**1nc – round 5**

**offcase**

**1**

**The text of the resolution calls for debate on hypothetical government action – they don’t meet**

**Ericson 03** (Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4)

The Proposition of Policy: Urging Future Action In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb should—the first part of a verb phrase that urges action. 3. An action verb to follow should in the should-verb combination. For example, shouldadopt here means to put a program or policy into action though governmental means. 4. A specification of directions or a limitation of the action desired. The phrase free trade, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the affirmative side in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

**Our impact is debatability—there are two internal links:**

1. **Limits. A bounded topic serves as a predictable stasis point for debate that guarantees thematic coherence. Absent defined limits, debate’s competitive incentives create a race to the margins which distorts topic research.**

**Analogies between limits and violent exclusion are faulty—argumentative exclusion is inevitable, but topicality ensures it occurs around reciprocal lines.**

**Anderson 06**—Andrew W. Mellon Professor of Humanities and English at Brown University (Amanda, “Reply to My Critic(s),” Criticism, Vol. 48, No. 2, 281-290, dml) \*edits denoted in brackets []

My recent book, The Way We Argue Now, has in a sense two theses. In the first place, the book makes the case for the importance of debate and argument to any vital democratic or pluralistic intellectual culture. This is in many ways an unexceptional position, but the premise of the book is that the claims of reasoned argument are often **trumped**, within the current intellectual terrain, by appeals to cultural **identity** and what I gather more broadly under the rubric of **ethos**, which includes cultural identity but also forms of ethical piety and charismatic authority. In promoting argument as a universal practice keyed to a human capacity for communicative reason, my book is a **critique** of relativism and identity politics, or the notion that forms of cultural authenticity or group identity have a certain **unquestioned legitimacy**, one that **cannot** or **should not** be subjected to the challenges of **reason** or **principle**, precisely because reason and what is often called "false universalism" are, according to this pattern of thinking, **always** involved in forms of **exclusion**, **power**, or **domination**. My book insists, by contrast, that argument is a form of **respect**, that the ideals of democracy, whether conceived from a nationalist or an internationalist perspective, rely fundamentally upon procedures of argumentation and debate in order to legitimate themselves and to keep their central institutions vital. And the idea that one should be **protected from debate**, that argument is somehow **injurious** to persons if it **does not honor** their desire to have their basic beliefs and claims and solidarities **accepted without challenge**, is **strenuously opposed**. As is the notion that **any** attempt to ask people to agree upon processes of **reason-giving argument** is somehow **necessarily** to impose a **coercive norm**, one that will ~~disable~~ [undermine] the **free expression** and **performance** of identities, feelings, or solidarities. Disagreement is, by the terms of my book, a form of respect, not a form of disrespect. And by disagreement, I don't mean simply to say that we should expect disagreement rather than agreement, which is a frequently voiced—if misconceived—criticism of Habermas. Of course we should expect disagreement. My point is that we should focus on the moment of dissatisfaction in the face of disagreement—the internal dynamic in argument that imagines argument might be the beginning of [End Page 281] a process of persuasion and exchange that could end in agreement (or partial agreement). For those who advocate **reconciling** ourselves to disagreements rather than **arguing them out**, by contrast, there is a **complacent**—and in some versions, even **celebratory**—attitude toward fixed disagreement. Refusing these options, I make the case for dissatisfied disagreement in the final chapter of the book and argue that people should be willing to **justify** their positions in dialogue with one another, especially if they hope to live together in a post-traditional pluralist society.

One example of the trumping of argument by ethos is the form that was taken by the late stage of the Foucault/Habermas debate, where an appeal to ethos—specifically, an appeal to Foucault's style of ironic or negative critique, often seen as most in evidence in the interviews, where he would playfully refuse labels or evade direct answers—was used to exemplify an alternative to the forms of argument employed by Habermas and like-minded critics. (I should pause to say that I provide this example, and the framing summary of the book that surrounds it, not to take up airtime through expansive self-reference, but because neither of my respondents provided any contextualizing summary of the book's central arguments, though one certainly gets an incremental sense of the book's claims from Bruce Robbins. Because I don't assume that readers of this forum have necessarily read the book, and because I believe that it is the obligation of forum participants to provide sufficient context for their remarks, I will perform this task as economically as I can, with the recognition that it might have carried more weight if provided by a respondent rather than the author.)

The Foucauldian counter-critique importantly emphasizes a relation between style and position, but it obscures (1) the importance or value of the Habermasian critique and (2) the possibility that the other side of the debate might have its own ethos to advocate, one that has precisely to do with an ethos of argument, an ideal of reciprocal debate that involves taking distance on one's pre-given forms of identity or the norms of one's community, both so as to talk across differences and to articulate one's claims in relation to shared and even universal ideals. And this leads to the second thesis of the book, the insistence that an emphasis on ethos and character is interestingly present if not widely recognized in contemporary theory, and one of the ways its vitality and existential pertinence makes itself felt (even despite the occurrence of the kinds of unfair trumping moves I have mentioned). We often fail to notice this, because identity has so uniformly come to mean sociological, ascribed, or group identity—race, gender, class, nationality, ethnicity, sexuality, and so forth. Instances of the move toward character and ethos include the later Foucault (for whom ethos is a central concept), cosmopolitanism (whose aspiration it is to turn universalism into an ethos), and, more controversially, proceduralist ethics and politics (with its emphasis on sincerity and civility). Another version of this attentiveness to ethos and character appears in contemporary pragmatism, with its insistence on casualness of attitude, or insouciance in the face of [End Page 282] contingency—recommendations that get elevated into full-fledged exemplary personae in Richard Rorty's notion of the "ironist" or Barbara Herrnstein Smith's portrait of the "postmodern skeptic." These examples—and the larger claim they support—are meant to defend theory as still living, despite the many reports of its demise, and in fact still interestingly and incessantly re-elaborating its relation to practice. This second aspect of the project is at once descriptive, motivated by the notion that characterology within theory is intrinsically interesting, and critical, in its attempt to identify how characterology can itself be used to cover or evade the claims of rational argument, as in appeals to charismatic authority or in what I identify as narrow personifications of theory (pragmatism, in its insistence on insouciance in the face of contingency, is a prime example of this second form). And as a complement to the critical agenda, there is a reconstructive agenda as well, an attempt to recuperate liberalism and proceduralism, in part by advocating the possibility, as I have suggested, of an ethos of argument.

Robbins, in his extraordinarily rich and challenging response, zeroes in immediately on a crucial issue: who is to say exactly when argument is occurring or not, and what do we do when there is disagreement over the fundamentals (the primary one being over what counts as proper reasoning)? Interestingly, Robbins approaches this issue after first observing a certain tension in the book: on the one hand, The Way We Argue Now calls for dialogue, debate, argument; on the other, its project is "potentially something a bit stricter, or pushier: getting us all to agree on what should and should not count as true argument." What this point of entry into the larger issue reveals is a kind of blur that the book, I am now aware, invites. On the one hand, the book anatomizes academic debates, and in doing so is quite "debaterly." This can give the impression that what I mean by argument is a very specific form unique to disciplinary methodologies in higher education. But the book is not generally advocating a narrow practice of formal and philosophical argumentation in the culture at large, however much its author may relish adherence to the principle of non-contradiction in scholarly argument. I take pains to elaborate an ethos of argument that is linked to democratic debate and the forms of dissent that constitutional patriotism allows and even promotes. In this sense, while argument here is necessarily contextualized sociohistorically, the concept is not merely academic. It is a practice seen as integral to specific political forms and institutions in modern democracies, and to the more general activity of critique within modern societies—to the tradition of the public sphere, to speak in broad terms. Additionally, insofar as argument impels one to take distance on embedded customs, norms, and senses of given identity, it is a practice that at once acknowledges identity, the need to understand the perspectives of others, and the shared commitment to commonality and generality, to finding a way to live together under conditions of difference.

More than this: the book also discusses at great length and from several different angles the issue that Robbins inexplicably claims I entirely ignore: the [End Page 283] question of disagreement about **what counts as argument**. In the opening essay, "Debatable Performances," I fault the proponents of communicative ethics for not having a broader understanding of public expression, one that would include the disruptions of spectacle and performance. I return to and underscore this point in my final chapter, where I espouse a democratic politics that can embrace and accommodate a **wide variety** of expressions and modes. This is certainly a discussion of what counts as dialogue and hence argument in the broad sense in which I mean it, and in fact I fully acknowledge that taking distance from cultural norms and given identities can be advanced not only through critical reflection, but through ironic critique and defamiliarizing performance as well. But I do insist—and this is where I take a position on the fundamental disagreements that have arisen with respect to communicative ethics—that when they have an **effect**, these other dimensions of experience do not remain unreflective, and insofar as they do become reflective, they are contributing to the **very form of reasoned analysis** that their champions sometimes imagine they must **refuse** in order to liberate other modes of being (the **affective**, the **narrative**, the **performative**, the **nonrational**). If a narrative of human rights violation is persuasive in court, or in the broader cultural public sphere, it is because it draws attention to a violation of humanity that is condemned on principle; if a performance jolts people out of their normative understandings of sexuality and gender, it prompts forms of understanding that can be **affirmed** and **communicated** and also can be used to justify **political positions** and **legislative agendas**.

Robbins claims that I violate my own ideal of dialogue by failing to engage those who, according to him, are "[my] most significant antagonists": Jean-François Lyotard and Jacques Rancière. But it is simply not true that I fail to address the fundamental concerns that neither of these thinkers owns in any absolute sense. I might have addressed their work particularly (there are significant differences between them), and I think the example of Rancière is a particularly fruitful one, especially given his own critique of sociological reductionism (and identity politics), and his universalism, which shares affinities with the forms of poststructuralist universalism (notably, Etienne Balibar's) that I address in the third chapter of my book. But the relevant issues of incommensurability of language games or cultural perspectives, and the question of intractable or "hardwired" exclusion, are adduced and repeatedly critiqued throughout the book, across a range of disciplines. The debate between the accommodationist position of Thomas McCarthy and the universalist position of Habermas addresses these issues straight on, and the discussion of Habermas clearly maps out the two main alternatives to his position as (1) incommensurable perspectives and (2) overlapping consensus. The analysis of Satya Mohanty and Martha Nussbaum is also directly relevant: Mohanty situates his project with respect to a well-known and parallel debate in anthropology represented by the opposed positions of Ernest Gellner and Talal Asad. My emphasis on the newer discussions of accommodation, [End Page 284] rather than the incommensurability theorists (e.g., Lyotard), is meant to argue for the Habermasian position against its newer and more interesting challengers, and I also wanted the book to move beyond the parochial reference points of literary and cultural studies to engage relevant work in political theory and political philosophy. And of course I do discuss the work of many influential theorists and literary critics who oppose the approach I take in the book generally. But I'm not going to reproduce my complete range of references: readers are free to decide for themselves how comprehensive and various the theoretical landscape is in my book. But I will say in response to Robbins that my "primary antagonist" considered as a position rather than a set of proper names is consistently present in the book, and taken on in a number of different ways.

There is a deeper issue at play in Robbins's invocation of Lyotard and Rancière, especially given where his discussion of what he calls my "argumentative normativity" ends up. On the one hand, Robbins wants to say that the argument I am taking up is no longer relevant, that "thankfully" literary critics have moved past the critique of Enlightenment. On this account I am sadly unaware that my earlier books have actually had some influence, and seem to be stuck in an agonistic position that has no traction, and that at this point constitutes a regression toward a naively pro-Enlightenment position that is likely to invite—and that at some level deserves to invite—a strong reiteration of the critique of Enlightenment. The moves need to be replayed in slow motion here to discover exactly what is going on, since the argument is quite kinetic, and involves a dubious framing of my own project. It is certainly the case that in diagnosing the state of academic argument in the humanities today, I invoke, as one of the contributing factors, the excesses involved in the critique of Enlightenment. It is not the only factor I invoke, but it is certainly adduced as a major contributing factor to the denigration of reason, critical distance, and formal argument. I do agree with Robbins that there are many critics challenging the critique of Enlightenment. There are also, as it happens, many critics who have walked away from the debate to do other things. But it remains the case, as Robbins's own response makes clear, that the stronger version of the critique has a kind of staying power, particularly as a way of asserting political pedigree in the last instance. Indeed, Robbins must insist that I resurrect a version of the very form of Enlightenment that was once the whipping boy of poststructuralism, in order to himself reintroduce a high-stakes political allegory that will imagine cultural criticism to be an immediate actor in the current international political landscape.

Let's first examine the claim that my book is "unwittingly" inviting a resurrection of the "Enlightenment-equals-totalitarianism position." How, one wonders, could a book promoting **argument** and **debate**, and promoting **reason-giving practices** as a kind of common ground that should prevail over assertions of **cultural authenticity**, somehow come to be seen as a **dangerous resurgence** of bad Enlightenment? Robbins tells us why: I want "**argument on my own terms**"—that [End Page 285] is, I want to **impose reason** on people, which is a form of **power** and **oppression**. But **what can this possibly mean**? Arguments **stand** or **fall** based on whether they are **successful** and **persuasive**, even an argument in favor of argument. It **simply is not the case** that an argument in favor of the importance of reasoned debate to liberal democracy is **tantamount to oppressive power**. To assume so is to assume, in the manner of Theodor Adorno and Max Horkheimer, that reason is itself **violent**, **inherently**, and that it will **always mask power** and **enforce exclusions**. But to assume this is to assume the **very view of Enlightenment reason** that Robbins claims we are "thankfully" well rid of. (I leave to the side the idea that any individual can proclaim that a debate is over, thankfully or not.) But perhaps Robbins will say, "I am not imagining that your argument is **directly** oppressive, but that what you argue for **would be**, if it were **enforced**." Yet my book **doesn't imagine** or **suggest it is enforceable**; I simply **argue in favor of**, I promote, an ethos of argument within a liberal democratic and **proceduralist framework**. As much as Robbins would like to think so, neither I nor the books I write can be cast as an arm of the police.

Robbins wants to imagine a far more direct line of influence from criticism to political reality, however, and this is why it can be such a bad thing to suggest norms of argument. Watch as the gloves come off:

Faced with the prospect of submitting to her version of argument—roughly, Habermas's version—and of being thus authorized to disagree only about other, smaller things, some may feel that there will have been an end to argument, or an **end** to the arguments they **find most interesting**. With current events in mind, I would be surprised if there were no recourse to the metaphor of a regular army facing a **guerilla insurrection**, hinting that Anderson wants to force her opponents to **dress in uniform**, reside in **well-demarcated camps** and **capitals** that can be **bombed**, fight by the **rules of states** (whether the states themselves abide by these rules or not), and so on—in short, that she wants to get the battle onto a terrain where her side will be **assured** of having the **upper hand**.

Let's leave to the side the fact that this is a disowned hypothetical criticism. (As in, "Well, okay, yes, those are my gloves, but those are somebody else's hands they will have come off of.") Because far more interesting, actually, is the **sudden elevation of stakes**. It is a symptom of the sorry state of affairs in our profession that it plays out repeatedly this tragicomic tendency to give a **grandiose political meaning** to every object it analyzes or confronts. We have evidence of how desperate the situation is when we see it in a critic as thoughtful as Bruce Robbins, where it emerges as the need to allegorize a point about an argument in such a way that it gets cast as the **equivalent of war atrocities**. It is especially ironic in light of the fact that to the extent that I do give examples of the importance of liberal democratic proceduralism, I invoke the disregard of the protocols of international adjudication in the days leading up to the invasion of Iraq; I also speak [End Page 286] about concerns with voting transparency. It is **hard** for me to ~~see~~ [understand] how my argument about proceduralism can be associated with the policies of the **Bush administration** when that administration has exhibited a **flagrant disregard of** democratic **procedure** and the rule of law. I happen to think that a renewed focus on proceduralism is a timely venture, which is why I spend so much time discussing it in my final chapter. But I hasten to add that I am **not** interested in **imagining** that proceduralism is the **sole political response** to the needs of cultural criticism in our time: my goal in the book is to argue for a liberal democratic culture of argument, and to suggest ways in which argument is not served by trumping appeals to identity and charismatic authority. I fully admit that my examples are less political events than academic debates; for those uninterested in the shape of intellectual arguments, and eager for more direct and sustained discussion of contemporary politics, the approach will disappoint. Moreover, there will always be a tendency for a proceduralist to under-specify substance, and that is partly a principled decision, since the point is that agreements, compromises, and policies get worked out through the communicative and political process. My book is mainly concentrated on evaluating forms of arguments and appeals to ethos, both those that count as a form of trump card or distortion, and those that flesh out an understanding of argument as a universalist practice. There is an intermittent appeal to larger concerns in the political democratic culture, and that is because I see connections between the ideal of argument and the ideal of deliberative democracy. But there is clearly, and indeed necessarily, significant room for further elaboration here.

There is a way to make Robbins's point more narrowly, which would run something like this: Anderson has a very restricted notion of how argument should play out, or appear, within academic culture, given the heavy emphasis on logical consistency and normative coherence and explicitness. This conception of argument is too narrow (and hence authoritarian). To this I would reply simply that logical consistency and normative coherence and explicitness **do not exhaust** the possible forms, modes, and strategies of argumentation. There is a **distinction** to be made between the **identification** of moves that **stultify** or disarm **argument**, and an **insistence** on some sort of **single manner** of reasoned argument. The former I am **entirely committed** to; the latter **not at all**, despite the fact that I obviously favor a certain style of argument, and even despite the fact that I am philosophically committed to the claims of the theory of communicative reason. I do address the issue of diverse forms and modes of argument in the first and last chapters of the book (as I discuss above), but it seems that a more direct reflection on the book's own mode of argumentation might have provided the occasion for a fuller treatment of the issues that trouble Robbins.

Different genres within academe have **different conventions**, of course, and we **can** and **do** make decisions **all the time** about what **rises** to the **level of cogency** within specific academic venues, and what **doesn't**. Some of those judgments [End Page 287] have to do with protocols of argument. The book review, for example, is judged according to whether the reviewer responsibly represents the scholarship under discussion, seems to have a good grasp of the body of scholarship it belongs to, and convincingly and fairly points out strengths and weaknesses. The book forum is a bit looser—one expects responsible representation of the scholarship under discussion, but it can be more selectively focused on a key set of issues. And one expects a bit of provocation, in order to make the exchange readable and dramatic. But of course in a forum exchange there is an **implicit norm** of argument, a tendency to **judge** whether a particular participant is making a **strong** or a **weak case** in light of the **competing claims** at play. Much of our time in the profession is taken with **judging** the quality of **all manner** of academic performance, and much of it has to do with **norms of argument**, however much Robbins may worry about their potentially coercive nature.

From time to time I myself have wondered whether my book is too influenced by the modes of academe. But when I read a piece of writing like the one that Elspeth Probyn produced, I find myself feeling a renewed commitment to the evaluative norms of responsible scholarship, and to the idea that clearly agreed-upon genres and protocols of fair scholarship benefit from explicit affirmation at times. Probyn's piece does not conform at all to the conventions of the forum response. She may herself be quite delighted that it does not. Robbins may find himself delighted that she represents a viewpoint that does not agree on my (totalitarian) fundamentals of forum responses. But I would simply say that here we do not have fair or reasoned argument, which is one of the enabling procedures of forum exchanges. Indeed, I hear a different genre altogether: the venting phone call to a friend or intimate. In this genre, which I think we are all familiar with, one is not expected or required to give reasons or evidence, as one is in academic argument. Here's how the phone call might go: "Ugh. I have to write a response to this awful book. I agreed to this because I thought the book had an interesting title; it's called The Way We Argue Now. But I can't get through it; it isn't at all what I expected. I find myself alternately bored and irritated. It's so from the center—totally American parochial, and I just hate the style: polemical in a slam-bam-thank-you-ma'am way—really quite mean-spirited. She's so arrogant. And you wouldn't believe the so-called critique of Foucault. I don't know, I think I'm just sick of abstract theory—I mean, aren't we past this? It's so stultifying. I wish there were some way to get out of the commitment. I don't know how I'm ever going to get to it anyway, with all my journalism deadlines." The friend: "That sounds awful. But just use the occasion to write about something else, something you think is important. Write about yourself. Direct attention to a book that you do like. Whatever you do, don't spend too much time on it. And definitely call her out on the American centrism."

