### 1

#### Topical affirmatives must instrumentally defend the enactment of the USFG increasing prohibitions on anticompetitive business practices by expanding the scope of antitrust law in the 1ac. It’s predictable because it was negotiated and announced in advance.

#### Resolved’ before a colon denotes a formal resolution.

**AWS ’13** [Army Writing Style; August 24th; Online resource dedicated to all major writing requirements in the Army; Army Writing Style, "Punctuation — The Colon and Semicolon," <https://armywritingstyle.com/punctuation-the-colon-and-semicolon/>]

The colon introduces the following:

a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis.

b.  A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.)

c.  A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it?

d.  A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment.

e.  After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f.  The details following an announcement For sale: (colon) large lakeside cabin with dock

g.  A formal resolution, after the word "resolved:". Resolved: (colon) That this council petition the mayor.

#### The ‘United States federal government’ is the three branches.

U.S. Legal ’16 [U.S. Legal; 2016; Organization offering legal assistance and attorney access; U.S. Legal, “United States Federal Government Law and Legal Definition,” <https://definitions.uslegal.com/u/united-states-federal-government/>]

The United States Federal Government is established by the US Constitution. The Federal Government shares sovereignty over the United Sates with the individual governments of the States of US. The Federal government has three branches: i) the legislature, which is the US Congress, ii) Executive, comprised of the President and Vice president of the US and iii) Judiciary. The US Constitution prescribes a system of separation of powers and ‘checks and balances’ for the smooth functioning of all the three branches of the Federal Government. The US Constitution limits the powers of the Federal Government to the powers assigned to it; all powers not expressly assigned to the Federal Government are reserved to the States or to the people.

#### ‘Antitrust laws’ are statutes.

Grimes ’20 [Charles W; 2020; editor of this Licensing Update and Law Professor at Ava Maria Law School; Wolters Kluwer, “Licensing Update,” https://www.crowell.com/files/20200401-Licensing-Update-Chapter-13.pdf]

§13.02 ANTITRUST LAW IN THE UNITED STATES

U.S. antitrust law is defined by federal and state statutes, as interpreted by the courts. The core federal statutes are the Sherman Act,1 passed by Congress in 1890, and the Federal Trade Commission2 and Clayton Acts,3 both passed in 1914. The United States Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC” or “Commission”) (together the “agencies”) share enforcement of most areas of federal antitrust law but with some differences in the scope of their authority. The FTC has sole authority to enforce Section 5 of FTC Act, which prohibits (1) unfair methods of competition and (2) unfair or deceptive acts or practices. The FTC almost always pursues claims for anticompetitive conduct as unfair methods of competition and reserves charges of unfair or deceptive acts or practices for consumer protection violations. Though the FTC's authority to challenge unfair methods of competition goes beyond conduct prohibited by the Sherman and Clayton Acts, in practice the FTC brings most unfair methods of competition cases under the same standards that courts apply to Sherman Act claims. The most prominent exception is the invitation to collude offense, which falls outside the scope of the Sherman Act (if the invitation is not accepted, there is no agreement). The FTC challenges invitations to collude as so-called “standalone” violations of Section 5.4 The DOJ has sole authority to pursue criminal violations of the antitrust laws. Most states have their own state antitrust and unfair competition statutes. State law follows federal law to some extent, though as discussed below, may differ from federal law in meaningful ways that vary state to state. State attorneys general and private parties can also typically file suit to enforce both federal and state antitrust law.

#### Their ‘scope’ is defined by government.

Sagers ’15 [Christopher L; 2015; the James A. Thomas Distinguished Professor of Law and Faculty Director of the Cleveland-Marshall Solo Practice Incubator; Handbook on the Scope of Antitrust, “Introduction,” Ch. 1, p. 9]

B. Sources of the Scope of Antitrust Law

The scope of federal antitrust law is governed by three separate authorities: (1) the U.S. Constitution, (2) the language of the antitrust statutes themselves, and (3) the language of other federal statutes and regulations.

#### ‘Prohibitions’ are laws.

Collins ’12 [Collins English Dictionary; carbon dated April 23, 2012; “prohibition,” https://www.collinsdictionary.com/dictionary/english/prohibition]

1. COUNTABLE NOUN

A prohibition is a law or rule forbidding something.

That’s key to predictability---only an interpretation grounded in the relevant legal literature gives debaters the basis to prepare negatives and affirmatives guaranteed to clash.

That’s an independent impact because debate is a voluntary activity which exports its

benefits through fair adjudication.

#### 1) Bounded discussion — open subjects create incentives for avoidance and monopolization of moral high ground — that denies a role for the neg, destroys research and turns accessibility.

#### 2) Competitive equity — adherence to the first order commitments of discussion is a prerequisite to evaluating the substance of the aff — affirming the predetermined subject of disagreement is a prior question because they’ve unilaterallydetermined neg ground and stacked the deck as far in their favor as possible

#### 3) Clash — it’s an intrinsic good that ensures argument refinement and testing by well-prepared opponents. That’s the only way to facilitate second-level argument development and force debaters to consider a superposition of methods to address a singular issue—open topics encourage linear thinking and prevent meaningful engagement

#### 4) Hubris – their refusal to explore various argumentative approaches to the resolution creates a dogmatic hubris whereby debaters are convinced we’ve already find truth – instead, switching sides on an agreed upon topic enables self-reflexive openness ― that enables idea cultivation and opinion shifting.

#### Evaluate based on competing interpretations, not merits of the aff – it’s a logical consequence of their choice to ignore the topic in this debate anything else is extra topical and should be rejected.

### 2

#### Neoliberalism isn’t a monolithic root cause but it’s pervasive—it disseminates into the most remote terrains of lived experience to corrupt dissent. 1AC’s micropolitics reinvigorates post-Fordist productivity

Papadopoulos 8 (Dimitris, School of Social Science @Cardiff U, Leicester Reader in Sociology and Organisation. “In the ruins of representation: Identity, individuality, subjectification”, British Journal of Social Psychology, 47.1, ebsco//shree)

The turn to micropolitics and the dissolution of the foundationalist understandings of identity (either in its essentialist or discursive reductionist versions) enable political analyses of previously neglected and effaced domains of everyday life. But do micropolitics effectively challenge state regulation and open pathways for the emergence of a multiplicity of different modes of embodied subjectification? Or does embodied subjectification become a new mode of state regulated existence? The power of micropolitics is thought to lie in the fact that they bypass the reproduction of the state as an intact and paramount entity of power. Micropolitics harness everyday lived and embodied experience as a vital matter of political struggles which aim to reinvigorate civil society, that is, the struggles of associations of people which develop outside of state institutions (Warner, 2002). However, seen historically, since the 1980s micropolitics have increasingly become integral to the effective realization of neoliberal governance. This is because this mode of engagement is aligned with transformations which have occurred at the level of the state. The neoliberal state is not a monolithic container, rather it disseminates into the most remote terrains of everyday experience. The dismantling of welfare systems has accelerated, and finally consolidated, the state’s withdrawal from the traditional role of centralized organizer of society. However, the result has not been the disappearance of the state itself, rather we are witnessing the disappearance of the welfare state and the emergence of new one (Fairbrother & Rainnie, 2005; Jessop, 2002; Sassen, 1999). Social control is primarily performed through the colonization of previously regarded private areas of individual existence: the body, health, fashion and well-being, sexuality, your living-room. In this process, embodied subjectification and micropolitics have become necessary elements for the functioning of the neoliberal state. The neoliberal state needs, more than self-regulating individuals, networked actors who actively forge the structures necessary for the transformation from centralized state powers to disseminated modes of neoliberal regulation (Marazzi, 1998; Neilson & Rossiter, 2005; Papadopoulos, 2003; Stephenson, 2003). Hence, although they arose as an attempt to challenge the overly narrow focus on the state, micropolitics have played a vital role in shifting the historical function of the state from centralized control into a disseminated form of control which operates effectively in the terrain of social and cultural life. In this sense, both state- and micropolitics articulate their political agenda inside the terrain of the state and affirm its function and centrality in social life. This is the moment where embodied subjectification and the broader project of critical psychology amplify the production of affirmative subjectivity, a subjectivity which paradoxically solidifies state regulation by operating at its margins. However, the generation of affirmative subjectivity is more than a form of political regulation in contemporary North-Atlantic societies. It is also a productive force in the literal sense. The traditional apparatus for measuring and diagnosing individual differences was insufficient as a response to the social and economical transformations related to post-Fordist labour (Bowring, 2002; Gorz, 2004; Lazzarato, 2002; Moulier Boutang, 2003; Williams, 1994). This is because post-Fordism appropriates as productive resources precisely these forms of individual action and experience, which refer to the totality of individual subjectivity: relationality, emotions, memory, communication, creativity and primarily, the totality of the body. Critical psychology’s conceptualization captures the core tenet of the post-Fordist transformation in a magnificent way: embodied subjectification becomes the algorithm for the realization of the process of the ‘subjectivization of work’, a process which lies in the heart of post-Fordist productivity (Lohr & Nickel, 2005; Moldaschl & Voss, 2003; Scho¨nberger & Springer, 2003). Yet critical psychology neither traces possible ruptures in the post-Fordist arrangement nor explores everyday forms of exodus and disobedience (Moulier Boutang, 1998; Virno, 2004). In other words, the critical psychological view of subjectification can elucidate, or diagnose, the productive role of the psychology in the social earthquake which accompanied the post-Fordist reorganization of labour and everyday sociality in North-Atlantic societies (Gordo-Lo´pez & Pujol Tarre´s, 2004; Papadopoulos, 2004). However, critical psychology is unable to engage with the suppressed potentialities of post-Fordist social relations which could lead to forms of political engagement that question post-Fordism itself (Karakayali & Tsianos, 2005; Negri, 1999; Santos, 2001; Stephenson, 2004). The reason for this is, as I argued above, that embodied subjectification is the core productive form of today’s sociality. Embodied subjectification is not only a heuristic tool which enables social researchers to understand power relations in post-Fordist North-Atlantic societies, but also the very guarantor of what Weber (1978) calls ‘legitimate domination’. A form of domination which is actively and willingly performed differently by each individual and congeals a form of power, which, following Hannah Arendt (1970), emerges not as a means to dominate but by the very fact that people act together. Embodied subjectification (and its very theoreticization by governmentality studies) is a form of obedience to today’s configuration of power in North-Atlantic societies. In this sense, micropolitics and embodied subjectification constitute a form of affirmative subjectivity in neoliberal and post-Fordist conditions. In the last part of the paper, I will briefly discuss Jacques Rancie`re’s concept of politics as a means for interfering in the production of affirmative subjectivity (for a more broad discussion of this issue s. Stephenson & Papadopoulos, 2006).

#### Neoliberalism commoditizes life through market calculations—ensures structural inequality and environmental collapse

Harvey 5 (David, FBA is the Distinguished Professor of Anthropology and Geography @ the Graduate Center of the City Univ. of New York, A Brief History of Neoliberalism, pgs 165-171//shree)

