¶ nullification appropriate to ameliorate the deeply held stereotypes and¶ assumptions made about those who refuse to subscribe to heteronormative¶ sexualities and gender identities. Additionally, queer people’s¶ underrepresentation as legal decision makers had the result of creating a legal¶ system reflecting norms that were not assented to by queers and other political¶ minorities. As in the Magna Carta era, without another method of changing¶ these unjust laws, jury nullification is the appropriate avenue. Finally,¶ regardless of the facts of the case or the law at issue, queer jury nullification is¶ morally justified simply to avoid sending queer people into inherently violent¶ prisons where they are likely to be sexually and physically abused, subjected to¶ verbal harassment and degradation, and forced to endure the physiological¶ punishment of nearly constant segregated isolation. While reform-based jury nullification may appear less extreme, it fails to¶ accomplish transformative change because it merely results in “preservation- through-transformation.”259 This type of legal reform changes the system just¶ enough to quell the anguish of the oppressed. As a result, while reform-based¶ queer jury nullification may change the system minimally and will avoid the¶ imprisonment of some queer and trans people, it will not truly undermine or¶ transform the oppressive criminal legal system. Prison abolition, on the other¶ hand, is a prospect that must be a priority of everyone who wishes to live in a¶ more humane, just, and safe society. Indeed, abolition-based queer jury¶ nullification is just one tool to undermine the racist and violent prison system¶ and ultimately fight for prison abolition.

#### Nullification is key to stop the violence of the state, removes power from the oppressors. Goodman 15:

Goodman, Nathan. (Goodman is the Lysander Spooner Research Scholar in Abolitionist Studies at the Center for a Stateless Society)"Queer Liberation and Jury Nullification." Center for a Stateless Society. Creative Commons Public Domain Dedication., 11 June 2015. Web. 03 Nov. 2015. <https://c4ss.org/content/38208>.

One tactic that can be used to impede this state violence against queer and trans people is jury nullification. Rather than merely evaluating the evidence to determine whether a defendant has violated a law, jurors can vote “not guilty” when they believe the law is unjust or unjustly applied. Jury nullification is exercising conscience rather than helping the state unjustly cage human beings.¶ Adrien Leavitt argues in Queering Jury Nullification that the LGBTQ community and our allies should use jury nullification “as a tool to subvert the criminal punishment system in order to fight against structural racism, protest the policing of deviant sexual and gender identities, and reduce the violence perpetrated against queer people by the criminal punishment system.” When queer homeless people are on trial for survival crimes, jurors can vote not guilty. When queer and trans people are charged with homicide for defending themselves from hate crimes, jurors can vote not guilty. When trans women of color are charged with solicitation, jurors can vote not guilty.¶ Most decisions in the criminal justice system are made by government employees such as police, judges, and prosecutors. They face perverse [that have] political incentives that push them to participate in state violence against the most marginalized people in our society. Jurors, on the other hand, are ordinary citizens. Their verdict does not determine whether they are reelected or whether they receive a promotion. The jury is where the people, the rabble, can disrupt the process of state violence.¶ It’s time for jurors to use their power to disrupt the criminalization of queer and trans people. At pride festivals throughout the world, we commemorate the Stonewall rioters for resisting such criminalization. As long as queer and trans people face criminalization, jurors should stand for queer liberation, with the spirit of Stonewall in their hearts.

#### Nullification causes contradictions with the system, causes the system to collapse on itself. Crispo 97:

Crispo, Lawrence W., Jill M. Slansky, and Geanene M. Yriarte. "Jury Nullification: Law Versus Anarchy." Loy. LAL Rev. 31 (1997): 1.

Despite the merits of these arguments, nullification results in inconsistent¶ application of laws, allows bad law to remain on the books,¶ and permits juries to disregard the law without accountability.3 This¶ disregard gives juries unreviewable, unchecked power and results in¶ arbitrary judicial results.4 When legislatures make law that violates¶ the so-called conscience of the community, their acts are reviewable¶ by voters, who can cast votes against their legislators at election time.¶ Between elections, constituents can write to their legislators and express¶ their opposition. By giving a jury nullification instruction,¶ judges ask jurors to act as "mini-legislators," placing too burdensome¶ a duty upon those individuals who are compelled to serve on jury¶ duty.5¶ If it is true that "[t]he public conscience must be satisfied that¶ fairness dominates the administration of justice,"6 then it follows that¶ laws must be given consistent application. If jury nullification were a¶ common practice, laws would change from day to day, leading to anarchy,7¶ rather than a society where all must live by the same standards. Juries are not impaneled to solve social problems The jury's¶ duty is to apply the facts to the law as stated by the court and reach a¶ verdict consistent with this law.9

