## OFF

### 1NC — T

#### Topical affirmatives must instrumentally defend an expansion of the scope of the United States’ core antitrust laws to substantially increase prohibitions on anticompetitive business practices.

#### Resolved means a policy

Louisiana House 5

(<http://house.louisiana.gov/house-glossary.htm>)

Resolution A legislative instrument that generally is used for making declarations, stating policies, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution uses the term "resolved". Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4)

#### Federal government is the legislative, executive and judicial

US Legal No Date (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.

#### Should requires action

AHD 2k

(American Heritage Dictionary 2000 (Dictionary.com))

should. The will to do something or have something take place: I shall go out if I feel like it.

#### ‘Its’ means cooperation must be governmental

US District Court 7 (United States District Court for the District of the Virgin Islands, Division of St. Thomas and St. John, “AGF Marine Aviation & Transp. v. Cassin,” *2007 U.S. Dist. LEXIS 90808*, Lexis)

The Court inadvertently used the word "his" when the Court intended to use the word "its." The possessive pronoun was intended to refer to the party preceding its use--AGF. Indeed, that reference is consistent with the undisputed facts in this case, which indicate that Cassin completed an application for the insurance policy and submitted it to his agent, Theodore Tunick & Company ("Tunick"). Tunick, in turn, submitted the application to AGF's underwriting agent, TL Dallas. (See Pl.'s Mem. of Law in Supp. of Mot. for Summ. J. 5.)

#### The “core” antitrust statutes are the Sherman Act, Clayton Act, and FTC Act

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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.

#### They violate because each of the above words require governmental action

#### Vote negative — 3 impacts —

#### 1 — Fairness — forced winner-loser nature means debate is a game — the aff has a strategic incentive to stray from the resolution — that makes research impossible, discourages argumentative innovation, and turns accessibility — accesses the terminal impact to the activity.

#### 2 — Clash — they incentivise defense of unanswerable positions and monopolization of moral high ground — denies a role for the neg and transforms debate into a lecture — that destroys rigorous testing, advocacy, and research skills — turns their advocacy and precludes every intrinsic benefit to debate.

#### 3 — Topic Education — policy debates over antitrust are valuable

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IV. Antitrust in Civil Society

Competition issues are also part of the general civic discourse separate from the campaign rhetoric and legislative proposals offered by politicians. This is also a significant sign that antitrust has begun to be an important source of small “p” politics that engages substantial segments of the public at large. One example is the increased number of non-technical books intended for a lay audience that deal with the role of antitrust in a healthy economy and democracy. Recent and forthcoming books dealing with these themes include Tim Wu’s “The Curse of Bigness,”109 Matt Stoller’s “Goliath,”110 Maurice Stucke and Ariel Ezrachi’s “Competition Overdose,”111 Zephyr Teachout’s “Break ‘em Up,”112 and David Dayan’s “Monopolized.”113 On the academic side, there are a plethora of government and NGO studies of competition policy on digital competition114 and new works are flourishing which explore the broader ramifications of antitrust and competition in society.115 Long form and more mass-market journalism have also taken up the mantle of exploring the role of antitrust and competition policy. Such diverse magazines as The Atlantic,116 Time, 117 New Republic,118 American Prospect,119 Rolling Stone,120 New York Times magazine,121 Variety,122 National Review, 123 Foreign Policy,124 and other policy and opinion magazines have all run recent stories or profiles of individuals involved in antitrust issues. Before the COVID-19 pandemic effectively monopolized press coverage in the United States, there were thirty-three antitrust related stories on the front page of the New York Times or the front page of its business section over a three-month period in late 2019. 125 A majority of the stories focused on tech giants such as Apple, Microsoft, Google, Amazon, and Facebook.126 In addition, the New York Times also covered stories about mergers, merger policy, local issues such as the Chicago taxi market, and various smaller industries.127 This is separate from coverage during the same period of campaign issues and candidate statements relating to the field. A similar increase in coverage during this same period can be observed anecdotally in more business-oriented publications like Forbes, Barron’s, Wired, and the Wall Street Journal; general newspapers like USA Today, Washington Post, and Huffington Post; more local newspapers; as well as radio and television.128 Web pages and social media accounts on these issues have similarly proliferated on all ideological perspectives.129 Lobbying and public policy groups are growing in number and influence. Beyond the traditional trade associations and general think tanks there are now a number of active groups with antitrust as a large part of their focus. These include the Open Markets Institute, 130 American Antitrust Institute, 131 Anti-Monopoly Fund,132 Institute for Self-Reliance,133 Public Citizen,134 Public Knowledge,135 Demos, 136 and the International Center for Law and Economics.137 At the more technical legal end of the debate, antitrust is similarly flourishing as a field. One sees increased law school hiring in the field for the first time in decades. Academic institutes and centers abound with a wide variety of perspectives ranging from libertarian to enforcement oriented.138 Most major antitrust cases now feature multiple amicus briefs from legal and economic experts on both sides of an issue both in the Supreme Court or the Courts of Appeals.139