Do we really want to overhear this kind of conversation when we turn to the review section of a journal like Criticism? Of what intellectual value is it to know [End Page 288] Probyn's casual reactions to a book she won't bother responsibly to describe or engage, unless of course we accord to Probyn some sort of authority in advance that makes argument unnecessary. That she herself believes in such argument-by-authority is evident when she tells us, "As Stuart Hall would say, along with any undergraduate in my classes, 'A discourse is a group of statements that provide a language for talking about a particular kind of knowledge about a topic.'" This is the extent of Probyn's searing critique of the problem with advocating debate generally. But note that it relies, first, upon the invocation of an authority, Stuart Hall, and then upon the implication that her students have all entirely absorbed her own channeling of that authority. Probyn is entirely unbothered, moreover, that the undergraduates in her classes unblinkingly accept this empty statement without protest or challenge or further inquiry into its aimless specificity.

Probyn's piece is a mixture of affective fallacy, argument by authority, and bald ad hominem. There's a **pattern** here: precisely the tendency to **personalize argument** and to foreground what Wendy Brown has called "**states of injury**." Probyn says, for example, that she "felt ostracized by the book's content and style." Ostracized? Argument here is seen as **directly harming** persons, and this is precisely the state of affairs to which I **object**. Argument is **not injurious** to persons. **Policies** are injurious to persons and institutionalized practices can **alienate** and **exclude**. But argument itself is **not directly harmful**; once one says it is, one is **very close** to a logic of **censorship**. The **most productive thing** to do in an open academic culture (and in societies that aspire to freedom and democracy) when you encounter a book or an argument that you disagree with is to **produce a response** or a book that states your disagreement. But to assert that the book itself **directly harms you** is tantamount to saying that you **do not believe** in argument or in the **free exchange** of ideas, that your claim to injury somehow **damns your opponent's ideas**.

When Probyn isn't symptomatic, she's just downright sloppy. One could work to build up the substance of points that she throws out the car window as she screeches on to her next destination, but life is short, and those with considered objections to liberalism and proceduralism would not be particularly well served by the exercise. As far as I can tell, Probyn thinks my discussion of universalism is of limited relevance (though far more appealing when put, by others, in more comfortingly equivocating terms), but she's certain my critique of appeals to identity is simply **not able to accommodate** the importance of identity in social and political life. As I make clear throughout the book, and particularly in my discussion of the headscarf debate in France, identity is likely to be at the **center** of key arguments about life in plural democracies; my point is **not** that identity is **not relevant**, but simply that it should not be used to **trump** or **stifle** argument.

1. **Ground. A pre-defined controversy ensures a vibrant lit base and in-depth clash, but it’s unreasonable to prepare for alternative frameworks with the ground allocated to us by the parameters of the resolution All 2AC defense to this claim will rely on concessionary ground, which isn’t a stable basis for a year of debate.**

**Ground is key to perform the role of the negative, which outweighs—the role of the ballot is to vote for whoever does the better debating over the resolutional question. Any 2AC role for debate must explain why we switch sides and why there has to be a winner and a loser—switching sides within the competitive yet limited bounds of the topic performs the labor of the negative which avoids group polarization and untested advocacy—this does not limit particular styles, but only tying those to topical advocacy ensures clash which is the only metric for determining the winner**

**Poscher 16**—director at the Institute for Staatswissenschaft and Philosophy of Law at the University of Freiburg (Ralf, “Why We Argue About the Law: An Agonistic Account of Legal Disagreement”, *Metaphilosophy of Law*, Tomasz Gizbert-Studnicki/Adam Dyrda/Pawel Banas (eds.), Hart Publishing, forthcoming, dml)

Hegel’s dialectical thinking powerfully exploits the idea of **negation**. It is a **central** feature of spirit and consciousness that they have the power to negate. The spirit “is this power only by looking the negative in the face and tarrying with it. This […] is the magical power that converts it into being.”102 The tarrying with the negative is part of what Hegel calls **the “labour of the negative”**103. In a loose reference to this Hegelian notion Gerald Postema points to yet another feature of disagreements as a **necessary ingredient** of the process of practical reasoning. Only if our reasoning is **exposed to contrary arguments** can we **test its merits**. We must go through **the “labor of the negative”** to have trust in our deliberative processes.104

This also holds where we seem to be in agreement. Agreement without exposure to disagreement can be **deceptive** in various ways. The first phenomenon Postema draws attention to is the **group polarization** effect. When a group of like‐minded people deliberates an issue, informational and reputational cascades produce more extreme views in the process of their deliberations.105 The polarization and biases that are well documented for such groups106 can be **countered** at least in some settings by the **inclusion of dissenting voices**. In these scenarios, disagreement can be a cure for dysfunctional deliberative polarization and biases.107 A second deliberative dysfunction mitigated by disagreement is **superficial agreement**, which can even be manipulatively used in the sense of a “presumptuous ‘We’”108. Disagreement can help to police such distortions of deliberative processes by challenging superficial agreements. Disagreements may thus signal that a deliberative process is not contaminated with dysfunctional agreements stemming from polarization or superficiality. Protecting our discourse against such contaminations is valuable **even if we do not come to terms**. Each of the opposing positions will **profit from the catharsis it received** “by **looking the negative in the face** and **tarrying with it**”.

These advantages of disagreement in collective deliberations are mirrored on the individual level. Even if the probability of reaching a consensus with our opponents is **very low from the beginning**, as might be the case in deeply entrenched conflicts, entering into an exchange of arguments can still serve to **test** and **improve our position**. We have to **do the “labor of the negative” for ourselves**. Even if we cannot come up with a line of argument that coheres well with everybody else’s beliefs, attitudes and dispositions, we can still come up with a line of argument that achieves this goal **for our own personal beliefs**, attitudes and dispositions. To provide ourselves with the most coherent system of our own beliefs, attitudes and dispositions is – at least in important issues – an aspect of personal integrity – to borrow one of Dworkin’s favorite expressions for a less aspirational idea.

In hard cases we must – in some way – lay out the argument for ourselves to figure out what we believe to be the right answer. We might not know what we believe ourselves in questions of abortion, the death penalty, torture, and stem cell research, until we have **developed a line of argument** against the background of our subjective beliefs, attitudes and dispositions. In these cases it might be rational to **discuss the issue** with someone unlikely to share some of our more fundamental convictions or who **opposes the view** towards which we lean. This might even be **the most helpful way of corroborating a view**, because we know that our adversary is **much more motivated** to find a potential flaw in our argument than someone with whom we know we are in agreement. It might be more helpful to discuss a liberal position with Scalia than with Breyer if we want to make sure that we have not overlooked some counter‐argument to our case.

It would be **too narrow** an understanding of our practice of legal disagreement and argumentation if we restricted its purpose to **persuading an adversary** in the case at hand and inferred from this narrow understanding the **irrationality of argumentation** in hard cases, in which we know beforehand that we will not be able to persuade. Rational argumentation is a much more complex practice in a more complex social framework. Argumentation with an adversary can have **purposes beyond persuading** him: to **test one’s own convictions**, to **engage our opponent** in inferential commitments and to **persuade third parties** are only some of these; to **rally our troops** or **express our convictions** might be others. To make our peace with Kant we could say that “there must be a hope of coming to terms” with someone though not necessarily with our opponent, but maybe only a third party or even just ourselves and not necessarily only on the issue at hand, but maybe through inferential commitments in a different arena.

f) The Advantage Over Non‐Argumentative Alternatives

It goes without saying that in real world legal disagreements, all of the reasons listed above usually play in concert and will typically hold true to different degrees relative to different participants in the debate: There will be some participants for whom our hope of coming to terms might still be justified and others for whom only some of the other reasons hold and some for whom it is a mixture of all of the reasons in shifting degrees as our disagreements evolve. It is also apparent that, with the exception of the first reason, the rationality of our disagreements is of a **secondary nature**. The rational **does not lie** in the discovery of a **single right answer** to the topic of debate, since in hard cases there are no single right answers. Instead, our disagreements are instrumental to rationales which lie beyond the topic at hand, like the **exploration of our communalities** or of our **inferential commitments**. Since these reasons are of this secondary nature, they must **stand up to alternative ways** of settling irreconcilable disagreements that have other secondary reasons in their favor – like swiftness of decision making or using fewer resources. Why does our legal practice **require lengthy arguments** and **discursive efforts** even in appellate or supreme court cases of irreconcilable legal disagreements? The closure has to come by some non‐argumentative mean and courts have always relied on them. For the medieval courts of the Germanic tradition it is bequeathed that judges had to fight it out literally if they disagreed on a question of law – though the king allowed them to pick surrogate fighters.109 It is understandable that the process of civilization has led us to non‐violent non‐ argumentative means to determine the law. But what was wrong with District Judge Currin of Umatilla County in Oregon, who – in his late days – decided inconclusive traffic violations by publicly flipping a coin?110 If we are counting heads at the end of our lengthy argumentative proceedings anyway, why not decide hard cases by **gut voting at the outset** and **spare everybody the cost** of **developing elaborate arguments** on questions, where there is not fact of the matter to be discovered?

One reason lies in the mixed nature of our reasons in actual legal disagreements. The different second order reasons can be held apart analytically, but not in real life cases. The hope of coming to terms will often play a role at least for some time relative to some participants in the debate. A second reason is that the objectives listed above **could not be achieved by a non‐argumentative procedure**. Flipping a coin, throwing dice or **taking a gut vote** would not help us to **explore our communalities** or our inferential commitments nor help to **scrutinize the positions** in play. A third reason is the overall rational aspiration of the law that Dworkin relates to in his integrity account111. In a justificatory sense112 the law aspires to give a coherent account of itself – even if it is not the only right one – required by equal respect under conditions of normative disagreement.113 Combining legal argumentation with the non‐argumentative decision‐ making procedure of counting reasoned opinions serves the coherence aspiration of the law in at least two ways: First, the labor of the negative reduces the chances that constructions of the law that have major flaws or inconsistencies built into the arguments supporting them will prevail. Second, since every position **must be a reasoned one** within the given framework of the law, it must be one that **somehow fits** into the **overall structure** of the law along **coherent lines**. It thus protects against **incoherent “checkerboard” treatments**114 of hard cases. It is the **combination** of **reasoned disagreement** and the **non‐rational decision‐making mechanism** of counting reasoned opinions that provides for both in hard cases: a decision and one – of multiple possible – coherent constructions of the law. Pure non‐rational procedures – like flipping a coin – would only provide for the decision part. Pure argumentative procedures – which are not geared towards a decision procedure – would **undercut the incentive structure** of our agonistic disagreements.115 In the face of unresolvable disagreements endless debates would seem an idle enterprise. That the debates are **about winning** or **losing** helps to **keep the participants engaged**. That the decision depends on **counting reasoned opinions** guarantees that the engagement **focuses on rational argumentation**. No plain non‐argumentative procedure would achieve this result. If the judges were to **flip a coin** at the end of the trial in hard cases, there would be **little incentive** to engage in an **exchange of arguments**. It is specifically the count of reasoned opinions which provides for rational scrutiny in our legal disagreements and thus contributes to the rationales discussed above.

2. THE SEMANTICS OF AGONISTIC DISAGREEMENTS

The agonistic account does not presuppose a fact of the matter, it is not accompanied by an ontological commitment, and the question of how the fact of the matter could be known to us is not even raised. Thus the agonistic account of legal disagreement is not confronted with the metaphysical or epistemological questions that plague one‐right‐answer theories in particular. However, it must still come up with a semantics that explains in what sense we **disagree about the same issue** and are not just **talking at cross purposes**.

In a series of articles David Plunkett and Tim Sundell have reconstructed legal disagreements in semantic terms as metalinguistic negotiations on the usage of a term that at the center of a hard case like “cruel and unusual punishment” in a death‐penalty case.116 Even though the different sides in the debate define the term differently, they are **not talking past each other**, since they are engaged in a metalinguistic negotiation on the use of **the same term**. The metalinguistic negotiation on the use of the term serves as a **semantic anchor** for a disagreement on the substantive issues connected with the term because of its functional role in the law. The “cruel and unusual punishment”‐clause thus serves to argue about the permissibility of the death penalty. This account, however only provides a very superficial semantic commonality. But the commonality between the participants of a legal disagreement go deeper than a discussion whether the term “bank” should in future only to be used for financial institutions, which fulfills every criteria for semantic negotiations that Plunkett and Sundell propose. Unlike in mere semantic negotiations, like the on the disambiguation of the term “bank”, there is also some kind of identity of the substantive issues at stake in legal disagreements.

A promising route to capture this aspect of legal disagreements might be offered by recent semantic approaches that try to accommodate the externalist challenges of realist semantics,117 which inspire one‐right‐answer theorists like Moore or David Brink. Neo‐ descriptivist and two‐valued semantics provide for the theoretical or interpretive element of realist semantics without having to commit to the ontological positions of traditional externalism. In a sense they offer externalist semantics with no ontological strings attached.

The less controversial aspect of the externalist picture of meaning developed in neo‐ descriptivist and two‐valued semantics can be found in the deferential structure that our meaning‐providing intentions often encompass.118 In the case of natural kinds, speakers defer to the expertise of chemists when they employ natural kind terms like gold or water. If a speaker orders someone to buy $ 10,000 worth of gold as a safe investment, he might not know the exact atomic structure of the chemical element 79. In cases of doubt, though, he would insist that he meant to buy only stuff that chemical experts – or the markets for that matter – qualify as gold. The deferential element in the speaker’s intentions provides for the specific externalist element of the semantics.

In the case of the law, the meaning‐providing intentions connected to the provisions of the law can be understood to defer in a similar manner to the best overall theory or interpretation of the legal materials. Against the background of such a semantic framework the conceptual unity of a linguistic practice is not ratified by the existence of a single best answer, but by the unity of the interpretive effort that extends to legal materials and legal practices that have sufficient overlap119 – be it only in a historical perspective120. The fulcrum of disagreement that Dworkin sees in the existence of a single right answer121 does not lie in its existence, but in **the communality of the effort** – if only on the basis of an **overlapping common ground** of legal **materials**, **accepted practices**, **experiences** and **dispositions**. As two athletes are **engaged in the same contest** when they **follow the same rules**, **share the same concept of winning and losing** and act in the same context, but **follow very different styles** of e.g. wrestling, boxing, swimming etc. They are in the same contest, **even if there is no single best style** in which to wrestle, box or swim. Each, however, is engaged in developing the best style to win against their opponent, just as two lawyers try to develop the best argument to convince a bench of judges.122 Within such a semantic framework even people with radically opposing views about the application of an expression can still **share a concept**, in that they are **engaged in the same process** of theorizing over **roughly the same legal materials** and **practices**. Semantic frameworks along these lines allow for adamant disagreements without abandoning the idea that people are **talking about the same concept**. An agonistic account of legal disagreement can build on such a semantic framework, which can explain in what sense lawyers, judges and scholars engaged in agonistic disagreements are **not talking past each other**. They are engaged in developing the best interpretation of roughly the same legal materials, albeit against the background of diverging beliefs, attitudes and dispositions that lead them to divergent conclusions in hard cases. Despite the divergent conclusions, semantic unity is provided by the **largely overlapping legal materials** that **form the basis** for their disagreement. Such a semantic **collapses** only when we **lack a sufficient overlap** in the materials. To use an example of Michael Moore’s: If we wanted to debate whether a certain work of art was “just”, we share neither paradigms nor a tradition of applying the concept of justice to art such as to engage in an intelligible controversy.

**Our model of addressing state centrality opens venues for rebellious lawyering that is emancipatory f**

**Archer 18** (Deborah N., ACLU President of Director’s Board, Professor of Clinical Law @ NYU School of Law, “POLITICAL LAWYERING FOR THE 21ST CENTURY,” draft, pp. 1-43) {DK}

Many law students are overwhelmed by injustice. When faced with the reality of systemic inequities, even the most committed students may surrender to hopelessness, despair, and inaction. **This is** not because they have stopped caring about injustice, but **because they cannot envision a path from injustice to justice.** Many do not have the tools to navigate systemic injustice or respond to interwoven legal and social ills. This article contends that although clinical legal education provides an excellent opportunity to offer students the skills, experience, perspective, and confidence to grapple with today’s complex social justice issues, it has not sufficiently responded to the changing educational needs of our students by teaching law students how to most effectively utilize litigation alongside other tools of systemic reform advocacy.

How can clinical education prepare law students to navigate issues of systemic discrimination and injustice? Clinical teaching’s signature pedagogical vehicle involves students providing direct representation of individual clients in straightforward, manageable cases in which students focus on discrete legal issues, take full ownership of the case, and see it through from beginning to end.1 These cases train students to be creative problem solvers for individual clients. However, this model does not effectively prepare students to address and combat structural or chronic inequality. The individualized model also provides relatively limited opportunities for students to address the intellectual and skills-based challenges of lawyering on a larger scale.2 **Complex cases** allow students to explore the complicated relationship between justice, law, and politics.3 They introduce students to many of the skills needed to **integrate rebellious** or political **lawyering** into their practice, including working with others to **brainstorm, design, and execute an advocacy strategy**; helping to **build** and participate in **a coalition**; engaging in **integrated advocacy**; and analyzing the outside forces that help shape outcomes, including **organizational capacity**, **challenges of enforcement**, and **potential political backlash**.4

There is a longstanding and ongoing debate within the clinical legal education community about the relative merits of small, individual cases versus larger impact advocacy matters.5 The parameters of this debate, coupled with an influential body of clinical scholarship criticizing impact litigation and the lawyers who bring it,6 have led the clinical teaching community to overreact to these critiques by moving farther away from impact advocacy and strategic litigation rather than working to reconcile the legitimate concerns with the critical importance of impact advocacy as a tool for both systemic social change and legal education. Law schools also face internal and external pressures that affect their willingness to engage students in strategic litigation. The result is that important benefits of impact advocacy and strategic litigation have gotten lost or minimized.

Twenty years ago, social justice advocates **rallied around political lawyering** as a tool for **more effective advocacy** on behalf of marginalized communities.7 **Political lawyering employs a systemic reform lens in case selection, advocacy strategy, and lawyering process**, with a focus on legal work done in service to **both individual and collective goals**.8 While litigation is central to political lawyering, political lawyers recognize that litigation, interdisciplinary **collaboration**, **policy reform**, and **community organization** **must to proceed together**. Litigation is just one piece of a complex advocacy puzzle. However, clinical law professors have never fully grappled with how to employ this model.9

Law professors today seeking to train the **next generation of social justice advocates** should expose students to the transformational potential of integrated advocacy—strategic litigation, community organizing, direct action, media strategies, and interdisciplinary collaboration proceeding together—in the fight for social change. **Political lawyering can serve as a model.** The NAACP strategy of building comprehensive advocacy campaigns to challenge racial and economic injustice helped to launch the political lawyering movement in the last century.10 But political lawyering in the 21st century needs to do more. It needs to re-embrace and update the concept of integrated advocacy to help lawyers leverage a broad range of tools and perspectives to generate effective approaches to issues of injustice, both nascent and chronic. Charles Hamilton Houston, the architect of the strategy to challenge the racialized policy of “separate but equal,” whose life work challenged racial injustice in novel ways, famously explained that “a lawyer’s either a social engineer or he’s a parasite on society,” defining social engineer as a “highly skilled, perceptive, sensitive lawyer who understood the Constitution of the United States and knew how to explore its uses in the solving of problems of local communities and in bettering the conditions of the underprivileged citizens.”11 Law schools should set as an ambition teaching students to push boundaries in diagnosing and tackling the most pressing problems facing society.

The Article proceeds in three parts. Part I discusses political lawyering and explores its potential to serve as a framework to teach students the legal and extra-legal advocacy skills necessary to tackle the complex challenges of systemic injustice and inequity. Part I also discusses the institutional barriers that limit the ability and willingness of legal educators to exploit the pedagogical potential of a political lawyering framework, including the idea that litigation is often harmful to the cause of justice because it puts the lawyer ahead of the community being served. Part I then examines whether the choice that clinical legal education makes to teach through small, single-issue cases rather than through more complex vehicles offers students sufficient opportunities to develop the array of skills needed for integrated advocacy. Part II describes the ways that clinical legal education can reframe political lawyering as political justice lawyering, both to adapt to the current environment—complicated by the current partisan political climate—and the contemporary challenges of social justice advocacy. It also explores pedagogic strategies that clinical legal educators can employ to train effective 21st century social justice lawyers. Finally, Part III presents a case study from my own teaching to elucidate the opportunities and challenges inherent in this approach to clinical teaching.

I. POLITICAL LAWYERING AS A FRAMEWORK FOR LEGAL EDUCATION

“Social vision is part of the operating ethos of self-conscious law practice. The fact that most law practice is not done self-consciously is simply a function of the degree to which most law practice serves the status quo. Self-conscious practice appears to be less important, and is always less destabilizing, when it serves what is, rather than what ought to be.”