#### They continue:

FIJA's assertions of the act's benefits are unreasonable. To believe¶ that the unjustly accused are better served by nullification is¶ naive and misguided. The American justice system is designed to¶ protect the innocent. Jurors bring their own life experiences and biases¶ with them to the jury panel7 1 Instructing jurors to ignore the¶ law and "vote their conscience" allows them to use bias in the decision-making¶ process, leading to potentially guilty verdicts in cases of¶ innocent defendants. While the current system may allow some of¶ the same, the requirement that jurors take the law from the judge¶ eliminates the total discretion of the jury and safeguards the wrongly¶ accused. Nullification removes this safeguard.¶ The belief that nullification allows legislators to better represent¶ the people is false. If the act FIJA proposes is enacted, laws would¶ change daily depending on the twelve people in the jury box for a¶ particular day. Currently, legislators have access to information from¶ a broad base of constituents via letters, telegrams, phone calls, protests,¶ and the media. Nullification merely provides legislators the¶ feedback of twelve people on a given day. This is not democracy; it is¶ anarchy.¶ A founder of FIJA contends that jury nullification should apply¶ only in cases of victimless crime.m However, his goal is impossible to¶ accomplish. Once jurors are given unbridled discretion, it becomes¶ impractical to draw the line between "justified" and "unjustified"¶ nullification. Jury nullification permits jurors to ignore the law, allowing¶ no guarantee of which guilty defendants will go unpunished.¶ The California FIJA coordinator believes that "rights come directly¶ from God, they don't come from the Constitution... God created¶ man and man created government, and it's clear that God's law¶ is the supreme law., 3 3 The Coordinator further believes that laws¶ come from God and the church7 4 Even if this were true, not all jurors¶ believe in the same god or church. Legitimizing jury nullification¶ by permitting an instruction on it does not provide a necessarily consistent¶ application of the law in a religiously pluralistic society.

#### Abolition of the prison system is key to ending oppression. Stanley 11:

Smith, Nat, and Eric A. Stanley, eds. (Stanley is a President’s Postdoctoral fellow in Communication and Critical Gender Studies at the University of California, San Diego) Captive genders: Trans embodiment and the prison industrial complex. AK Press, 2011.