Conclusion

Antitrust has always been political in nature. Antitrust law provides broad legal commands dealing with how governments and private individuals can challenge different types of market behavior. In this way, antitrust has not changed. Antitrust will never take the place of sports, the Dow Jones index, or the weather for conversation at the breakfast table, but it has become a meaningful part of the political and policy debate for candidates, the legislature, and important segments of civil society. What has changed, however, is the degree that antitrust has reentered the political arena. Once mostly the domain of technocrats, antitrust issues have been proposed and debated by Presidential candidates, political parties, legislators, pundits, journalists, lobby groups, and voters alike. There are also a flurry of serious proposals and investigations that would make significant changes to the current system if adopted. This is all to the good. Even if none of the current proposals come to fruition, the antitrust debate is part of a broader engagement with political economy issues dealing with fundamental concerns such as economic concentration, globalization, income inequality, social and racial justice, and even recently the proper response to the COVID-19 emergency. The many proposals, initiatives, and pressure groups represent at a minimum the return of antitrust as part of the progressive agenda.

#### Switch side debate solves their offense — it’s the greatest internal link to advocacy skills and the most reflexive version of the topic.

### 1NC – K

#### Trans/queer people live at the site of near life – violence renders them as nothingness, solidified by inclusion and state reforms.

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Affective Remains

Scotty Joe Weaver’s body, bound in gasoline-soaked fibers, charred and pummeled, as remainder of a trans/queer life, represents what kind of sociality is unlived before such a death. Among the tactics of resistance against the wrath of modernity is our collective attempt to articulate these various forms of vitality that congeal below or against the idea of the human. Such critical theorization, which also live in flesh, collect the spectral figures that remain as modernity’s twin. This is perhaps another way of saying that solidarity with Scotty Joe and all those no longer here demands that we work to destroy the conditions of their destruction. This is why we must understand the architecture of violence—its deployment of the human and the human’s negativity—so as to not reproduce, as response, harm’s continuation.41

The liberal articulations of this para-vitality, popularized by the Italian philosopher Giorgio Agamben as bare life, references a stripped-down sociality—a liminality at the cusp of death where one is transposed from human into thing/animal. The temporality of this equation follows the idea that abjection works, in the first instance, through dehumanizing those presumed to be already human. Such a line of thought also announces, via reconciliation, the possibility of return to enfranchisement. In other words, Enlightenment’s teleology is restored through legal augmentation. Yet what I’ve been sketching here, however incomplete, is a form of near life where the “feeling of nonexistence” comes before the question of life might be posed. Near life is a kind of ontocorporal (non)sociality that necessarily throws into crisis the categorical distinction between life/death. This might better comprehend not only the incomprehensible murders of those I’ve recounted but also the precarity of trans/queer survival in the wake of formal LGBT equality.42

Struggling to articulate the phenomenological and psychical limits of Blackness under colonization, Fanon opens up critical ground for understanding a similar calculation of life that is forced to exist as nonexistence. In Black Skin, White Masks, Fanon lays out how recognition (which is also the question of subjectivity) resides between structuring violence and instances of personal attacks. Central to the Western philosophical tradition, which is to say colonial modernity’s epistemology, is G. W. H. Hegel’s conception of the master/slave (lordship/bondage) dialectic, as it remains one of the most persistent schemes for understanding the encounter that produces self-consciousness. In, but not of, that same intellectual tradition, Fanon clarified how the Hegelian dialectic was an instrument for thinking white recognition and the Enlightenment universalism of its pretext. Under the condition of colonization and its racialized mandates, the dialectic would need to be reconsidered or perhaps totally abandoned. Hegel, for Fanon, positions the terms of the dialectic (master/slave) outside of history and thus he refuses to account for the historicity of colonial domination as central to the question of being. In other words, when the encounter is staged and the drama of negation unfolds, Hegel assumes a pure battle external to the context of arrival. Moreover, by understanding the dialectic singularly through the question of self-consciousness, Hegel, for Fanon, misrecognizes the battle as always and only for recognition.43

Informed by Alexandre Kojève and Jean-Paul Sartre’s rereading, Fanon makes visible the absent figure of the human assumed as the imminent subject of Hegel’s formulation. For Fanon, the structure of colonization that he survived under was not a system of recognition but a state of total war. The dialect cannot in the instance of colonization swing forward and offer the self-consciousness of its promise. According to Fanon, “For Hegel there is reciprocity; here the master laughs at the consciousness of the slave. What he wants from the slave is not recognition but work.”44 Hegel’s dialectic that, through labor, offers the possibility of self-consciousness, for the colonized is frozen in a state of domination and nonreciprocity. The promise of recognition that is dependent on this exchange is suspended in the upside-down world of occupation where the colonized remain, through the epidermalization of their position, as the necessary state of objecthood.45

What is at stake for Fanon, which is also why this articulation is helpful for thinking near life, is not only the bodily terror of force; the fantasy of ontological sovereignty also falls into peril under foundational violence. This state of total war, not unlike the attacks that left Rashawn Brazell, Lauryn Paige Fuller, and Scotty Joe Weaver dead, is at once from without the everyday cultural, legal, and economic practices, and at the same time from within by a consciousness that has been occupied by domination itself. For Fanon, the white imago holds captive the ontology of the colonized. The self/Other apparatus is dismantled, thus leaving the colonized as an “object in the midst of other objects”46 embodied as a “feeling of nonexistence.”47