- Gary Bellow12

In 1996, the Harvard Civil Rights-Civil Liberties Law Review published a symposium on “political lawyering”: a model of social justice advocacy that integrates legal advocacy and political mobilization by linking courtroom advocacy to community education, mobilization, and organizing.13 The symposium, honoring Gary Bellow, a leading political lawyer of the time and one of the architects of clinical legal education, explored the potential for political lawyering to respond to the social justice challenges of the moment.14 At the time of the symposium, progressive scholars and activists believed that America was in a period of retrenchment on civil rights and were in search of sources of hope.15 In the face of waning public support for the poor and disenfranchised, both financially and philosophically, one of the biggest dangers social justice advocates faced was despair about the possibility of progress.16 Bellow contended that the nation’s ideological reconfiguration created a potentially debilitating doubt among lawyer-activists who, faced with declining avenues for change, had “embraced a far too constricted definition of both the possible and desirable in law-oriented interventions than is, in fact, dictated by the rightward turn of national and local politics.”17 With victory harder to achieve, he insisted that lawyers who embraced and reimagined political lawyering would advance the fight for equality more effectively.

The purpose of political lawyering is not to advance a particular partisan agenda: It is to represent disenfranchised communities against the forces of oppression.18 While difficult to define precisely, political lawyers take a politicized and value-oriented approach to legal work done in service to both individual and collective goals,19 embracing “politics” in the classical sense as a concern “with what it means to be human; what is the best life for a human being; and . . . the ways in which we can order our living together so that good human lives will emerge.”20 Practically, political lawyers use a systemic reform lens in decisions about case selection, advocacy strategy, and the lawyering process. Political lawyers think about the relationship between law, politics, and justice21 and use the law to animate fundamental change in society, to alter the allocation of power and opportunity, and to enable those individuals and communities with little power to claim and enjoy their rights.22 Political lawyers also take advantage of opportunities to influence the perceptions and behaviors of those in power.23 Finally, political lawyers empower individuals and communities by providing them with competent legal advocacy,24 but do not confine themselves to one mode of advocacy in their quest for structural change. Instead, political lawyers use integrated advocacy strategies, including litigation, legislative advocacy, public education, media, and social science research, assessing the efficacy and impact of each tool in service to a long-term visions of equality and solidarity.25

A. A ROLE FOR POLITICAL LAWYERING IN CLINICAL LEGAL EDUCATION

In his essay, Gary Bellow described several examples of his experience as a political lawyer.26 He reflected that:

Certainly, if one focuses on the strategies employed in these examples, few uniformities emerge. In some of the efforts, we sought rule changes or injunctive relief against a particular practice on behalf of an identified class. In other situations, we pursued aggregate results by filing large numbers of individual cases. Some strategies are carried out in the courts. At other times we ignored litigation entirely in favor of bureaucratic maneuvering and community and union organizing. Even when pursuing litigation, we often placed far greater emphasis on mobilizing and educating clients, or strengthening the entities and organizations that represented them, than on judicial outcomes. And always, we employed the lawsuit, whether pushed to conclusion or not, as a vehicle for gathering information, positioning adversaries, asserting bargaining leverage, and adding to the continuing process of definition and designation that occurs in any conflict.27

The parallels between the challenges social justice lawyers faced in the 1980s and 1990s and those that law students committed to social justice 28 face today are evident. As discussed earlier, law students’ own **despair about the enormity of the fight for justice can compromise their ability to recognize and tackle chronic injustice.** Like the earlier generation of political lawyers Bellow described, many law students today find it difficult to believe in the **possibility of change** let alone its likelihood. **Inexperience challenging systemic legal problems exacerbates their skepticism.** They recognize that the advocacy tools they have learned are insufficient to solve today’s problems, which fuels their sense of doubt.

To help expand their understanding of what may be possible, law students, particularly those interested in continuing the fight for racial justice, should be taught to understand and embrace the goals, strategies, and tools of political lawyering—re-imagined for current times. Clinical professors need not adopt political lawyering wholesale as the only or primary approach to teaching lawyering skills and legal advocacy. Indeed, one of the challenges social justice advocates face is unnecessarily limiting the understanding of what it means to be a good lawyer. Rather, clinical professors should explore political lawyering as one framework they can use to help struggling law students find direction and inspiration, as well as to create a sense of connection to the work of the social justice lawyers who preceded them. As Gary Bellow wrote:

Doubt and defeatism, the sense of overly pessimistic assessments of action possibilities, are recurrent experiences in oppositional politics, whomever the political actors may be. They require hard-headed assessments of what works and why; a willingness to relinquish strategies and goals born of different possibilities and particularities. . . . **Doubt and defeatism produce powerful spirals that can only be broken by** acts of will and **leaps of faith.**29

To be an effective political lawyer, an advocate must have a “profound willingness and ability to learn about and respond to the complexity of real human beings in ever-shifting legal, economic, and social worlds.”30 So, while political lawyering is certainly grounded in effective legal advocacy, it demands more than conventional legal skills. The political lawyer values deep personal involvement as a necessary component in addressing and tackling legal issues. That personal engagement can take many forms, but, at a minimum, involves countless conversations, collaborative brainstorming, comparing shared experiences, and adding empathy and commonality to enhance the legal analysis and political judgment.31 It also requires lawyers to advocate with a **clear vision** of what justice looks like because effective political lawyering “reache[s] not only across large numbers of people, but from the present into some altered version of the future.”32 Learning to combine savvy legal analysis with broad engagement, a deeper understanding of the complexity of the problems faced by impacted communities, and envisioning an altered and **more just future** can help lead to **real solutions** and overcome passivity and paralysis.33

The Civil Rights Movement, with its blended advocacy strategies, pulling a variety of levers to enable immediate or systemic change, offers one example of political lawyering. Visionary leaders helped give voice to the frustrations and demands of the community, while other leaders acted as tacticians to devise, plan, and coordinate the strategy.34 There were sustained and strategic protests to draw public attention to injustices, demand change, and apply political pressure. The strategic use of litigation led gradually to the establishment of the building blocks for systemic change. Finally, civil rights lawyers worked to enshrine litigation victories in legislation.35

While the goal of political lawyering is to empower and advance the rights of disadvantaged communities, the lawyers who engage in it also reap significant benefits. One scholar effectively articulated some of these benefits utilizing religious terms, asserting that political lawyering can provide hope and direction to advocates by providing a “faith”—“a story, an account of a rational hope that provides people with an image and principles for realizing the sort of lives they ought to live.”36 Political lawyering can also provide what Christians refer to as a “gospel”—a story that explains and inspires.37 The faith and gospel of political lawyering can help lead law students who are overwhelmed by injustice to a place of deeper understanding and more effective advocacy. But law students must learn how to understand, articulate, and deploy that faith and gospel in service of others.

B. INSTITUTIONAL CONSTRAINTS ON POLITICAL LAWYERING

**Complex social justice problems offer robust opportunities to teach students about the law and lawyering**, and legal clinics serve as an important vehicle to **bring that set of issues and experiences into the classroom.**38 As law schools reevaluate the nature and function of legal education in light of market forces,39 they should also give attention to the role of justice in the curriculum and the potential for law school clinics to be centers for incubation of new and evolving models of lawyering. By embracing political lawyering and encouraging engagement on complex and novel social justice issues, clinical legal education can operate as a “generator of new visions for legal practice” on behalf of poor and marginalized communities.40 Of course, that choice is not without hurdles or concern.

1. Ideological, Financial, and Pedagogical Pressures

When clinical and experiential learning programs have moved away from an access to justice model—with a focus on the immediate challenges facing individual clients—to a broader social justice model focused on systemic reform and community empowerment, they have often encountered criticism from inside and outside of the legal academy.41 First, critics have raised concerns that integrated advocacy in support of systemic reform may elevate the profile of faculty and law schools but detract from an appropriate focus on the educational goals of individual students.42 Others have identified the potential for violating the separation between pedagogy and partisan politics.43 And still other critics have identified a risk that faculty will impose their personal political perspectives on their students.44 As discussed in more detail below, integrated advocacy strategies can, in fact, serve as valuable clinical teaching tools that promote broader student learning and support important pedagogical goals. By contrast, exclusive reliance on individual representation offers limited opportunities to teach essential lawyering skills, including the skills critical to identifying and challenging systemic injustice.45

Every clinical program makes a political decision in deciding which cases to take or not to take, as each decision has political implications.46 Accepting cases in criminal justice, immigration, environmental justice, and international human rights, for example, involves political choices, regardless of whether the issues are addressed through individual representation or systemic reform efforts.47 Clinics will continue to represent individual clients who are the victims of poverty, discrimination, and disenfranchisement. These cases do not suddenly become inappropriate teaching tools because the lawyer aggregates those claims and utilizes complementary strategies to seek systemic, community-wide redress. Lawyers must be free to use all available means to challenge the marginalization of their clients, including strategic litigation, legislative advocacy, and other advocacy strategies designed to achieve systemic reform. If law schools intend to fulfill their promise to prepare law students to tackle urgent and pressing challenges, then they must teach students to identify and address interlocking legal and social problems.

Still, while law schools have educational ambitions, they also face financial demands that might affect their educational choices. In fact, those financial realities may motivate schools to avoid disputes that expose them to financial risk and to a potential loss of good will that a clinic’s involvement in controversial cases might occasion.48 While that institutional concern certainly has merit, it is not unique to political lawyering on behalf of clients. Whenever a law school chooses to represent clients, there is the potential for someone to take issue with the school’s choice of side or client. Similarly, law schools may experience external pressures from government, private entities, donors, and alumni to prevent the use of law school resources to challenge powerful corporate or government interests.49 These critiques evoke the successful challenge to Legal Services Corporations engaging in class action litigation on behalf of their clients50 and the long history of efforts to limit the means through which clinics can represent their clients.51 History is replete with examples of external attacks on law schools’ clinical efforts. From the 1968 attack by state legislators on the clinical program at the University of Mississippi School of Law over its involvement in a school desegregation suit,52 to the early 1980s threats to limit the activities of the University of Connecticut’s criminal defense clinic after the clinic successfully challenged a provision of the state’s death penalty statute,53 to the 2017 decision of the University of North Carolina Board of Governors to defund the law school’s Center for Civil Rights’ work to challenge systemic and racialized barriers to equality, law schools have experienced public scrutiny and scorn for their client and case selection decisions.

A clinical faculty member’s case selection decisions should not be without limits or guidelines. For example, limited resources and specific pedagogical objectives will necessarily dictate which cases will be considered appropriate. However, making case selection decisions on the basis of pedagogical choices differs fundamentally from decisions based on ideological pressure from outside forces. The latter raises fundamental questions of academic freedom and other professional responsibilities.54 Clinical faculty members must maintain some independence to choose cases and clients that meet that clinic’s educational and public service goals.55

2. The Anti-Litigation Bias

Political lawyers have long embraced litigation’s potential to achieve “radical extensions of democracy, equality, and racial justice” in addition to structural and cultural change.56 Law reform and structural change are important aspects of political lawyering.57 Accordingly, impact litigation on behalf of marginalized people and communities has long been an important tool for political lawyers.58 Indeed, the NAACP’s fight against racial segregation and inequality in the 1940s and 1950s represents an early example of political lawyering that strategically deployed litigation as part of

a comprehensive effort to resist oppression and advance equality.59 Political lawyering never embraced an exaggerated belief that litigation should be the centerpiece of the fight for equality.60 Instead, like the advocates at the heart of the NAACP’s desegregation strategy, political lawyers “recognized that litigation, interdisciplinary collaboration, and community organization had to proceed together.”61

In the late 1990s and early 2000s, political and cultural shifts affected the strategies many political lawyers employed. New federal restrictions on the use of impact litigation and legislative advocacy by legal services lawyers were a cause of significant concern.62 Where impact litigation remained a possibility, many political lawyers worried that litigation offered a dangerous path. Although federal courts, in particular, had proved supportive in the fight for racial justice in the 1960s, progressive lawyers in later years worried that a more conservative judiciary was just as likely, if not more inclined, to set back progressive movements.63 This concern proved correct, particularly in the area of racial justice. Decades of conservative appointments to the federal bench64 led to a series of legal setbacks65 that effectively limited the federal courts as a venue for the redress of illegal discrimination.66 Many advocates also believed that while progressive lawyers were toiling away in the courtroom and achieving only minor success, conservative advocacy groups had mastered the more efficacious strategy of building powerful grassroots constituencies.67

As courts increased their hostility to civil rights and racial justice, making victory and progress more difficult, political lawyers turned away from litigation and began focusing on alternative methods to fight for social change.68 While the labels have changed, the fundamental purpose of the work remained the same. Political lawyering gave way to rebellious lawyering, community lawyering, and movement lawyering.69 These models of advocacy embrace different visions of advocacy that may vary in the emphasis placed on the law’s comparative advantage relative to other strategic methodologies and tools.70 But, they all acknowledge the bond that joins client, community, and lawyer together in a common enterprise: empowering those without power and fighting for justice and equality. The de-emphasis on strategic litigation brought real benefits. It encouraged lawyers to work as members of a team, and challenged lawyers to ensure that those marginalized by injustice played a central role both as the focus of the advocacy and as participants in the advocacy, a positive turn regardless of the motivation.71

This evolution came at a cost. What began as a tactical de-emphasis on litigation evolved into a philosophical bias against litigation as a social justice advocacy tool.72 Initially, social justice lawyers turned away from impact litigation because they feared that an increasingly conservative judiciary would use these cases as an opportunity to further roll back prior gains. However, with time, the reluctance to pursue litigation became less a reaction to circumstance and more a matter of principle. Some writers argued that litigation is a tool through which lawyers usurp the authority of already marginalized clients by setting their priorities for them.73 And, they claimed that litigation disempowers communities because of the unbalanced power dynamics between social justice lawyers and marginalized clients.74 An example is the dialogue around rebellious lawyering, one of the most prominent models for social change advocacy. Gerald López conceptualized rebellious lawyering as an advocacy model that would empower poor clients through grassroots, community-based advocacy that was facilitated by lawyers.75 Rebellious lawyering emphasizes concepts of community organization, mobilization, and “deprofessionalization.”76 It calls on lawyers to reflect on critical elements of the attorney-client relationship that may further oppress members of marginalized communities.77 Through rebellious lawyering, Professor López advances the belief that although lawyers should help solve problems facing the poor, lawyers are not the preeminent problem solvers in that relationship and should defer to clients and communities.78 Gerald López prefers that lawyers focus on “teaching self-help and lay lawyering” to empower communities to help themselves.79

Professor López espoused his positive vision of rebellious lawyering as an alternative to what he calls regnant lawyering.80 Professor López asserts that regnant lawyers are convinced that they need to be the primary and active leaders in their representation of poor people. Regnant lawyers find community education and empowerment to be of only marginal importance.81 The result is that the regnant lawyer dominates the attorney-client relationship, giving little voice to the needs or concerns of the client. Finally, Professor López also believes that regnant lawyers have little practical understanding of legal, political, and social structures.82

Rebellious lawyering raised important questions about the role litigation should play in social justice movements. Gerald Lopez was certainly skeptical that “legal technicians” could make a meaningful contribution83 and questioned whether lawyers turned to litigation because it was best for the client or because the lawyer wanted to play “hero.”84 All political lawyers should ask themselves these questions when considering impact litigation as part of integrated advocacy on behalf of marginalized communities.85 But, over time, commentators began to equate regnant lawyering with impact litigation.86 Some social justice advocates argued that impact litigation perpetuated racism because white lawyers used it as a tool to impose their views on communities of color.87 Others advanced images of litigators as outsiders who used poor communities as guinea pigs in their social justice experiments, warning that “practicing law in the community is not a tourist adventure and, therefore, we must eschew the routine of the autonomous, interloping advocate who dreams up cases in the home office and then tests them on the community.”88 Litigation, and systemic reform litigation in particular, became synonymous with regnant lawyering: an “enemy” of social justice and not a tool fit for people committed to fighting for enduring social change.

Derrick Bell advanced one of the most prominent and influential critiques of litigation.89 Although he acknowledged the success of the first decade of school desegregation litigation, Professor Bell questioned the lack of lawyer accountability to marginalized communities. According to Professor Bell, NAACP lawyers continued to employ an advocacy strategy that focused on structural school desegregation, even while many members of the Black community preferred a strategy that would have focused on building quality, though segregated, neighborhood schools.90 He cautioned that social justice advocates failed to acknowledge growing conflicts between what they believed were the long-range goals for their clients and the client’s evolving interests and needs.91 In the end, many members of the impacted community were left feeling marginalized. Professor Bell also suggested that “civil rights lawyers, like their more candid poverty law colleagues, are making decisions, setting priorities, and undertaking responsibilities that should be determined by their clients and shaped by the community.”92

Certainly, many lawyers who use litigation as a tool for social change are regnant and paternalistic, but **these qualities are not inherent** in litigators working with marginalized communities.93 Social justice advocates should have a healthy skepticism about the ability of the law, standing alone, to achieve lasting social change.94 They should always engage in advocacy that moves the client from the margins to the center.95 **But**, **advocates should** also **resist pressure to narrow the definition of what it means to be a great lawyer.** The discussion of social justice advocacy far too often **collapses** the framework not only of political lawyering, but **all advocacy on behalf of poor and marginalized individuals and communities**, **into one that largely rejects the important role that strategic litigation has played and can continue to play in the fight for social justice**. The ubiquity of the anti-litigation narrative **encourages progressive law students**—and many clinical law professors—**to dismiss litigation** and its potential for challenging bias and discrimination. Many progressive law students are afraid to become the professionals they envisioned they would be.96 They do not want to become the discrimination tourist derided in the literature.

In response to the critique of social justice litigation, **there is a growing body of scholarship supporting the conclusion that litigation is a key strategy for protecting and expanding the rights of marginalized communities.**97 This body of scholarship acknowledges that litigation has played a critical role in the struggle for justice and equality, and that it continues to be “an **imperfect but indispensable strategy of social change**.”98 Finally, these scholars examine social justice litigation in the context of the tradeoffs of different forms of activism, evaluating its potential in relation to available alternatives and revealing a new understanding of the link between law and social justice reform.99

The demonization of strategic litigation that persists in many progressive lawyering circles not only contributes to student paralysis, it gives them a false sense of what it means to engage in systemic reform litigation on behalf of clients and the community. Many prominent critiques of impact litigation neither provide an accurate depiction of the potential of that litigation, nor educate students on how to apply principles of political lawyering to that litigation. Indeed, while Derrick **Bell** prominently critiqued the role of strategic litigation in social justice movements, he also **believed** that **litigation**

**can be an important means of calling attention to perceived injustice**; more important, . . . litigation presents opportunities for improving the weak economic and political position which renders the black community vulnerable to the specific injustices the litigation is intended to correct. Litigation can and should serve lawyer and client, as a community-organizing tool, an educational forum, a means of obtaining data, a method of exercising political leverage, and a rallying point for public support.100

Law students should be taught that lawyers who engage in systemic reform litigation, just like any other lawyer, can and should work with and on behalf of those victimized by discrimination. Indeed, despite the one- dimensional picture often painted for law students, not all progressive lawyers believe that “self-help” should be the focus of lawyering on behalf of poor or marginalized communities.101 Moreover, despite the image of the “interloping advocate who dreams up cases in the home office and then tests them on the community,” not all progressive lawyers believe that it is inappropriate for lawyers to independently analyze social justice issues and develop ideas about ways to use the law to bring society closer to justice. Indeed, **“it is artificially constricting to conceive of lawyers as exclusively** or primarily **problem-solvers.** [Lawyers] are not only social mechanics who wait in [their] shops for people to come to [them] with problems to be fixed. [**Lawyers**] **should sometimes create problems.** [Lawyers] should sometimes **deliver problems by translating people’s anger and hurt and insistence on justice into political as well as legal action.”**102 **Many** great advocacy ideas **bubble up from the community**, **but** **equally valid ideas can come from advocates** who have been working with and for those communities (or are members of the community themselves). Progressive advocates must be prepared to provide legal assistance to clients even when those clients do not wish to be active participants in the advocacy. That is embracing the core meaning of client-centered lawyering. Rather than being taught to avoid litigation at all costs, progressive law students need to learn how they can partner with victims of discrimination and be accountable to those victims in the context of litigation. They need to learn the skills of collaborative leadership in law.103

**Advocates should** also **be careful about** advancing **a one-size-fits-all model of advocacy**,104 lumping everything together under the “social justice advocacy” moniker or work on behalf of the “poor and disadvantaged” and assuming that one advocacy approach will work to solve all problems. Sometimes using “social justice” to refer to all of the work being done on behalf of poor and marginalized communities is the right thing to do—it unifies all of those who are fighting injustice on varying fronts. But, it can be harmful when discussing what advocacy tools will be most effective. **Given the many forms that discrimination takes and the many communities** subject to discrimination, law professors should caution students to be suspicious about broad generalizations about what clients always need or do not need, and what lawyers always should or should not do. **There is no universal theory about how to represent disadvantaged or marginalized people.** **What works in the fight for economic justice may not be the best strategy to achieving racial justice.**105 **And what may be appropriate to help one victim of racial discrimination may not work for another.** **There is room for all types of advocates and advocacy.**106 All advocates can be a part of the circle of human concern.107

3. The Preferred Model: Individual Representation

Representing individual clients in small, manageable cases where students retain primary control has long been the preferred vehicle for teaching students to effectively address their clients’ legal problems.108 But many clinical programs focused on representing individual clients are not providing opportunities for students to learn how to utilize the law effectively to challenge systemic discrimination. In addition to teaching foundational lawyering skills like client interviewing, counseling, and fact investigation, clinics should also provide opportunities to teach complex and multi- dimensional lawyering skills.109 As this Section demonstrates, the clinical community’s disproportionate focus on micro-lawyering skills may be hampering the ability of students to focus on the political and social functions of the law and the structural dimensions of the problems facing client communities.110

The founding goals of clinical legal education were to provide law students the opportunity to learn the skills necessary to practice law and provide quality legal services to the poor.111 These origins closely shaped the development of clinical pedagogy and its current emphasis on individual representation.112 Small cases allow law students to have the primary relationship with the client, manage the case from beginning to end, and analyze relatively straightforward legal issues—all core principles of clinical pedagogy.113 The reliance on small cases also provides students with the invaluable opportunity to reflect deeply on the choices advocates make in creating and maintaining lawyer-client relationships.114

In the early years of the clinical legal education movement, most clinical law professors came from legal services organizations and brought with them a preference for the individual client representation that dominated legal services practice.115 Clinical professors embody their learning objectives in their case selection116 and must prioritize some lawyering skills over others because there are limits to what can be learned in a single clinical course.117 In focusing on small cases, early clinicians understandably prioritized the skills they knew to be critical to their own work on behalf of poor individuals.