To presume that markets and market signals can best determine all allocative decisions is to presume that everything can in principle be treated as a commodity. Commodification presumes the existence of property rights over processes, things, and social relations, that a price can be put on them, and that they can be traded subject to legal contract. The market is presumed to work as an appropriate guide––an ethic––for all human action. In practice, of course, every society sets some bounds on where commodification begins and ends. Where the boundaries lie is a matter of contention. Certain drugs are deemed illegal. The buying and selling of sexual favours is outlawed in most US states, though elsewhere it may be legalized, decriminalized, and even state-regulated as an industry. Pornography is broadly protected as a form of free speech under US law although here, too, there are certain forms (mainly concerning children) that are considered beyond the pale. In the US, conscience and honour are supposedly not for sale, and there exists a curious penchant to pursue ‘corruption’ as if it is easily distinguishable from the normal practices of influence-peddling and making money in the marketplace. The commodification of sexuality, culture, history, heritage; of nature as spectacle or as rest cure; the extraction of monopoly rents from originality, authenticity, and uniqueness (of works or art, for example)––these all amount to putting a price on things that were never actually produced as commodities.17 There is often disagreement as to the appropriate- ness of commodification (of religious events and symbols, for example) or of who should exercise the property rights and derive the rents (over access to Aztec ruins or marketing of Aboriginal art, for example).¶ Neoliberalization has unquestionably rolled back the bounds of commodification and greatly extended the reach of legal contracts. It typically celebrates (as does much of postmodern theory) ephemerality and the short-term contract––marriage, for example, is understood as a short-term contractual arrangement rather than as a sacred and unbreakable bond. The divide between neoliberals and neoconservatives partially reflects a difference as to where the lines are drawn. The neoconservatives typically blame ‘liberals’, ‘Hollywood’, or even ‘postmodernists’ for what they see as the dissolution and immorality of the social order, rather than the corporate capitalists (like Rupert Murdoch) who actually do most of the damage by foisting all manner of sexually charged if not salacious material upon the world and who continually flaunt their pervasive preference for short-term over long-term commitments in their endless pursuit of profit.¶ But there are far more serious issues here than merely trying to protect some treasured object, some particular ritual or a preferred corner of social life from the monetary calculus and the short-term contract. For at the heart of liberal and neoliberal theory lies the necessity of constructing coherent markets for land, labour, and money, and these, as Karl Polanyi pointed out, ‘are obviously not commodities . . . the commodity description of labour, land, and money is entirely fictitious’. While capitalism cannot function without such fictions, it does untold damage if it fails to acknowledge the complex realities behind them. Polanyi, in one of his more famous passages, puts it this way:¶ To allow the market mechanism to be sole director of the fate of human beings and their natural environment, indeed, even of the amount and use of purchasing power, would result in the demolition of society. For the alleged commodity ‘labour power’ cannot be shoved about, used indiscriminately, or even left unused, without affecting also the human individual who happens to be the bearer of this peculiar commodity. In disposing of man’s labour power the system would, incidentally, dispose of the physical, psychological, and moral entity ‘man’ attached to that tag. Robbed of the protective covering of cultural institutions, human beings would perish from the effects of social exposure; they would die as victims of acute social dislocation through vice, perversion, crime and starvation. Nature would be reduced to its elements, neighborhoods and landscapes defiled, rivers polluted, military safety jeopardized, the power to produce food and raw materials destroyed. Finally, the market administration of purchasing power would periodically liquidate business enterprise, for shortages and surfeits of money would prove as disastrous to business as floods and droughts in primitive society.18¶ The damage wrought through the ‘floods and droughts’ of fictitious capitals within the global credit system, be it in Indonesia, Argentina, Mexico, or even within the US, testifies all too well to Polanyi’s final point. But his theses on labour and land deserve further elaboration.¶ Individuals enter the labour market as persons of character, as individuals embedded in networks of social relations and socialized in various ways, as physical beings identifiable by certain characteristics (such as phenotype and gender), as individuals who have accumulated various skills (sometimes referred to as ‘human cap- ital’) and tastes (sometime referred to as ‘cultural capital’), and as living beings endowed with dreams, desires, ambitions, hopes, doubts, and fears. For capitalists, however, such individuals are a mere factor of production, though not an undifferentiated factor since employers require labour of certain qualities, such as physical strength, skills, flexibility, docility, and the like, appropriate to cer- tain tasks. Workers are hired on contract, and in the neoliberal scheme of things short-term contracts are preferred in order to maximize flexibility. Employers have historically used differentiations within the labour pool to divide and rule. Segmented labour markets then arise and distinctions of race, ethnicity, gen- der, and religion are frequently used, blatantly or covertly, in ways that redound to the employers’ advantage. Conversely, workers may use the social networks in which they are embedded to gain privileged access to certain lines of employment. They typically seek to monopolize skills and, through collective action and the creation of appropriate institutions, seek to regulate the labour market to protect their interests. In this they are merely construct- ing that ‘protective covering of cultural institutions’ of which Polanyi speaks.¶ Neoliberalization seeks to strip away the protective coverings that embedded liberalism allowed and occasionally nurtured. The general attack against labour has been two-pronged. The powers of trade unions and other working-class institutions are curbed or dismantled within a particular state (by violence if necessary). Flexible labour markets are established. State withdrawal from social welfare provision and technologically induced shifts in job structures that render large segments of the labour force redun- dant complete the domination of capital over labour in the market- place. The individualized and relatively powerless worker then confronts a labour market in which only short-term contracts are offered on a customized basis. Security of tenure becomes a thing of the past (Thatcher abolished it in universities, for example). A ‘personal responsibility system’ (how apt Deng’s language was!) is substituted for social protections (pensions, health care, protec- tions against injury) that were formerly an obligation of employers and the state. Individuals buy products in the markets that sell social protections instead. Individual security is therefore a matter of individual choice tied to the affordability of financial products embedded in risky financial markets.¶ The second prong of attack entails transformations in the spa- tial and temporal co-ordinates of the labour market. While too much can be made of the ‘race to the bottom’ to find the cheapest and most docile labour supplies, the geographical mobility of capital permits it to dominate a global labour force whose own geographical mobility is constrained. Captive labour forces abound because immigration is restricted. These barriers can be evaded only by illegal immigration (which creates an easily exploitable labour force) or through short-term contracts that permit, for example, Mexican labourers to work in Californian agribusiness only to be shamelessly shipped back to Mexico when they get sick and even die from the pesticides to which they are exposed.¶ Under neoliberalization, the figure of ‘the disposable worker’ emerges as prototypical upon the world stage.19 Accounts of the appalling conditions of labour and the despotic conditions under which labourers work in the sweatshops of the world abound. In China, the conditions under which migrant young women from rural areas work are nothing short of appalling: ‘unbearably long hours, substandard food, cramped dorms, sadistic managers who beat and sexually abuse them, and pay that arrives months late, or sometimes not at all’.20 In Indonesia, two young women recounted their experiences working for a Singapore-based Levi-Strauss subcontractor as follows:¶ We are regularly insulted, as a matter of course. When the boss gets angry he calls the women dogs, pigs, sluts, all of which we have to endure patiently without reacting. We work officially from seven in the morning until three (salary less than $2 a day), but there is often compulsory overtime, sometimes––especially if there is an urgent order to be delivered––until nine. However tired we are, we are not allowed to go home. We may get an extra 200 rupiah (10 US cents) . . . We go on foot to the factory from where we live. Inside it is very hot. The building has a metal roof, and there is not much space for all the workers. It is very cramped. There are over 200 people working there, mostly women, but there is only one toilet for the whole factory . . . when we come home from work, we have no energy left to do anything but eat and sleep . . .21¶ Similar tales come from the Mexican maquila factories, the Taiwanese- and Korean-operated manufacturing plants in Honduras, South Africa, Malaysia, and Thailand. The health haz- ards, the exposure to a wide range of toxic substances, and death on the job pass by unregulated and unremarked. In Shanghai, the Taiwanese businessman who ran a textile warehouse ‘in which 61 workers, locked in the building, died in a fire’ received a ‘lenient’ two-year suspended sentence because he had ‘showed repentance’ and ‘cooperated in the aftermath of the fire’.22¶ Women, for the most part, and sometimes children, bear the brunt of this sort of degrading, debilitating, and dangerous toil.23 The social consequences of neoliberalization are in fact extreme. Accumulation by dispossession typically undermines whatever powers women may have had within household production/ marketing systems and within traditional social structures and relocates everything in male-dominated commodity and credit markets. The paths of women’s liberation from traditional patri- archal controls in developing countries lie either through degrad- ing factory labour or through trading on sexuality, which varies from respectable work as hostesses and waitresses to the sex trade (one of the most lucrative of all contemporary industries in which a good deal of slavery is involved). The loss of social protec- tions in advanced capitalist countries has had particularly negative effects on lower-class women, and in many of the ex-communist countries of the Soviet bloc the loss of women’s rights through neoliberalization has been nothing short of catastrophic.¶ So how, then, do disposable workers––women in particular–– survive both socially and affectively in a world of flexible labour markets and short-term contracts, chronic job insecurities, lost social protections, and often debilitating labour, amongst the wreckage of collective institutions that once gave them a modicum of dignity and support? For some the increased flexibility in labour markets is a boon, and even when it does not lead to material gains the simple right to change jobs relatively easily and free of the traditional social constraints of patriarchy and family has intangible benefits. For those who successfully negotiate the labour market there are seemingly abundant rewards in the world of a capitalist consumer culture. Unfortunately, that culture, however spectacular, glamorous, and beguiling, perpetually plays with desires without ever conferring satisfactions beyond the limited identity of the shopping mall and the anxieties of status by way of good looks (in the case of women) or of material possessions. ‘I shop therefore I am’ and possessive individualism together con- struct a world of pseudo-satisfactions that is superficially exciting but hollow at its core. But for those who have lost their jobs or who have never managed to move out of the extensive informal economies that now provide a parlous refuge for most of the world’s disposable work- ers, the story is entirely different. With some 2 billion people condemned to live on less than $2 a day, the taunting world of capitalist consumer culture, the huge bonuses earned in financial services, and the self-congratulatory polemics as to the emancipa- tory potential of neoliberalization, privatization, and personal responsibility must seem like a cruel joke. From impoverished rural China to the affluent US, the loss of health-care protections and the increasing imposition of all manner of user fees adds considerably to the financial burdens of the poor.24

#### The alternative is Marxist materialism, which foregrounds tools of political organizing long central to Black radical movements

Ferguson 15 (Stephen C., Assoc. Prof. in Liberal Studies @ North Carolina A & T State U., *Philosophy of African American Studies: Nothing Left of Blackness*, p. 7-14)

Marxism in Ebony Materialist Philosophical Inquiry and Black Studies In any academic discipline, there exist varying, oftentimes even conflicting, conceptual frameworks, theoretical approaches, and methods. Black Studies is no different. In light of the theoretical works prominent today, however, a number of students in AAS might easily conclude that philosophical idealism is the only school of thought. To the contrary, Black Leftist activists were significant players during the early period of Black Studies. The first introductory textbooks in African American Studies were written by Marxist/socialist scholars and activists; for instance, Peoples College's Introduction to Afro-American Studies and Clarence Munford's Production Relations, Class and Black Liberation: A Marxist Perspective in Afro-American Studies. Communist like Jack O'Dell and Robert Rhodes taught African American Studies courses at the Antioch College branch campus in Washington, D. C. And pioneering Black historian and "antibourgeois gadfly" Earl Thorpe - chair of the history department at North Carolina College - was recruited to teach courses on "Marxism and Black Liberation" for the Black Studies program at Duke University.23 However, today, Leftist thought is marginal to the politics and philosophy of Black Studies. Socialism and Marxism-Leninism are integral parts of African American history and culture. Of course, Marxist scholar/activists contributed to African American intellectual history and culture long before what is, in more formal terms, considered the advent of Black Studies during the late 1960s. In the tradition of Hubert Harrison, Susie Revels Cayton, Maude White Katz, Richard B. Moore, Paul Robeson, Oliver Cox, Eugene Holmes, Abram Harris, Claudia Jones, Walter Rodney, Angela Davis, and John McClendon, there is a need to bring the Black working-class-men and women-back into AAS. A materialist philosophy inquiry into Black Studies is grounded on three presuppositions. A materialist conception of epistemology and ontology presumes that there is a reality independent of our consciousness. A materialist ontology asserts the primacy of material reality over consciousness. And a materialist epistemology posits that this reality is knowable and knowledge or what is cognitive (social consciousness) corresponds to and thus ideally approximates this material reality. Lastly, a materialist philosophy presupposes that the social world is a stratified ontology of which class relations (i.e., social relations of production) form the ground for understanding social processes. The call for a materialist conception of science and epistemology should not be seen as a call for an essentialist ascription of AAS, wherein it is viewed only as a social scientific enterprise devoid of cultural studies. The current popularity of cultural studies, often in collaboration with various species of historicism and postmodernist trends, fosters a separation between cultural studies and social relations of production. As a school of thought, it gives less attention to the material conditions that give rise to African American culture and relativizes the objective character of the Black experience. In my estimation, the Black working-class has become lost in the whirlwind of cultural idealism. Contemporary Black cultural theory – under the spell of poststructuralism and Afrocentricity – has declared: class is dead! All that exists is intersectionality and a "matrix of domination," in which everyone is oppressed – women, men, capitalist, workers, children, ad infinitum. And there is a tendency in Black Studies to transform the Black working class into some obscure gray matter known as the consumer, the multitude, or – my favorite from the "friends of the poor" – the Black underclass.24 The relevance and importance of the Black working-class must be brought to the forefront of Black Studies.25 This would entail discarding analytical notions such as "cultural deprivation," "human capital," "culture of poverty," "nihilism," "feminization of poverty," "intersectionality," "underclass," "cultural pathology," and "menticide" that have served to explain the contemporary and historical crisis that confronts the Black working-class. We must discard the cultural idealism of Maulana Karenga, Corne! West, Jawanza Kunjufu, Marimba Ani, Patricia Hill Collins, Molefi Asante, and William Julius Wilson who perceive the "Negro Question'' as an ideological or axiological crisis, for example, as alienation from ancient African values, the loss of a "love ethic," or the lack of human capital. When we view the “Negro Question” as preeminently ideological, moral, or cultural, we ultimately discount the determinate role of material contradictions rooted in class contradictions. As Robert Allen astutely noted, " ... the question is not politics or no politics; rather it is which politics? Whom will Black Studies serve? Will it be truly democratic in its intellectual and political vision, or will it become 'apolitical' and acquiesce to a narrow, elitist and bourgeois view of education?"26 Black Studies and the Question of Western Civilization Revisited C. L. R. James wrote what could be considered a Marxist manifesto for Black Studies in 1969. Speaking at Federal City College, James argues, at the level of theory, that Black Studies should be anti-racist and anti-imperialist in character, but not anti-white. From James's perspective, there is no intellectual space in Black Studies for philosophies of Blackness in which ancient African civilizations, values, and cultural perspectives constitute a "presuppositionless beginning" for Black Studies.27 He parts company with Black nationalists and their contemporary progeny (e.g., Afrocentrists) who argue that every culture rests on a metaphysical, permanent substratum that gives rise to a particular system of thought. He cogently proclaims: We need a careful systematic building up of historical, economic, political, literary ideas, knowledge and information, on the Negro question ... Because it is only where we have Bolshevik ideas, Marxist ideas, Marxist knowledge, Marxist history, Marxist perspectives, that you are certain to drive out bourgeois ideas, bourgeois history, bourgeois perspectives which are so powerful on the question of the races in the United States.28 [Italics Added] For James, the antithesis between bourgeois ideology and proletarian ideology is essential to the development, direction, and aim of Black Studies. James is often viewed as someone who was head-over-heels in love with Western culture and/or civilization. Yet, it is important to note that dialectical and historical materialism (or Marxism-Leninism) constitutes the conceptual and theoretical framework for his assessment of "The Fate of Humanity." In a 1939 article, "Revolution and the Negro" James boldly avows, "What we as Marxists have to see is the tremendous role played by Negroes in the transformation of Western civilization from feudalism to capitalism. It is only from this vantage-point that we shall be able to appreciate (and prepare for) the still greater role they must of necessity play in the transition from capitalism to socialism."29 James's classic works such as *The Black ]acobins* and *A History of Pan-African Revolt* are ardently attentive to the fact that slavery, colonialism, and imperialism are part and parcel of capitalism. Moreover, the revolutionary resistance of people of African descent ostensibly indicates the critical role of Black people as actors or subjects of history and the dialectical development of Western civilization. In unswerving disapproval of Hegel's views about Africans and their place outside of world history, James meticulously documents and effectively demonstrates that-far from being removed from world historical event-African people and their descendants in the diaspora transformed the landscape of world history in a monumental fashion.3° Yet, James's historiography is not some form of racial vindicationism, which claims that ancient African civilization is the real source of Black historic magnitude and ultimately collective identity. Rather James offers insights into the Black struggles against slavery and colonialism as manifestations of the antagonistic contradictions within the modern (bourgeois) stage of world history. Cultural idealism has no place within James's worldview and consequently his philosophy of history. James's philosophy of history is not anti-European, anti-Western, or anti-white; his philosophy of history is stridently anti-slavery, anti-imperialist, anti-racist, and anticapitalist.31 James introduces a conceptual distinction between what is European and what is Eurocentrism. Moreover, he did not accept the abstract concept of the West as monolithic, devoid of internal class relations and contradictory class interests. Black sociologist Alex Dupuy points out that James's dialectical analysis takes into consideration the tremendous value of European culture and its influence on the African diaspora, and vice versa.32 Dupuy argues, "James was redefining the meaning of Western culture away from its Eurocentric understanding. For [James], West Indians were a modern and Western people, though they were not European, a point [James] made in many of his writings, e.g., his semiautobiography, Beyond a Boundary (1963)." 33 James resolutely rejected any outlook that requires Black Studies to be grounded on a uniquely formulated Black perspective (e.g., Senghor's Negritude or Karenga's Kawaida or Asante's Afrocentricity). Dupuy points out that James does not "reject African culture in favor of Western culture." 34 Rather, James's analysis is based on "a historical materialist understanding of culture" and the recognition that "the predominant influences in the Caribbean were those of Western Europe."35 As Dupuy insightfully notes, "The Black ]acobins remains ... one of the most succinct critiques of the barbarism of Western European imperialism but also of the promise of bourgeois civilization."36 Any philosophy of AAS worth its salt should follow in the "Giant Steps" of C. L. R. James. Embracing an ethnophilosophy that is anti-European is as fruitful as masturbation. It may be pleasurable, perhaps even therapeutic, but it won't give birth to a scientific approach to Black Studies. "And that Black Fist becomes a Red Spark" Black Studies and Black Working-Class Studies37 In a post-Cold War world, the "spectre of communism" has apparently been exorcised and laid to rest. There is the widespread belief that we have witnessed the death-knell of Marxism. So, why argue for the legitimacy of and necessity for Marxism in Black Studies? No doubt this has been a hotly debated question both in the Black Liberation movement and in Black Studies for a considerable time. I tend to agree with Brian Lloyd: "I presume that we are witnessing, not the death of Marxism, but the end of the first period during which Marxists managed to seize and, for a time, wield state power. That it has fewer adherents at the end than during other phases of this period, and that as many of them can be found in universities as in factories or fields, is neither disheartening as is imaged by some of its proponents nor as amusing as is supposed by all of its detractors."38 It has become the custom to summarily dismiss Marxism as a viable methodological approach and philosophical perspective for Black Studies. Most of the adversarial postures toward Marxism-Leninism in Black Studies have discounted the value of a materialist dialectical philosophy of liberation, class analysis, class struggle, proletarian internationalism, and the scientific socialist principle of the dictatorship of the proletariat. Despite the sharp divergence of their political views, Harold Cruse, Cedric Robinson, Cornel West, Marimba Ani, Patricia Hill Collins, and Charles Mills have condemned Marx and Marxism for everything from economic determinism to class reductionism to historical teleology and any number of other "conceits." We even find Asante making such puerile statements such as the following: "In fact, we have no history of a communist movement in the United States where communists put their bodies and l.ives on the line as African Americans did."39 Contrary to Asante's claim, scholars such as Mark Naison, Ted Vincent, Erik S. McDuffie, Gerald Horne, Carole Boyce Davies, Robin Kelley, Minkah Makalani, and Mark Solomon in addition to autobiographies by Harry Haywood, Hosea Hudson, and Michael Hamlin offer a much more nuanced picture of communism, socialism, and Marxism-Leninism in Black life and culture. Over the years, scholarship in labor studies and Black Studies has revealed the historical legacy of Black worker militancy. As we travel through the annals of Black history, we unearth Peter Clark's crucial involvement in the Great Railway Strike of 1877, Lucy Parsons's unflinching engagement in the Haymarket Square struggle, the heroic efforts of Ralph Gray, Tommy Gray, Eula Gray, Al Murphy, and scores of Black sharecroppers, tenant farmers, and agricultural laborers to organize the predominantly Black underground organization the Share Croppers Union, A. Philip Randolph's tireless efforts with the Brotherhood of Sleeping Car Porters, Ferdinand Smith's vanguard role in the National Maritime Union and Paul Robeson's monumental efforts to use folk music to entertain Spanish Civil War loyalists and striking workers as he gave support to international socialist solidarity. We could mention the steadfast leadership of Velma Hopkins and Moranda Smith in the 1947 strike at the Reynolds Tobacco Company in Winston Salem, North Carolina. There were Black postal workers like Cleveland Morgan, a member of New York Branch 36 of the National Association of Letter Carriers, who played a seminal role in the nationwide 1970 postal wildcat strike. We could also mention the historic efforts of the League of Revolutionary Black Workers to organize wildcat strikes in Detroit, Michigan. And, in more recent times, we could mention working-class Black women who have fought against the attack on public services, such as public housing and welfare. We should not ignore the fact that many of these activists were socialists, and quite a few were Marxist-Leninist in their ideological outlook. The scholarship of Clarence Lang, John Arena, Adolph Reed, Barbara Ransby, Rhonda Y. Williams, and Joe Trotter has demonstrated the historic importance of the Black working-class to African American history and culture. They bring to light the centrality of class struggle and conflict as determinate features of what makes up the Black working-class. World capitalism gave birth to the Black working-class. The initial accumulation of large sums of capital, which in turn, was invested in the exploitation of European workers, derived from the slave trade and the plantation system in the so-called New World. In volume one of Capital, Marx so famously wrote "capital comes dripping from head to foot, from every pore, with blood and dirt."40 The ruthless exploitation of Black bodies, in a manner of speaking, became the proverbial goose that lays golden eggs, possessing the magical ability to increase the magnitude of capital. Incidentally, the profitability of the "proverbial goose" prompted slaveholder Thomas Jefferson to remark, "it would never do to destroy the goose."41 Leaving the decks of the slave ship, "In the Name of Jesus," large numbers of Wolof, Mande, Fulani, and Mandingo were bound together by chains, from neck to neck and wrist to wrist.42 Out of the diversity of African ethnic groups a new synthesis was formed under the brutal system of capitalist slavery, giving birth to African Americans. The incessant "demand for Black labor" by Northern industrial capital and the plantation bourgeoisie fueled world capitalist development. Black slaves toiled in textile mills, shipyards, sawmills, and coalmines from Virginia to Mississippi. Black women labored on tobacco fields in the Carolina piedmont and picked cotton on plantations along the coast of Georgia. Black men like Tom Molineaux and Black women like Sylvia DuBois were given release time from slave labor in order to engage in athletic labor (as boxers) to bring entertainment and profits to slaveholders and the larger white Southern community. 43 From the seventeenth century to the twenty-first century, from slave plantations to auto factories, Black women, men, and children labored under the hard times of capitalist exploitation. The brutal forces unleashed by the capitalist drive for surplus value laid the foundation for the development of African American life and culture, from religion to music.44 Presently, we are witnessing, from New York to North Carolina to Missouri to Wisconsin to California, concerted attacks on public sector workers in order to resolve the economic crisis ravaging US capitalism. We cannot ignore the fact that Black people are prominent in the leadership as well as in the rank and file in a great number of these mass demonstrations. In cities throughout the country, working-class men and women, Black, white, and Latino, are being blown away by police officers who are ultimately protected by the rule of law. In the aftermath of the murders of Trayvon Martin, Michael Brown, Aiyanna Jones, Yvette Smith, Rekia Boyd, and Eric Garner, Black working people are not silently standing by while the "Lords of Capital" via their "special bodies of armed men'' – with military weapons and tanks – confront them in the streets. This seminal point is lost on Black critics of Marxism during the past 90 years. As numerous studies in AAS have demonstrated, the working-class is not one-dimensional, exclusively composed of white people. The working-class is composed of women, men, and children, in addition to being multinational in character. Marxist studies of Black working-class life and culture are needed now more than ever because in the souls of the Black working-class the grapes of wrarh are filling and growing heavy. As Karl Marx so famously put it, "The weapon of criticism cannot, of course, replace criticism of the weapon, material force must be overthrown by material force; but theory also becomes a material force as soon as it has gripped the masses."45 Philosophy of African American Studies, I hope, wilt serve a prolegomena to the Herculean task of developing a philosophy of AAS from the standpoint of materialism. How well I have backed up this reaffirmation of philosophical materialism and revolutionary socialism with good arguments I leave it to my readers to judge. But the attempt to do so provides an answer-satisfactory to me at least-to justify writing this book.