While thinking alongside Fanon, how might we comprehend a phenomenology of racialized anti-trans/queer violence expressed as “nonexistence”? It is not that we can take the specific structuring of Blackness and/or Arabness in the French colonies and assume it would function the same today under U.S. settler colonial regimes of anti-trans/queer violence. However, if both desire and violence are imbricated by colonization and their itinerant afterlives, then such a reading might help make more capacious our understanding of anti-trans/queer violence today, as well as afford a rereading of sexuality and gender nonnormativity in Fanon’s texts. His prophetic intervention offers a space of perpetual nonexistence, neither master nor slave, written through the vicious work of epistemic force imprisoned in the cold cell of ontological capture. Here, nonexistence, or near life, forged in the territory of inescapable brutality, demands we only know these murders against the logics of aberration.

Violence, here, returns as irreducible antagonism, which crystallizes the ontocorporal, discursive, and material inscriptions that render specific bodies in specific times as the place of the nothing. The figuration of near life should not be understood as the antihuman but as that which emerges in the place of the question of humanity. In other words, this is not simply an oppositional category equally embodied by anyone or anything. This line of limitless inhabitation, phantasmically understood outside the intersections of power, often articulated as equality, leads us back toward rights discourse that seeks to further extend (momentarily) the badge of personhood. The nothing, or those made to live a “damaged life”48 as Theodor Adorno might have it, is a break whose structure is produced by, and not remedied through, legal intervention or state mobilizations. This also highlights how an analysis of devaluation and/or exclusion, the terms mostly closely associated with domination, misses how those forced to be included and their valuation properly names the forms of modern power we must confront.

#### Politics of surveillance assume there is an out – there are no subjects who are unmonitored, especially for trans/queer people.

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The Camera and the Police

While I have been concerned with the filmic these assessments must be brought more fully to bear, and perhaps reworked, to weigh upon the specific genre of the Johnson image – the surveillance tape. If the psychic power of narrative cinema resides in its ability to suture the viewer to the image, which I’ve argued is a process dependent upon anti-Blackness and gender normativity that creates a phantasmatic bind compelling the viewer toward the scene, how might the formalism of surveillance work differently?

Returning to Fanon’s passage, the temporality of film is not simply the chronologic measure of change caught between the opening and closing scenes, it’s also in the interval and after the scene ends. Stretching the time of the image, and the image of time, allows us to read the murder of Duanna Johnson as the narrative conclusion of the CCTV footage. Further, while Fanon was writing specifically about the cinematic, surveillance as genre, its capacity to formulate worlds and the people that inhabit them, must also be addressed. While analyzing narrative film, Gilles Deleuze was interested in how temporality and fear become organized by what he called a time-image. For Deleuze a time-image is the collapsing of the past, present, and future that “makes time frightening and inexplicable.”[29] While he was talking about simultaneity in narrative cinema, which was also dependent on the cutting of film, the time-image here might help us understand the specific genre of the tape where past and future are remade not through cutting but by the calmness of the present. Or, if the temporality of the Johnson tape is not dependent on the time-image and its claim to change because it’s a continuous shot, perhaps for Johnson there is no moment other than the time of violence. Uncut, the image never allows for her escape.[30]

Fanon’s insistence that the time of the image does not align with the opening scene of the film and Deleuze’s time-image illustrate the deadly semiotics that await in the interval of both the structure of the visual and the assembly of life outside the theater. To stretch the image beyond its time-code, rather than diminishing the transformative work of the cinematic, compounds the force with which it builds and destroys worlds. This is to say that the filmic is always attempting to contain that which seeps beyond its frame. This blurring of spaces, marked as boundary but acting as gateway, is also an entry point, like dreams, where the unconscious and the image converge.

Surveillance is a technology of anticipation. It’s constantly capturing—awaiting a plot to fill its frames and to bring narrative coherence to its image. Surveillance, then, is the gaze one can never escape—the panopticon of protection. Indeed, the everywhereness of surveillance is countered by claims to privacy as the definitive attribute of the rights-bearing subject and his demand to go unseen. However, against this belief that privacy is (or at least ought to be) afforded to proper subjects, Lauren Berlant reminds us that “there never were free sovereign subjects of politics or the market, but rather monitored subjects who are permitted to pass by and get on with things if their comportment does not go awry.”[31] Our relationship to surveillance technology has grown, and radically shifted, yet Berlant’s rejection that we were once sovereign subjects outside of administrative monitoring helps us track the expectation of freedom from si”ght to that of always being seen. Indeed, where critiques of surveillance do surface, they are more often than not organized under a claim of privacy – the demand of liberal democracy from the Fourth Amendment to facial-recognition bans.[32] Now, through the conflations of technology and safety, these calls for privacy reappear as a demand, even for those who might imagine themselves as sovereign subjects, for intensified surveillance as security’s adjudication. If the right to privacy is but another displacement intent to protect the idea of freedom for those who have never experienced themselves as anything other, there are those – namely Black, Brown, Indigenous, disabled, trans/queer, and/or houseless – who can never exist out of sight. What differentiates them is how this monitoring has and continues to discipline, returning us to the knot of power’s localization we misname identity. Or, put differently, the security camera might see us all, but the meaning of that image is registered in and as an old/new regime of looking. This capturing has the peculiar ability, as it did with the McRae trial, to exonerate some while condemning others.[33]