Today, clinical professors come to teaching from a broader array of professional backgrounds, and unsurprisingly want to bring their experiences into the classroom. They should be encouraged to make clinic design choices and set educational goals for their students based on the skills and knowledge they know to be necessary for success in their own practice areas. To many, the approaches clinical professors adopted at the beginning of the clinical legal education movement are not the answers to the questions and challenges our students face today. An exclusive reliance on small cases, though they are extremely valuable teaching tools, fails many students because small cases offer limited opportunities to teach a broad array of lawyering skills, including the skills critical to challenging systemic injustice.118 Of course, small cases have value—for the client and student both. But, in the new normal, they are often not enough to carry the weight of change.

“Social justice work is rarely easy, clean, or pretty.”119 It can be downright messy and clinics should not shield students from its messiness. Working on larger, more complex cases exposes students to more of the skills necessary to fight for structural change.120 They can learn to exercise intellectual autonomy and to integrate conceptual thinking in their advocacy.121 They teach students how to achieve client objectives while also advancing broader social justice goals. Finally, in complex cases where litigation is a viable option, students are exposed to fundamental questions such as what claims to assert, where to file, who to represent, and who to sue. Students cannot be practice ready without some exposure to these skills.

Some clinical legal educators have questioned the traditional model of clinical education, arguing instead for engaging in work with a broader social justice impact.122 One basis for this argument, for example, is that “case- centered clinics are primarily accountable to students and law school administrators, rather than clients, and fail to serve political collectives.”123 In this conception, clinics prioritize student interests over community interests by accepting only those cases over which students will have full responsibility and reject more complex cases where the students’ limited skills would make that impossible. This is done even when the communities’ interests—and thus the cause of social justice—would be better served by the more complex cases.124 While this critique is framed in terms of benefits to students versus losses to social justice, there is indeed a loss to students as well.

Clinical legal educators who are teaching the next generation of social and racial justice advocates should help students understand the current legal framework for equality, and develop the ability to utilize that framework creatively on behalf of their clients. But, students also have to learn to transcend and reimagine current institutional frames, to conceptualize avenues for relief, create new narratives, and pull together the building blocks of a new legal framework to establish rights that did not exist before. Indeed, many of the challenges facing America today require reimagining justice from the ground up. Future social justice advocates must have social vision—“vision-making work is fundamental to the activist strategies political lawyering inevitably embodies.”125

Charles Hamilton Houston not only taught his law students to conceive that separate can never be equal, he taught them how to develop a legal theory in support of that idea and then to develop an integrated advocacy strategy, including complex litigation, to give that theory legal effect. “The process of linking strategy to political vision always requires adaptation and a detailed understanding of particular contexts for its effectiveness.”126 Moreover, as students move from theory to legal reality, they have to understand the skills required to genuinely engage the community. Indeed, “it is no simple matter to reconcile commitment to both clients and a larger social vision or to navigate the boundary between the insider and outsider communities in which political lawyers work.”127

There are, of course, trade-offs involved in engaging clinical students in impact advocacy, both for the student and the teacher.128 Many clinical faculty have expressed concerns that systemic reform work and complex vocacy matters require too high a cost to core pedagogical goals.129 There is a sense that “big cases” may achieve important social justice goals, but use student tuition to finance political goals without attendant benefits to the students’ education.130 According to this line of critique, if the fundamental goal of clinical legal education is the education of students, clinical education needs to continue to focus on small cases that allow for complete student ownership, with a student seeing the case through from beginning to end.131 Many clinicians believe that complete student ownership from beginning to end is critical to an effective clinical experience, and that this level of student ownership is not possible in big cases.132

The problem with this argument is that giving clinic students sole control of a case from beginning to end is not the only way to maximize student learning. Close collaboration with clinical educators, fellow students, clients, and other collaborators offers rich opportunities for student learning. Working with those collaborators to evaluate a complex problem, consider whether a litigation strategy is appropriate, and implementing that strategy, is precisely the kind of experience students will need to master in political lawyering practice. If clinical programs want to ensure that social justice students develop the skills and values necessary to be responsible and effective lawyers before they graduate, students should have the opportunity to be exposed to advocacy models beyond individual client representation. Otherwise, clinics are missing an opportunity to teach students to embrace and engage in social justice work broadly.

II. REFRAMING POLITICAL LAWYERING FOR THE 21ST CENTURY

Modern social problems present new challenges for political lawyers. As such, political lawyers must evaluate the tools an earlier generation of political lawyers used to determine how to employ them in light of changed conditions. Social justice advocates have destabilized the dominant understanding of lawyering.133 Modern political lawyering must continue that process of destabilization, exploring alternatives to the way lawyers marshal social and economic capital, make strategic decisions, and transgress current structures and constraints.134 Political lawyering advocates should also question attempts to constrict the understanding of what lawyering tools can be employed in service to communities and in furtherance of justice.

A. Expanding the Advocacy Perspective

At the core of Derrick Bell’s critique of the latter stages of the campaign to desegregate public education is the divergence he saw between the interests of NAACP lawyers and those of certain segments of the Black community that evolved after the launch of the school desegregation campaign.135 In many ways, this divergence was the result of a failure to communicate. To effectively engage in the integrated advocacy central to political lawyering, those engaged in individual representation, strategic litigation, legislative advocacy, community organizing, public education, direct action, and other forms of advocacy must remain in constant conversation. They must also use their work to facilitate a constant dialogue between the community, courts, government agencies, and legislatures at the local, state, and national levels.

As part of this ongoing conversation, political justice lawyers must endeavor to expand the perspectives of the public, judges, politicians, and government administrators beyond dated conceptions of justice. **Powerful narratives can break through opposition and resistance, shaping the way society views equality and justice.** In Goldberg v. Kelly,136 advocates disrupted the stock story of greedy welfare recipients trying to take advantage of a fair and responsive bureaucracy by telling “human stories” that introduced the Court “to the day-to-day realities of the lives of poor people—struggling to provide a bare minimum of basic necessities for themselves and their children, while confronting an inefficient, unpredictable, and often hostile welfare bureaucracy.”137 Today’s political justice lawyers must focus on **changing legal rules**, but also **inspiring political action**, **educating the public**, publicizing injustice, and **shaping public debate**. **Developing the ability to craft legal and factual narratives** that are not only respectful and true to the client’s or communities’ experiences and demands for justice, but that can also persuade and influence others in a variety of contexts, **is a critically important skill.**138

Political justice lawyering must also account for the changing economic dynamics within otherwise marginalized communities. Growing income inequality within communities of color mirrors the growing wealth gap within American society as a whole.139 Not only may the experience of race or gender discrimination, for example, differ for people of varying wealth, the advocacy strategies needed to engage those communities may be different as well, depending on the structural barriers to engagement created or exacerbated by economic inequality. Political justice lawyers must wrestle with the complicated economic dynamics within communities of color, remain mindful that widening economic inequality can impact collectivity, and authentically engage with the full breadth of those communities if their advocacy is to be effective.

**Modern political justice lawyering must** also **include strategies to** support and **harness the “disruptive power”**140 **of widespread youth-led movements, collective action, and protest.** Many justice movements seek to harness disruption or provoke unrest to redistribute power or force reforms.141 While disruption through protest has been essential in bringing light and voice to modern social justice issues such as police brutality (through, for example, the Black Lives Matter movement) and economic inequality (through, for example, Occupy Wall Street), **protests standing alone may not be enough to lead to structural reform or transformational change.** **Without a viable replacement to fill the void left by a disrupted system, a clear demand for meaningful change, and a plan for implementing that change, the disruptive power may never translate to justice.**

Finally, modern political justice lawyers must be able to integrate both positive and negative conceptions of equality into their advocacy. Many modern social justice problems are difficult or impossible to fully resolve through court orders.142 Moreover, courts have shown a growing reluctance to issue sweeping injunctive relief that leaves school systems or police departments under the management of courts or court-appointed special masters.143 While utilizing courts to prohibit or limit actions that infringe on individual rights, advocates should be able to articulate a positive vision of what stakeholders can or should do to better promote, protect, and respect those rights. In the context of police reform, for example, victory may take the form of a judicial finding that a police officer used excessive force or an award of money damages. However, even the broadest injunctive relief may struggle to translate into systemic reform—a positive conception of just and effective policing.

B. Expanding the Lawyer’s Toolbox

In order to effect systemic change, lawyers need to understand **what levers are available** to achieve that change, and **when**, **where**, and **how** to pull each lever. **Political justice lawyers must be skilled at integrated advocacy**, using individual and strategic litigation to establish and protect rights, traditional and social media engagement to shape and promote the narrative, community organizing to mobilize effected communities and their allies, and interdisciplinary collaborations to bring the work of other disciplines to bear on creating policies and practices to replace illegal and repressive practices. An effective political justice lawyer has many tools in her toolbox, and knows when and how to use each one. In addition to these tools, political lawyers must learn to **break systemic problems into their smaller components**; **identify advocacy alternatives** and **evaluate the costs and benefits** of each approach; and **resolve instances in which** an attorney’s own social justice **values and vision collide.**

1. Breaking Apart Systemic Issues

Political justice lawyers must be able to break apart a systemic problem into manageable components. The complexity of social problems, can cause law students, and even experienced political lawyers, to become overwhelmed. In describing his work challenging United States military and economic interventions abroad, civil rights advocate and law professor Jules Lobel wrote of this process: “Our foreign-policy litigation became a sort of Sisyphean quest as we maneuvered through a hazy maze cluttered with gates. Each gate we unlocked led to yet another that blocked our path, with the elusive goal of judicial relief always shrouded in the twilight mist of the never-ending maze.”144

Pulling apart a larger, systemic problem into its smaller components can help elucidate options for advocacy. **An instructive example is the use of excessive force by police officers against people of color.** Every week seems to bring a new video featuring graphic police violence against Black men and women. **Law students are frequently outraged by these incidents.** But the sheer frequency of these videos and lack of repercussions for perpetrators overwhelm those students just as often. **What can be done** about a problem so big and so pervasive**?**

To move toward justice, advocates must be able to **break apart** the forces that came together to lead to that moment: **intentional discrimination**, **implicit bias**, **ineffective training**, racial **segregation**, **lack of economic opportunity**, the **over-policing** of minority communities, and the **failure to invest in non-criminal justice interventions** that adequately respond to homelessness, mental illness, and drug addiction. None of these component problems are easily addressed, but **breaking them apart is more manageable**—and more realistic—**than acting as though there is a single lever that will solve the problem.** After identifying the component problems, advocates can select one and repeat the process of breaking down that problem until they get to a point of entry for their advocacy.

2. Identifying Advocacy Alternatives

As discussed earlier, political justice lawyering embraces litigation, community organizing, interdisciplinary collaboration, legislative reform, public education, direct action, and other forms of advocacy to achieve social change. After parsing the underlying issues, lawyers need to identify what a lawyer can and should do on behalf of impacted communities and individuals, and this includes determining the most effective advocacy approach. Advocates must also strategize about what can be achieved in the **short term** **versus** the **long term**. **The fight for justice is a marathon**, not a sprint. Many law **students** experience frustration with advocacy because they **expect immediate justice now.** They have read the opinion in Brown v. Board of Education, but forget that the decision was the result of a decades-long advocacy strategy.145 Indeed, the decision itself was no magic wand, as the country continues to work to give full effect to the decision 70 years hence.

Advocates cannot only fight for change they will see in their lifetime, they must also fight for the future.146 Change did not happen over night in Brown and lasting change cannot happen over night today. **Small victories can be building blocks for systemic reform**, and advocates must learn to see the benefit of short-term responsiveness as a component of long-term advocacy.

Many lawyers subscribe to the American culture of success, with its uncompromising focus on immediate accomplishments and victories.147 However, those interested in social justice must adjust their expectations. Many pivotal civil rights victories were made possible by the seemingly hopeless cases that were brought, and lost, before them.148 In the fight for justice, “success inheres in the creation of a tradition, of a commitment to struggle, of a narrative of resistance that can inspire others similarly to resist.”149 Again, Professor Lobel’s words are instructive: “the current commitment of civil rights groups, women’s groups, and gay and lesbian groups to a legal discourse to legal activism to protect their rights stems in part from the willingness of activists in political and social movements in the nineteenth century to fight for rights, even when they realized the courts would be unsympathetic.”150 Professor Lobel also wrote about Helmuth James Von Moltke, who served as legal advisor to the German Armed Services until he was executed in 1945 by Nazis: “In battle after losing legal battle to protect the rights of Poles, to save Jews, and to oppose German troops’ war crimes, he made it clear that he struggled not just to win in the moment but to build a future.”151

3. Creating a Hierarchy of Values

Advocates challenging complex social justice problems can **find it difficult to identify the correct solution** when **one of their** social justice **values is in conflict with another**. A simple example: a social justice lawyer’s demands for swift justice for the victim of police brutality may conflict with the lawyer’s belief in the officer’s fundamental right to due process and a fair trial. While social justice lawyers regularly face these dilemmas, law **students are not often forced to struggle through them to resolution in real world scenarios**—to **make difficult decisions** and **manage the fallout from the choices** they make in resolving the conflict. Engaging in complex cases can force students to work through conflicts, helping them to articulate and sharpen their beliefs and goals, forcing them to clearly define what justice means broadly and in the specific context presented.

**There’s a TVA: The United States federal government should prohibit anticompetitive barriers to entry protected by the state action immunity doctrine**

They don’t rly k the topic

**Antitrust policy debates solve the historical inaccessibility of legal change and are prerequisite to AFF efficacy**

**Greer and Vallas 21** (**Jeremie Greer**, Co-Founder and Co-Executive Director at Liberation in a Generation, a national movement support organization building the power of people of color to totally transform the economy, Soros Equality Fellow, racial justice activist who began his career as a community organizer in the Columbia Heights and Shaw neighborhoods in Washington, DC, and national policy expert on the causes and the policy solutions to close racial wealth gap, formerly working at the Government Accountability Office, the Local Initiative Support Corporation, and Prosperity Now (formerly CFED), MPP George Mason University, BA Social Work, University of St. Thomas, currently working on an Executive Education Certificate in Nonprofit Leadership from Harvard University’s Kennedy School of Government; interviewed by **Rebecca Vallas**, senior fellow at The Century Foundation, work focuses on economic justice, formerly spent seven years at the Center for American Progress, built and lead CAP’s Poverty to Prosperity Program, and helped to establish CAP’s Disability Justice Initiative, the first disability policy project at a U.S. think tank, as well as the organization’s criminal justice reform work, her policy and advocacy work flows from her years as a legal aid lawyer, representing low-income individuals and families at Community Legal Services in Philadelphia, creator and host of Off-Kilter, a nationally distributed podcast about poverty, inequality, and everything they intersect with, JD University of Virginia, BA psychology, Emory University; “Reimagining Anti-Monopoly Activism Through Racial Justice — feat. Liberation in a Generation’s Jeremie Greer,” Off-Kilter Podcast, 3-26-2021, https://offkiltershow.medium.com/reimagining-anti-monopoly-activism-through-racial-justice-feat-e3a124c1c61)

**VALLAS:** So, before we get into the report — and there is so much to talk about in this report — you co-founded Liberation in a Generation with Solana Rice, as I mentioned, up top. Talk a little bit about the organization’s vision, its mission. You talk a lot about an oppression economy and a liberation economy being the goal that you’re working to build towards. Talk a little bit about why you co-founded the program.

**GREER:** Yeah. Thanks for having me, and thanks for that question. Yeah, Liberation in a Generation, it’s really kind of a culmination of Solana and I (Solana Rice, my co-founder) and I really working. You know, originally, both of us have a similar background. Mine is in doing community organizing in the early part of the 2000s, but then also doing a lot of national work at the policy level for kind of Washington think tanks. And it really was birthed because we were really dissatisfied with the model at which a lot of national advocacy organizations were taking to how they were doing racial and economic justice work. And our kind of governing theory of change is that one, the ideas are not bold enough to actually deliver on changing the problems that we were seeing, that the story that we were telling about why these problems were created was actually just wrong, and that we weren’t working with the people that were building the type of political power that’s necessary to make that change. So, we launched Liberation in a Generation.

And what we hope to do is to **dismantle** what we call the **oppression economy**, which is an economy that is built on an uncomfortable truth: that racism is profitable in our economy, that institutions can build their wealth, that people can build their wealth based on the existence of systemic racism. And that happens by **criminalizing people** of color, by operating a **dual financial system** that extracts from people of color, that our **political system** and all of its **inequalities** is meant to prop up this racist economy that we operate in, and that corporate power has too much of a hold over the well-being of people of color in our economy. And that what we need to replace it with is a liberation economy that does real basic things like provides for everyone’s basic needs, creates safety and security, that compensates people for the value that they bring to the economy. And our economy has too long excluded people, but we need an economy that ensures that all people of color belong. And that has to be grounded in a set of economic rights that everybody has and holds and can be entitled to. And that, again, leaders of color that are doing grassroots power building and community organizing are the ones that deliver it. So, that’s who Liberation in a Generation partners with to deliver that future.

**VALLAS:** Well, and hearing you mention that you’d experienced, and I think very justifiable, dissatisfaction with the way that some of the kind of traditional Washington-based think tanks work on these issues, right? Often it’s about cutting poverty or reducing homelessness, right? And just the contrast with some of what you at Liberation in a Generation and Solana and the team that you guys are building there are, the things that you’re pushing for, right, are just on a different scale. And in some ways, it’s about **helping people understand** that maybe **we can imagine a different world rather than just tinker at the edges**.

I want to read another paragraph from this report. You write, “Imagine a world where the **unemployment rate** for people of color is **zero**, the **unhoused rate** for people of color is **zero**, a world in which **100 percent** of people of color have **quality healthcare**, a livable wage, quality education. We at Liberation in a Generation,” you write, “believe that this is possible if we strive to create a liberation economy where **all people of color** have their **basic needs met**, are safe and secure, are **valued and fully belong**, including people of color who are immigrants, formerly incarcerated, LGBTQ, and have a disability. You finally write, “In order **to get to this liberation economy**, we **must dismantle** the **oppression economy** that **monopoly power** has **colluded with the government** to maintain.” And this gets us into really talking about the topic in this report, which is anti-monopoly activism.

Start with a little bit of a primer of what we’re facing. I mentioned a couple of stats up top in the intro helping put sort of a recent and updated lens on how good it is to be a monopolist these days, right? By contrast to everybody else who’s living through this pandemic and not experiencing billions and trillions of dollars of wealth increases. Start with a little bit of a primer of what we’re facing: the rise of unchecked capitalism and monopoly power such that we’re essentially living in a new gilded era, as the report argues.