### Case

Neg on presumption:

1. SOLVENCY---voting aff cannot resolve any of the desires nor relationships that the affirmative has identified as parasitic to black women’s flesh---ballots only signal the winner and loser, it’s not a referendum on what beliefs, feelings or relationships individuals in debate needs to change.

2. PERFCON---voting aff is a performative contradiction because they’ve staked winning this round at NDT on the abjection of black female flesh.

3. INHERENCY---they don’t defend a change from the status quo---affirming non-escape is an observation, not a prescription.

#### Every aff arg about a psychic drive compelling racism is warrantless and believing it ensures fatalistic attitudes that turn self-hate or any other positive impact to the aff.

Hook, 21—Associate Professor of Psychology at Duquesne University (Derek, “Pilfered pleasure: on racism as “the theft of enjoyment”,” *Lacan and Race: Racism, Identity, and Psychoanalytic Theory*, Chapter 2, pg 36-39, dml)

What is immediately striking in these extracts is the role played by affect, or more accurately yet, by the “pained stimulation” of the aroused passions of enjoyment. What both authors highlight—and this speaks to the analytical value of the concept—is that forms of excess stimulation (the “negative pleasure” of jouissance) underlie and propel Symbolic and political constructions of otherness. Different cultural modes of enjoyment are, furthermore, fundamentally discordant. We have then not so much a “Clash of Civilizations”—to reference the Samuel Huntington’s (1997) much cited thesis—as a clash of enjoyments.

Moreover, the difficulty that we have in realizing “full” enjoyment—something that is impossible in Lacanian theory for “castrated” speaking beings—is dealt with by imagining the supposedly unimpaired and inevitably disturbing enjoyment possessed by cultural/racial/sexual others. In short, the fact that we cannot attain the jouissance we feel we deserve results in perceptions of an unhindered, illegitimate, and undeserved enjoyment on the part of others. As Sheldon George notes: “the other’s jouissance, or enjoyment, [is] … the very core around which … otherness articulates itself” (2016: 3). Political jealousy, as Žižek calls it, is thus (at least in part) the result of incompatibilities and more importantly yet, perceived sacrifices of jouissance.

Jouissance: unserviceable tool of political analysis?

Despite having offered only a brief introduction to the above Lacanian ideas, we should pause here for a moment to voice a number of prospective methodological and conceptual problems implied by the racism as (theft of) enjoyment thesis. Doing so will help us focus the expository comments to follow, and indeed, to highlight the potential analytical advantages the thesis may have to offer.

The first critique, which applies to a wide historical range of psychoanalytic theories of racism (see Cohen, 2002; Frosh 1989; Stavrakis 1999), is that of psychological reductionism. Simply put: the complexity of the various historical, discursive, and socioeconomic causes of racism are invariably deprioritized and accorded a peripheral explanatory role once the domain of the psychological is privileged. Accounts of the psychological factors underlying various instances of racism are thus not only de-historicizing and hopelessly generalizing; they are also invariably depoliticizing.

A second critique: is jouissance not a hopelessly open-ended concept? Virtually any cultural behaviour, bodily intensity or libidinal activity can, it seems, be considered to be an instance of jouissance. In view of racism, for example, the other’s enjoyment can refer to everything from their incomprehensible cultural customs and/or religious beliefs (epitomized, for example, in odd food and dress restrictions), to perceived aspects of their distinctive physicality/sensuality (their food, the way they dance, the sound of their music), to attributions of superabundant vitality (they are excessively promiscuous, religious, lazy, etc.)? The concept of jouissance seems thus to be both underdifferentiated and overly inclusive, applying to a potentially endless array of behaviors and experiences. Without a clearer sense of how to differentiate what qualifies as enjoyment and what does not, the concept loses analytical value.

A third line of critique: different modes of enjoyment are implied within the literature, without being properly distinguished. In Žižek’s descriptions of racism and jouissance, for example, jouissance is used broadly to refer to: visceral or passionate modes of experience (the “thrill of hate”); an array of enviable possessions (our “libidinal treasures”) perceived as under threat by cultural others; and a type of noxious “surplus vitality” possessed by such others. So, whose enjoyment are we most fundamentally concerned with in these notions of racism as jouissance, the other’s, or our own? What is the relationship between these two types of jouissance? And how are they related to a third mode, namely the “negative pleasure” of making—experiencing—such troubling attributions in the first place?

Fourth, there is ever-present problem of de-contextualization in “shorthand” applications of the term. This leads to a situation in which enjoyment itself is treated as a causative force beyond adequate consideration of a series of accompanying concepts (the frame of fantasy, the operation of the signifier, the role of the law, the “object a” as cause of desire) that necessarily accompany its proper psychoanalytic application. What auxiliary terms must thus be utilized alongside the concept if it is to serve us as a viable analytical tool?

Critique 1: the notion of enjoyment as psychologically reductionist

There is a crucial passage that is repeated in a number of Žižek’s earlier books (1992, 1993, 2005) and that serves as perhaps his most direct exposition of racism as the theft of enjoyment:

What is at stake in ethnic tensions is always [a kind of ] possession: the “other” wants to steal our enjoyment (by ruining our “way of life”) and/ or he has access to some secret, perverse enjoyment. In short, what gets on our nerves, what really bothers us about the “other” is the peculiar way he organizes his enjoyment (the smell of his food, his “noisy” songs and dances, his strange manners, his attitudes to work—in the racist perspective, the “other” is either a workaholic stealing our jobs or an idler living on our labour)” (1992: 165).

While this seems, in many ways, a gripping account, from a sociologist or historian’s perspective, the degree of reductionism is staggering. The multiple complex sociological, economic, and socio-historical variables underlying distinctive historical forms of racism are brushed aside in favor of a generalizing psychoanalytic formula. Racism = reaction to perception that the (perversely enjoying) other has stolen our enjoyment. This reduction of racism to an affective equation is evident also in Žižek’s precursor in this conceptual domain, Jacques-Alain Miller:

Why does the Other remain Other? What is the cause for our hatred of him, for our hatred of him in his very being? It is hatred of the enjoyment in the Other. This would be the most general formula for the modern racism we are witnessing today: a hatred of a particular way the Other enjoys … The question of tolerance or intolerance is … located on the level of tolerance or intolerance toward the enjoyment of the Other, the Other who essentially steals my own enjoyment (Miller, cited in Žižek 1993: 203).

The depoliticization (indeed, the implicit psychologization) inherent in such a conceptual move is surprising inasmuch it is something that Žižek has proved critical of elsewhere. In a 1998 text, for example, Žižek outlines the charge of psychological reductionism against standard psychoanalytic explanations of racism, which offer

a way of explaining racism that ignore … not only racism’s socioeconomic conditions but the sociosymbolic context of cultural values and identifications that generate reactions to the experience of ethnic otherness (1988: 154).

Surely this also applies to the racism as theft of enjoyment formula outlined above? Explanations of racism as jouissance are surely prone to psychological reductionism inasmuch as they often appear to privilege a series of psychoanalytic assumptions (drive, fantasy, libido, projection, etc.) as existing prior to—or independently of—considerations of economic, historical, political, and socio-symbolic context?

#### Psychoanalysis is inextricable from racial and colonial ideologies—even when seemingly deployed for subversive ends.

Frosh, 20—Professor in the Department of Psychosocial Studies at Birkbeck, University of London (Stephen, “Psychoanalysis, colonialism, racism,” *A Deeper Cut: Further Explorations of the Unconscious in Social and Political Life*, Chapter 3, pg 64-72, ebook, dml) [language modifications denoted by brackets]

This chapter explores the prospects for a psychological contribution to post-colonial thought through the mediation of psychoanalysis. It does not attempt to deconstruct or historicise post-colonialism itself, at least to any significant extent, further than to state the need for a post-colonial theory of the subject that incorporates an understanding of affective and “subjective” issues—precisely the area with which psychoanalysis is primarily concerned. The positioning of psychoanalysis as a progressive, critical approach is not, however, a particularly secure one. The central difficulty is the way psychoanalysis has frequently aligned itself with conformist and even “repressive” tendencies that reproduce colonial and at times racist tropes, often in the context of psychological individualism, but sometimes in an explicitly political manner (Frosh, 1999; Jacoby, 1983). This is despite the existence of a contrary urge in psychoanalysis, especially reflected in the “critical theory” tradition that made use of it in the 1950s and 1960s (e.g., Marcuse, 1955) but also in the work of several followers of Lacan (Stavrakakis, 2007) and some British social reformists (Rustin, 1991). The tendency of American ego psychology to give prominence to “adaptationist” perspectives has been widely noted and has been criticised both by political radicals (e.g., Jacoby, 1975, 1983) and by Lacanians (cf. Roudinesco, 1990, p. 175: “According to [Lacan] such a psychological science had been affected by the ideals of the society in which it was produced”). The adoption of a strong anti-homosexual bias by orthodox mid-twentieth-century psychoanalysts has had particularly damaging consequences for the practice and reputation of psychoanalysis as a whole, even though recent attempts to reconcile psychoanalysis and queer theory are beginning to bear fruit (Campbell, 2000; Frosh, 2006). Psychoanalytic assumptions about the nature of a civilised mind will be briefly discussed below; but overt forms of racism, notably anti-Semitism, have also on occasions been evident in its institutional practices (Frosh, 2005, 2012). Most relevantly, colonialism is a deeply problematic issue for psychoanalysis, because it is engrained in much psychoanalytic thinking and terminology, and this has effects on contemporary theory and practice in ways that are not always recognised. For example, as discussed further below, psychoanalysts often draw on the language of the “primitive” to refer to unreasoning elements of people’s psychic lives. Thus, a notion that someone might be evincing a “primitive fantasy of destruction” is a very familiar one, but what is not acknowledged is that this terminology not only has its roots in a colonial opposition between primitive and civilised, but it also reproduces this division “unconsciously” when it is used. This is to say, the terminology is full of associations that position some ideas as civilised and some as primitive, reinforcing a developmental scheme that is heavily infected by assumptions about the relationship between seemingly irrational and rational thought processes—and in particular who might “own” them.