#### Overkill is the rationalized response to trans/queer nothingness.

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Surplus Violence

Overkill is a term used to indicate such excessive violence that it pushes a body beyond death. Overkill is often determined by the postmortem removal of body parts, as was the case with both Lauryn Paige and Rashawn Brazell. The temporality of violence, the biological time when the heart stops pushing and pulling blood, yet the killing is not finished, suggests the aim is not simply the end of a specific person but the ending of trans/queer life itself. This is the time of trans/queer death—when the utility of violence gives way to the pleasure in the other’s immortality. If trans/queers, along with others, approximate nothing, then the task of ending, of killing that which is constituted as already dead must go beyond normative times of life. In other words, if Lauryn Paige was dead after the first few stab wounds, then what do the remaining fifty wounds signify?

The legal theory that is offered to nullify the practice of overkill often functions under the name of the trans- or gay-panic defense. Both of these defense strategies argue that the murderer became so enraged after the “discovery” of either genitalia or someone’s sexuality they were forced to protect themselves from the threat of trans/queerness. Estanislao Martinez of Fresno, California, used the trans-panic defense and received a four-year prison sentence after admittedly stabbing J. Robles, a Latina trans woman, at least twenty times with a pair of scissors. Importantly, this defense is often used, as in the case of Gwen Araujo, J. Robles, and Lauryn Paige, after the murderer and victim had engaged in sex. The logic of the trans-panic defense as an explanation for overkill, in its gory semiotics, offers us a way of understanding the place of nothingness. Overkill names the technologies necessary for, and the epistemic commitment to, doing away with that which is already gone. Here, trans/queer life is a threat that is so unimaginable that one is forced to not simply murder but to push the dead backward out of time, out of history, and into that which comes before. Yet this overkill registers as little in the social—the double bind of inhabiting the place of both menace and void.36

In thinking the overkill of Lauryn Paige Fuller and Rashawn Brazell, I return to the ontopolitical category of nothingness—the shadow of liberal democracy. The place of nothingness reemerges in its elegant precision with each case I offer—the repetitious futility of bringing into representation that which escapes it but remains in a para-vitalist order. By resituating this question in the positive, the something more often than not translated as the human is made to appear. Here the category of the human assumes generality, yet is activated, or more precisely weaponized, in the specificity of history and politics. To this end, the human, the something of this query, names the rights-bearing subjects or those who can stand before the law—the beneficiary of equality. The human, then, makes the nothing not only possible but necessary. Following this logic, the work of death, of the death that is already nothing, not quite human, binds the categorical (mis)recognition of humanity. The human resides in the space of life, and under the domain of Man, whereas the trans/queer inhabits the place of compromised personhood and in the zone of death. As perpetual and axiomatic threat to the human, the trans/queer is the negation, through inclusive exclusion, of democracy’s proper subject.

Understanding the nothing as the unavoidable double of the human works to counter the arguments that suggest overkill and anti-trans/queer violence at large index a pathological break, and that the severe nature of these killings signals something extreme. In contrast, overkill is that which constitutes, via negation, equality’s form, which is lived by many as unfreedom. Or put another way, if the state is the enactment of a majoritarian collective unconscious, then its own intelligibility, or its own will to power, is rendered through the figure of the internal enemy and the mandatory forms of liquidation needed to face this inside/outside threat. Overkill, the calculated practice of gratuitous force, then, is the proper expression to the riddle of the trans/queer nothingness. However, the spectacular scene of overkill must not be singularly pathologized as this would, yet again, privatize violence’s epistemology under the individual while its structure remains intact. In the end, the killer never works alone. These vicious acts, therefore, must be held as an indictment of the very social worlds of which they are ambassadors. Overkill is what it means, what it must mean, to do violence to that which is nothing.37

#### There is no epidermal quality intrinsic to trans/queerness, rather its ontology is forwarded through flexible semiotics. Nonidentity is not totalizing, but rather provides an analytic of the nature of trans/queer violence.

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Gay Shame’s insistence on thinking both these iterations of racialized anti-trans/queer violence together is also the methodological commitment of this book. Araujo’s tragic murder might be primarily understood to be that of intersubjective violence, the phobic eruption of a personal relationship that became unbearable, and Akbar’s might function as a generic expression of the violence of the state form, once again levied against Blackness. Bringing them together, then, builds an analysis that is attentive to the scale of direct attack that is always staged within the language of the state that demands it. By tracing these edges, not only does an analysis of anti-trans/queer violence appear, but these connections allow for, or more pointedly order, a reading of normative power—modernity’s common sense—where Enlightenment’s dreams become our nightmares.9

This antagonism melds the spectacular murders of Jihad Alim Akbar and Gwen Araujo with the quotidian desires for destruction, including the sterilizing glares that rob one of the ability to sink into comfort. Besieged, the threat of harm reverberates in the fleshiness of the everyday, producing a kind of death-in-waiting lived as what Frantz Fanon called a “feeling of nonexistence.” Catastrophically, this imminent danger constitutes for the trans/queer that which is the sign of vitality itself, as possibility and limit are collapsed into one.