**GREER:** Yeah, and just, I mean, you have to, to fully understand the power of, monopoly, you have to understand it through the lens of people of color who have to deal with it. So, in Iowa, and, you know, there’s folks with People’s Action that are organizing people in rural communities around the threat of monopoly. But if you’re looking at Iowa, a corporation like Tyson Foods has managers who are sitting around on the floor (and this is documented in the media) making bets about what worker was going to get sick and die from COVID. Like, the inhumanity of that, I think, is just appalling. But it just shows the dehumanization that monopolies have created for workers, for consumers, for small businesses, and everybody that’s impacted.

And the reason why is because at the core, monopoly power is about exactly that: power, who has it and what they do with it. And what we have when you have monopolies, it’s not just about the size of the firm. There’s a lot of focus on the size of the firm. But what it’s really about is does that firm have a disproportionate amount of power, and what are they doing with that power? And what monopolies today are doing — Amazon, Moderna, Pfizer, JPMorgan Chase, Bank of America, Wells Fargo, Facebook, Google — they’re taking the power that they have around consumer prices, around workplace conditions, around wages, around the impact that they have in community, and the influence that they have on government, and they’re using that power to profit off of blatant systemic racism that is falling down upon Black and brown workers. And that is, for us, the real fight that we feel when you look at monopolies. And that the **current system** in which we use to try to **govern monopoly power** is **totally inadequate** in dealing with the kind of impact that the monopolies have on Black, Indigenous, Latinx, and Asian-American people in this country.

**VALLAS:** Now, folks who are listening probably all assume that they know what a monopoly is. But I’m going to sort of poke a hole in that and say, you may think you know what a monopoly is. But Jeremie’s got a slightly broader, and I think, more updated definition that’s used in this report. How do you define a monopoly for purposes of what you guys are doing in this work? And why do you propose a somewhat broader definition?

**GREER:** Yeah. So, you’re right. The current kind of anti-trust definition of a monopoly really focuses on the impact that monopoly power or corporate power has on consumers, and particularly on consumer prices. So, will you pay more for a product because of the monopoly power that a company has? And as I mentioned, we believe that that’s totally inadequate to really understand the full breadth of what a monopoly is. Monopolies have, yes, they have incredible control over consumer markets and prices. And we see that in healthcare, you know. So, the price of insulin is much higher because of the monopoly power that a company, that pharmaceutical companies hold.

But monopolies also have power over worker wages, the working conditions in which workers show up to work and have to live through. They have incredible power over small businesses. All across the country, we see small businesses being crowded out by monopoly power. They have the political power to almost dictate to local communities how much they’re willing to pay in taxes, which means the crowding out of essential services that are provided to communities. And what we observe in the report is that too often, the impact of that monopoly power falls squarely on the shoulders of people of color, whether they’re workers of color, consumers of color, whether they’re small business owners of color, or whether they’re just people of color living in communities that are looking to their local government to really help them navigate life in the economy.

**VALLAS:** And I want to quote you, because you offer, I think, a really, really smart definition here in the report. You say, “We define monopoly as a corporate entity — a single corporation, or a group of corporations — whose sheer size and anti-competitive behavior grant it disproportionate economic power and governing influence.” And as you’ve been describing, you say, “This negatively affects the well-being of workers, consumers, markets, local communities, democratic governance, and the planet.” That’s a somewhat broader definition than maybe the sort of technical antitrust definition of monopoly. But for all the reasons you’re starting to get into, you really, you argue in this report that it’s necessary that we think a little more broadly and a little more functionally about who’s operating like a monopoly, and therefore where we need to be thinking about challenging unchecked corporate power.

You’ve already started to delve into the link between unchecked corporate power, monopolistic behavior, and the numerous types of racial injustice and structural racism that run rampant throughout the U.S. economy and our broader society. But you have a very powerful way that you phrase this in this report. You say, “Racial wealth inequality,” and you specifically are talking there about racial wealth inequality, “is the consequential disease caused by the oppression economy.” I can’t remember reading another publication about monopolistic behavior and the need for an anti-trust movement that draws such a **direct causal link** between **monopolies** and the ways that they operate, and **racial wealth inequality** and **structural racism**. Talk a little bit about how monopolies are contributing to the immense and historic levels of racial wealth inequality that folks are maybe more familiar with, but not aware of that link.

**GREER:** Yeah. No, thanks for that question. And what I think of an important distinction around the framing there is that, yes, it is driving, monopolies are driving racial wealth inequality. And yes, monopolies are a product of an oppressive economy that is, you know, where racism is baked into the design of the economy. But they’re also a profit tier, they are gaining profit from the existence of that oppression economy. So, it is in their interest to sustain it and maintain it and to keep it going. And an example that we draw out in the paper that I think is so important and I think really illustrates this is, as we mentioned, one of the pillars that holds up the oppression economy is the criminalization of people of color. That people of color as criminals, or defined as criminals, and mass incarceration, the over-policing of Black and brown communities is something that upholds this oppression economy. And then when you have a company like Amazon who purchases the Ring Corporation —

And for those that may not be familiar, Ring is a product that’s provided by Amazon in which they provide surveillance and home security to everyone. You can get a little Ring doorbell where someone rings the door. You could be at work, you can open it. It’s like, “Oh, cool. Leave my package there.” That’s how they market it. But what that does is that that Ring device pulls in a lot of data. And what we have is cameras in homes all across the country that can be used to surveil people. And what we know is one of the things that police do is they over-surveil Black and brown communities, which leads to the type of mass incarceration that we’ve seen in this country. Well, Amazon has contracts, in fact, 770 contracts with police departments so that they can get the data from those Ring devices. So, I think that really illustrates that not only are monopolies driving racial inequality through the low wages that they pay workers, through the way that they crowd out Back businesses, from the way that they treat immigrants at the workplace, but they’re also actively doing things to prop up and uphold this oppression economy because they are profiting from it.

**VALLAS:** And I really want to encourage folks to read the report, especially activists and advocates who I know we have lots who listen to the show, folks in grassroots-based work who I think are really going to find this report very much geared towards them. That’s another really, I think, significantly unique aspect about what you guys have done here. This isn’t the kind of think tank report that you traditionally read, right? In a lot of ways, you actually really wrote this for, and almost to, grassroots leaders of color as sort of a primer on anti-monopoly activism, but also as something of the beginning of a tool kit that really could help people start to take this on as part and parcel of their work. I’d love to get a little bit into kind of why you structured the report this way, why you took this somewhat different approach in writing, not just for the media and for policymakers and for the Washington elites, but actually for grassroots leaders of color on the ground.

I’m going to quote you again. You write, “This paper aims to contribute a major step in the long journey of bridging the divide between anti-monopoly researchers and policy advocates and grassroots leaders of color.” And you write, “The first step on that journey is knowledge.” What does the current anti-monopoly fight look like? And why do you believe, and Solana as well, why did you guys prioritize bridging this divide?

**GREER:** Yeah, so, as I mentioned in my opening about Liberation in a Generation, we believe that the leaders that are going to lead us into having a **liberation economy** and dismantling this oppression economy that we’ve been talking about are grassroots leaders of color who are building power in communities. And the reason why we believe that is one, they are closest to the people who are experiencing the pain and harm of systemic racism. They are in there with them, they understand, they hear their stories, and they’re organizing them for change. The other thing that we believe is so important is that they are in the business of **building** the power, the **political power**, of those people. They’re not there to serve them, which there’s people that do that. And there’s a reason for that, and it’s important. But they see their role in helping those people build power so that they can **have the agency** to **force their government**, whether it’s a **local**, **state** or **federal**, to **act on their behalf**.

And we believe that if one of the **government’s roles** is to **curb corporate monopoly power**, **they should be the ones driving that change**. Because they will **come with experiences**, which we try to reflect in the report, of **how monopoly power is impacting communities**. You know, how a Amazon distribution center in the Inland Empire in California is impacting not just the economic life, but the quality of life of people in those communities. They could speak to that in real terms. And that not only does the advocacy need to be informed by that, but also the policy making needs to be informed by that.

So, what we did was, with that kind of assumption, we went to groups like the Athena Coalition, who is organizing people against Amazon across the country. We went to Color of Change, who’s an organization that is focusing on curbing the power of big tech: Facebook, Amazon, Google, Apple. We went to ACRE: Action Center for Race and the Economy. And they’re doing a lot of work focusing on big banks and the corporate and monopoly power of big banks. And we said, you know, what is holding the kind of grassroots movement back from really diving in, into this anti-monopoly issue? And they came up with, there was a lot of reasons, a lot of varies they identified, and some of them that we’re working with them to solve.

But one of them was, you know, we don’t have kind of a global understanding of how monopoly power impacts people of color in particular. We understand it through the lens of a particular firm, Amazon, Bank of America, like that. But we don’t really have a good grounding in how it happens globally. Therefore, our policymaking doesn’t have kind of an eye towards how could we globally and kind of more broadly address this problem in a way that impacts people across the economy? So, that’s what we hope that this paper would do: would provide that kind of grounding for grassroots leaders so that they can begin to build the type of strategies that kind of have that massive economy-wide impact for people of color.

**VALLAS:** And it might be eye-opening for grassroots leaders who are learning about this issue, who are exploring whether this is something that they can get involved with. But it’s also potentially eye-opening for people who already think they know the antitrust movement or the anti-monopoly movement, given that it is incredibly rare, as you point out, for conversations about the economy to really discuss human impacts. They’re often extremely technocratic conversations, right, that have lots of facts and figures and jargon. But something that you really make a point of doing in this report, which I can’t say I’ve ever seen in a report on monopoly power or anti-trust, is you really walk through the human impacts on people of color as workers, as consumers, as residents in local communities, as small business owners and entrepreneurs, and also as subjects of surveillance, similar to the Amazon Ring concerns that you were raising before. Share some of the examples in the report of those kinds of human impacts on people of color who can obviously be more than just one of those things in that list of categories.

**GREER:** Yeah, I’ll share a couple. There’s one that really, I mean, really broke my heart when I first read about it was Alec Raeshawn Smith, whose mother — and this is something that’s in the media. So, it’s not as if I’m violating any confidentiality here — but Alec Raeshawn Smith, whose mother, he aged off of his mother’s insurance plan. And this is a story we heard a lot during the ACA kind of debate and the debate around universal healthcare. But he aged off of his mother’s insurance plan, and he made this diff-, had to make this difficult choice about whether he continued to allow his mother to bear the burden of his insulin medication that he needed to regulate his diabetes, or whether he would try to do it kind of on his own. And he determined, he decided to do it on his own. And it’s a hard decision that people have to make every single day, but the cost of that insulin was so high that he was rationing it, that he wasn’t taking what the doctor prescribed. And he passed, and he died from his diabetes.

And this is the type of story that we see all too often. You know, his insulin costs were $1,300 a month without insurance. And we see that a corporation that can control pricing of pharmaceuticals for a lifesaving drug like insulin is how this plays out in real life. And we can get into a law, you know, you can get into a law classroom or into a debate on Congress, and you can start to forget about the real lives that are impacted by these policies. And the reason why we wanted to talk about these stories is because that is what organizers are dealing with every day: They’re working with people that are on insulin, you know. They are working with people who are working at a Amazon fulfillment center. They’re working with people who can’t get a bank account because Bank of America has all these fees on their credit cards and their checking accounts and things like that. So, bringing these stories out is what is going, and this real **human impact**, is what **is going to mobilize**, we believe, **the type of effort that’s needed** to fight back against monopoly power.

**VALLAS:** And I think we’ve got time for a few more examples, because it just, it isn’t the part of the conversation that usually gets any airtime. And it’s part of why I wanted to have you on the show is really to put a human face on some of the impacts. Share a few more examples that really, that popped for you as you were pulling this report together.

**GREER:** Sure. I’d love to talk about John Ingram, who is a Black farmer in Jackson, Mississippi, and he’s a chicken farmer. He grows chickens, and he sells his chickens to Koch Foods, K-o-c-h Foods. And they are the fifth largest poultry company in the country that provides food to places all across the country. But the model which they work with John is very much in the model of the sharecropping model from post-Civil War and on into the Jim Crow era. You know, they determine the way in which John must run his farm, like to how much he feeds his chickens, to the types of facilities he keeps his chickens in, all the way to the price that they will pay to buy his chickens. And what this does is create incredible power over Black farmers like John. And what you have is — And this is pretty much allowed to take place by the USDA.

He had complained, and Black farmers, many Black farmers complained to the Obama-era USDA. And because of the power of those poultry monopolies — you know, I mentioned one in the beginning, Tysons and Koch is another — they really didn’t do anything. And what we see across the country are Black farmers being forced out of business because of the power that these monopolies have.

Another example that I think is really good is also in Mississippi. There’s a Nissan plant that was built in Canton, Mississippi. They relocated there. And they had gotten there because they had gotten a lot of tax breaks from the local government, from the state of Mississippi. And they did so with the promise of good jobs. They talked about jobs would be between $26 and $26 an hour. Well, the type of jobs that they provided were called perma-temp jobs. And these are basically permanent temporary jobs, which I can’t really wrap my mind around what that is, because those are conflicting. Like, what is something that’s permanent and temporary? But they created these jobs that were permanent and temporary, which basically meant that they could at will fire people from their jobs.

So, these aren’t real sound jobs. The wages were low. They did not get great benefits. So, a lot of the promise that was offered was not delivered upon. And that these were primarily the jobs that were provided in this part of Mississippi, despite the millions in tax breaks that Nissan got from, again, the state of Mississippi and the local government there.

**VALLAS:** And there’s so many more examples throughout the report. We’ve got a link and show notes so folks can go in and can sort of page through. It’s written in an incredibly accessible way, right? So, I want to just make that point. You intentionally set this up so that you don’t have to be a lawyer to read this. You don’t have to be a deep antitrust expert to be able to read this. This is actually really for people who might be a little bit newer to the issue.

And one of the big kind of frames of the report as well is you spend a lot of time discussing how, you know, hey, we know folks are busy. We know folks are **fighting a lot of fights right now** and probably **don’t feel like they’ve got** one more to take on, **space for one more to take on**. **But** you really make the point that for folks who are working on, say, advancing the Green New Deal or the Homes Guarantee or other policies within the social and the economic and the racial justice advocacy sphere, you really make the point that **challenging monopoly power is actually a prerequisite to succeeding in those other fights**. What’s your message to advocates and to activists and policy folks, anyone who’s listening or who might read the report, what’s your message to them about why they should see the anti-monopoly fight as their own, even if they feel like that’s not the space that they work in?

**GREER:** Yeah, I mentioned Action Center for Race and the Economy. Mo BP-Weeks, who is a co-director there, often says, You just have to follow the money.” And I think organizers know that when you follow the money, you usually find exactly the targets that you need. And there’s a section in the report called Monopoly Power Is Corporate Power Magnified and Maximized. And we believe, and I think that we’re right, that if you focus in on and treat these monopolies like corporate entities, you can begin to see change in a lot of the transformative movements that people are having, for example, the Green New Deal and efforts to create a more equitable and healthy environment and to curb climate change. You know, the targets are Big Oil and Big Energy. And those institutions, while they’re large, still operate like corporations. They have a CEO, they have Board of Directors, they have shareholders. And all of those people have some stake in the company and have some culpability to the issues that you are trying to solve. So, it becomes another tool in the toolbox.

We believe that anti-monopoly advocacy is just another tool in the toolbox that could be used to curb corporate power so that you can **begin to get wins on other issues** that you may be focusing on, whether it is the **environment**, whether it is affordable housing, whether it’s creating higher wages for workers, whether it is to create a safer community free of **police violence**. We think that by focusing on curbing the monopoly power of the corporations that are causing that pain is just another tool that can be used in the advocacy for those broader kind of movement priorities that we hear a lot about.

**VALLAS:** Now, one of the things that you and I have talked about a good amount before, and something that we actually get into a lot on this podcast, is the narratives that are out there that we’re often sort of fighting against that might be invisible, but that shape people’s views about, say, the economy and economic policy, even if they’re not aware that that’s the sort of lens that they’re looking through or the pair of glasses that they’re looking through. It’s also something that you really spend a lot of time working on. And it’s very, it’s central, really, to a lot of what Liberation in a Generation is advancing, is narrative change, right? Especially dismantling, for example, the neoliberal narratives that are really at the root of so many of the social injustices that folks who listen to the show are out there fighting every day.

You talk about government, in the case of the anti-monopoly fight, as a villain and as complicit with corporations in allowing unchecked corporate power to do the damage that you’ve been talking about, that we’ve been discussing up to this point. But you actually talk about them in the context of the anti-monopoly fight government as the villain who could turn into the hero. Talk about why you think it’s so important to construct a narrative with a villain, with a hero. And we’ll get back now into kind of the policy conversation of this, why government has the potential to turn from being a villain to being a hero in this context.

**GREER:** Yeah, I mean, it’s really, when you look at the **history** of **anti-monopoly advocacy**, you see that **there once was a time where the government was an active participant in curbing corporate power** and was doing so on behalf of workers. You know, you see there were passages of transformative legislation like the Sherman Act or the Clayton Act or the Federal Trade and Commissions Act. And these were all passed in the early 20th century. And they were meant to curb this kind of corporate monopoly power in, you know, back in the Gilded Age when we saw the trust corporations, the railroads, the Carnegie steel industry. And there was this active role of government doing this.

But what we’ve seen since then is, as corporate power grew, begin to influence government more, a real devolution of that activist role the government played. And what we began to see really, you know, and probably the heyday of this for the monopolies began in the 1980s and continues on today, was actual collusion between the government and these monopolies. And that what we saw, what we see today is there have been, there were more mergers and acquisitions under Obama administration than any other administration before it. So, we’re at the point now where the government is really seen as a, it’s really a collaborator in building monopoly power.

What we need to get back to is a place where the government is playing its role in making sure that not just the, it’s not just about the size of the company, but that the company’s power is not getting to the point where they’re bringing down the standard of living for workers, particularly Black, Latinx, Indigenous, and Asian-American workers. That consumers are seeing the type of prices so that they can afford the things that they need to live a daily life. That small businesses, particularly Black businesses, are not being crowded out. And that that is a role for government. So, **government can be the hero**, and it **should be the hero** because **it is our government**, you know.

We are a democracy. We should have say, each and every one of us, in what our government does, and our government should be working on our behalf, not on behalf of Jeff Bezos, Warren Buffett, or Elon Musk. **We should be expecting the government to play that active role**, and **not just** recognizing that it should be done **for all workers**, but ensuring that workers of color in particular and people of color, households of color **in particular**, are being protected against the tyranny of monopoly power.

**VALLAS:** And one of the later chapters in the report really offers kind of a primer in some of that early 20th century history that you were just summarizing around the time when government in the U.S. actually did take action to rein in monopoly power. You mentioned the Sherman Act and the Clayton Act and the creation of the Federal Trade Commission, all of that, I would encourage folks to go in and read. And there’s probably a lot that folks don’t know about that era following the gilded era, that really was the time when the federal government in the U.S. did actually take action to check corporate power. Who are the key players with power in the federal government to do something about this? And what are some of the existing solutions that are being advanced?

**GREER:** Yeah. So, today, I mean, it’s your Congress, of course, has a lot of power. Because there’s an, I believe, there’s a need for new kind of legislation that new powers be created, new constructions of how we regulate monopoly that only Congress could do by passing laws. But under our current laws, the Federal Trade Commission is responsible for responding and kind of being the first, the cop on the beat to make sure that companies aren’t violating any of our current antitrust laws. They can issue criminal and civil penalties, and they are the ones who are in charge of enforcing those kind of monumental legislation that we’ve talked about.

The Justice Department also has a important role in moving legislation forward. In fact, they are the entity that when you hear about breaking up corporations, the Justice Department is the one that usually does that. And they’ve done it in the past. You know, they did it. They broke up the big railroad monopolies of the past, and they broke up AT&T in the 1970s into what they call the Baby Bells. And they currently have a lawsuit today against Google to look at Google’s monopoly power. And in the lawsuit, there’s a call for breaking it up into smaller pieces. So, there’s that.

And then there’s other agencies, you know. As it relates to banking, it’s the Department of Treasury with the Comptroller of the Currency and the Federal Deposit Insurance Agency, the CFPB in banking. In agriculture, it’s the U.S. Department of Agriculture. In energy, it’s the Department of Energy and the Environmental Protection Agency. Each of these industries kind of have their own government entity that is responsible for regulating the work that they do. And they play a role in curbing corporate power. And one other one that I’d mention is states. State Attorney Generals also have a lot of power to curb corporate power, because one thing that’s little known is that states are the ones that incorporate corporations. And so, they have a lot of ability and a lot of power to regulate agencies.