The history of this stretches back to the beginnings of psychoanalysis, reecting the colonial and racist (including anti-Semitic) assumptions prevalent in the Europe out of which psychoanalysis arose. Freud deployed the idea that the thinking of what he called “savages” was not only contrasted to “civilised” mentality, but also revealed the origins of mental life both for the culture as a whole (the contemporary savage being a throwback to the precursors of modern “man”) and for the individual (the savage mind being like that of a child). For example, at the beginning of Totem and Taboo, subtitled “Some Points of Agreement between the Mental Lives of Savages and Neurotics”, he wrote,

There are men still living who, as we believe, stand very near to primitive man, far nearer than we do, and whom we therefore regard as his direct heirs and representatives. Such is our view of those whom we describe as savages or half-savages; and their mental life must have a peculiar interest for us if we are right in seeing in it a well-preserved picture of an early stage of our own development. (Freud, 1912–13, p. 1)

The repetitive first person plural pronoun is notable here: “we believe”, “we do”, “we regard”, “our view”, “we describe”, “us”, “our own development”. The savage is the other, the not “us”; though as will be outlined briefly below, there is quite a degree of subtlety in what this might mean. Freud also was explicit about how “savages” share attributes with children, both in terms of how they think, and how they are thought about by “we adults”. “It seems to me quite possible”, he wrote (p. 99), “that the same may be true of our attitude toward the psychology of those races that have remained at the animistic level as is true of our attitude toward the mental life of children, which we adults no longer understand and whose fullness and delicacy of feeling we have in consequence so greatly underestimated.”

The adoption of a binary between savage [primitive] and civilised is not perhaps intrinsically racist and colonialist, but the assumption that the latter always displaces the former and, more importantly, that the terms can be applied to different people, is. In Freud’s thought, savage societies hold to various types of irrational thinking (concreteness, mystical attitudes to death, etc.), processes reviewed throughout Totem and Taboo (Freud, 1912–13) and explicitly linked with children in more “civilised” societies. For instance, in writing of wish fulfillment (p. 84), Freud commented,

If children and primitive men find play and imitative representation enough for them, that is not a sign of their being unassuming in our sense or of their resignedly accepting their actual impotence. It is the easily understandable result of the paramount virtue they ascribe to their wishes, of the will that is associated with those wishes and of the methods by which those wishes operate.

These ways of thinking make them “primitive” in the developmental sense that they should normatively be overcome by more advanced modes of being—a theme also taken up in the analysis of religion in The Future of an Illusion (Freud, 1927c). Although Freud himself does not press for political action that does this—he was interested rather in how science might overcome superstition—the general approach is consistent with the justification of colonialism and even slavery on the grounds of the inherent inferiority of the primitive. There is another subtle turn here, however, that is specific to Freud and the early history of psychoanalysis, relating to the intense anti-Semitism of Freud’s time. Gilman (1993) showed how deeply rooted anti-Semitism was in the beliefs of many Europeans, markedly so in the Viennese among whom psychoanalysis grew up, and how widespread were ideas such as that Jews were castrated (hence, feminine), that they were “oriental” and maybe even “black”, and that they were primitive not only in the religious sense (Christianity having displaced Judaism) but also psychologically, socially, and racially. Gilman suggested that Freud, consciously or unconsciously, constructed some of the most conspicuously radical elements of his theory in response to this. For instance, Gilman argued that the trope that Jewish men are castrated through circumcision is replaced in psychoanalysis by the idea that the castration complex is universal, so that all people—including the most gentile—follow a model set by the Jews. This Freudian impulse to disarm anti-Semitism by positioning the Jews as the truly civilised people (which was mirrored in the idea that as nationalism took hold in Europe at the end of the nineteenth century, the Jews might be the only “true Europeans” oriented towards a transnational comity) results in a shifting of the “other” of European society away from the Jew and towards the “savage”, that is, the colonised, black “primitive” of slavery and the European imagination. This theoretical move attempts to relieve Jews from the opprobrium of primitivity (unsuccessfully, as was demonstrated unequivocally just a few years later) by passing it onto the colonised other.

There is always a danger with summary accounts such as this one, that the history it sketches simplistically reduces a tension-filled and ambiguous process to a linear narrative. It is certainly the case, for example, that psychoanalysis was from the start full of impulses that challenged and subverted the assumptions of the societies in which it found itself. Indeed, this is one reason for the mixture of explosive embrace and resistance that characterised the response to psychoanalysis: on the one hand, it fuelled enormous shifts in self-perception, artistic creativity, and even political and economic thought (not conned to outspoken radicals—see, for example, John Maynard Keynes’ (1919, 1936) post-World War I use of Freudian ideas to argue for the importance of emotional factors in economics). In many respects, it is precisely in the tension between what Toril Moi (1989, p. 197) called, in relation to the attitude of psychoanalysis to femininity, Freud’s “colonizing impulse” and its contrary acceptance of “the logic of another scene”—the specific expressiveness of unconscious life—that the creativity of psychoanalysis inheres. Nevertheless, consideration of the rootedness of much psychoanalytic thought in colonial assumptions is important not merely to sweep away the ideological detritus, but also to identify where the investments of psychoanalysis can provide leverage for understanding the place of psychosocial theory in the post-colonial project.

A further example of the “detritus” might be found in some work by Celia Brickman (2003), which offers an extensive account of how the language of primitivity infects psychoanalysis. Like Gilman, she notes how Freud’s “universalizing reconfigurations” (p. 165) turn the despised Jewish body into the model for humanity as a whole. From the perspective of postcolonialism, however, this move, which is subversive in relation to antiSemitism, is “made at considerable expense”, because “the modalities of inferiority previously ascribed to the Jews did not simply disappear but were ambivalently displaced onto a series of abjected others: primitives, women and homosexuals”. Brickman elaborated on how the assimilation of the Jewish other to Europeanism positions psychoanalysis as a colonialist discipline and incorporates racism into its fabric of argumentation.

Categorised as a member of a primitive race, Freud repudiated primitivity, locating himself and his work within European civilisation, with both its scientic and colonising enterprises, and replacing the opposition of Aryan/Jew with the opposition of civilised/primitive. (p. 167)

In relation to psychoanalytic practice, primitive usually means either or both of fundamental and irrational. A primitive impulse is never a rational one; it always arises unmediated from the unconscious and hence has not been worked over by the secondary processes of thought. The sleight of hand then is to link this kind of primitivity with the irrationality of the colonised other and then to make rationality itself the marker of civilised human society—or even of what it means to be human at all. After all, when one loses one’s power of reason, one ceases to be able to function as human at least to the degree that equal citizenship is at risk. In the colonial context, this justifies colonisation: irrational primitives cannot be trusted to run their own affairs; the civilised European is justifiably superior, for everyone’s good. Commenting on Freud’s anthropological speculation, Brickman (2003) noted how the psyche comes to be envisaged as a representation of colonialism and hence how Freud explicitly parallels the structure of the mind with that of (colonial) society:

[By] correlating the progression of narcissism, the oedipal stage, and maturity with animism (savagery), religion (barbarianism), and science (civilisation), Totem and Taboo transposed the racial assumptions of the cultural evolutionary scale onto the modern psyche … The psychoanalytically conceived norm of mature subjectivity was, by virtue of the correlation of libidinal development with the cultural evolutionary scale, a rationalism whose unstated colour was white, just as its unstated gender was male. (p. 72)

Even though these Freudian assumptions are mainly unstated, the terminology and the conceptual baggage of the “savage” and the barbarian remained with psychoanalysis for some time and is still lying only just-dormant in those references to “primitive feelings” that often can be found in clinical psychoanalytic discussions. A certain mode of rationality is given priority here, which is attached to masculine “reason” as it has developed over the period of industrial modernity (Frosh, 1994). That which falls short of it—the “unreason” attributed to women, children, and primitive cultures —is derogated and made subject to reason’s imperialism. This is not, of course, to imply that one should fully affirm unreason as a simple alternative to colonial reason; it is rather to claim that the reason–unreason opposition is itself rooted in a colonial mentality that supports it and narrows the range of what is culturally validated. In a similar vein, Neil Altman (2000, p. 591) commented, “When Freud the ego psychologist said, ‘Where id was, there ego shall be,’ he dened the goals of psychoanalysis in terms reminiscent of the colonial mentality. In this sense, the structure of racism is built into structural psychoanalytic theory, particularly in its ego-psychological form.” This claim is itself resonant of the critique of ego psychology mentioned earlier.

The argument runs that because this form of psychoanalysis assumes reason to be superior to unreason, its concurrent assumption that unreason is characteristic of “primitives” means that it is promoting a colonising process (reason trumping unreason; civilised displacing primitive) that is embedded in a racist paradigm. As an instructive aside, it is perhaps worth noting that ego psychology itself has a complex set of origins, one of which regularly gets lost when its notions of adaptation are pronounced solely conformist and colonialist. The occlusion here is of the personal history of most of the post-Second World War American ego psychologists as migrants or refugees from Nazi Europe. Their concerns were indeed to find creative ways to adapt to a new society; in addition, they were exercised by the explosion of irrationality that had overwhelmed their lost homelands, and their impulse to find ways to fend this off and protect future societies from its recurrence was perhaps understandable. The argument so far is that psychoanalysis has some of its roots in colonialist assumptions that continue to resonate in contemporary theory and clinical practice. Even though this is counterposed with a more complicated investment in a “seditious” mode of critique, the extent to which psychoanalysis is implicated in a colonialist frame makes it a problematic candidate for post-colonial and anti-racist adoption. Nevertheless, it is the case that psychoanalysis also influences contemporary post-colonial theory. This is mainly for two related reasons, one shared with many other disciplines (including psychology) and the other perhaps specific to psychoanalysis. First, the tortured history of psychoanalysis reveals how colonialism infects even disciplines that also have subversive possibilities. Psychoanalysis is a key instance of an attempt to speak “from the margins” about Western culture, and indeed to reveal explicitly how the claim of the West to progress and rationality is underpinned by violence and irrationality. In his theory of culture, Freud proposed that the murder of the primal father was the basis for all civilisation, including (in his 1939 text, Moses and Monotheism) monotheistic religion. In relation to individual psychology, the notion of the dynamic unconscious is such that it places the supposedly primitive at the core of even the most civilised subject. The unconscious is universal, no one is exempt from it; even the most refined person has lust and aggression within. Psychoanalysis reveals this and is consequently a radical opponent of the primitive/civilised distinction. Yet, psychoanalysis carries within it a history of racism and anti-Semitism that is still visible, not only in the fascination with the “primitive” mentioned above, but even in quite recent outbursts of anti-Semitism (Frosh, 2012). Psychoanalysis is thus an exemplary incidence of a disciplinary practice that both draws on colonialism and disrupts its categories at the same time, and exploring how this happens can teach us a great deal about the tentacles of colonialism and racism in intellectual life. Second, perhaps because it does speak from the heart of colonialism, psychoanalysis offers a route towards explicating the workings of the colonial mind and its legacy in the postcolonial world. Ranging from Fanon’s (1952) seminal application of existentially inflected psychoanalytic ideas to the identity construction of the colonised mind (as well as to the explanation of racism), to more recent uses of Freudian theory in explorations of the “melancholic” aspects of the postcolonial state (Khanna, 2004), psychoanalysis has offered a vocabulary and set of conceptual tools for articulating the subtle manner in which sociocultural processes construct, and are in turn supported by, psychic congurations. Edward Said (2003) provided one summary of this in his presentation of Freud’s late work, specically Moses and Monotheism (1939a), as a critique of personal and national identity. This is constituted in “Freud’s profound exemplication of the insight that even for the most denable, the most identiable, the most stubborn communal identity—for him, this was the Jewish identity—there are inherent limits that prevent it from being fully incorporated into one, and only one, Identity” (Said, 2003, p. 53). Freud’s proposition that Moses was an Egyptian emphasises how a nation is never homogeneous, either “genetically” (i.e. “racially”) or culturally. The most important founding figure of Jewish culture is, according to Freud, an outsider, which is a specific instance of a general rule that can be applied everywhere—that identities are always heterogeneous and fractured. This emphasis on the “outsider” at the heart of the nation also undermines claims for the fixedness and superiority of European colonial culture, pointing to the reality that at its source is a hidden otherness. There is no single identity, it is always open to the other, and claims for its univocality depend on drowning out the voices of the others that have given it shape. The European is thus infected from the start with the disruptive presence of the colonised, and psychoanalysis shows how this occurs.

#### Changing discourse fails.

Zack, 16—Professor of Philosophy, University of Oregon (Naomi, “Discourse, Prophecy, and Atmosphere,” *Applicative Justice: A Pragmatic Empirical Approach to Racial Injustice*, Chapter 5, 125-128, dml)

Just law can coexist with unjust practice and both are parts of “empirical law” or what Bendey called “the process of government.” Empirical law is constantly changing and some theorists are optimistic that verbal discourse has the ability to make written law more just, even though the same unjust practices recur or new ones emerge. These theorists, some of whom are or may aspire to become public intellectuals, hope that someday public political discourse on behalf of those who are treated unjustly will have the power to interrupt a cycle of just written law accompanied by continued unjust practice. That is, the “right” discourse perennially holds the promise of changing the beliefs, values, and goals of everyone in the public auditorium, so that the same kind of unjust practices do not perpetually chase the same kinds of just laws.11 This search for “magic words” is futile for academics who are professionally confined to dry and abstract prose. Our verbiage does not have the power to move the multitudes who do not read or listen to it anyway. But even when multitudes are inspired and emotionally stirred by great orators, action that follows is unlikely to result in lasting change, without the support of powerful interests.