Trans/gender-non-conforming and queer people, along with many others,¶ are born into webs of surveillance. The gendering scan of other children¶ at an early age (“Are you a boy or a girl?”) places many in the panopticon¶ long before they enter a prison. For those who do trespass the gender¶ binary or heteronormativity, physical violence, isolation, detention, or¶ parental disappointment become some of the first punishments. As has¶ been well documented, many trans and queer youth are routinely harassed¶ at school and kicked out of home at young ages, while others leave¶ in hopes of escaping the mental and physical violence that they experience¶ at schools and in their houses.¶ Many trans/queer youth learn how to survive in a hostile world. Often¶ the informal economy becomes the only option for them to make¶ money. Selling drugs, sex work, shoplifting, and scamming are among¶ the few avenues that might ensure they have something to eat and a place¶ to sleep at night. Routinely turned away from shelters because of their¶ gender presentation, abused in residential living situations or foster care,¶ and even harassed in “gay neighborhoods” (as they are assumed to drive¶ down property values or scare off business), they are reminded that they¶ are alone. Habitually picked up for truancy, loitering, or soliciting, many¶ trans/queer people spend their youth shuttling between the anonymity of¶ the streets and the hyper-surveillance of the juvenile justice system. With¶ case managers too overloaded to care, or too transphobic to want to care,¶ they slip through the holes left by others. Picked up—locked up—placed¶ in a home—escape—survive—picked up again. The cycle builds a cage,¶ and the hope for anything else disappears with the crushing reality that¶ their identities form the parameters of possibility.10¶ With few options and aging-out of what little resources there are¶ for “youth,” many trans/queer adults are in no better a situation. Employers¶ routinely don’t hire “queeny” gay men, trans women who “cannot¶ pass,” butches who seem “too hard,” or anyone else who is read to be “bad¶ for business.” Along with the barriers to employment, most jobs that are¶ open to folks who have been homeless or incarcerated are minimum-wage¶ and thus provide little more than continuing poverty and fleeting stability.¶ Back to where they began—on the streets, hustling to make it, now¶ older—they are often given even longer sentences.¶ While this cycle of poverty and incarceration speaks to more current¶ experiences, the discursive drives building their motors are nothing new.¶ Inheriting a long history of being made suspect, trans/queer people, via ¶ Captive Genders¶ 8¶ the medicalization of trans identities and homosexuality, have been and¶ continue to be institutionalized, forcibly medicated, sterilized, operated¶ on, shocked, and made into objects of study and experimentation. Similarly,¶ the historical illegality of gender trespassing and of queerness have¶ taught many trans/queer folks that their lives will be intimately bound¶ with the legal system. More recently, the HIV/AIDS pandemic has turned¶ the surveillance technologies inward. One’s blood and RNA replication¶ became another site of susceptibility that continues to imprison people¶ through charges of bio-terrorism, under AIDS-phobic laws.¶ Desiring Abolition¶ Living through these forms of domination are also moments of devastating¶ resistance where people working together are building joy, tearing¶ down the walls of normative culture, and opening space for a more¶ beautiful, more lively, safer place for all. Captive Genders remembers these¶ radical histories and movements as evidence that our legacies are fiercely¶ imaginative and that our collective abilities can, and have, offered freedom¶ even in the most destitute of times.11¶ In the face of the overwhelming violence of the PIC, abolition—and¶ specifically a trans/queer abolition—is one example of this vital defiance.¶ An abolitionist politic does not believe that the prison system is “broken”¶ and in need of reform; indeed, it is, according to its own logic, working¶ quite well. Abolition necessarily moves us away from attempting to “fix”¶ the PIC and helps us imagine an entirely different world—one that is¶ not built upon the historical and contemporary legacies of the racial and¶ gendered brutality that maintain the power of the PIC. What this means¶ is that abolition is not a response to the belief that the PIC is so horrible¶ that reform would not be enough. Although we do believe that the PIC¶ is horrible and that reform is not enough, abolition radically restages our¶ conversations and our ways of living and understanding as to undo our¶ reliance on the PIC and its cultural logics. For us, abolition is not simply¶ a reaction to the PIC but a political commitment that makes the PIC¶ impossible. To this end, the time of abolition is both yet to come and already¶ here. In other words, while we hold on to abolition as a politics for¶ doing anti-PIC work, we also acknowledge there are countless ways that¶ abolition has been and continues to be here now. As a project dedicated to¶ radical deconstruction, abolition must also include at its center a reworking¶ of gender and sexuality that displaces both heterosexuality and gender¶ normativity as measures of worth.1

## Part 3 is the Engagement

**Dismantling incarceration is an effective combination of critique, action, and goals that holds reform and abolition in creative tension in order to maintain the advantages of both—we aren’t reformism, but non-reformist reforms towards abolition. Berger 13**

[2013, Dan Berger is an Assistant Professor at the University of Washington Bothell, “Social Movements and Mass Incarceration: What is To Be Done?”, Souls: A Critical Journal of Black Politics, Culture, and Society, Volume 15, Issue 1-2, 2013, pages 3-18]