As far as solutions go, there’s a lot of solutions that are kind of out there. And what this report does not do is propose to put forth a particular solution that would work for people of color, because we actually think that that’s the work that grassroots leaders of color should embark on in the future, is **designing and developing** those **particular solutions**. But some of the solutions that we have in our toolbox today are, for example, breaking up large corporations. That is something that we can do today. We can also regulate, tightly regulate corporations using the existing tools in the toolbox. The CFPB and what it’s done in the banking industry is a good example of that.

But one idea that’s been batted around, and I think Elizabeth Warren proposes for big tech in particular, is new enforcement agencies that are more in line with the realities that we see in the economy today and the way in which monopolies form. A lot of our laws are meant, were developed to regulate railroad and steel monopolies, and those aren’t the monopolies that we’re seeing today. So, there is a group of folks out there talking and saying that there’s a real need to think about new agencies with **new authorities that could regulate monopoly power**.

**VALLAS:** And of course, it’s **not** exactly **a pie-in-the-sky idea** to think about creating those new agencies. Elizabeth Warren, who you mentioned, right, was the godmother of the Consumer Financial Protection Bureau, the CFPB, which is pretty young as far as federal agencies go. It was created during the Obama years. Although that may feel like a different lifetime at this point in a lot of ways.

We’re going to run out of time. But the last couple of minutes that we have, I’d really love to spend delving into the recommendation that really is, in a lot of ways, the kind of central call of this report. A lot of it is really addressed to grassroots leaders, and for the reasons you’ve discussed, right, about bridging that divide. But it’s also addressed to the existing anti-monopoly tent: the folks who are already working within research and advocacy spaces on these issues. And you say very pointedly, “The anti-monopoly movement, within **research and advocacy spaces** especially, should embolden grassroots leaders of color to deliver anti-racist policy solutions aimed specifically to curtail monopoly power.” So, there you’re describing that agenda that you think grassroots leaders really should be centered in developing. But you continue. You actually, you sort of raise the ante with this call. You also say, “It’s **not enough** to **speak virtuously** about racial equity and economic justice. We **have to intentionally center people of color** in the development of **policy change**.”

And you call explicitly for a reimagination of this movement through a racial justice lens that broadens the tent and **intentionally makes this work more accessible** and **more human-impact focused** so that it’s not just about bringing folks in and centering the work differently. It’s actually about doing the work differently, entirely, so that it’s **not just that technocratic** and sort of small-tent D.C. **elite approach** to **changing these policies**. Talk a little bit about what that actually would look like. You have some pretty specific ideas that, I agree with you, would actually **transform the anti-monopoly movement** in ways that would **reimagine it** and approach the work differently. Get concrete. What would that actually look like?

**GREER:** Yeah, and thank you for this question, Rebecca. You know, I mentioned that history. And I think what we know about public policy and the **history** of public **policy** in the United States, whether it was this antitrust movement in response to the Gilded Age, whether it was the New Deal, is that when it’s done in a **race-neutral** way, it doesn’t just leave people of color behind — Black, Indigenous, Latinx, Asian Americans — it also **harms people of color**. And what we need to do is, of course, what we **can learn from that history** is that we should **not repeat it**. And we should not repeat it, **by centering people of color as the core beneficiaries** of the **policy**. Because we believe **if that is done**, not only will they be served, but we will all then be served because we’re **ensuring** that we’re **not leaving anyone behind**, and we’re not intentionally harming anyone. And we think that that’s so critically important in this kind of **new era of antitrust policy that could come forth**.

You know, we talk about this renaissance of antitrust back in the early part of the century, but at the time, many Black people could still not join a union. Many, many Black people could not get jobs in these new corporations that were being formed by the railroad, by the breaking up of the railroads. So, we have to acknowledge that the **implementation of policy** and **ensuring that all people are a part of it** are **critically important**. And we believe that no one is better at that than people that organize, that are in fellowship, and work with people of color every single day closest to the problem can do. And that that **knowledge** that they have, that **expertise** that they have in those **folks’ lived experience**, is **exactly what policymakers need to craft the type of policies necessary**. It is what the think tanks in Washington need. It is what the policymakers on Capitol Hill need. It is what the entire advocacy apparatus needs. And we would like to see that being applied to this area.

But what that means is **not** bringing people to the table in a kind of like, you know, **tell us what you think, and then we’ll get back to you**. We actually believe that those **folks should be leading those conversations**. They should be **leading the crafting of that policy**. And that the **role** of the **think tank** or of the **policymaker** or the **antitrust lawyer** should be to **support them** in that endeavor, but **with them at the helm**. And we think that that is **critically important** in **all areas of policy**, but **especially** in **this one** that has been so **technocratic**, so **legalistic**, so **academic**, and really **devoid of many of the lived experiences** that people have navigating the economy and fighting back against these monopolies.

**VALLAS:** And you’ve got some really, really, really concrete and tangible recommendations in there that I feel like if researchers or Hill staff or think tankers are listening — and I know that’s a lot of the folks who listen to this show, too — there’s stuff in there that folks can just literally put on their to-do list, like creating measures that actually assess impacts on Black and Latinx and Indigenous and Asian and Pacific Islander people, right, as they’re actually thinking about how we evaluate solutions.

**GREER:** Right.

**VALLAS:** Or you also call for just **using less jargon** and **less abstraction** and focusing maybe a little bit less on just like the markets and the efficiencies and all of those terms, right, in favor of **talking** a little bit **more about the impact** of corporate decisions **on people**, human people, right: the folks that are actually at the core of why we need to be challenging corporate power.

**GREER:** Think bold. Think big. We need to think big. We need to think boldly. We can’t get caught up into the minutia of what can get done today. We **need to think big** about what could happen tomorrow. So, yeah, that’s another one. Mmhmm.

**2**

**Next Off – Frame Subtraction:**

**First – our links:**

**A -- The Aff deploys the terminology that equates knowledge with visual acuity. That entrenches modes of ableist privilege. It also violently exports, transforms, and dislocates the lived experiences of those living with visual challenges.**

**May & Ferri ‘5** (Vivian M, Beth A, Syracuse Feminism and Disability studies Professors, “Fixated on Ability: Questioning Ableist Metaphors in Feminist Theories of Resistance,” 2005, Prose Studies, Vol. 27, No. 1&2 April-August 2005, pp. 120-140, modified for language that may offend - <http://syr.academia.edu/BethFerri/Papers/160692/Fixated_on_Ability_Questioning_Ableist_Metaphors_in_Feminist_Theories_of_Resistance>, Date Accessed: 7/5, JS)

Equating **visual acuity** with **knowing** is one common way to place disability in opposition to knowledge. But many others are equally as frequent, including dualisms between mental illness and rationality and/or characterizations of faulty knowledge models as “pathologies” or “illnesses.” For example, because Frederic Jameson relies heavily on ableist notions of schizophrenia and pathological illness in his critique of the postmodern subject, these ideas inﬁltrate Chela Sandoval’s reading and critique of Jameson. Sandoval writes that for Jameson, the “euphoria” of the postmodern subject“ marks the onset of a new form of mass cultural pathology. It is ‘schizophrenic’ innature— charged with hallucinogenic intensity” (21). Similarly, June Jordan (in Collins, Fighting 150) describes constructivist approaches to identity as a “delusional disease.” In asserting her own social theory, Patricia Hill Collins writes that deconstructivist theory can be “crippling” because it “runs in circles” and fosters nihilism ( Fighting 189). Once again, disability is enlisted to represent ~~foolishness~~ (mistakenness) and despair. Similarily, Susan Stanford Friedman, in querying whether a doctoral education in an interdisciplinary ﬁeld such as Women’s Studies is even viable, asserts “that way, madness lies” (318). Other scholars refer to those occupying opposing sides of theoretical or political debates as “mad heads” (Jamila 390), as “crazy,” or as “wingnuts”(Be´rube´). As these examples illustrate, schizophrenia and madness more generally are often placed in opposition to more reasoned approaches, arguments, or positions. Disability as a state of unknowing, or irrationality, is invoked **in order to be deplored.** Reading our own works, we found that Vivian discusses the “crazed” and troubled state ambiguity can elicit (May 366) and Beth discusses the “paranoia” about differential birthrates that Eugenicists tried to evoke (Ferri and Connor). Schizophrenia can also be used rather romantically, as a potentially liberating state of mind that allows us to think beyond given categories and binaries,to free ourselves from modernist impulses of mind or from “autistic” egocentrism! As Felix Guattari writes, “in a certain sense people who are operating on the level of social sciences or on the level of politics ought to ‘make themselves schizophrenic.’ And I’m not speaking of that illusory image of schizophrenics, caught in the grip of a repression, which would have us believe that they are ‘autistic,’ turned inward on themselves, and so forth. I mean that we should have the schizophrenic’s capacity to range across ﬁelds . . . of study” (Guattari, 83).Obviously, Guattari is not alone in this rhetorical strategy. If we were to tell the “origin story” for wanting to write this paper, it would begin with a talk given by Judith Butler in New York City reﬂecting on the events of September 11th in which she made an analogy between post-9/11 experiences and schizophrenia. 7 Because she was using schizophrenia to highlight the beneﬁts of destabilization, Butler could not fully grasp why her use of schizophrenia could be problematic. 8 Yet the trouble with this kind of **“borrowing” of disability,** whether it is seemingly positive or negative, is that in these instances schizophrenia becomes, primarily, a rhetorical device. Schizophrenia as **an embodied lived experience**, a social and political history, **an ontology with meaning in its own right**, **disappears**. Instead, it is **transformed** into an imagined state of dis/order available for using , for deepening the audience’s understandings of their own (able-bodied) lives and their own modes of rationality.

**B -- Reject that violent transference.**

**It’s a mode of dislocation that’s violent to the people that actually experienced it. This means we win within their framework.**

**Sanyal 02** Debarati Sanyal is Associate Professor of French at the University of California, Berkeley. She received her PhD in Romance Languages from Princeton University. The author of The Violence of Modernity: Baudelaire, Irony and the Politics of Form (Johns Hopkins University Press, 2006), she has also published articles on Baudelaire, Holocaust Studies, World War Two and postwar commitment. Representations –Summer 2002, DOI 10.1525/rep.2002.79.1.1

One of the most disquieting uses of this logic in literary criticism is found in Shoshana Felman’s book, co-authored with Dori Laub, Testimony: Crises of Witnessing in Literature, Psychoanalysis, and History. In a seductive reflection on the ruptures and silences that hover over autobiographical, literary, and critical representations of the Holocaust, Felman, like Agamben, weaves a series of structural analogies between the concentration camp and civilian life, between ‘‘them’’ and ‘‘us,’’ ‘‘then’’ and ‘‘now,’’ and between literal and metaphorical forms of complicity, victimization, and survival. She does so by viewing history through the lens of trauma, that is to say, by viewing history as repetition (in this case the infinitely renewed wound of the Holocaust) and as contamination (in which the self and other are circulating positions).The trauma of the concentration camps is thus presented as a historical wound whose trace is to be found in the gaps and silences of testimonies by survivors, primary witnesses, and secondary witnesses, in this case, Primo Levi, Albert Camus, and Paul de Man. Yet this silence, significantly, is sounded and made to reverberate identically in distinct, if not incommensurable, contexts. Such conflations of historically bound occurrences with an ongoing and universalizable condition (or of ‘‘fact’’ with ‘‘concept’’) can be discerned in Felman’s discussion of the betrayal of testimony. Camus’s protagonist, Jean-Baptiste Clamence, keeps on walking when he hears a splash, followed by cries for help. While this betrayal resonates with the Allies’ (or Sartre’s) betrayal, for Felman, the historical betrayal is also an inevitable epistemological and ethical condition. Since the Holocaust collapses the very possibility of witnessing, any attempt to understand and transmit the event will necessarily fall short of—and betray—the experience. Even those ‘‘inside the event’’ (to use Dori Laub’s expression) were robbed of any independent frame of reference outside of the radical dehumanization of the camps.24 In Felman’s account, then, ‘‘betrayal’’ functions both as a historical fact (the failure to see or understand evidence of the camps) and as an immutable and inherent condition (the impossibility of seeing or understanding the camps): In bearing witness to the witness’s inability to witness—to the narrating subject’s inability to cross the bridge towards the Other’s death or life—The Fall inscribes the Holocaust as the impossible historical narrative of an event without a witness, an event eliminating its own witness. Narrative has thus become the very writing of the impossibility of writing history.25 At stake in this view of the impossible or betrayed testimony is an implicit, but important, claim for a post-Shoah literary ethics, one founded on the impossibility of representing historical trauma. In Felman’s reading, the Holocaust forces us to rearticulate the relationship between language, narrative, and history and to recognize the literary as a realm for recovering a history that has been erased. Felman suggests that the testimonial power of literature and its ethical function lie in its uncanny ability to access—through falterings and ambiguities—a reality that defies our habitual historical and psychic frames of reference. With Agamben, she views language and history as caught in a new configuration, in which the ellipses, silences, and aporia in narrative (or speech) capture that which has occurred historically as a vanishing point. With Caruth, she perceives literary language as a point of access to ‘‘unclaimed experience,’’ since both literature and trauma are inscriptions (in the text, in the psyche) of indirect forms of knowledge that at once solicit and defy our witness.26 The Fall and its enigmatic allegory of a failure or betrayal of witnessing, attests to this new ethical imperative by laying bare how ‘‘the cryptic forms of modern narrative and modern art always—whether consciously or not— partake of that historical impossibility of writing a historical narration of the Holocaust, by bearing testimony, through their very cryptic form, to the radical historical crisis in witnessing that the Holocaust has opened up’’ (Testimony, 201). In Felman’s account, it is the obliqueness, or indeterminacy—if not evacuation—of a text’s referential context that is taken as signs of its historicity. History, paradoxically, becomes the knowledge bodied forth by the ‘‘cryptic forms’’ of a representation that continually attests to the crisis of representation inaugurated by the Holocaust. The troubling consequences of this bid for an ethics of interpretive instability are starkly revealed in Felman’s discussion of Paul de Man’s anti-Semitic writings for the Belgian journal Le soir. Felman proposes The Fall’s allegory of the betrayal of witnessing (Clamence’s inability to turn back and save the woman) as de Man’s unspoken autobiographical story, his belated confession of the trauma caused by the Holocaust’s legacy. Felman argues that deMan’s silence over his wartime writings (like Clamence’s own silence in the aftermath of the drowning), cannot be judged by us for three main reasons: first, we cannot put ourselves in his place; second, his silence is exemplary because silence is the only way of bearing witness to an event as unspeakable as the Holocaust; and, finally, this silence implicates us all in the traumatic legacy of the Holocaust: ‘‘In reality, we are all implicated—and in more than one way—in de Man’s forgetting, and in his silence’’ (Testimony, 123). Significantly, Primo Levi’s gray zone is instrumental to the formulation of these claims. Felman suggests that de Man’s predicament as a journalist in occupied Belgium was somehow comparable to that of the Sonderkommando. If, as Levi warns us, we cannot put ourselves in the place of the Sonderkommandos in the concentration camps, and therefore cannot pass judgement on their actions, then—Felman suggests— a similar perspective must be cast on de Man’s position as a journalist in occupied Belgium: ‘‘The crucial ethical dimensions of a historical experience like de Man’s need to be probed by being measured up against the incommensurability of that experience’’ (Testimony, 123). Here, Felman argues for the singularity of de Man’s experience, paradoxically, by making it analogous to the equally singular experience of the Sonderkommando. In other words, the analogy between these two incommensurate figures—a Belgian gentile who dabbled in Nazi collaborationist prose and a Jewish prisoner working in the crematorium—is drawn precisely in the name of a concept: the incommensurability of their experience. Yet Felman, in a gesture similar to Agamben’s treatment of the soccer match, makes that incommensurability commensurate by assimilating conditions peculiar to the camps’ moral life to life outside the camps. Indeed, when Felman invokes ‘‘our’’ implication in an ethical terrain that forbids reductive representations of people as ‘‘us’’ and ‘‘them,’’ one comparable to the gray zone, she is effectively transforming a product of the concentration camp’s moral and physical apparatus (the gray zone) into a metaphor for her readers’ moral landscape. The extension of the concentration camp, from fact to concept, leads to the erasure of the very real differences between victims, executioners, and witnesses. The gray zone again provides a metaphor for the continued unreadability of the Holocaust, investing this unreadability with an ethical weight. Felman, like Agamben, thus literally dislocates the gray zone, transforming it into a new ethical ground in which ‘‘we’’ are uniformly embedded. Invoking Levi in her warning against the temptation to judge de Man from an external vantage point and thus succumb to the mystification of ‘‘a self-righteous bipartition of ‘the good guys’ and ‘the bad guys’ ’’ (Testimony, 122), Felman suggests that the only responsible engagement with history’s traumatic legacy is a Camusian ‘‘fall’’ into lucid culpability, a perpetual reckoning with one’s painful complicity with and victimization by an event that lies beyond the reach of words: As far as we as readers are concerned, the ethical question with respect to the information that has come forth therefore resides . . . in an attempt at understanding how precisely de Man’s writings do in fact relate to the moral implications of contemporary history . . . how de Man articulates our silence; how today we are all implicated in de Man’s ordeal and in his incapacity to tell us more about it; how, having faced what he faced, de Man chose an inevitable syntax and an inevitable (silent) language. The question that should be addressed in light of de Man’s history is . . . how both de Man’s silence and his speech articulate, and thus help us understand, the ways in which we are still wounded by the Holocaust, and the ways in which we harbor the unfinished business of this recent history within us. (123–24). This blurring of subject positions (in which de Man, the Sonderkommando, Primo Levi and ourselves circulate on the metaphorical playing  fields of the gray zone) occurs by privileging silence as the only adequate mode of apprehending a historical reality that confounds representation. If, as Felman claims, ‘‘de Man could borrow Primo Levi’s words,’’ it is only because both de Man and Levi ‘‘fall silent’’ before the trauma of the Holocaust. Silence, then, is essentialized into a trope that functions identically across contexts and genres. De Man’s silence over his wartime writings is somehow analogous to the silences found in the writings of survivors such as Primo Levi and Elie Wiesel. His later writings, like the muffled historical references of Camus’s novels, are faltering testimonies to the impossibility of bearing witness to an unspeakable history. Just as the soccer game played in Auschwitz staged a convergence between victims, perpetrators, and witnesses, Felman’s reading suggests a parallel convergence between collaborator, survivor, witness, and proxy-witness. The abstract specter of universal implication (‘‘we are all implicated,’’ ‘‘our silence’’) shades into shared victimhood. The inexpressible trauma of the Holocaust binds us all and equally into a general legacy of wounded complicity. The obviously untenable assimilation of de Man’s silence and trauma to that of Primo Levi (survivor), Albert Camus (writer and secondary witness), and Clamence (fictional character) has already been critiqued at length by Dominick LaCapra and I shall not belabor the point here.27 My main objective has been to point out how some of the assumptions underlying a theorization of history as trauma—that is to say, history as a dislocation both of the event and of an experiencing subject— may replicate the violence of the traumatic event itself. I have addressed this theoretical violence as the ‘‘logic of the soccer match’’ because its metaphorical recycling of culpability and victimization replicates the circulation of innocence and guilt that we see in the soccer match between the SS and SK at the gates of the Auschwitz crematorium.