What, then, becomes of trans/queer life, if it’s produced through the negativity of forced death and at the threshold of obliteration? Pushed further, if trans/queer life is constituted in the social as empty of meaning beyond the anonymity of bone, what kind of violence is done to that which is never properly here?10

In another time and place, “Tiens, un nègre!”11 (“Look, a Negro!”12) opened Frantz Fanon’s chapter 5 of Black Skin, White Masks, “The Lived Experience of the Black” (L’expérience vécue du Noir), infamously mistranslated as “The Fact of Blackness.” Fanon enters here, as he does throughout this text, against a logic of flattened substitution and toward a political commitment to nonmimetic friction—the messiness of history and that history’s reemergence. After all, the racialized phenomenology of Blackness under colonization that Fanon illustrates may be productive to read against and with a continuum of anti-trans/queer racialized violence in the settler colony that is the United States. The visual’s capacity to capture through the dialectics of recognition and the scopic must figure with such a reading of race, gender, and sexuality. It is argued, and rightfully so, that the instability of trans/queerness obscures it from the epidermalization that anchors the idea of race in the fields of the visual. When thinking about the difference between anti-Semitism and racism, which for Fanon was a question of the visuality of oppression, he similarly suggests, “the Jew can be unknown in his Jewishness.”13 However, here it may be useful to reread Fanon through an understanding of the visual that reminds us that Jewish people can sometimes not be unknown in their Jewishness (including Jews of color), evidenced by the endurance of anti-Semitism. Or, this is to suggest that domination always exists within and also in excess of the representational, which includes the sensorium of its arrival—the extra-diegesis of difference.14

Similarly, I ask why anti-trans/queer violence, more often than not, is correctly levied against us. In other words, the discursive aim of liberalism that subsists under the sign of equality argues that trans/queerness is indistinguishable under the social order. This misses, or more precisely disappears, in the name of its own coherence—differences it cannot endure, while also harnessing difference as its organizing principle. Against such claims, I suggest that there are moments of figuration where trans/queerness does in fact signify differently, not because of an innate ontological structure but because of the ways ontology is naturalized through one’s place in the world. I’m not suggesting that there is an always locatable trans/queerness that exists outside historicity, but such a fiercely flexible semiotics might conditionally offer a way of knowing this violence that can withstand the weight of generality.15

Indeed, not all who might identify as either trans and/or queer experience the same relationship to violence. Such differentiation is the underside of this book as the consolidation of LGBT politics operates, perhaps most vividly, through an endless drive toward recognition before the law. As I glossed in the introduction, this demand for inclusion through the architecture of formal equality solidifies the attachment to the state as the primary, if not exclusive, method of transformation. Beyond thinking that equality is a less effective tactic in the struggle for freedom, here I understand equality as that which ensures that anything other remains unthinkable. While at times strategically necessary, organizing movements under its banner solidifies the idea that the same system that has been built and maintained through deadly inclusive exclusion is also where relief can be found.16

The betrayal that is LGBT equality takes form in the grim fact that the overwhelming proportion of trans/queer people who are murdered in the United States are of color; specifically, Black trans women endure the most vicious forms of quotidian and spectacular attack.17 Similarly, Black, Brown, and/or Indigenous trans/queer people who are surviving in spaces of hyper-control, from jails and psych prisons to public housing and ICE detention centers, along with those whose labor is criminalized, including sex workers and drug dealers, experience the intensification of this structuring violence as the predisposition to interpersonal attack. In contrast, many LGBT people in the United States who otherwise exist within white cis normativity may in their daily lives know very little about either systematic or personal harm. The long history and magnified present of LGBT assimilation illustrates these varying degrees of life chances available to some, that under the democratic order come at the expense of others. In contrast, I am marking trans/queer as the horizon where identity crumbles and vitality is worked otherwise. Here, trans/queer might be a productive placeholder to name a nonidentity where force is made to live. This is not to suggest that the negativity of trans/queerness and methodologies of annihilation define the end of our sociality or that the parameters of opposition are sedimented as such. As is cataloged throughout this text, our legacies of wild revolt—fashioning a world without vertical genealogies—insists that trans/queerness remains as generativity’s future present.18

#### The alternative is opacity. The nexus question is who gets to change the way they are marked. That’s not accessed by black or brown and trans/queer people.