**The strategy of decarceration combines radical critique, direct action, and tangible goals for reducing the reach of the carceral state. It is a coalitional strategy that works to shrink the prison system through a combination of pragmatic demands and far-reaching, open-ended critique**. **It is reform in pursuit of abolition**. Indeed, **decarceration allows a strategic launch pad for the politics of abolition**, **providing what has been an exciting but abstract framework with a course of action**. 32 **Rather than juxtapose pragmatism and radicalism**, as has so often happened in the realm of radical activism, **the strategy of decarceration seeks to hold them in creative tension**. **It is a strategy in the best tradition of the black freedom struggle.** **It is a strategy that seeks to take advantage of political conditions without sacrificing its political vision**. Today **we are in a moment where it is possible**, in the words of an organizer whose work successfully closed Illinois's infamous supermax prison Tamms in January 2013, **to confront prisons as both an economic and a moral necessity.** 33 Prisons bring together diverse forms of oppression across race, class, gender, sexuality, citizenship status, HIV status and beyond. **The movements against them**, therefore, **will need to bring together diverse communities of resistance.** They will need to unite people across a range of issues, identities, and sectors. That is the coalition underlying groups such as Californians United for a Responsible Budget (CURB), the Nation Inside initiative, and Decarcerate PA. **The fight against prisons is both a targeted campaign and a broad-based struggle for social justice.** These movements must include the leadership by those directly affected while at the same work to understand that prisons affect us all. This message is the legacy of prison rebellions from Attica in 1971 to Pelican Bay in 2012. **The challenge is to maintain the aspirational elements of that message while at the same time translating it into a political program.** **Decarceration**, therefore, **works not only to shrink the prison system but to expand community cohesion and maximize what can only be called freedom**. **Political repression and mass incarceration are joined at the hip. The struggles against austerity, carcerality, and social oppression, the struggles for restorative and transformative justice, for grassroots empowerment and social justice must be equally interconnected.** For **it is only when the movement against prisons is as interwoven in the social fabric of popular resistance as the expansion of prisons has been stitched into the wider framework of society that we might hope to supplant the carceral state**. There are many obstacles on the path toward decarceration; the existence of a strategy hardly guarantees its success. Until now, I have focused largely on the challenges internal to the movement, but there are even taller hurdles to jump in encountering (much less transforming) the deeply entrenched carceral state. Perhaps the biggest challenge, paradoxically, comes from the growing consensus, rooted in the collective fiscal troubles of individual states, that there is a need for prison reform. In that context, a range of politicians, think tanks, and nonprofit organizations—from Right on Crime to the Council on State Governments and the Pew Charitable Trusts—have offered a spate of neoliberal reforms that trumpet free market solutions, privatization, or shifting the emphasis away from prisons but still within the power of the carceral state. Examples include the “Justice Reinvestment” processes utilized by states such as Texas and Pennsylvania that have called for greater funding to police and conservative victim's rights advocates while leaving untouched some of the worst elements of excessive punishment. These **neoliberal reforms can** also **be found in the sudden burst of attention paid to “reentry services” that are not community-led and may be operated by private, conservative entities.** 34 Perhaps the grandest example can be found in California, where a Supreme Court ruling that overcrowding in the state's prisons constituted cruel and unusual punishment has been met with a proposal for “realignment,” that shifts the burden from state prisons to county jails. 35 A combination of institutional intransigence and ideological commitment to punish makes the road ahead steep. **Even as many states move to shrink their prison populations, they have done so in ways that have left in place the deepest markings of the carceral state, such as the use of life sentences and solitary confinement, and the criminalization of immigrants**. **Social movements will need to confront the underlying ideologies that hold that there is an “acceptable” level of widespread imprisonment**, that there is a specter of villainy out there—be they “illegal immigrants,” “cop killers,” “sex criminals”—**waiting in the wings to destroy the American way of life**. 36 **There is a risk, inherent in the sordid history of prison reform, that the current reform impulse will be bifurcated along poorly defined notions of “deservingness” that will continue to uphold the carceral logic that separates “good people” from “bad people” and which decides that no fate is too harsh for those deemed unworthy of social inclusion.** **This**, then, **is a movement that needs to make nuanced yet straightforward arguments that take seriously questions of accountability while showing that more cops and more** (whether bigger or smaller) **cages only takes us further from that goal.** 37 **At stake is the kind of world we want to live in, and the terms could not be more clear: the choice**, to paraphrase Martin Luther King, **is either carceral chaos or liberatory community**. The framework of community—as expressed Decarcerate PA slogan “build communities not prisons” and the CURB “budget for humanity” campaign—allows for a robust imagination of the institutions and mechanisms that foster community versus those that weaken it. It focuses our attention on activities, slogans, programs, and demands that maximize communities. In short, it allows for unity. **If the state wants to crush dissent through isolation, our movements must rely on togetherness to win**. **Solidarity is the difference between life and death. State repression expands in the absence of solidarity**. **Solidarity is a lifeline against the logic of criminalization and its devastating consequences.** **For the most successful challenges to imprisonment come from intergenerational movements:** **movements where people raise each other's consciousness and raise each other's children, movements that fight for the future because they know their history**. Here, **in this pragmatic but militant radicalism, is a chance to end mass incarceration and begin the process of shrinking the carceral state out of existence.**

**Ideal theory obfuscates us from focusing on material change for queers in society**

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[Darnell-active in the queer of color organizing community in Newark, NJ; paper presented at the Feminism for the Planet: 5th Annual Rutgers Newark, Women’s Studies Symposium in March 2009; “An Interrogation of the Black Presence in the Queer Project;” TRANS-SCRIPTS 1 (2011); accessed online; pp. 160-163. <http://www.humanities.uci.edu/collective/hctr/trans-scripts/2011_01_11.pdf>]