**Here is a highlighting of their ev (MSU = Green) – the alternative would replace “see” with “perceive” – reject their methodology’s commitment to this rhetoric**

**Terrefe’18** (Selamawit D. Terrefeis a Postdoctoral Fellow in American and Black Atlantic Studies in the Department of English-Speaking Cultures at the University of Bremen, Germany. Broadly speaking, Terrefe’s work examines the effects of violence on the psychic life of Black people; hence, her research questions focus on radical and revolutionary political movements, theories, and creative practices engaged by Black diasporic communities in the wake of continued racial animus. “Speaking the Hierogyph” )//JP

**The task at hand**, now, for those who read, theorize, and practice in the wake of Spillers and Marriott, **is a mode of return to foreclo- sure: returning to the originating moment of woundedness, a state of breach, the “ship’s hole.”** **This return may signal both a liberatory poli- tic and an intramural psychoanalytic practice within the “hole”—a “psy- choanalytics”—to excavate the buried and transferred content of our dreams.** I am neither advocating for mimetic representation of a figure that exceeds and anticipates her own erasure, nor am I attempting to bring Black women out of erasure. **In other words, rather than posit further entrenchment into traditional conceptions of a gender binary, I am looking at how the Black female imago operates as a mythic site in the unconscious**. In so doing, **I suggest we excavate its machinations to learn about the future of Black revolutionary politics. Namely, can we ever make this figuration central to the service of Black liberation? For to speak of a Black unconscious is to ~~see~~ [perceive] the world unfold at a destructive rate and against telos**; with the barrel of a gun, the targeting light of a Taser, **and the discomfort of civil society.** **But how can what hap- pened on that ship be the same thing that happens in the welfare line?** **Is it the same unconscious that carried Harriet Tubman’s identifi ca- tions, deciding whom to shoot or whom to save as she traversed the passageways to a freedom that wanted nothing to do with her kind?** Or is it akin to the unconscious that drove Miriam Carey to a securi- ty checkpoint at 1600 Pennsylvania Avenue one autumn day in 2013? **Indeed, promises are unfulfilled, and are impossible to sustain, but they are indicative of desires without expectations, of endings where we begin, “riveted to the ship’s hole, fallen, or ‘escaped’ overboard”75 as we travel the impossible fissure—the breach of Black relationality— between the New World and Africa.**

**Our Alt:** **We can defend the rest of their advocacy and negate only certain parts. 2NR consolidation is the best alt:**

**One – no plan means any part of the 1AC can become the nexus question by the 2AR, we should reciprocally get to conditionally critique their frames and narrow the debate to parts of disagreement by the 2NR.**

**Two – – Praxis: our model teaches a form of engagement that corrects flaws in political strategies. Rejecting our approach is normatively worse for the Aff’s own cause.**

**Williams 15** Douglas Williams is a third-generation organizer, He earned his BA in Political Science at the University of Minnesota at Morris and his MPA at the University of Missouri Columbia, where he was also a Thurgood Marshall Fellow and a Stanley Botner Fellow. He is currently a doctoral student in political science at Wayne State University in Detroit, where his research centers around public policy as it relates to disadvantaged communities and the labor movement. From the article: “The Dead End of Identity Politics” - From: The South Lawn - March 10, 2015 – Internally quoting Freddie DeBoer, Lecturer, Purdue University. DeBoer holds a PhD in Rhetoric and Composition from Purdue and an MA in English, concentration in Writing and Rhetoric from The University of Rhode Island, Modified for potentially objectionable language. In one instance a capital “B” was adjusted to a lower case “b” in a manner that boosted readability, but did not alter context. https://thesouthlawn.org/2015/03/10/the-dead-end-of-identity-politics/

Freddie **DeBoer** makes a great point in his piece on what he calls “critique drift“: “This all largely descends from a related condition: **many in the** broad online **left** have adopted a norm where being an ally means that you never critique people who are presumed to be speaking from your side, and especially if they are seen as speaking from a position of greater oppression. I understand the need for solidarity, I understand the problem of undermining and derailing, and I recognize why people feel strongly that those who have traditionally been silenced should be given a position of privilege in our conversations. B(b)ut critique drift demonstrates why a healthy, functioning political movement can’t forbid tactical criticism of those with whom you largely agree. Because critical vocabulary and political arguments are common intellectual property which gain or lose power based on their communal use, never criticizing those who misuse them ultimately disarms (hampers) the left. **Refusing** to say ‘***this*** is a real thing, but you are not being fair or helpful in making ***that*** accusation right now’ alienates potential allies, contributes to the burgeoning backlash against social justice politics, and prevents us from making the most accurate, cogent critique possible.”

----- (Williams is now no longer quoting DeBoer)

Look, I am Black. Also, sometimes, I can be wrong. Those two things are not mutually exclusive, and yet we have gotten to a point where any critique of tactics used by oppressed communities can result in being deemed “sexist/racist/insert oppression here-ist” and cast out of the Social Justice Magic Circle. And listen, maybe that is cool with some folks. Maybe the revolution that so many of these types speak about will simply consist of everyone spontaneously coming to consciousness **and there will be no need for coalitions**, give-and-take, or contact with people who do not know every word or phrase that these groups use as some sort of litmus test for the unwashed. But for the rest of us who reside in a reality-based world, where every social interaction is not tailored for your idiosyncratic indignations, we know that casting folks out for the tiniest of offenses will lead to a Left that will forever be marginalized and ineffective. I have stated before that the kind of people who put out these lists and engage in the kind of identitarian caterwauling that has become rote copy on the Internet might actually want that, as a world where left-wing activism is made potent and transformative will be one where they cannot simply take comfort in their cocoon of self-righteousness. But damn them when I can turn on my computer and see one Black person after another being gunned down by police. Damn them when we have a president that can sit there with a straight face and speak the words of freedom and liberation while using the power at his disposal to deny those very concepts to others. And damn them when we can get thousands of words on Patricia Arquette drunk at a party or how it is privileged to not like the same musicians that they do, but we cannot seem to get any thoughts on how the biggest moment for communities of color since the 1960s is being squandered in a hail of intergenerational squabbling. And do not even get me started on people writing articles that malign long-standing activist organizations without a whiff of evidence that there has been any wrongdoing on their part.

**Three – contingent agreement is good: negating the whole aff makes only the most extreme stances strategic, like prejudice is good. We should debate framing strategies rather than impact turns to injustice**

**Four – its fair: frame subtraction auto gives the aff ground – just defend the stances of the 1AC. There are net benefits to this Alt other than just the Condit cards. It applies to other frames that we’ve critiqued.**

**Case**

**( ) Presumption.**

**The 1AC’s heavy on diagnosis and light on remedy.**

**Much of the 1AC critiques Topicality – but that alone isn’t a reason to affirm. Vote neg on presumption - K Affs still have solvency burdens. It is not clear HOW the aff’s gesture toward “unraveling mimetic desire” discourages the ontological mindsets cited in the 1AC.**

**Institutional engagement has made material gain for Black women---turning away and towards more localized communities will disempower.**

**Collins 97** – Patricia Hill Collins, Sociology Professor & Chair, Dept. African American Studies, U Cincinnati, 1997, Fighting Words: Black Women and the Search for Justice, p. 134-7

In this academic context, **postmodern treatment of power rela­tions suggested by the rubric of decentering may provide some relief to intellectuals who wish to resist oppression in the abstract without decentering their own material privileges. Current preoccupations with hegemony and microlevel, local politics**—two emphases within post­modern treatments of power—**are revealing in this regard. As the resurgence of interest in** Italian Marxist Antonio **Gramsci’s work illus­trates** (Forgacs 1988), **postmodern social theorists seem fascinated with the thesis of an all-powerful hegemony that swallows up all resis­tance except that which manages to survive within local interstices of power.** The ways in which many postmodernist theorists use the heterogeneous work of French philosopher Michel Foucault illustrate these dual emphases. Foucault’s sympathy for disempowered people can be seen in his sustained attention to themes of institutional power via historical treatment of social structural change in his earlier works (see., e.g., Foucault’s analysis of domination in his work on prisons [‘979] and his efforts to write a genealogy linking sexuality to institu­tional power [ii98oa]). Despite these emphases, some interpretations of his work present power as being everywhere, ultimately nowhere, and, strangely enough, growing. Historical context is minimized—the prison, the Church, France, and Rome all disappear—leaving in place a decontextualized Foucauldian “theory of power.” All of social life comes to be portrayed as a network of power relations that become increasingly analyzed not at the level of large-scale social structures, but rather at the local level of the individual (Hartsock 1990). **The in­creasing attention given to micropolitics as a response to this growing hegemony, namely, politics on the local level that are allegedly plural, multiple, and fragmented, stems in part from this reading of history that eschews grand narratives, including those of collective social movements. In part, this tendency to decontextualize social theory plagues academic social theories of all sorts, much as the richly tex­tured nuances of Marx’s historical work on class conflict** (see, e.g., The Eighteenth Brumaire of Louis Bonaparte [1963]) **become rou­tinely recast into a mechanistic Marxist “theory of social class.” This decontextualization also illustrates how academic theories “empty out the more political and worldly substance of radical critiques”** (West 1993, 41) **and thus participate in relations of ruling**. In this sense, **postmodern views of power that overemphasize hegemony and local politics provide a seductive mix of appearing to challenge oppression while secretly believing that such efforts are doomed. Hegemonic power appears as ever expanding and invad­ing. It may even attempt to “annex” the counterdiscourses that have developed**, oppositional discourses such as Afrocentrism, postmod­ernism, feminism, and Black feminist thought. This is a very impor­tant insight. However, there is a difference between being aware of the power of one’s enemy and arguing that such power is so pervasive that resistance will, at best, provide a brief respite and, at worst, prove ultimately futile. **This emphasis on power as being hegemonic and seemingly absolute, coupled with a belief in local resistance as the best that people can do, flies in the face of actual, historical successes. African-Americans, women, poor people, and others have achieved results through social movements, revolts, revolutions, and other col­lective social action against government, corporate, and academic structures.** As James Scott queries, “What remains to be explained is why theories of hegemony…have…retained an enormous intel­lectual appeal to social scientists and historians” (1990, 86). Perhaps for colonizers who refuse, individualized, local resistance is the best that they can envision. **Overemphasizing hegemony and stressing ni­hilism not only does not resist injustice but participates in its manufacture. Views of power grounded exclusively in notions of hegemony and nihilism are not only pessimistic, they can be dangerous for members of historically marginalized groups. Moreover, the emphasis on local versus structural institutions makes it difficult to examine major structures such as racism, sexism, and other structural forms of oppression.7 Social theories that reduce hierarchical power relations to the level of representation, performance, or constructed phenomena not only emphasize the likelihood that resistance will fail in the face of a pervasive hegemonic presence, they also reinforce perceptions that local, individualized micropolitics constitutes the most effective ter­rain of struggle. This emphasis on the local dovetails nicely with in­creasing emphasis on the “personal” as a source of power and with parallel attention to subjectivity. If politics becomes reduced to the “personal,” decentering relations of ruling in academia and other bu­reaucratic structures seems increasingly unlikely. As** Rey **Chow opines, “What these intellectuals are doing is robbing the terms of oppression of their critical and oppositional import, and thus depriving the op­pressed of even the vocabulary of protest and rightful demand”** (1993, 13). **Viewing decentering as a strategy situated within a larger process of resistance to oppression is dramatically different from perceiving decentering as an academic theory of how scholars should view all truth. When weapons of resistance are theorized away in this fashion, one might ask, who really benefits? Versions of decentering as presented by postmodernism in the American academy may have limited utility for African-American women and other similarly situated groups. Decentering provides little legitimation for centers of power for Black women other than those of preexisting marginality in actual power relations. Thus, the way to be legitimate within postmodernism is to claim marginality, yet this same marginality renders Black women as a group powerless in the real world of academic politics. Because the logic of decentering opposes constructing new centers of any kind, in effect the stance of critique of decentering provides yet another piece of the new politics of containment. A depoliticized decentering disempowers Black women** **as a group while providing the illusion of empowerment. Although individual African-American women intellectuals may benefit from being able to broker the language and experiences of marginality in a commodified American academic marketplace, this in no way substi­tutes** for sustained **improvement of Black women as a group in these same settings. In contrast, groups already privileged under hierarchi­cal power relations suffer little from embracing the language of decen­tering denuded of any actions to decenter actual hierarchical power relations in academia or elsewhere. Ironically, their privilege may ac­tually increase**.

**They cite Hartman to establish a Anti-Black, Anti-Womanist *Continuity Thesis***

**That specific scholarship is methodologically flawed - relying on the *Slave Narratives Collection*. Even if the outcome of that Thesis is accurate, the process used to reach it merits criticism.**

**Carmody 10** Todd Carmody – Lecturer on History & Literature at Harvard University, where he teaches nineteenth- and twentieth-century African American and American literatures and in the Modern Europe concentration. Previously, I held an ACLS New Faculty Fellowship in English at the University of California, Berkeley, and a Sheila Biddle Ford Foundation Fellowship from Harvard’s W.E.B. Du Bois Institute for African and African American Research – “STERLING BROWN AND THE DIALECT OF NEW DEAL OPTIMISM” – from the Journal – Callaloo 33.3 (2010) – pages 820-840 – available via the online database entitled Black Studies Center.

In **"A Note on Method"** appended to the introduction **of Scenes of Subjection,** Saidiya Hartman observes that any effort to reconstruct the past uncovers both "the provisionality of the archive" and the political interests that determine the official emplotment of history (10). Hartman's influential account of the **continuities** between antebellum and postbellum racial subjugation draws on a decidedly provisional and interested archive: **the Slave Narrative Collection** compiled by the Federal Writers Project (**FWP**) during the Depression. Beginning in the late 1930s, the FWP carried out thousands of interviews with ex-slaves, transcriptions of which remain an indispensable yet **problematic resource for scholars**. As historians have long pointed out, the artifice of direct speech in these purportedly word-for-word transcripts belies a dubious history of intimidation and mediation. Most of the interviews were conducted by southern whites at a time when segregation was in full effect, lynchings still numerous, and peonage sustained by tenor a way of life for millions of African Americans (Woodward 51). Additionally, while some of the interviews were captured on tape, most of the narratives were drafted by interviewers based on notes and then rewritten by higher officials. Testimonies were regularly "doctored," certain portions deleted without indication in the typescript, and the informant's language altered from draft to draft.1 It is with caveats such as these in mind that Hartman notes, even as she draws on the Slave Narrative Collection, that the black voice in these testimonies authorizes "a usable and palatable national past" (10).

(Note to students: The phrase “antebellum” – in this context – is a reference to the Antebellum Era, 1781–1860. The phrase “antebellum” – in this context – is a reference to the portion of the Reconstruction Era that ran from the end of the Civil War to until 1877 – as directed by Congress, with projects of the reconstruction of state and society.)

**Hartman also insists nothing’s changed because “slavery’s alive and well”. Of course slavery still has a huge effect today. But Hartman effaces what has changed – and violently exports slave experiences by rendering it the same as modern progressivism.**

**Wanzo 9** Rebecca Wanzo is Associate Professor of Women, Gender and Sexuality Studies at Washington University in St Louis. She self-identifies as an African-American woman – The Suffering Will Not Be Televised: African American Women and Sentimental Political Storytelling. Page 43-44

Slavery stands in U.S. history not only as an acknowledged evil, but it is also the **specificity of that history** that makes using the slavery metaphor in the present ethically and politically troubling. The "like slavery" argument is rhetorically problematic for at least two reasons. First, comparisons of other kinds of suffering to the institution of chattel slavery gloss over the **very specific harms endured** by Africans in the diaspora. The user of the analogy runs the risk of the claim being disregarded because of the **very clear differences in suffering**, or of being perceived as implying, through the comparison, that the material and emotional conditions of slavery were less than horrific. Second, in some manifestations of the argument that we can sec from the rhetorical beginnings of the republic, "slave" sometimes comes to stand for the status of a failed citizen, a subject position that those worthy of citizenship refuse. In this logic, African Americans are lesser citizens because they were once held as slaves, because they failed to escape from enslavement before the practice of chattel slavery was abolished, or because they have not transcended their former status as subjects with insufficient will. In subsequent eras, such critiques of African Americans are linked to the dialectical relationship between slavery and liberalism that informs U.S. storytelling about consent, freedom, and citizenship. Slavery serves as an important touchstone to U.S. citizenship stories as evidence of both shame and glory—shame because it was an acknowledged affront against human beings and glory because, according to liberalist storytelling, U.S. citizens have a history of throwing off the shackles others would place on them. The "like slavery" comparison does a great deal of narrative work without exposition,12 demonstrating Cynthia Halpern's argument that "metaphors are necessary to the way we configure and construct political experience and contribute to the philosophical conclusions we can draw from them."13 The construction of political claims through "reason" and history cannot convey the stakes in the same way as metaphor can; and in this case, the stakes are the excessive suffering slavery produced, and only slavery immediately evokes that excess. Following Nietzsche, Halpern suggests that logical language is inferior to the symbolic. Metaphor works, as Paul Ricouer explains, because it fills a semantic void.14 Thus the word "slavery" functions as rhetorical shorthand because it can immediately evoke severe suffering; few other words exist that can communicate such physically viscerally painful imagery. The slavery metaphor is shorthand for oppression that does not instantly elicit a specific set of meanings for the audience; thus it works both rhetorically and poetically—as an argument delivered with few words and as an aesthetically evocative metaphor that ignores the distance from real chattel slavery.

**Their psycho-analytic explanations for Anti-Black racism are violent and wrong. We can win on this alone.**

**Gilroy ‘9**

Paul Gilroy is Professor of Social Theory at the London School of Economics, “Civilisationism, securitocracy and racial resignation” – JWTC: The Johannesburg WORKSHOP IN THEORY AND CRITICISM – The Salon – Volume One – http://www.jwtc.org.za/the\_salon/volume\_1/paul\_gilroy.htm