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Clocking

If, for some, gender only functions in a moment of negative equivalence that produces and does not simply echo what is assumed to appear in the social, what, then, might representation offer for a trans visual culture that resides on the side of flourishing? Or, what remains of the possibility of a liberatory moving image if the medium is moored to the conditions of collective detention? As I outlined in the introduction, mainstream lgbt organizations often argue for casting actors whose identities match their roles and, somewhat less common, for funding lgbt directors and crew to control the means of producing their own images. While these are necessary interventions, nevertheless, there is no guarantee that these adjustments will produce anything less dependent or more radically transformative. The representational regime I’ve been describing is an impasse where a diagnostic is easier to imagine than a corrective by way of speculative prescription. Rather than believing we might be able to “solve” the problem of the image; the charge might be to hold this contraction in the interval of freedom. 49

As is clear, representation has been produced as the primary site of struggle over diversity in the United States from at least the middle of the last century to our current moment. Positive representation, as a visual common sense, traffics normativity’s drive but with a decorative adornment that announces itself as departure. Even with little evidence of its ability to yield a more livable world, positive representation is still offered as the remedy for the years of degraded images that are the history of film. This substitutional logic, where representational change is argued to be analogous to structural change, provides positive representation as both remedy for and evidence of domination’s inevitable end— the promise of equality fulfilled. This respectable image, where neoliberal ideas of economic maturity and proper individualism transpose the stunning disturbances of gender, racial, and sexual excess to the failures of our insolvent past, reconfirm the idea of our progression. Yet this assimilatory representation is another impossibility, a disciplining intent on exiling pleasure and abundance, while ensuring hostile images are as much in our future as they might belong to the present. 50

For example, the last decade has witnessed a vast proliferation of trans representations that are offered as cure to the relentless economic, psychic, affective, and physical violence many trans people endure. These expanding representations are used to undergird dominant culture’s argument that progress is inevitably unfolding. Yet, returning to CeCe McDonald’s words that begin this chapter, we know that with this increased representation comes sustained or heightened instances of violence. While 2014 was named the “Transgender Tipping Point” by Time magazine, each consecutive year since has counted record numbers of murdered trans women of color in the United States. 51 Among our tasks is to attend to the grim reality that the expansion of even “positive” representation might not have simply a neutral corollary to violence but perhaps a causal one as well. 52

Marsha P. Johnson makes a similar argument about visibility and violence after a 1972 Arthur Bell interview in the Village Voice . Referring to a previously published piece, she suggested that the attention brought to the “girlies” (other gender-­ nonconforming sex workers) increased their harassment and led to their arrest later that week. Linguistic representation in the form of the article produced a broader social understanding of Johnson and her friends, including the geographies and temporalities they lived within which put them more centrally on the police’s radar. We have, then, the contradiction of the representational in that it brings us into the world, while also having the capacity to take us out. Here, the distinction (as contradistinction) between being and nonbeing also maps recognition’s fugitivity. 53

Again, rather than an opening toward recognition— a position where one can make a claim instead of exclusively being claimed— representation for Marsha P. Johnson and Duanna Johnson was the prefiguration of their undoings. Duanna Johnson’s being read as trans led to her initial arrest under “suspicion of prostitution,” a policing practice often referred to as “walking while trans,” in which trans women of color are assumed to always be engaging in sex work when they exist in public. Johnson being clocked, or being brought into the general field of representation as negative equality, led to her subsequent beating in the booking room, and perhaps even her murder.

Being clocked, or being seen as trans, is most readily deployed against a person’s identity as an attempt to destroy their/our coherence. Clocking adheres with the gripping force of catastrophe by recasting the violent act of misgendering as the ability to name the Other out of existence. Misgendering here is not a minor act of miscalculation but a way to reclaim the domain of gender and one’s position as author for those who are most threatened by its fragility. Officer McRae’s “he-­she” and “faggot,” the lacerating words intent on obliteration, enacts the double bind of recognition: being seen by the other brings you into the world— into the field of visibility. But for those already on the edges of vitality, like Duanna Johnson, it is often that which also takes you out of it. Through representation— both the cctv video and descriptions of Johnson in court— the defense was able to produce a reversal of guilt, where the party harmed is, via the magic of the law, transformed into the assumed aggressor. Johnson, and not the state, is made to hold the burden of proof— the surveillant gaze in action. 54

Tracing the racial and gendered parameters of recognition from Fanon and da Silva to Snorton and McDonald, how might we reorient the project of recognition, its prohibitions and its access, toward the nondialectical and nondevelopmental? Or, where might relief be found if we abandon the telos of the assumed subject to come? The brutal scene of Duanna Johnson’s beating, replayed against the composed testimony of the court, reminds us that recognition is not a smooth space of inevitability, even in struggle. Here, it’s the phenomenology of violence that compels us beyond a substitutive logic where life, and life’s recognition, is equally distributed.