Finally, Johnson has noted that **queer theorists tend to ground critiques in the realm of discourse** (7). As stated previously, **queer studies is influenced by the work of Foucault**; therefore **it is governed by the imperative to counter the power relations that seek to construct discourses**. **The discursive realm**, then, **takes center stage in queer studies/theory for it is within the realm of discourse where power is transmitted, produced, and reinforced** (Foucault 101). As such, **it seems that this Foucauldian notion drives the queer studies project**. Gunther has argued that the goal to defy the “social and historical construction of categories of sexuality and gender” is central to the project of American queers specifically (23). Thus, **the ethos of queer studies is one that is characterized by its attention to discourse, theorizing, and intellectualizing,** **and not to the material, on-the-ground activism that once propelled the queer movement**. Historian Allan Berube made a similar charge when he stated that **some queer scholarship is “so abstract, text-based, career-oriented, concerned with developing insider jargon that it just doesn’t hold my attention**.” As a result, **Berube goes on to assert that he feels like an “outsider” because of this seeming disconnect between theory and practice** (qtd. In Maynard 58). **Johnson also questions the effectiveness of queer theory if**, in fact, **it is limited to the realm of discourse**. He asks: **What, for example, are the ethical and material implications of queer theory if its project is to dismantle all notions of identity and agency**? **The deconstructive turn in queer theory highlights the ways in which ideology functions to oppress and to proscribe ways of knowing**, but **what is the utility of queer theory on the front lines, in the trenches, on the street, or any place where the racialized and sexualized body is beaten, starved, fired, cursed-indeed, where the body is the site of trauma**? (5) **John’s query illuminates an aspect of the queer project that is problematic** within; namely, **its tendency to focus on the dismantling of power through discourse.** Simply, **what is dismissed is the attentiveness to materiality and the body, as well as, the radical modes of resistance that formally characterized the queer movement in the past. If the present ethos of queer studies/theory is that which is characterized by intellectualizing and theorizing alone as opposed to the propagation of an “in-your-face” praxis, then it will limit the potentiality of liberation for those SGL women and men engaged in “Black Struggle.”**

#### Solutions to critical issues must be discussed through pragmatic approaches within hegemonic power structures. Kapoor ‘08

Kapoor, 2008 (Ilan, Associate Professor at the Faculty of Environmental Studies, York University, “The Postcolonial Politics of Development,” p. 138-139)

There are perhaps several other social movement campaigns that could be cited as examples of a ‘hybridizing strategy’.5 But what emerges as important from the Chipko and NBA campaigns is the way in which they treat laws and policies, institutional practices, and ideological apparatuses as deconstructible. That is, they refuse to take dominant authority at face value, and proceed to reveal its contingencies. Sometimes, they expose what the hegemon is trying to disavow or hide (exclusion of affected communities in project design and implementation, faulty information gathering and dissemination). Sometimes, they problematize dominant or naturalized truths (‘development = unlimited economic growth = capitalism’, ‘big is better’, ‘technology can save the environment’). In either case, by contesting, publicizing, and politicizing accepted or hidden truths, they hybridize power, challenging its smugness and triumphalism, revealing its impurities. They show power to be, literally and figuratively, a bastard. While speaking truth to power, a hybridizing strategy also exploits the instabilities of power. In part, this involves showing up and taking advantage of the equivocations of power — conflicting laws, contradictory policies, unfulfilled promises. A lot has to do here with publicly shaming the hegemon, forcing it to remedy injustices and live up to stated commitments in a more accountable and transparent manner. And, in part, this involves nurturing or manipulating the splits and strains within institutions. Such maneuvering can take the form of cultivating allies, forging alliances, or throwing doubt on prevailing orthodoxy. Note, lastly, the way in which a hybridizing strategy works with the dominant discourse. This reflects the negotiative aspect of Bhabha’s performativity. The strategy may outwit the hegemon, but it does so from the interstices of the hegemony. The master may be paralyzed, but his paralysis is induced using his own poison/medicine. It is for this reason that cultivating allies in the adversarial camp is possible: when you speak their language and appeal to their own ethical horizons, you are building a modicum of common ground. It is for this reason also that the master cannot easily dismiss or crush you. Observing his rules and playing his game makes it difficult for him not to take you seriously or grant you a certain legitimacy. The use of non-violent tactics may be crucial in this regard: state repression is easily justified against violent adversaries, but it is vulnerable to public criticism when used against non-violence. Thus, the fact that Chipko and the NBA deployed civil disobedience — pioneered, it must be pointed out, by the ‘father of the nation’ (i.e. Gandhi) — made it difficult for the state to quash them or deflect their claims.