The psychological dimensions of resignation to race are counter pointed by immediate technological and political issues. The molecularisation of racial differences and the shift towards genomics suggest that this order of natural difference is becoming more not less important. Recently, the popular authority of commentators as diverse as the academics (Steven Pinker, James Watson) Niall Ferguson and George Steiner and the journalist Max Hastings has combined to translate ***what they take to be*** the latest fruits of resurgent **racial** science into the iron laws of middlebrow scientific commonsense. This suggests that as a species we are "hard wired" to prefer those who are like us from those who are alien - **an outcome which fits tidily with the outlook of people** who already believe **that** the primary **human disposition towards others is** **essentially conflictual** and selfish. In the Guardian, Ferguson cited Anders Olsson, a US-based neurobiologist of fear, to the effect that we must sternly if somewhat ambivalently confront the persistent power of race lodged in our genetic makeup. Hastings asserted that only "the idiot Left could deny" the reality of the simple truths involved in the workings of a "tribalism ... which has influenced mankind since the beginning of time". George Steiner, sometime custodian of lofty cosmopolitan and humanistic values, offered to the readers of a Spanish newspaper his opinion that racism was inherent in everyone and racial tolerance only skin-deep. He staged the argument in the midst of a curious fantasy deeply marked by a peculiarly British idiomatic engagement with the consequences of mass economic settlement from the commonwealth after 1945: "It is very easy to sit here in this room and say racism is horrible", Steiner told his interviewer. "But ask me the same thing if a Jamaican family moved next door with six children and they play reggae and rock music all day. Or if an estate agent comes to my house and tells me that because a Jamaican family has moved next door the value of my property has fallen through the floor. Ask me then!" Steiner's Jamaicans can be seen as bastards in the venerable Caribbean lineage that descends from Montaigne's Cannibals. They seem to be curious, timeworn creatures. It is impossible not to wonder what layers of meaning were at stake in that particular national or perhaps ethnic designation "Jamaican"? What is its relationship to the tacit language of polite race-talk on the one hand and the inflammatory mythology of populist-nationalist race-talk on the other? Would the grim situation Steiner describes be substantively different if the aliens living noisily next door were Trinidadian or Barbadian; Bangladeshi, Croatian or Surinamese? If they were Polish, German, French or Swiss? If they had immigrated to Britain like Steiner himself for academic rather than manual work? To make the point more bluntly, what exactly is the sign "reggae" contributing to his horrible scenario, particularly when rendered equivalent to all the cold, brutal savagery that is bound up with the contemptuous word "rock" in this aggressively high-cultural context? Would opera, polkas, tangos, accordion or country and western music have produced the same rhetorical and necro-political effects? Steiner is on record elsewhere as having told a roomful of Asian and African academics that the "third world could not afford the luxury of universities". I'm especially troubled by the great humanist's implication that his repeating this particular mantra -- which has, after all, supplied the imaginative staging of racist, ultranationalist and anti-immigrant rants for almost three generations -- was somehow a difficult thing to do. Perhaps his difficulty resided not merely in the illiberal act of speaking on behalf of wounded folk outside the ivory tower, but in the specific discomfort of operating across the lines of class and privilege which were quietly being inscribed here. The journalist, Sir Max Hastings, defended Steiner's remarks in the Daily Mail and supported that interpretation as he spun off into a strange ventriloquism of his sometime cleaning lady who, he explained, felt similarly aggrieved by what she was expected to tolerate at the hands of immigrants: "A heavenly cockney cleaner named Elsie Elmer worked for our family for almost 40 years. Elsie was a widow, a Londoner through and through. When she was 77, she suddenly announced that she could no longer endure life in Hammersmith, where on both sides of her little house Jamaican neighbours played music full-blast through the night, every night. One day, I drove her to the airport to emigrate to Australia, where she had a son living. She hated to go and wept buckets. But she felt that her street, her city, were no longer the places which she knew and loved." Hastings revealed that he was both more typically and more melancholically English when he presaged his damning, illiberal verdict with the words: "I'm not proud of it but human nature DOES sometimes make us all racist", an opening that caught my attention for its downbeat admission of shame. For all of these voices, racial differences may have been given initially by nature but they are subsequently worked over, worked on and worked up in the social and phenomenological patterns of performative, everyday interaction. I understand the complexity and insistent, iterative power of those habits but my point -- which needs to be repeated -- is that, even when it comes to the "white working class", it is from those social and historical relations that the groups we call races emerge to make the idea of unbridgeable natural difference powerful and plausible. All **one-way constructionism** -- in which natural difference precedes, underpins and orchestrates subsequent social divisions -- **is an inadequate tool** with which to make sense of the social life of races and other ethno-political actors. Natural difference does not merely supply source material for social and historical modifications which may be either bad or good. Race has always been the **particular**, historical product of dense and **complex** interactive processes rooted in war, conquest, slavery and suffering. This change of perspective builds upon and hopefully extends the dynamic nominalism identified by Ian Hacking for whom named kinds and things are altered by their interactive historical and social correspondence with the processes and institutions that name them. As far as the history of race, raciality and raciology are concerned, that interplay has involved a range of different institutions of naming: theological, occult, military, economic, commercial, legal, scientific, technological and aesthetic. These institutional settings and their ways of seeing and acting on the world may be in profound conflict. But idea of race helped to synchronise and focus them. That is why we should be wary of imagining that the particular pragmatic understanding of race associated with the worlds of science and bio-medicine can be sealed off from racial discourse found in other areas of social and political life. If we decide that it is desirable to communicate the findings and practices from those institutions in the contested language of race, the best we can hope for is that the old ambiguities will be maintained. In the current climate, it is more likely that they will be deepened and amplified. After more than two centuries of scientific mystification, duplicity and bad faith, and against the often hyperbolic rhetoric of the genomic revolution, we do not yet know how nature conditions the social lives, risks and fates of racialised and ethnic groups. It should be obvious that science is not immune to the mysterious psychological appeal of racial truths and racial certainties. There are communities of scientists for whom alterity may still be "phobogenic" and "a stimulus to anxiety" just as there are others for whom the vindication of racial probity and the struggle against racism loom large in their own research. Sociogenetics Some years ago, Fanon tried to specify the limits of the economic and psychological processes that created racialised actors mired in the epidermalising mechanisms of an inferiority which was basically economic in origin. He called this supplementary process "sociogeny". His conceptual breakthrough has been systematized by the Jamaican philosopher Sylvia Wynter who contrasts the resulting socio-genetic analytics of race and humanity with the emergent genomic perspective that is increasingly familiar to us. All varieties of racial discourse share some features. It bears repetition that they work best with a Manichaean script. The forms of political ontology they solicit and promote have, as we have seen, a distinctive psychological appeal. They **construct** a variety of **hyper-similarity** that trumps all other ideas of deep association and primal connectedness with all the force of Darwinian nature which was fortuitously and catastrophically articulated together with the power of colonial and imperial history. The wrongs that racial hierarchy has accomplished may not be unique in character but their scale and their recurrence demand a specific acknowledgement. Hannah Arendt, who was much more interested in the corrosive idea of race than in the workings of racism -- which she judged to be normal and understandable where civilized people were confronted with savagery -- can help to move our discussion forward. The philosophical influence of Eric Voegelin over Arendt's thinking in this area was strong. She built upon his insight into the workings of race and the best approach to opposing racial hierarchies and the forms of law and governance that they promoted. Voegelin had been both early and acute in seeing that a narrow, exclusively epistemological critique of race would always miss the point. This is something we still need to remember. Better, that is more accurate, information about the quality of racial difference may be necessary but will never be sufficient to interrupt the special power of this unique political idea. He continues: "As a matter of fact, the race idea with its implications is not a body of knowledge organized in systematic form, but a political idea in the technical sense of the word. A political idea does not attempt to describe social reality as it is, but it sets up symbols, be they single language units or more elaborate dogmas, which have the function of creating the image of a group as a unit .... A symbolic idea like the race idea is not a theory in the strict sense of the word. And it is beside the mark to criticize a symbol, or a set of dogmas, because they are not empirically verifiable. While such criticism is correct, it is with-out meaning, because it is not the function of an idea to describe social reality, but to assist in its constitution. An idea is always ‘wrong' in the epistemological sense, but this relation to reality is its very principle." In The Origins of Totalitarianism Arendt extended this style of thought and concluded one section of argument with the observation that racism amounts to the death of humanity: "Racism may indeed carry out the doom of the western world and, for that matter, of the whole of human civilization. When Russians have become Slavs, when Frenchmen have assumed the role of commanders of a force noire, when Englishmen have become ‘white men', as already for a disastrous spell all Germans became Aryans, then this change will itself signify the end of western man. No matter what the learned scientists may say, race is, politically speaking, not the beginning of humanity but its end, not the origin of peoples but their decay, not the natural birth of man but his unnatural death." There is something fundamental and significant about Arendt's formulation when it comes to the relationship between racism and humanity. Modern race-thinking was born from the connection between enlightenment anthropology and the formal declarations of equality that necessitated a new rationalization for growing social and economic inequality. That new system was grounded in nature and incorporated the body. Novel ways of making bodies (which were often reluctant) disclose the inner truths of their racial character were the outcome. Along with skin, skulls, pelvic bones, genitals, beards and blood, cells were components of a semiotic economy which fostered progress from race as type to race as genealogy. I have already argued that a history of mass death links colonial government to the later, exceptional spaces in which Europeans industrialised the killing of other racially-unfit Europeans, an event that marked the demise of that same creature: Man. Race and racism are still toxic to humanity and they still matter because they afford an opportunity to discover and to contest the boundaries of the human. Race and racism tell us now that, once again in the words of Sylvia Wynter, we should be prepared to return to the problem of the human after the death of man. We must hold on tightly to the history of race as a trope and use our familiarity with the damage done by racism to license a new engagement with the human that will be conducted in the interests of those previously relegated to the zone of infra-humanity. Their struggles have provided a way to deepen and enrich our democracy. They are now intrinsic to the important idea of Human Rights. Nowadays, nobody respectable speaks about class inequality. A consequence of globalisation as Americanisation and related shifts in European academic culture is the novel currency of a language in which racialised concepts provide an avowedly futuristic way to speak about inequality, segregation, social capital and trust. Against claims to the contrary made by Barak Obama and Condoleezza Rice, the US does not represent the future of everyone else on earth with regard to race. There are other paths, other possibilities and they are not arranged in a neat sequence in which unsustainable north American standards provide an ethical benchmark. Today's postcolonial transition attends the break up of Europe's old imperial system and sees commercial and governmental power ebbing from the north Atlantic and finding new centres elsewhere. Whether there will be a universalisation of US sourced categories and assumptions about race and nature remains to be seen. My guess is, that even during Obama's presidency, when the value of African American culture has been changed and so much of the software of negative globalisation and its infotainment telesector has been drawn from African American life, that is very, very unlikely. The end of Euro-American domination of the planet is at hand. For Europe's national states, reckoning with the aftershock of a departed imperial prestige that is routinely disavowed and symptomatically unacknowledged, has become an essential precondition for the establishment of the habitable multiculture that will be required to sustain an assault on racism and racialised inequalities (even if the word race is not being used). That overdue reckoning is being stubbornly obstructed by a civilisationist discourse which is often little more than the global export of the institutional fruits of conflict born inside the US (Huntington and Lewis, for example) where we were told that glimpses of our inevitable racial destination were being mirrored in the exotic celebrity first of Rice and Powell and now of Obama. These changes cannot plausibly be grasped through the idea of civilisational clash and cultural conflicts between the west and the rest. However, exactly that notion has been consolidated as the primary mechanism of contemporary racialised explanation. It associates the appearance of home grown terrorists with the riots in Paris and the north of England, the Danish cartoons, the murder of Van Gogh, the wars in Afghanistan and Mesopotamia, the war on terror and the geo-politics of a securitocracy which has built upon but surpassed earlier anxieties over immigration. The clash of civilizations becomes both more believable and more comforting in the contexts of information deficit and manufactured ignorance. This too poses ethical and political challenges. Our alternative, critical standpoint has to move beyond a naïve, quantitative faith in the power of better information. Assuming that racialised knowledge can simply be corrected by more accurate facts will do nothing to undo the distinctive powers it is bound up with. With regard to securitocracy, racial discourse can be thought as contributing to the tendency to create exceptional spaces and populate them with vulnerable, infra-human beings. It was colonial battlefields that gave birth to the slave plantations which point in turn to the legal regimes of protective custody that generated and generalized the concentration camp as a routine exception. The governmental dynamics of settler colonialism were also distinctive, especially when colonies provided a laboratory for new ways of governing, killing and judging. In example after example, racial hierarchy and the domination of a large number of people by a much smaller number with a greater measure of force set up particular patterns which were often re-imported into the metropolitan hubs of empire. Police and military powers were merged. The problems that those states of exception posed for citizenship and the language of political rights had been recognized long before they assumed twentieth-century form and Arendt, casting around to uncover the causality of industrialized genocide in Europe, made them relevant to political theory. Again by following her, we can consider the role of race and ethnic absolutism in securing the modes of inclusive exclusion that characterize what we may one day have to call the age of rendition. Understanding the ways in which invoking race has compromised and corrupted politics can also, counter-intuitively, show that the political actors we have learned to name as races derive from the very racial discourse that appears initially to be their product. Happily, there are other dynamic traditions dedicated to making race and racism part of the pre-history of humanity. The global, cold war poetics of Ethiopianism is just one example of how the word human was blasted out of its UNESCO context and set to work. A vernacular universality -- globalised by the generation of Curtis Mayfield and Bob Marley -- began with a transcendental commitment to an alternative order but that is not where it ended. Profane, demotic appeals to the idea of rights made humanity take on new life especially when it was lodged in the orbit of anti-racist and anti-imperialist thought. Then, just as Fanon had hoped, the human alienation associated with racial divisions could be replaced by non-racial alternatives that suffer, love, act and exercise their will and imagination in reshaping the broken world we have inherited. That world corroded by racism cannot be easily repaired and we must learn to suffer the consequences of its fractured condition but as we proceed with our discussion it is good to remember that we always enjoy more power to re-shape it than we often allow ourselves to believe.

**There’s no single of theory of power AND learning about topic action can be meaningful.**

**Wilson ‘5**

et al; Arthur Wilson, Professor and Chair of Cornell's Dept. of Education, "The Problem of Power," Adult Education Research Conference. #E&F – modified for language that may offend - https://newprairiepress.org/aerc/2005/papers/10

So What

In this paper we have started integrating what we have been learning from these various traditions about what power is and how it works. We refrain from arguing for a particular ~~point of view~~ (perspective) because we lack the hubris to believe **a total or single theory of power** is **possible or desirable**. **Indeed,** a key argument we make in this paper is that there are many theories of power, and hence many problems, because power is recursively imbricated in all human interactions. **So**, one might ask, **who cares**, why should we endeavor to understand power and its play in our educational work**?** We suggest two reasons here. **First is** a **practical response.** The world is routinely, systematically unjust and power is a major facilitator of inequitable production and distribution of resources, benefits, accesses, etc. Within **a general “critical” project**, we ~~see~~ (feel) the need to develop **more adequate theories of power** in order to improve the lives of human beings because much traditional theory (e.g., the three faces) has failed “to fully comprehend the role of power in shaping human life” (Wartenberg, 1992, p. xi). We agree with Wartenberg that too many power theorists have been unable to appreciate the **complexities** and **nuances** of power: “power manifests itself as a complex social presence that exists in an intricate network of overlapping and contradictory relations. The task . . . is to provide a conception of power that does justice to its **tangled empirical reality** while at the same time providing the social theorists with **a precise tool** for criticizing social practices and institutions. **In particular,** theories of power **must explain** the immersion of human beings in nets of power relations that constrain their possibilities **while simultaneously** uncovering the means by which human beings have the ability to resist and challenge those relations” (1992, p. xix). Thus we wish to promote Wartenberg’s argument for critical social inquiry that develops explanatory language that accounts for the “newly discovered complexity” of power and how it works. Second, following on Wartenberg’s suggestion, we need **more than awareness**; we need **means.** Because of the epistemological proclivities of academic adult education (among other conditions too numerous to detail), there is a fundamental problem with the discipline’s theoretical work: the **theory-practice gap**. That gap has persisted for so long, we now take it for granted. Among many reasons, the theory-gap persists because generally the discipline of adult education lacks a theory of practical action. Isaac provides one example of why **a theory of practical action is necessary:** “Theories of power . . . should be conceived as interpretative models, developed by social scientists as submitted to the rigors of critical consideration, about social structures which shape human action and distribute the capacities to act among social agents” (1987, p. 75). Neither adult education theory or much of its practice has generally been able to meet such a standard. If we cannot “see” the conditions in which we enact our social practices (like education), then we can have **little hope** of challenging or changing inequitable ones. This is the larger problem to which this paper is directed although we are only able to **set the stage here** for such an encounter. If we as a discipline are **ever** to have important things to ~~say~~(contend) about the work of adult educators, **then we have to work towards transcending this gap**. So we use the paper to begin developing a more general theory of power (**or rather theories**) via working toward **a theory of practical action** that sees power as a central constituent of human educational interaction. Because power is constructed in and through social interactions, it is **always alterable** and **disruptable**, hence the importance of understanding and using power in adult education.

# 2NC

## Frames

### Visual Acuity Link

**Non-visual deployments of the word “see” entrench ableism.**

**Schalk ‘13**

Sami Schalk - MFA in Creative Writing (Poetry) from University of Notre Dame and PhD in Gender Studies from Indiana University. Was affiliated w. The Department of Gender Studies, Indiana University at the time of this writing – now is an Assistant Prof at UW-Madison.– “Ableist Metaphors in Feminist Writing” - Disability Studies Quarterly 33(4) – September 2013 - #E&F - https://dsq-sds.org/article/view/3874/3410)

In short, an ableist perspective undergirdssuch philosophical and scientific explanationsof metaphor. As Amy Vidali (2010) shows in "Seeing What We Know: Disability and Theories of Metaphor," Lakoff and Johnson's claims are ableist insofar as they assume that all bodies have certain physical/cognitive/sensory experiences and that people generally use related metaphorical expressions that correspond to these experiences (notably, they repeatedly refer to the metaphor of "knowing is seeing") (34; emphasis in Vidali). Lakoff and Johnson (1980) claim to philosophically reject notions of objective or absolute truth in favor of the multiplicity of human experiences of the body which come to structure "the way we learn to reason and use metaphor" (ix-x); **in** their **text,** however, "able bodies take precedence" throughthe assumption that all bodies can **see,** hear, speak and **move** in normative ways (Vidali 2010, 38). Experiences of disabled bodies are refused meaningful existence and elaboration within cognitive metaphor theory. The theory assumes that there can be no common cultural metaphors based upon the experiences of tremors, stuttering, or using a wheelchair because these experiences are regarded as random, accidental, and idiosyncratic. Within the terms of the theory, nondisabled experiences are considered the universal grounding of metaphor, despite the fact that not even all people who **(for instance**) **see**, hear, speak, **and walk** perform and experience these actions in exactly the same way, especially given that these actions are in many ways conditioned by factors such as gender, age, and body size.

## CASE

**Ext - Gilroy**

**Here’s more ev**

**Aarons 16**

Kieran Aarons - DePaul University, Philosophy, Department Member, specializing in Social and Political Philosophy – **from the article: “NO SELVES TO ABOLISH: AFROPESSIMISM, ANTI-POLITICS & THE END OF THE WORLD**” - From: Ill Will Editions – Feb 3rd edition. Ill Will Editions is a multilingual project. Its focus is on anarchy, anti-politics, trans-feminism, afropessimism, anti-prison & anti-cop activity. Modified for potentially objectionable language - https://illwilleditions.noblogs.org/files/2016/02/No-selves-to-abolish-READ.pdf

For over a decade, anti-racist discourse in North American and Northern European radical left and anarchist movements has been dominated by what has come to be called "privilege theory".2 Privilege theory's emphasis on liberal forms of consciousness-raising activism, often bound up in the largely-symbolic disavowal of accrued social benefits, presents a vision of anti-racist struggle that inadvertently centers the agency of benevolent white people, while tending to treat questions of racism as issuing above all **from psychological sources**. Too-often subscribing to **idealist theories of power**, these approaches prioritize practices aimed at increasing cultural hegemony or positive symbolic representation of marginal groups, rather than ~~seeing~~ (theorizing) race as reproduced through differential regimes of ballistic and carceral **material violence** like police and prisons and strategizing on this basis. Where they do acknowledge the central role of **material violence** and the consequent inevitability of anti-State revolt, they are often lead into embarrassing efforts to 'shelter' homogeneously-understood 'communities of color' from State violence, erasing the ongoing histories of Black autonomous revolt and replacing it with a vision of struggle that looks more like a voluntary disavowal of privilege by White leftists and 'people-of-color-allies'. Finally, in addition to its being burdened by **unstrategic**, liberal 'nonviolent' leftist tendencies, privilege theory also grossly underestimates the depth and scale of racism in this country. At the same time, an otherwise understandable dissatisfaction with privilege theory seems to have pushed some folks back either into a simplistic class-first Marxism (which I won't waste time critiquing here), or else into seeking a reference point for struggle exclusively in their own immediate experience. The latter idea, more common in certain insurrectional anarchist approaches to social conflict, emphasizes the positive intensive social bonds forged through street confrontation, and the consequent need for everyday forms of attack on police and prison apparatuses. We overcome the whatness of our constructed identities, the socio-institutional categories designed to reinforce our separation, by becoming a how together in the streets, when our bodies interact by means of a shared gesture of conflictuality (e.g. acting together while rioting, building barricades, looting, fighting the police, defending neighborhoods, etc.).Yet what doesn't always accompany this is an attentiveness to the different orders and registers of dissatisfaction which animate these conflicts (never mind the sometimes uncritically white way in which 'individuality' and 'freedom' is framed in these discourses).**3** What is forgotten is the fact that being willing to throw down alongside others in the streets doesn't mean that the characteristic or paradigmatic form of suffering that pushed one to do so is analogous to that of others next to you. And this matters so much more if one seeks to locate the means of antiracist struggle nowhere else than within these clashes themselves and the bonds forged through them. **\*\*Continues to footnote # 3 – no text omitted:** **Footnote 3** "More recent attempts to come to terms with this split between anti-oppression and anticapitalist politics, in insurrectionary anarchism for example, typically rely on simplistic forms of race and gender critique which...begin and end with the police. According to this political current, the street is a place where deep and entrenched social differences can be momentarily overcome. We think this analysis **deeply underestimates** the qualitative differences between **specific** forms and **sites of oppression** and **the** variety of **tactics needed to address these different situations.**" Croatoan Collective, "Who Is Oakland: Anti-Oppression Activism, the Politics of Safety, and State Co-optation" (2012); accessible here: <https://escalatingidentity.wordpress.com/2012/04/30/who-is-oak-land-anti-oppression-politics-decolonization-and-the-state/>

**Independently, a Psychoanalytic starting point is counter-productive for social justice movements.**

**Wilkinson ‘4**

et al; Sue Wilkinson, Department of Women’s Studies, Simon Fraser University, “Social Advocacy for Equal Marriage: The Politics of “Rights” and the Psychology of “Mental Health” – Analyses of Social Issues and Public Policy, Vol. 4, No. 1, 2004 – http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&ved=0CE4QFjAJ&url=http%3A%2F%2Fwww.ibrarian.net%2Fnavon%2Fpaper%2FSocial\_Advocacy\_for\_Equal\_Marriage\_\_The\_Politics\_.pdf%3Fpaperid%3D2688964&ei=fyIDVeHjAYySyQTHvYGABw&usg=AFQjCNEPE7N2lOIIuKF7juwVWlTNmRfxOQ&cad=rja

To conclude, then, our concern is not that contemporary psychology is unsupportive of equal rights in general for LGBT people, or of equal marriage rights in particular. It is rather that the paradigmatic **framework of psychology** as an approach to understanding human beings in the world seems fundamentally antithetical to the conceptual framework of human rights. While recognizing both limitations of, and alternatives to, a human rights discourse, we believe that this framework is a compelling one upon which to base our advocacy for social change—in relation to equal marriage, and in relation to other social justice issues. In this article, we have explored the problems of trying to pursue a politics of rights using the psychological discourse of mental health. We have described why we find contributions to legal and **public policy debates** about rights issues framed in terms of the discourse of mental health unhelpful and obfuscatory. The problem for us is that when we speak as psychologists, **we do not know how to speak in any other way.**