After the 1960s, academics began a robust practice of liberatory discourse about injustice that seems to grow more impassioned and intense each year. The quest for demographic diversity among students and faculty in higher education has weathered judicial defeat of explicit affirmative action policies, but only partly for the sake of justice. There are pragmatic prizes if the academy can justify itself by producing a racially integrated leadership and managerial class for business, politics, and the military. Top leaders throughout society realize that they need such racial diversity for broad consumption, voter support, and boots on the ground, and the expression of that need is evident in amicus curiae briefs submitted to the US Supreme Court as it has been torturously dismantling affirmative action, piece by piece, since Bakke in 1978.12 Academic political discourse has been deeper than polemics and debate, exactly because of its disciplined intellectual origins in different fields of study (i.e., discipline imposed by distinct “disciplines”). But it has been swimming upstream against a more rarefied and older academic tradition, particularly among many philosophers and their gate keepers outside of the profession. Even Hannah Arendt (see chapter 2) spoke approvingly of the life of the mind as cut off from real political activity that occurred in the realm of “opinion.” In her 1970 interview with Adelbert Reif, Arendt addressed the phenomenon of college-stu-dent protestors, noting that they had brought social change through optimistic belief in their ability to make a better world, while at the same time discovering joy in civic participation. Arendt credited such protests with the success of the civil rights movement and progress toward ending the Vietnam War.13 As discussed in chapter 4, it is doubtful that Arendt was correct that student protests caused the success of the civil rights movement. A historical analysis of the end to the Vietnam War is beyond the present scope, but what we already know about empirical Bentleyan analyses would warrant skepticism about Arendt’s causal thesis there as well. In the same interview, Arendt warned that demonstrations by student activists could be self-defeating in democratic Euro-American contexts, because in attacking their universities, they were attacking the very entities that made their protests possible, American universities, especially large state schools that were the sites of the protests Arendt had in mind, have perforce developed very different financial structures since 1970. These schools have become increasingly dependent on private corporate and philanthropic funding, with state government funds now a much reduced part of their budget. While this structural change is not generally viewed as an incursion on academic freedom, it has been coincident with a very flat era of student protest and activism. Still, Arendt's notion of the "life of the mind” remains useful if we consider that the progressive/change-seeking output of professional academics since 1970 has been professionally accepted in the institutions that employ its participants. Also, much of today’s liberatory academic discourse can be viewed as the legacy of earlier student protest, furthering a tradition that may have been founded when some of the 1960s student radicals became professors. This indicates that the connection between academic radicals and the hands that feed them is not as simple as Arendt thought. In the United States, everything now points to both the existence of real academic freedom and its real ineffectiveness.

Progressive academic writers ply a craft of formal speech that deals with contemporary injustice through complex theoretical frameworks, with requisite scholarly apparatuses and without translation into more simple views of the world; there is often also a lack of translation from one discipline to another or between subdisciplines in the same field. The audience is other academics and students. Neither specialization nor the limited and partly captive audience should be viewed as problematic because that is the nature of academic work, given broad social divisions of labor. But there is a problem with the delusional nature of so much of this work. The delusion consists of a naïve view of the power of academic speech to directly change reality. The rhetorical mode of address used by academics writing cultural criticism, political philosophy, social philosophy, or what is now called social-political philosophy (which combines the other subfield approaches), often proceeds as though its authors are making grand entries in a planetary cabala, where words have the immediate power to become their intended referents.

Those who do not write and speak cabalistically may subscribe to the Trickle-Down Good Ideas Theory that can be traced from Plato to John Stuart Mill to John Rawls. Subscription to that theory is immediately self-flattering, but it lacks reliable empirical support.16 Although, after the US civil rights movement, there has been an uncanny coincidence of race-blind formal racial equality with the hegemony in political philosophy of Rawls’s requirement that those who plan fundamental social institutions do so in ignorance of their own societal environments. As we saw in chapter 1, Rawls was quite explicit about this:

I assume that the parties do not know the particular circumstances of their own society. That is, they do not know its economic or political situation, or the level of civilization and culture it has been able to achieve. The persons in the original position have no information as to which generation they belong.17

Both race-blind racial equality and Rawlsian ideals are compatible with race-based real inequality. There are, of course, counter-examples, such as Katherine MacKinnon’s work on sexual harassment in the workplace as expressed in current law and institutional policy.18 Nevertheless even very good academic political discourse about justice and injustice cannot be relied upon to attract implementation or application in real life. This may be because there has not been sufficient time for the development of training programs for a new profession of “bridgers,” who could translate good ideas in the academy for those who govern and make policy. An internal problem for such translators would be to decide where to anchor their bridges in fields—every humanistic field—where experts disagree. However, the current tradition of progressive academic writing and speech is less than half a century old and if and when such translators emerge, they will develop their own professional criteria for choosing among contending experts.

PUBLIC DISCOURSE, ATMOSPHERE, AND CLIMATE

Public media, as a democratic analogue to disagreement within academic discourse, supports the idea that expressing and airing views in day-to-day practices or special “national conversations” also have immediate practical results. It is not evident how there could be such results, when opposing views and opinions are treated with the same respect and have equal access to the same mass auditorium that lacks rules for evidence or valid argument. As with academic discourse, there is no structured connection to official decision processes. The only reliable result of participation in such unbinding referenda is that those who participate are able to express themselves and get attention that may benefit them in the marketplace of their related endeavors.

#### Pornotroping is actually a symbolic disavowal of social death.

Ibrahim, 21—School of Business and Management, Queen Mary University of London (Yasmin, “The dying Black body in repeat mode: the Black ‘horrific’ on a loop,” Identities: Global Studies in Culture and Power, April 28, 2021, dml)

Technology has been intimately implicated with the reproduction of form, its mutilation and erasure. Flesh can be reified or made virtual through technology. Hence, if photography promises an enhanced mastery of nature, it also threatens conflagration and anarchy, an incendiary levelling of the existing cultural order (Sekula 1986, 4). As such the ‘wretched image’ online of Black bodies dying becomes part of a burgeoning shadow archive with an assemblage of brutalised lives. For Steyerl (2012, 44), these floating images equally stand in for their own real conditions of existence: denoting swarm circulation, digital dispersion, fractured and flexible temporalities, encompassing resistance and appropriation, and enacting conformism and exploitation. Technologies deposit their own bias while blurring truth regimes through their modes of inflection. If photographs of lynchings solidified White supremacy and claims over Black flesh, these very gruesome images used by Ida B. Wells for activism in her anti-lynching campaign were transformed in their very re-appropriation (Raiford 2012). The exclusion of Blackness and racial erasure from the realm of ontology has meant a withdrawal and equally a transcendence from the materialist, non-humanist constructions of being or having the affective and aesthetic capacity to experience itself culturally.

Photographs as part of technological regimes of remediation are then not singular compositions but yielding relations to one another, functioning through a visual indexicality of the social and moral. In so doing, Raiford (2012, 302) contends that the multiple visual representations of African Americans were always and continue to be in intense dialogue with each other. In tandem, Ida B. Wells’ engagement with the shadow archive forces us to rethink the collapsed categories of Blackness in resurrecting Black humanity. Black bodies ordained through frames of criminality, the pornographic, ethnographic, the comedic, or in the margins of the sentimental portraits of Whites demonstrate how technology has been used to reconstruct not merely individual and collective selves, but also racial and national histories (Raiford 2009, 120). Hence imagery and its re-appropriation has transformative potential.

Similarly, this poor image online can construct anonymous global networks just as it procreates a shared history, building alliances as it journeys through fluid spheres, provoking translation or mistranslation, and creating new publics and debates (Steyerl 2012, 42). Through fracture and disruption of thought and affect, Steyerl argues that the poor image prompts non-conformist information circuits (2012, 43). Losing visual substance as an unstable image on platforms, it acquires political resonance creating tractions through its mutability and travel within a voluminous repository where it can be revived and politicised through tagging, hashtagging and traffic, imbricated in the re-direction of gaze and the acquisition of affective spheres engaged in the recalibration of life and death. Its circulation can create ‘visual bonds’ (Vertov 1995) linking communities and audiences with shared interests and sense of identification just as much as global information capitalism enables mutual excitement (Steyerl 2009, 7) and unanticipated disruptions. It is within this chaos that re-materialisation of Blackness ignites, through new modes of the social and visceral. If Blackness is defined through its fluidity and virtuality and the denial of form and ontology, it then is already the ‘post-entity’ lending to the digital spheres in terms of mutability in the abstraction of form and its capacities to be re-morphed. Dying and Black bodies contain both violent and fecund potential for re-imagination and communion in the virtual sphere where they can gain speed, subvert mortality or defy the sacred. The mutilated Black body has been historically appropriated for civil action to implant Black resistance within White civil society in illuminating its absent/presence as an immanent struggle within the ontological. The banalised and brutalised Black body has been the canvass for the symbolic disavowal of social death despite its mortal demise. The politicised brutalised images of Emmett Till and his open casket invoked a public spectacle into the tormented Black flesh of a young boy, in the process transforming the Black corpse into an active projection of White inhumanity and racial injustice. This wretched grainy image widely circulated in the Black press, with thousands of mourners viewing his body directly at the funeral home (Harold and DeLuca 2005, 265), reversed the public spectacle of lynching. Enacting a dehiscence, Emmett Till was transformed from a trophy of racial violence to a mirror into the depravity of Whiteness.

The Black bodies preserved through the liminality between life and death then call out for a re-reading and re-appropriation of this traumatised flesh. For Spillers (2003, 205), preservation becomes a form of celebration transforming the body in demise into a ‘hieroglyphics of the flesh’. For Moten (2013), degenerative and regenerative preservation is critical celebration for Blackness. Celebration as the essence of Black thought, the animation of Black operations, constitutes an ‘undercommon’, underground, submarine sociality (Moten 2013, 742). As a perverse form of celebration or jouissance these traumatised bodies are transformed into a ‘fleshy archive’ in which the abrasions, gashes, and lacerations record the unchecked power and inscriptions of torture over the captive body (Spillers 2003, 205). The absent centre of ontology and its denial for Blackness is unveiled through Afropessimism, yet its presence seemingly structures society and its ideological interpellations. If Black life is not lived in the world that the world lives in, but it is lived underground, in outer space (Sexton 2011), the virtual, given over to commodification and value accumulation of platform capital, is both a space for anarchy and non-conformism but mostly ‘virtuality’ in its premise to reclaim Black flesh and transform in its defiance of mortality online. Hartman contends that in the postbellum era, the elasticity of Blackness is not containable despite the excess of surveillance and regulation over its body (Hartman 2008, 2). Hence, the virtual liquifies mortal death as an agentic device for re-appropriation and the affective re-articulation of Blackness despite its ontological lack to feel its insides in expressing the jouissance of Blackness.

Through his philosophy of ‘Black mysticism’ Fred Moten counters the criticism of Blackness as not given to ontology without eliding into Afropessimism to denote it as the phenomenology of Black spirit. Filtering Blackness in a world of anti-Blackness is a mode of re-orientation into Blackness. Black spirit can be resurrected through art and music, and Blackness can reject form in re-enacting itself to avoid the ontology adduced through White civil society. The virtual, though fraught with dialectical tendencies between oppression and resistance, re-mediates new possibilities for filtering disembodied Blackness through a new vernacular mediated through technology and platform capital. For Moten, Blackness, as that which operates ‘at the nexus of the social and the ontological, the historical and the essential’, (Thompson 2017) is fluid and intangible but capable of experiencing the affective and sensuous in its self-realisation despite its lack of form. Blackness is paraontological in that lived experiences of Blackness both enact and escape the assignment of Blackness to social death, of non-being. This straining of Blackness against itself disrupts and resists the ontological. As such, for Moten, ‘it is escape and is what escapes’ (Thompson 2017).

The creation of visual bonds through floating ‘poor images’ as a shadow archive affords a politics of refusal. The politics of refusal entails the ‘rejection of the status quo as liveable and the creation of possibilities in the face of negation (i.e. a refusal to recognise a system that renders you fundamentally illegible and unintelligible). This encompasses the decision to reject the terms of diminished subjecthood using negation as a generative and creative source of disorderly power to embrace the possibility of living otherwise’ (Campt 2019, 84). As Blackness is not a category for ontology or for phenomenological analysis, Moten defines this zone of non-being as experimental, in which friendship’s sociality overflows its political regulation (Moten 2013, 768).

Dead bodies possess the possibilities for igniting communion through the social and against the political in igniting a politics of refusal as agents of resistance through their immortality in the cultural memory of resilience. Patterson (2016) co-founder of the Black Lives Movement (BLM) asserts that murders of two teenagers – Trayvon Martin, 17, in 2013 and Michael Brown, 18, in 2014 – as igniting points for the movement. According to Fairchild (2017) ‘the most proximal influence was the Black Lives Matter movement – 2014 to the present – that was inspired by a seemingly endless list of innocent Black lives lost to violence’. Springing into national and global consciousness in 2014 and 2015, BLM’s emergence was marked through the demonstrations throughout the US in Ferguson, Missouri, following the killing of Michael Brown to bring attention to police brutality and the extra-juridical power of authorities in governing the Black population (Abdullah 2015). The BLM hashtag was created after the killers of these unarmed teenagers escaped with impunity.

With the movement embracing people at the intersections of social marginalisation such as the LGBT community, prisoners, students and others, it has been perceived as a new ‘civil rights movement’ (Patterson 2016) challenging an array of injustices from prison conditions and voting rights to a more equitable criminal justice system. Their tactics seek to draw attention to the cycles of injustice and compounded trauma which poor African American communities encounter as a lived experience. Within this the shooting and premature death of Black men and women (Baraka 2015) as anoetic reality and a mode of social control ordained through the violent history of America which is rooted in colonialism, slavery, the plantation economy, and racial segregation (Fairchild and Abdullah 2017).

The emergence of the BLM in its endeavour to recode traumatised Black flesh into humanity incorporates an intertextual bind in re-directing the gaze of the Black bodies dying in a loop online. Denying their fungibility and commemorating them through their individual names, the reclamation of dead bodies as worthy lives given over to premature death enacts both the dreaded claims of Afropessimism in remediating the ontological lack of Blackness, but in being able to feel back and in feeling jouissance as a community envisioning itself through new modes of virtual imagination and conversations. Black consciousness through social media platforms, as in the case of ‘Black Twitter’, and the re-directing and re-appropriation of hashtags is a means to inscribe disembodied Black consciousness on global platforms. If Black flesh and Black humanity is seen as living through the realm of the virtual through its social death, the virtual sphere resurrects Blackness3 through the politics of refusal and a means to re-imagine social bonds as exemplified in ‘Black Twitter’ as streams of Black consciousness and cultural conversations (Brock 2012; Sharma 2013). Similarly, Florini (2014) explores the performance of Black racial and cultural identity online through displays and cultural competence and knowledge as means to remake identities visible online. Similarly, Sharma contends that (2013, 46) Blacktags (racialised hashtags) are instrumental in the production of networked subjects with the capacity to multiply the possibilities of being raced online. Transcendence into virtuality with the absolution of corporeality creates space and digital enactment of Moten’s Black mysticism. The material body or indeed the Black body becomes fluid, re-abstracted through social and cultural expressions and interactions (Brock 2012) as a mode of sense-making and performance of racial identities lived through a White ontology on social media platforms. This act of performing race becomes an important dimension of speaking back and resistance against erasure (Nakamura 2008). Exhaustion of Blackness as a mode of life, for Moten, is the very fundamental reason not to believe in social death and that Black life is irreducibly ‘social’ (2013, 738).