Fanon turns our attention to the limits of recognition in the colonial context that I more fully explored in chapter 1. By holding on to the dialectics of structure, he also maintains the teleology of subjectivity, even for those deemed nonsubjects. For Fanon, revolutionary violence offers a way through the totalizing constriction of coloniality, the possibility to move from object to subject, however contingent. Given this, how might we push further on Fanon for those who must remain, even in the postcolony, as da Silva might suggest, “no-­bodies against the state”? This is perhaps an unfair question to levy against Fanon’s thought. Yet this “no-­ body” as nonidentity, or the negation of the negation of identity— not unlike Spillers’s caution against “joining the ranks of gendered femaleness”—might offer “the insurgent ground as female social subject.” 55

From Optics to Opacity

Duanna Johnson’s attack and its cinematic afterlife capture the structures of recognition and misrecognition, representation and disappearance, that constitute the field of the visual. While writing from a place of gender self-­ determination that works toward gender as an “insurgent ground,” what is left of our various analytics of recognition and the images that bring us into the world? Or, how might we return to the beating tape: not simply to offer yet another way to imagine what we already know— that anti-­Blackness, gender normativity, and violence are tightly bound in the production of flesh and that flesh’s destruction— but to ask, yet again, how this bind might be undone. 56 Further, what tactics of production and sabotage might liberate the image from its formalism? This question specifically addresses those trapped in the interval of seeing and being seen where subject and object are collapsed. As a praxis of imagination and survivance, we must pose it without a fantasy of closure. To put it another way, at the center of the problem of recognition lies this: How can we be seen without being known, and how can we be known without being hunted? 57

Being a “no-­ body against the state,” a position some are already forced to live, stands against the sovereign promise of positive representation and the fantasy of sovereignty as assumed under claims of privacy. Read not as absolute abjection but as a tactic of interdiction and direct action, being a no-­body might force the visual order of things to the point of collapse. On the issue of recognition and radical singularity, Édouard Glissant suggests, “From the perspective of Western thought, we discover that its basis is this requirement for transparency. In order to understand and thus accept you, I have to measure your solidity with the ideal scale providing me with grounds to make comparisons and, perhaps, judgments. I have to reduce.” 58 This reduction, which Fanon might call being overdetermined, is, as we know, unequally distributed. Glissant offers a totality of relation in opacity, the work of nontransparency that allows for nondialectic difference— the collectivization of radical singularity. Glissant continues, “Agree not merely to the right of difference but, carrying this further, agree also to the right of opacity that is not enclosure within an impenetrable autarchy but subsistence within an irreducible singularity.” 59 We might read the current order of popular trans representation to be a variation of agreeing to only the “right of difference,” as transparency is the precondition of visibility politics.

Opacity is useful here not necessarily as a practice of going stealth, residing below or beside the regimes of being seen but not known, although it might be imagined as such for those who find life there. For Glissant it is a method of solidarity without being grasped. 60 Here I’m suggesting it might be one way to theorize a radical trans visuality that attends to the universal and the particular as non-­interchangeable. Opacity with representation: an irreconcilable tension that envisions something more than the pragmatism of the transparent and its visual economies of death.

## ON

### 1NC – Other

#### The assumption that signifiers and signs are the primary mode of exchange, and that playing with symbols is effective resistance, only glorifies consumption at the expense of understanding how labor exploitation orders society. This is a viewpoint that can only be taken by upper middle class intellectuals who are already divorced from need.

Zavarzadeh 95 Mas’ud, prolific writer and expert on class ideology, post-ality: Marxism and postmodernism, post-ality the (dis)simulations of cybercapitalism pg 15-18