The virtual as a sphere for the absorption of political ideologies and its refraction affords technological mediation to re-experience Blackness and to culturally experience it through disembodied presence. It is experimental, lending to fluidity, projected through its multiplicity, weaving through networks and embracing an immortality in which forgetting and erasure are problematic. As an imperfect medium of echo chambers and viscerality, its ability to reproduce ideological violence coalesces with the means to re-draft Black consciousness within the bowels of technological mediation, algorithmic gaze and virulence. In discussing the lynching photographs, Raiford (2012, 118) asserts that activists and cultural producers have returned repeatedly to ‘the sight of a Black [person] hanging from a tree’, making it iconic. These visual returns for Raiford illuminate the primary role of vision and visuality in Black social movements. In tandem, Black visuality, or how one is made to see Blackness and how Blackness itself sees the unseen therein is inextricable from African American movement efforts to change the conditions of Black people’s lives. The seeing is transformative, harnessing both individual and collective senses of being in the world, or ‘how we see Blackness, the meanings we attach to Black people, and the value we attach to Black life because of this ‘sight’ (Raiford 2009, 118). The dominated subject in recognising the power of her own ‘double-consciousness’ is seen but also sees. For Spillers, this return of the gaze that negotiates at every point a space for living, employs the concept of counter-logos. Spillers (2003) offers ‘counter-mythology’ as the articulation of a critically insurgent agency. Such an insurgency cuts through theological protocols of racialisation, which cannot be severed from the protocols of gender and sexualisation or from the capturing of maternity within patriarchy (Carter 2013, 594). These complexities of Black visuality and counter mythologies are reabsorbed into social media platforms to rearticulate Blackness through lived experiences, subversions, new vernacular and insider humour (Brock 2012; Florini 2014), and through the banal as well as spectacular encounters of the everyday.

Conclusion

The dying Black body consumed non-stop online as part of a spectacular economy opens up the Black horrific a shadow archive. It conjoins Blackness as an abortive project contextualised against Afropessimism and social death and the Black subject as a non-ontological entity. Formless, non-corporeal yet forged through social death and mortal death as a proximate reality, death permeates the Black body claiming it through its demise as a pornotrope. This pornotrope assumes a fecund virality online through the digital economy in which images circulate infinitum adducing the intrinsic fungibility of the Black body and its malleability in the virtual sphere. If death imagery has always been re-drafted for political agency historically, on social media it is re-birthed as the wretched image. Grainy images online work through the dialectics of platform capital and intertextuality offline and online, engendering a means to feel back as a community within White ontology through a critical insurgency. Spillers’ critical subjectivity offers as a mode of insurgent agency in releasing and resurrecting Blackness from social death. This critical subjectivity then produces Blackness as ‘mystical’ and stateless (Spillers 2003). The virtual offers an imagination of an unbounded sphere while affording a performative insurgency on a global stage invoking Moten’s (2003, 257) ‘Mystical Blackness’ as a way of elaborating this-worldly potentialities of the flesh constituting a multitude, or a different mode of organising social. This new means of social organisation of community or experiencing as an affective community induces the experimental in which dominant visuality can be reiterated and equally thwarted. Imperfect platforms can induce extreme experimentation and reconfiguration of social reality. Social media as a mutilated space of tortured and immortalised bodies is a fervent burial ground, reiterating Moten’s assertion that ‘Black is irreducibly social or lived in the burial ground of the subject’ (2013, 739). Social media as the burial ground of the living and the virulent dead is both a space to reconvene, commune and articulate the ‘unthought’ of Blackness (Hartman and Wilderson 2003) and reclaim the Black horrific as agentic.

#### Engaging the state is an important part of centering black women.

Nash, 19—Professor of Gender, Sexuality, and Feminist Studies at Duke University (Jennifer, “love in the time of death,” *Black Feminism Reimagined: After Intersectionality*, Chapter 4, 121-126, dml)

My conception of witnessing is also resonant with Sharpe’s notion of “wake work,” an insistence that black subjects live in the midst of ordinary daily violence, but that we live nonetheless. Here, Sharpe builds on the long black feminist engagement with survival as a radical form of politics, a tradition that emphasizes black creativity, black thriving, and black life in the midst of overwhelming violence. For Sharpe, “wake work” refers to how black subjects “resist, rupture, and disrupt that immanence and imminence [death] aesthetically and materially.”30 It is an analytic, a critical practice, a mode of living, and a form of witnessing that names the ecology of relentless antiblack violence and the acts of black world-making that unfold nonetheless. It is, then, a form of witnessing that attends to black life in “the wake.”

This section has endeavored to reanimate some of my earlier work on love-politics by centering vulnerability and witnessing as crucial to black feminism’s long labor of investing in love as a political practice. In so doing, I aspire to theorize love’s meanings more robustly than has been done in black feminist scholarship, which simply claims love as a terrain of hope, potentiality, or promise. Instead, I aim to think through the underpinnings of love, carefully tracing the analytics that undergird black feminism’s investment in loving practices as political work. In the next section, I consider how, surprisingly, intersectionality’s juridical iterations make visible and possible black feminism’s long-standing investment in these dual ethics.

Returning to the State

This book began with substantial engagement with intersectionality’s origin stories, examining how the question of where the analytic came from, who coined it, and who deserves “credit” for its rise and circulation have come to predominate in black feminist scholarship. Curiously, though, none of these widely circulating origin stories contend with intersectionality’s connections to the juridical, or think deeply about intersectionality as a legal project. Though this book eschews simple origin stories that presume that intersectionality has a singular history, in this section, I advocate for remembering intersectionality’s connections to critical race theory, and thus its intimate relationship with remaking law. I invest in this project because intersectionality has been swept into a larger black feminist conversation that presumes the violence of the juridical, ignoring both intersectionality’s loving investment in the juridical and the juridical as a potential site of loving practice. Put differently, in this section, I emphasize intersectionality’s location in critical race theory, in Left legal projects, to move beyond the now knee-jerk Left (and black feminist) sense that radical and transgressive projects are necessarily antistate. In place of this now familiar political terrain, I seek to ask different questions: Is it simply collusion or “cruel optimism” for black feminists to seek engagement with the state?31 Can we imagine black feminist engagements with the state as taking forms other than seeking redress and demanding visibility? Are there ways to imagine black feminist legal engagement that circumvent the uncomfortable and problematic position of being “at home with the law”? How can black feminists reimagine law as a site for staging productive intimacies and enacting radical vulnerabilities?

In its juridical iteration, intersectionality emerged in a moment where critical race theorists offered analytical tools to upend prevailing fictions of law’s objectivity, to reveal the quotidian nature of racism and sexism, and to argue for fundamental transformations in legal pedagogy. Critical race theory, then, was born of a sustained attention to law’s failures, even as it contained—at times—certain kinds of faith in law’s potentiality and promise. Critical race scholars were a post–Brown v. Board of Education generation who witnessed the end of the Warren court’s promises of integration and inclusion. They saw affirmative action rolled back, transformed from a substantive remedy for past and ongoing discrimination to a promise of “diversity” to benefit white students who would be changed into global citizens ready for corporate employment thanks to their “exposure” to socalled racial difference.32 They witnessed the ratcheting up of standards for proving employment discrimination from racially disparate effects to discriminatory intent, effectively making it harder for minoritarian plaintiffs to prevail in discrimination suits. They emphatically asked, then, whether the goal of antiracist legal scholars should be inclusion in white institutions or whether it should be, for example, the creation of robustly funded and supported black institutions. They interrogated whether the Warren court’s landmark decision in Brown would have better served its black plaintiffs if it equally funded black schools, rather than championing desegregation and then mandating integration at “all deliberate speed.” They debated whether affirmative action should be supported if the only logic to support it is “diversity,” where students of color provide a pedagogical value for white students. Critical race theory, then, was never an embrace of an ethic of inclusion, or even a form of advocacy for new forms of redress. Instead, it was undergirded by an investment in revealing that racial progress was the result of “interest convergence” rather than a genuine investment in antisubordination, and by a fundamental belief that law would look and feel different if it “looked to the bottom.”33

While critical race theorists offered critical interrogations of law’s imagined progress, treating it as evidence of US self-interest rather than a genuine investment in racial redress, they also routinely offered ways of imagining law otherwise, refashioning antidiscrimination law, conceptions of evidence, property, and contract. They imagined a form of law that eschewed color blindness and argued that any legal regime that sought to contend with American racial violence had to be deeply color-conscious to exact meaningful remedies. They advanced new methods—narrative, parable, allegory, speculative fiction, storytelling—in an effort to jam the fictions of objectivity and neutrality and to expose that law is itself a racial project, never removed from the racial regimes it purports to disrupt. In other words, they sought to use their locations in the legal academy and in the legal profession to radically remake law, to push the boundaries of how legal doctrine could be written, imagined, and enacted. They aspired to make law into something unrecognizable and unimaginable, to push at its very parameters in the pursuit of a “jurisprudence of generosity.”34

My entry point for thinking through law as a site of black feminist love-politics is through the work of Patricia J. Williams. Her book The Alchemy of Race and Rights is complex in its form and its argument—it is memoir, “diary,” legal treatise, and critical theory at once. Williams presents herself as professor, consumer, daughter, granddaughter, train rider, and “crazy” black woman exhausted from the ordinary and spectacular raced and gendered brutalities of American life and the project of teaching law at a historically white law school. The project, then, is a rumination on the felt life of racial and gendered violence, and a critical analysis of the myriad spaces where this violence unfolds, from the media onslaught against Tawana Brawley to the experiences of being a black female faculty member at a law school.

Williams’s inquiry, though, is not simply about documenting the ubiquity of racial and gendered violence but also about engaging and describing the lived experience of racialized and gendered vulnerability, what she terms “spirit murder.” For Williams, “spirit murder” is the psychic and spiritual wounding that unfolds as a result of racial violence. “Spirit murder” describes the wounds left on the flesh, psyche, and even soul of those who experience violence and the wounds, often invisible, that haunt perpetrators of violence, including a willingness to accept, and to render unseen, those who are dispossessed. Williams’s task, then, is to imagine what law could look and feel like if it accounted for “spirit murder,” a form of violence that she argues includes “cultural obliteration, prostitution, abandonment of the elderly and the homeless, and genocide. . . . What I call spirit murder—disregard for others whose lives qualitatively depend on our regard—is that it produces a system of formalized distortions of thought.”35 Williams argues that “we need to elevate spirit murder to the conceptual—if not punitive— level of a capital moral offense. . . . We need to eradicate its numbing pathology before it wipes out what precious little humanity we have left.”36 Williams’s conception of “spirit murder” imagines law’s capacity to remedy forms of violence against the psyche and soul, a terrain that has been unimaginable to law precisely because of its commitment to remedying only visible and legible harms, and law’s ability to be mobilized “conceptually”— but not punitively—to respond to violence. In other words, the endeavor of the text is to imagine a legal project capacious and creative enough to attend to what it has always ignored: the violence inflicted on the psyche. Williams effectively invites us to imagine how we might feel differently toward each other, and toward law itself, if we had legal obligations toward mutual regard, if we knew that law took seriously spirit murder.

If Williams seeks to use law to exceed what it aspires to do, to respond to the “cultural cancer” of spirit murder, her book also contains a resounding, and even surprising, redemption of rights as a key strategy for reforming law. An embrace of rights might sound like a deeply conventional strategy, mobilizing law to do what it has long claimed to do on behalf of racialized and gendered minorities: confer rights. Despite her lengthy engagement with state violence, her exacting critique of how law permits rather than redresses spirit murder, Williams ends not with an abandonment of the state but with a deep affection for what rights could accomplish. She writes:

The task is to expand private property rights into a conception of civil rights, into the right to expect civility from others. . . . Instead, society must give them [rights] away. Unlock them from reification by giving them to slaves. Give them to trees. Give them to cows. Give them to history. Give them to rivers and rocks. Give to all of society’s objects and untouchables the rights of privacy, integrity and self-assertion; give them distance and respect. Flood them with the animating spirit that rights mythology fires in this country’s most oppressed psyches, and wash away the shroud of inanimate-object-status, so that we may say not that we own gold but that a luminous golden spirit owns us.37

If critical legal studies called for the abandonment of investment in rights, treating rights as relatively unsuccessful in securing social change and as promoting problematic conceptions of individualism, Williams makes a plea for a dramatic expansion of rights and a surprising reconceptualization of the labor of rights. Rights, she argues, should not be the purview of those who can explicitly and legibly name harm. Cows, history, and rocks should have rights, including rights to “privacy, integrity and self-assertion.” Rights should not be “reified” but generously bestowed upon everyone and everything; rights should not be used to shore up ideas of property and ownership, to allow us to claim that “we own gold,” but instead to ensure a deep spiritual connection between us. In so doing, law could remake “society,” transforming its investments in rights as something that protects property holders into rights as something that can ensure our mutual accountability, and reminds us of the “luminous golden spirit [that] owns us” all.

It is easy to read Williams as optimistically rehabilitating rights from the critical legal studies’ critique of rights, and problematically investing in precisely the doctrinal formulation that has consistently failed minoritarian subjects. In this reading, Williams is imagined as paradoxically investing in precisely the site of violence she carefully documents with far too little explanation for how rights can circumvent the problems of racism and sexism she delineates. Yet I read Williams’s visionary account of rights differently. For her, law can be mobilized not to produce new causes of action, to simply make visible new wounded subjects who can make appeals to redress, but to imagine new and radical vulnerabilities. As it is currently structured, property deeply organizes sociality, and law operates to protect property from trespass and theft. Thus, law operates to create categories like property holder (owner) and trespasser (thief), and to organize the social world around proximities to ownership. Williams uses her capacious conception of rights to imagine another way of organizing sociality: around vulnerability. Indeed, Williams asks: How are we bound up with others? What is our responsibility to ensuring the vital “spirit” of others, and to demanding the protection of our own “spirits”? What happens when we harm things that can’t articulate injuries (trees, rocks, rivers) but can only make that injury visible and oftentimes in ways that we refuse to recognize, or that might even make that injury visible in another time, in decades or centuries when we are not even here to be accountable? What happens when we take responsibility for our capacity to wound and for the histories of wounding and violence that have unfolded, often in our names? And what happens when law becomes a critical tool in making visible mutual vulnerability, in insisting that we recognize that we can “undo each other,” and in demanding that we take seriously our indebtedness to each other? For Williams, then, expanding rights becomes a strategy for transforming law to be a space that enshrines a vision of interdependence and shared vulnerability.

I begin my investigation of the possibility of rooting black feminist lovepolitics in law with Williams’s visionary work because it reveals the potential of black feminist legal scholarship that fundamentally reorients law around ethics of vulnerability. This is work that expresses a fundamental faith in law’s capacity to perform different kinds of justice work, even as it recognizes how law is often mobilized as an agent of inequality and injustice. Like Williams’s radical remaking of rights, Crenshaw’s conception of intersectionality tugs at the seams of law, working within its confines to radically unleash its transformative capacity. As I explained earlier in the book, intersectionality is primarily remembered for its now widely circulating accident metaphor, where discrimination is imagined as traffic flowing through an intersection. It can move in one direction, another direction, or both, and an “accident” can occur on either street or in the intersection. According to this logic, discrimination can be race-based, gender-based, or race-and-gender-based, yet the possibility of raced and gendered discrimination is rendered impossible by antidiscrimination law that actively refuses to account for this form of violence. As Crenshaw notes, “Judicial decisions which premise intersectional relief on a showing that Black women are specifically recognized as a class are analogous to a doctor’s decision at the scene of an accident to treat an accident victim only if the injury is recognized by medical insurance.”38 Intersectionality, then, spotlights law’s refusal to see black women’s race- and gender-based injuries.

Many have envisioned intersectionality’s mandate as the insertion of black women into existing antidiscrimination law, as a call for antidiscrimination law to abandon its race or gender logic and instead embrace a race and gender logic. Yet, as Crenshaw’s second metaphor reveals, antidiscrimination law is constructed around leaving the multiply marginalized in the proverbial basement. Put differently, antidiscrimination law itself is constructed around remedying only certain forms of discriminatory activity and is designed to refuse to recognize and redress discrimination against the most vulnerable. Intersectionality, then, is not a call for inserting black women into a preexisting legal regime, precisely because that regime is designed to refuse to see black women. Instead, it is a tactic of making visible black women’s status as witnesses who can name and describe the basement, which is not merely a social location but a space produced by law’s doctrinal failures.

If intersectionality embraces black women’s social location as a juridical starting point, it also advocates for tailoring law to address injuries in particular ways. In other words, it offers a vision of law that is rooted in flexibility and customization, in responding to particular lived experience. In her second article on intersectionality, “Mapping the Margins,” Crenshaw reveals not only that law ignores black women’s experiences of injury but also that intersectionality compels state interventions that more appropriately respond to black women’s particular experiences of injury. In the context of domestic violence, for example, Crenshaw shows that meaningful legal intervention requires an attention to race, gender, class, and immigration status, and thus state intervention might need to take different and multiple forms to produce substantive justice. Intersectionality, then, requires a commitment to witnessing, to empathic looking, that responds not with the messy bluntness that law so often deploys in the name of fairness and uniformity. Instead, intersectionality calls for imagining legal action that can be individualized, intimate, and rooted in lived experience. This work has been expanded by other scholars, especially those working in the context of domestic violence law, including Linda Mills and Elizabeth Schneider, who have considered how mandatory arrest/no-drop policies ignore the particular experiences of women of color who may have to weigh their own distrust of the state, the necessity of a partner’s income to survive, and the potential stigma, shame, or violence of calling law enforcement against a desire for bodily integrity and safety. As Mills suggests, a vision of legal intervention that is survivor-centered and survivor-guided, that recognizes the differently situatedness of each subject who engages with the state, is the only way to ensure justice, particularly in the context of intimate life. Similarly, Crenshaw’s work asks for law to witness violence as it unfolds and to respond contextually, to recognize that uniformity might not be the hallmark of fairness and equity. Ultimately, Crenshaw’s vision of the demands of intersectionality in the context of violence has underscored the importance of law as a tool that sees, witnesses, and even willingly inhabits the social locations of the multiply marginalized.

If it is easy to dismiss Williams’s embrace of rights as overly optimistic in the face of ample description of law’s failures, it is all too easy to treat Crenshaw as an inclusionist, one who imagines intersectionality as a strategy that grants black women entry into the problematic logics of antidiscrimination law. Yet in my reading of intersectionality, Crenshaw’s vision is not one of including black women in existing legal doctrine, or simply expanding legal doctrine to make space for black women’s particular experiences of discrimination. Indeed, Crenshaw ends “Demarginalizing the Intersection” with a personal account that underscores her deep commitment to unsettling inclusionary politics. She describes an experience in which, as a law school student, she was invited to a prestigious Harvard men’s club, one that was formerly all white, to celebrate the end of first-year exams. Upon her arrival, her friend—a member of the club—quietly mentioned that he had forgotten to share an important detail: Crenshaw would have to enter the club through the back door because she was a woman. She and her friends had long assumed that it was their blackness that would bar them from the club, but it was her womanhood that required her to use the back door if she wanted entry into the club. Crenshaw ruminates on this experience as emblematic of the importance of intersectional analysis, noting that “this story does reflect a markedly decreased political and emotional vigilance toward barriers to Black women’s enjoyment of privileges that have been won on the basis of race but continue to be denied on the basis of sex.”39 Yet what interests me about this account, and how it animates the end of the article, which borrows from Paula Giddings’s work to conclude “when they enter, we all enter,” is that intersectionality is not a tool Crenshaw uses to advocate access and entry. In other words, she does not suggest that an intersectional analysis demands her inclusion—and all black women’s inclusion—in a structure constructed around black women’s exclusion. Instead, the story reveals that battles for entry are always imperfect, exclusionary, and problematic. To be granted entry to a space because of blackness and to be barred entry to that same space because of womanhood speaks to the flimsiness of entry as a form of politics, precisely because inclusion always hinges on a system of exclusion, hierarchy, and valuation. Ultimately, intersectionality reveals both the limits of juridical projects and the possibility of mobilizing law to exceed law’s own critical desires. In Crenshaw’s hands, intersectionality invites a legal project that takes seriously black women’s witnessing (and black women as witnesses, something crucial in a juridical system that continues to disbelieve black women), that invites an attention to a literal, material space—the intersection, the basement—that black women know, experience, and inhabit.

In this section, I ask what might happen if black feminists treated intersectionality’s legal roots not as an embarrassment but as a crucial site of the analytic’s transformative potential. Indeed, in reading Crenshaw’s conception of intersectionality alongside Williams’s work on rights, and in emphasizing intersectionality’s roots in critical race theory, I treat intersectionality as an analytic that radically occupies law, takes hold of legal doctrine and refuses its conceptions of neutrality and uniformity as performance of justice. It is, then, a strategy of demanding that law move otherwise, that it center witnessing and vulnerability, that it encourage forms of relationality and accountability that jettison logics of contract and property. My reading insists that black feminists refuse well-rehearsed dismissals of intersectionality as an inclusionary project (dismissals that are all the more possible to rehearse because this is how intersectionality so often circulates in the university) that seeks to insert black women’s bodies into otherwise problematic structures, and instead advocates treating intersectionality’s juridical project as the very heart of its radical political agenda. It is intersectionality’s capacity to index vulnerability and witnessing, to imagine legal doctrine as centering those ethics (even as law might refuse those efforts), that makes intersectionality a space that resonates deeply with black feminism’s ongoing efforts to construct a political agenda rooted in love.

Risk and Promise

What if we refused the lure of negative affects, the tendency to grieve and mourn black feminism and its analytics? What if we rejected both the notion that blackness is synonymous with death and the idea that black feminism is dead or dying? My call for this rejection is not meant as a wholesale rejection of afropessimism, and its attendant affects of grief, loss, mourning, and despair. Nor is my plea here rooted in a sense that negative affects are per se problematic; indeed, the work of a host of scholars including Ann Cvetkovich, Heather Love, and Sianne Ngai has been to reclaim negative affects and to mine these feelings for their productive, world-making potential. Instead, my call is for us to consider why the position of death has become so alluring in this moment, particularly for black feminists who have made a practice of lamenting the slow and steady demise of our tradition. This chapter, then, aspires to perform letting go by suggesting another way to feel black feminism, one rooted in love rather than territoriality and defensiveness. Indeed, I argue that remembering intersectionality’s juridical orientations, and recovering them rather than eschewing them (even in a moment where law is treated as the paradigmatic site of antiblack violence), might allow black feminists to encounter the broad sweep of our transformative call for love-politics. In so doing, I emphasize that law might be a space of black women’s survival rather than simply the site of black women’s wounding. Moreover, I underscore that a space that black women did not author, and that was created largely with the interest in enshrining black women as property rather than as subjects, might become a site that allows us to imagine other ways of being and feeling black feminist. As I argue, black feminism’s long-standing commitment to lovepolitics, to ethics of mutual vulnerability and witnessing, is echoed by critical race feminist legal practices, including Williams’s expansive investment in rights and Crenshaw’s engagement with intersectionality as a critique of inclusionary politics. What both share are demands that law imagine itself otherwise, that it unfold and move in ways that might seem contrary to its fundamental project. These are demands that law acknowledge the failures and short-sightedness of inclusion and redress projects, and that law instead imagine its radical work to be an embrace of ideas of intimacy, proximity, vulnerability, and mutual regard. Reanimating black feminist engagement with law is particularly important because it upends the long-standing tenet that black women’s freedom comes exclusively through spaces that we self-authored, and, correlatively, that sites historically constructed to secure our status as property can never become locations where we stage our liberation. My inquiry shows otherwise and argues that freedom and radical black feminist politics can be rooted in myriad sites, including spaces that have been rife with our own subordination. Indeed, my engagement with law seeks to rescue law’s status of death in black studies, tracing how it can be a location of radical freedom-dreaming and visionary world-making rather than simply a death-world and the paradigmatic site of antiblackness.

#### The law has emancipatory potential despite its repressive history. Rejecting it dooms radical social change.

McCann and Lovell, 18—Gordon Hirabayashi Professor for the Advancement of Citizenship at the University of Washington AND professor of political science, department chair, and the Harry Bridges Endowed Chair in Labor Studies at the University of Washington (Michael and George, “Toward a Radical Politics of Rights: Lessons about Legal Leveraging and Its Limitations,” *From the Streets to the State: Changing the World by Taking Power*, Chapter 7, 139-141, dml)

In our aspirations for progressive change, engaging with the law is not a free choice among tactics. It is a necessity. Egalitarian activists are routinely forced into legal engagement by the omnipresence of law as a violent force imposing hierarchical order and harsh punitive constraints on oppressed populations. Although activists are often motivated by the quest for legal recognition of rights claims, offensively mobilizing law to support egalitarian struggles is only a small part of movement appeals to law. Defensive actions to evade law’s repressive force or to protect previous gains are often much more significant. In our view, there is surprisingly little rigorous theorizing about the different types of struggles on the terrain of law, the most useful indicators of effective legal action, and especially the measures of egalitarian or inclusionary change.1

Law is an enduring site for progressive democratic contestation. Although official law is often a tool of repression, legal norms and institutions can also be resources for egalitarian rights claims, and, at certain historical moments, even social transformation. No matter how radical one’s political aspirations, the necessarily long-run character of revolutionary social transformation requires a series of intermediate steps, including those on the terrain of law. As the British socialist E. P. Thompson (1975) asserts,

Most [people] have a strong sense of justice, at least with regard to their own interests. If the law is evidently partial and unjust, then it will mask nothing, legitimize nothing, contribute nothing to any class’s hegemony. The essential precondition for the effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and shall seem to be just. . . . The rhetoric and the rules of a society are something a great deal more than sham. In the same moment they may modify, in profound ways, the behavior of the powerful, and mystify the powerless. They may disguise the true realities of power, but, at the same time, they may curb that power and check its intrusions. . . . And it is often from within that very rhetoric that a radical critique of the practice of the society is developed. (436–39)

In this chapter, we describe legal mobilization as the articulation of a social interest, general policy, or a societal vision in terms of legal entitlement. As Frances Kahn Zemans (1983) famously put it, legal mobilization entails that “a desire or want . . . is translated into a demand as an assertion of one’s rights” (3). Since legal language is indeterminate and polyvalent, it is contestable. Dominant legal norms are incomplete and rife with tensions, and they adapt as the perceived interests of dominant groups respond to, or occasionally converge with, the demands of oppressed groups (Bell 1980). Although much legal contestation occurs between recognized rights-bearing subjects over the authoritative meaning of clashing liberal legal principles, legal mobilization also involves oppressed groups mobilizing liberal principles against illiberal, repressive modes of social control. These contests over ascribed race, gender, sexual, immigrant, and other marginalized identities often expand the rule of liberal legalism (Smith 1997; Orren 1992). More importantly, struggles by progressive activists can use the liberal principle of equal citizenship to counter the property- and contract-based principles of capitalism, thereby challenging unequal resource distribution and class exploitation (Brown 2003; Smith 1997). As Stuart Scheingold (1974) argues, “law cuts both ways,” both for and against egalitarian social justice (91; see also McCann 1994).

When, how, and to what degree legal discourse and institutions provide resources for oppressed groups depends largely on the mix of legal and especially extralegal factors in a given historical context. Our research devotes considerable attention to the changing features of the cultural and institutional terrain that delimit the possibilities and forms of contestation within and against law. Of course, fighting for control of legal institutions and principles does not guarantee radical social change. But succumbing to anti-legalism cedes control over the terms of institutional organization, instrumental rule, and regime legitimation to dominant forces propelling capitalism and other hierarchies.

We recognize that our approach is at odds with some important recent movements and their interpreters. Arguably, the Occupy movements in and beyond the United States expressed a notable disdain for legal rights claiming, litigation strategies, and general appeals to legal strategies (Almog and Barzilai 2014). This disenchantment with law, legal processes, and lawyers is understandable in the post-civil rights era and the immediate post-recession moment. Indeed, wariness about law is always sound. Moreover, Occupy did profoundly reorient the dominant agenda in many parts of the global North. It put “deficit and debt hawks” on the defense and elevated concerns about economic fairness and the political accountability of private financial managers. At the same time, Occupy espoused and enacted little in the way of institutional changes within government and capitalist society. By shedding any reliance on discourses of rights, Occupy arguably limited its use of important ideological resources in the neoliberal context (Brown 2003; Obando 2014).

It is noteworthy that many movements inspired by the Occupy movement— especially among low-wage workers and advocates for corporate accountability— have recovered and prominently invoked rights claims and legal resources. Indeed, there has been a recent convergence around rights-based claims by campaigns for a minimum wage and sick pay, for immigrant rights and support, for LBGTQ rights, for the Black Lives Matter movement, and for other progressive and radical causes in the United States. Their reliance on lawyers and litigation has varied widely, but none of these movements discount them as much as did the earlier Occupy movement. Furthermore, many grassroots struggles in both the global North and South—against apartheid; for indigenous people’s sovereignty; for socioeconomic entitlements to housing, health-care, education, and minimum income—also appeal to legal or human rights and rely in part on national or transnational courts (Haglund and Stryker 2015; Rodriguez-Garavito 2011).

#### Statistics and data are emancipatory—especially when incorporated into policy.

Pillow, 17—University of Utah (Wanda, “Imagining Policy [Data] Differently,” *Policy and Inequality in Education* pp 133-151, SpringerLink, dml) [Note on the acronym “EPY,” from footnote 2: “Expectant and parenting youth” (EPY) refers to young parents, male and female, ages 12–21, and is the current preferred term in US youth policy. In this chapter, EPY is interchangeably used with young parents except when referring to young mothers. Teen mothers/teen pregnancy is used when referring to representations in research, media, and policy discourse. Chapter focus on Black EPY arises from the research setting in which Black youth represented over 85% of EPY.]