This noninstrumental "consumption" is a semiotic act; "a system of com­munication" (Selected Writings 46), a mode of forming and disseminating "mean­ings" above and beyond the functionality of consumption. "A washing machine serves as equipment and plays as an element of comfort, or of prestige, etc. It is the field of play that is specifically the field of consumption" (Selected Writings 44; emphasis added). When one buys a pair of "designer" jeans, one does not simply respond to a "need" (to keep warm, for instance) but acts on the pulsation of "desire": to express oneself and in doing so become involved in a purposeless practice that is essentially an aesthetic act ("play"). **For Baudrillard, post-ality is the articulation of this mode of consumption: early capitalism is marked by functional consumption which perpetuates production while post-al capitalism** ("consumer society") **is a break from this functionalism**. **Consumption,** in post-al capitalism **becomes an end in itself**, **an "excessive play**: a sheer "waste"—**a carnival**, a re­gime of festivities and prodigalities. **Consumption** in Baudrillard's theory, then, **is not determined by** such classical Marxist concepts as **"use-value" and "exchange**" value **but by "sign value**." **The signs** and meanings **produced through prodigal expenditure are signs that cannot be easily absorbed back into the established system of codes that** now **controls all significations**. **Consumption is both anti-production and anti-regulatory**: **it is a process of excessive signification** that cannot be contained by the dominant mode of signification. **"Conspicuous consumption" for Baudrillard is then essentially a resistant semiotic act—an act of intervention in the order of established meanings** and rep­resentations **legitimated by capitalism**. **Prodigal "consumption" is**, according to him, **a radical negation of capitalism**. The act of consumption therefore is not ex­hausted by its instrumentality and usefulness (it is, in terms of his later writings, a mode of "seduction" a form of opposition to production and procreation); it is the signifier of an irradicable negative (that cannot be assimilated in a Marxist dialecti­cal synthesis) and constitutes the principle of post-al mutation. **The form of capital­ism that could be analyzed in Marxist terms of political economy, Baudrillard maintains, has ended and**, an entirely new **analytics that he calls, the "political economy of the sign**" (Mirror 121) **is needed to make sense of post-al capitalism. However, Baudrillard's understanding** of the Marxist concept of "produc­tion" as a "mirror" **is not simply a misrecognition but is also ideological in the sense that the logic of its misrecognition is a class logic: it legitimates the (economic) interests of the ruling class. The Marxist theory of "production," contrary to Baudrillard,** Habermas, Butler, Cornel West and other critics of the "production paradigm," **does not reduce all human activities to "labor"; rather it is a theory of the emancipation of humans from necessity and the freedom from the capitalist form of labor. Baudrillard's notion of "symbolic exchange" is simply a post-al colo­nial nostalgia for "primitive" society; a transhistorical utopia for the North Atlantic elite who has freed itself from necessity—at the cost of the labor of the other—and now regards the main question of humanity to be not "production" but destructive "consumption." For this class, life is lived ludically: the playfulness that erases the use-value of the objects of necessity in order to turn them into moments of the aesthetic sublime**. Post-al theories, in general, proclaim to "deconstruct" the metaphysics of labor. **Consumptionist theories after Baudrillard,** however, **have used the deconstruction of "production" as their foundation for proving the autonomy of capital from labor and consumption from class/production. One of the main signs of post-al society,** according to Stuart Hall, **is that "there is a leading role for con­sumption,** reflected in such things as greater emphasis on choice and product dif­ferentiation, on marketing, packaging and design, on 'targeting' of consumers by life-style, taste and culture rather than by the Registrar General's categories of so­cial class" ("The Meaning of New Times" 118). **One of the un-saids of the displace­ment of production by consumption is the notion that capitalism is a response not to profit but to the "free choice**" (desire) **of individuals: it is the consumption and desire for difference that drives capital, and, as such, capitalism is not only not antagonistic to human needs but is in fact a direct response to them**. "The private control of the sovereign consumer" is portrayed in these reactionary theories as "real, visible and tangible" (Mulgan, "The Power of the Weak" 358). Consumption in post-al theory has become the trope of the indeterminacy of production. **In its privileging of "consumption," post-al theory privileges individual "choice" over human "needs": it is**, in short, **a class theory**. **Thus, even though the displacement of production is a move made in the name of epistemological neces­sity**—**to provide a more accurate knowledge of capitalism now**—**it is, in practice, an ideological alibi for** what Hall's statement clearly marks: **the removal of "class struggle" from the scene of the social in the interest of increasing the freedom of choice for the upper middle classes within the existing socio-economic structures**. **These critics announce the end of socialism and with it the outdatedness of the praxis of abolishing private property** (that is, congealed alienated labor) in the post­al moment. **Instead of abolishing private property, they envision an enlightened radical democracy to supplant socialism** (as Laclau, Fukuyama, Mouffe, Cornell West, Aronowitz, Butler and others have advised) **and make property holders of each citizen**. **This, needless to say, is the Thatcherist notion of property-owning democracy represented as a radical differential socialism**. **For theorists of radical democracy, it is only by means of conspicuous** and prodigal **"owning" (which en­ables consumption to become transfunctional and symbolic) that one can be resituated outside the system of exchange and be set free from the repressive utili­tarianism of capitalism. The "sign**" (constructed through conspicuous consump­tion) **and not "labor" is the formative force in post-al capitalism, and**, therefore, **it is the "control of the code"** (Mirror 122) **and not seizing of the means of produc­tion that is the urgent question for political struggle in the post-al moment. The post-al question,** to be clear, **is no longer the end of exploitation in the form of putting an end to the extraction of surplus labor** (communism) **but a more equi­table distribution** ("consumption") **among people**, regardless of their race, gender, sexualities, nationalities, of the surplus value produced by the exploitation of the proleteriat. **The proliferation of post-al "social movements**" (**feminism, anti-racism, environmentalism, queer theory,** postnationalism) **are part of this abandoning the project of the emancipation of humanity from labor under capitalism** (**exploitation**) **and instead instituting in its place the libertarian goal of freedom of consump­tion**. **The project of emancipation is seen in post-al theories as a universalizing and totalitarian undertaking (**Butler, "Poststructuralism") **that disregards** the **difference**/ differance—what Drucilla Cornell calls, "each of us in her singularity" (113). Cornell is, of course, annotating here what Derrida (quoting Levinas) calls "the equitable honoring of faces" ("Forces of Law" 959) of each consumer. In restoring differ­ence/differance, post-al theories, in Bell's word, "uncouple" production from con­sumption. The emergence of theories of consumption, these theorists argue, is the proof that the "political" (the freedom of the subject) is what, in the post-al mo­ment, determines the economic. **However, the popularity of consumptionist theo­ries has very little to do with the political or the freedom of the subject: it is a not so subtle device for reducing overproduction. Far from asserting the autonomy of the subject, it, in fact, demonstrates how the freedom of the subject under capitalism is always the freedom that enhances the economic interests of the owners of the means of production**. <15-18>