Afrofuturism acknowledges and affirms that for Black diaspora the apocalypse occurred; it was the worldwide conduit of Black slavery, including capture and an active trade economy of Black bodies and attempted erasure of Black memory, landscapes, languages, and cultures. After the Middle Passage, Blackness in the colonial/American memory is represented and theorized with an origin that begins only with colonialization and slavery, creating an always “negative ontological placement of black subjects in Western modernity” (Weheliye 2002, p. 28). In other words, Blackness cannot exist—theoretically or in research, policy and practice—as fully human in modernity and thus never accorded full and equal status, rights, and conditions. Given this onto-epistemological position, Afrofuturism recovers and “remains connected to an African humanist past” (Anderson 2015, p. 182) in order to “provide a critical link … (to) express a radical black subjectivity” in the future (David 2007, p. 697). As Eshun (2003, p. 293) explains: “Afrofuturism … is concerned with the possibilities for intervention within the dimension of the predictive, the projected, the proleptic, the envisioned, the virtual, the anticipatory and the future conditional.” The anticipatory and reimagining of futures is necessary for those oppressed by empire and the intertwined racisms and primacy of heteropatriarchy Judeo-Christian belief systems (Wynter 2003). As Delany (1984, p. 35), a Black fiction author stated at a 1978 talk titled The Necessity of Tomorrows: “We need visions of the future, and our people need them more than most.” Delany (1984, p. 35) continues: Without an image of tomorrow, one is trapped by blind history, economics, and politics beyond our control. One is tied up in a web, in a net, with no way to struggle free. Only by having clear and vital images of the many alternatives, good and bad, of where one can go, will we have any control over the way we may actually get there in a reality tomorrow will bring all too quickly. It would be a mistake to think Afrofuturism theorizations are naïve. They are not. Afrofuturistic genres are often raw, difficult to look at or comprehend, leaving readers/viewers in states of affirmation, despair, discomforts, or rage. While hope may be found and read through Afrofuturism, the analytics of reimagining involves complete disruptions of not only what we think we know but also how we think we know. As Eshun (2003, p. 297) describes: By creating temporal complications and anachronistic episodes that disturb the linear time of progress, these futurisms adjust the temporal logics that condemned black subjects to prehistory. Chronopolitically speaking, these revisionist historicities may be understood as a series of powerful competing futures that infiltrate the present at different rates. Afrofuturism traverses times, places, spaces and speaks to connective globalalities by thinking with and out of the present as articulation of a “developing past and perplexing future” (Josephs 2013, p. 123). Interruptions of time/space/place and insertion of Brown/Black, Queer and differently embodied people into ‘space,’ into futures, as skilled technological, philosophical, and artistic subjects is key to Afrofuturism. If as Bould (2007, p. 177) states: “The space race showed us which race space was for”, we need other space(s) to reimagine. Temporal reimagining’s do more however than place the ‘other’ into space; they re-interpret and interrupt “colonization of memory” through what Lugones (2010) terms a “fractured locus” of seeing, traveling and being. For Lugones, a “fractured locus”—the capacity to live, relate and theorize multiply—is made possible when a colonial binary of defeat/resistance is refused and “the colonized” is not “simply imagined and constructed by the colonizer…in accordance with the colonial imagination and the strictures of the capitalist colonial venture” (2010, p. 748). Likewise, Afrofuturism releases colonial histories from the limits of colonial imagination, celebrating the capacity to live with a “fractured locus” that is able to survive the present, through rewritten, reimagined pasts and futures. In this way, Afrofuturism shares similarities with Women of Color theorizing, queer theory and queer of color critique, which rewrite temporality and futurities (Ferguson 2003; Halberstam 2005; Lorde 1982; Muñoz 1999; Pillow 2015a, c, 2016; Soto 2010). Afrofuturism affirms Blackness with an onto-epistemological capacity to occur differently across space, time, place, geography, and structures by “imagining a black past and envisioning a black future” (Josephs 2013, p. 125). In this way, “inquiry into production of futures becomes fundamental, rather than trivial” because as Eshun argues, “power also functions through the envisioning, management, and delivery of reliable futures” (2003, p. 289). Afrofuturism’s potential connections with and challenges to policy studies are many, including focus on what is embedded in policy productions of “reliable futures.” 8.5 Thinking with Afrofuturisms at the Policy Table What can Afrofuturism offer to those working at the nexus of race and education policy? Let’s return to the earlier discussion of how brute EPY data were, at the policy table, interpreted through entrenched constructions of and feelings about EPY. Faced with the brute absence of acknowledgement of brute EPY data, Afrofuturism shifted a locus of analysis from EPY to colonial legacies shaping present day EPY materialities, including how EPY are defined and known in deficit research. This emphasis led to data re-envisioned as including: 1. NYC historical patterns of education access, placement, and achievement; 2. Attention to how EPY were discussed—how language at the policy table indicated feelings about EPY; 3. Attention to how EPY futures are imagined; and 4. The roles and responsibilities of policy to invest in EPY futures. While in the beginning stages of seeing where such thinking may take policy, introduction of the above foci initiated—as one member stated—“philosophical yet applicable” questions and challenges at the policy table. For instance, raising points 2 and 3, initially felt like a gimmick to some key players—“really, we are going to talk about how we feel?!” Making connections between how policy actors feel about subjects to what becomes imaginable felt risky. What was I doing asking busy, high-ranking professionals to engage in Afrofuturism theory? Initiating this process, quotes from Afrofuturist writings were useful, but at the policy table it was important to “show”—to show for example how language use about EPY limited how EPY futures were thought. Ironically, showing required showing more data, an issue troubled above. However, thinking with Afrofuturism refocused what was thought of as data at the policy table. “Data” now primarily comprised the four bullet points above, shifting the focus from EPY to how a policy accounting of the colonial social, education materialities and affects EPY face and are defined by. While many at the policy table initially were skeptical about attempting to think about constructions of knowledge linked to colonialism, the above data moves sparked discussion and memories of personal experiences or experiences with youth. As one table member shared: “I used to think about traveling in space or living somewhere else. So I get that part. I had to imagine something dramatically different in order to get by and I’ve never thought about how maybe that helped me survive and succeed.” After showing the language our policy table had been using to define EPY by literally listing word phrasings used at a prior meeting, another key player stated: We always say that so many of our [Black] youth do not speak as though they have a future and we fault them for that. We say they aren’t motivated or that they have no sense of direction. But maybe we aren’t really investing in their futures, y’know? Maybe we are also limiting what is possible. This statement sparked a conversation that at a crucial moment a participant added: “So you are asking us to really challenge how we think about EPY, right? How we really feel about them and then think about what futures we imagine for them, not just for tomorrow or next week or next month, but years from now, right?” Although such comments generated rich conversation, the question of “So what? What does all this really matter for how what we actually do?” continued to remain the overarching theme and challenge. In order to keep provocations of Afrofuturism in play, nimble questioning circulated while attending to a desire for identification of valid policy pathways: “What do ‘so what’ questions constrain? How can policy thinking be opened up? What would this look like operationalized?” In these instances, data—thickly detailed feminist genealogies demonstrating ongoing impacts of disparate stratification of education access and outcomes—became necessary to calls for reimagining at the policy table. The more Afrofuturism influenced, feminist genealogy data I could show, the further this policy table was willing to push thinking and attempt to reimagine how EPY futures are thought and felt. Questions about data abound in this example—and I return to a discussion of data in the conclusion—but here share an anecdote that articulates the tensions of ‘so what’ questions and responsibilities to imagine otherwise at the policy table. Although, school data were presented at the policy table, it was limited due to a lack of education data specifically on EPY (Pillow 2006). Afrofuturisms reinforced the necessity to dig deeper. Disaggregating nearly 400 young mothers in foster care school attendance data allowed an analysis of the places EPY were attempting to access education. Identification of which schools and boroughs young mothers had been in school or were attempting to re-enroll allowed documentation of attendance zone characteristics including overall school attendance and graduation rates; type of school curriculum; teacher turnover; and school ranking. This documentation demonstrated that in the group of students identified, young mothers overwhelmingly attended schools demarcated as ‘failing’ by NYC Board of Education standards. While this was not surprising, two specific data points did create a shift in conversation and thinking at the policy table. The first is mentioned earlier in this chapter: based on disaggregated NYC data, when young mothers are compared with their peers they are not underperforming; young mothers attendance and school completion rates are similar to their peers. This finding contradicts many entrenched deficit beliefs about EPY. Secondly, a nonprofit group provided a report on overage middle school students in NYC. Defined as students who are three or more years overage for grade level, this classification includes many EPY. In 2012, over 8500 middle school students were 3+ years overage for their grade, not including students unenrolled in school (Advocates for Children of New York 2014). During the same year there were less than 450 seats available in placements willing to accept overage students—a ratio of 5% available seats in relation to known need, which does not include youth not tracked by schools. These numbers reflect a US education debt of underserving youth who are most ‘at risk’ and dramatically demonstrate conditions EPY face when attempting to return to school as well as the institutional, structural limitations faced by adults trying to help youth return to school. When the above points were first presented, the challenge to shift assumed deficit thinking about EPY alongside the context of EPY placement in failing schools, alongside the numeric reality and discrepancy between student need and actual seat availability was so large (95%)—just too big—that discussion of ramifications were effectively removed from the table. When Afrofuturism was introduced, this data were put back on the table and placed beside available historical and current contextual information on EPY education access. Thought with Afrofuturisms, the data were discussed as disparities of racialized access directly connected to colonial racial de-humanizing. Further, with Afrofuturisms, these ‘too big’ issues were discussed and restructured as insights and evidence of how deficit data shape how policy talk enacts feelings about EPY, feelings that impact what is imagined in terms of future talk at the policy table. As could be expected, conversations also included policy actors saying imagining requires limitless budget and resources, which then led to comments that “imagining” was not helpful given “we must deal with reality.” In these debates, Afrofuturism was useful as a reminder of the need to face existing material conditions while identifying and understanding how deep entrenchments of deficit talk limits, in this case, imagining of EPY futures and policy’s roles in these futures. Afrofuturism became a crucial analytic to imagine otherwise; to think policy outside of existing deficit structures, outside of self-imposed temporalities and to question policy responsibility to futures for youth like EPY. Four initial analytic shifts arose: Are we asking/requiring EPY to attend broken and unfair school systems? What would it mean to acknowledge the previous point to EPY? To acknowledge the strength it takes to navigate unjust systems while concurrently providing supports to temporally navigate such spaces? What would it look like to raise the education bar for EPY? What if EPY were characterized as some of the most motivated students rather than most deficit? Can policy theorize and implement processes to support “a series of powerful competing futures that infiltrate the present at different rates” (Eshun 2003, p. 297)? The shift in these questions appears small, but are seismic in potential impact. By relocating attention from EPY as deficit to how and why policy creates feelings about and thus imagines futures for EPY, the range of viable policy questions and considerations is expanded. 8.6 Policy Scientificity 3.0, Data and Futurism at the Policy Table In policy contexts that are pre-scripted before we even sit down at a policy table—contexts shaped by deficit data, education debts, social constructions, and imposed limits on temporality—critical theory interruptions are not enough. If urban education policy currently exists amidst the ruins of education and policy debt (Pillow 2014b), then policy studies require 3.0 and beyond analytics that can work the ruins (St. Pierre and Pillow 2000) and, in the case of this chapter, acknowledge colonial debts in order to rethink how and whose policy futures are imagined and unimaginable. ‘Data’ remained a conundrum and tension in this process. Policy agents expect to see brute data, hence how policy studies scholars theorize and present data deeply matters, particularly when data create deficit gap entrenchments, like those surrounding EPY. However, this chapter demonstrates how brute data of disenfranchised subjects can be ignored or reconstructed in deficit discourses and deficit feelings about policy subjects, feelings that limit how policy futures are imagined. Here the problem is not data per se, but rather what counts as data at the policy table and how data are thought. Afrofuturism became the impetus to imagine policy data differently and served as a linguistic interruption of deficit conceptions of Black EPY by forefronting Black futurity. In constrained contexts where Black youth futures are believed to be limited, Afrofuturism forced a call to reimagine futures in which Black youth and Black EPY flourish and forced discussions of what it means for policy to take responsibility for such futures. Given deficit entrenchments surrounding EPY, theoretical analytics that recognize colonial education debts and challenge the unimaginability of alternative EPY futures is necessary to any attempt to think policy differently. As a working example, this chapter is less about Afrofuturism as an analytical answer to policy studies, than a willingness and commitment by policy studies scholars to utilize the profound critiques in race, gender, sexuality, decolonial theories to interrupt and expand how policy and policy data are theorized and imagined (Pillow 2016). Specifically attending to how policy futures are theorized provokes analysis of who has access to futurity and how futures are imagined, a discussion that necessarily acknowledges colonial materialities and affects. This work will require innovative 3.0 analytics.

### Case---Affect---1NC

#### Their explanation of racial violence is wrong.

Peter Hudis 15, Professor of English and History at Queens College, 2015, Frantz Fanon: Philosopher of the Barricades, p. 35-37

Fanon’s vantage point upon the world is his situated experience. He is trying to understand the inner psychic life of racism, not provide an account of the structure of human existence as a whole. Racism is not, of course, an integral part of the human psyche; it is a Social construct that has a psychic impact. Any effort to comprehend social distress that accompanies racism by reference to some a priori structure- be it the Oedipal Complex or the Collective Unconscious- is doomed to failure.

Carl Jung sought to deepen and go beyond Freud's approach by arguing that the subconscious is grounded in a universal layer of the psyche- which he called "the collective unconscious:' This refers to inherited patterns of thought that exist in all human minds, regardless of specific culture or upbringing, and which manifest themselves in dreams, fairy tales, and myths. Jung referred to these universal patterns as "archetypes:' It may seem, on a superficial reading, that 1 Fanon is drawing from Jung, since he discusses how white people tend to unconsciously assimilate views of blacks that are based on negative stereotypes. Even the most "progressive" white tends to think of blacks a certain way (such as "emotional;' "physical," or / "aggressive"), even as they disavow any racist animus on their part. However, Fanon denies that such collective delusions are part of a psychic structure; they are not permanent features of the mind. They are habits acquired from a series of social and cultural impositions. While they constitute a kind a collective unconscious on the part of many white people, they are not grounded in any universal "archetype." The unconscious prejudices of whites do not derive from genes or nature, nor do they derive from some form independent of culture or upbringing. Fanon contends that Jung "confuses habit with instinct."

Fanon objects to Jung's "collective unconscious" for the same reason that he rejects the notion of a black ontology. His phenomenological approach brackets out ontological claims on both a social and psychological level insofar as the examination of race and racism is concerned. He writes, "Neither Freud nor Adler nor even the cosmic Jung took the black man into consideration in the course of his research.”

This does not mean that Fanon rejects their contributions tout court. He does not deny the existence of the unconscious. He only denies that the inferiority complex of blacks operates on an unconscious level. He does not reject the Oedipal Complex. He only denies that it explains (especially in the West Indies) the proclivity of the black "slave" to mimic the values of the white "master." And as seen from his positive remarks on Lacan's theory of the mirror stage, he does not reject the idea of psychic structure. He only denies that it can substitute for an historical understanding of the origin of neuroses .23 Fanon adopts a socio-genetic approach to a study of the psyche because that is what is adequate for the object of his analysis.

For Fanon, it is the relationship between the socio-economic and psychological that is of critical import. He makes it clear, insofar as the subject matter of his study is concerned, that the socio-economic is first of all responsible for affective disorders: "First, economic. Then, internalization or rather epidermalization of this inferiority."24 Fanon never misses an opportunity to remind us that racism owes its origin to specific economic relations of domination- such as slavery, colonialism, and the effort to coopt sections of the working class into serving the needs of capital. It is hard to mistake the Marxist influence here. It does not follow, however, that what comes first in the order of time has conceptual or strategic priority. The inferiority complex is originally born from economic subjugation, but it takes on a life of its own and expresses itself in terms that surpass the economic. Both sides of the problem-the socio-economic and psychological-must be combatted in tandem: "The black man must wage the struggle on two levels; whereas historically these levels are mutually dependent, any unilateral liberation is flawed, and the worst mistake would be to believe their mutual dependence automatic:''5

On these grounds he argues that the problem of racism cannot be solved on a psychological level. It is not an "individual" problem; it is a social one. But neither can it be solved on a social level that ores the psychological. It is small wonder that although his name never appears in the book, Fanon was enamored of the work of Wilhelm Reich. This important Freudian-Marxist would no doubt feel affinity with Fanon's comment, "Genuine disalienation will have been achieved only when things, in the most materialist sense, have resumed their rightful place:'27