# Neg – Techno-Orientalism – BFHR 7wk

Thanks to David Sanico and Natalie Gao for turning out this file. Please email [sanicod23@chcstudent.com](mailto:sanicod23@chcstudent.com) (David) or [nataliegao2023@gmail.com](mailto:nataliegao2023@gmail.com) (Natalie) if you have any questions.

In addition to the current file, consider integrating the AFF answers to the Imperialism K, Orientalism K, and Racial IR Ks---we might come out with a supplement to NEG answers sometime soon.

Feel free to email [khirn10@gmail.com](mailto:khirn10@gmail.com) with any questions or concerns

## Case

### 1NC Case

#### The role of the judge is to make a provisional judgment of win/loss in one debate.

#### The aff’s approach to politics fails – without the ability to compare proposals they have no method for designing policy other than a naïve faith that they’ll figure it out, and their refusal to engage the process of imaginative hypothesis generation proves they either leave things in the hands of useless elites or they spill up to a new society that’s more likely than not to fail

Wilkinson, 17—Vice President for Policy at the Niskanen Center (Will, October 24, “PUBLIC POLICY AFTER UTOPIA,” <https://niskanencenter.org/blog/public-policy-utopia/>)

Many political philosophers, and most adherents of radical political ideologies, tend to think that an ideal vision of the best social, economic, and political system serves a useful and necessary orienting function. The idea is that reformers need to know what to aim at if they are to make steady incremental progress toward the maximally good and just society. If you don’t know where you’re headed—if you don’t know what utopia looks like—how are you supposed to know which steps to take next? The idea that a vision of an ideal society can serve as a moral and strategic star to steer by is both intuitive and appealing. But it turns out to be wrong. This sort of political ideal actually can’t help us find our way through the thicket of real-world politics into the clearing of justice. I’ve discussed the problems with ideal theory at length, in the context Gerald Gaus’ tremendous book The Tyranny of the Ideal, in a Vox column. This piece will be easier to understand if you read that first. Jacob Levy’s paper, “There’s No Such Thing as Ideal Theory,” is an outstanding complement. And, on the more technical side, the work of UCSD’s David Wiens is state of the art, and adds texture to Gaus’ critique. A major paradigm shift in political theory is underway, and it’s all over but the shoutin’ for ideal theory. But it takes a while for the shoutin’ to peter out. New paradigms can take a generation or more to trickle down through the intellectual culture. So we’ve barely begun to grasp what it means to give up on ideal theory, especially in public policy. It’s a bit dramatic to say that the death of ideal theory changes everything, but it changes a lot. It definitely changes what it means to be an ideologically principled think tank. If you agree with Gaus, as I do, then you will think that there’s a pretty major intellectual mistake lurking within the ideal-theoretic version of libertarianism that the most prominent institutions of the “freedom movement” were built to promote. Again, this has nothing to do with libertarianism, per se. Gaus’ argument is general. It doesn’t matter which normative standard you use to rank possible social systems. It could be the orthodox libertarian conception of freedom as non-coercion, John Rawls’ two principles of justice, or a radically egalitarian conception of material equality. It doesn’t matter. In order to say that any particular system is the best in terms of your chosen normative standard, you’ve got to be able to rank rival systems against that standard. Doing that ranking in a principled, non-arbitrary way requires evidence of what the realization of your favorite possible social world would actually look like. Otherwise you can’t really say that it does better in terms of your chosen standard than competing systems. Utopia is a guess The fact that all our evidence about how social systems actually work comes from formerly or presently existing systems is a huge problem for anyone committed to a radically revisionary ideal of the morally best society. The further a possible system is from a historical system, and thus from our base of evidence about how social systems function, the more likely we are to be mistaken about how it would work if it were realized. And the more likely we are to be mistaken about how it would actually work, the more likely we are to be mistaken that it is more free, or more equal, or more socially just than other systems, possible or actual. Indeed, there’s basically no way to rationally justify the belief that, say, “anarcho-capitalism” ranks better in terms of libertarian freedom than “Canada 2017,” or the belief that “economic democracy” ranks better in terms of socialist equality than “Canada 2017.” You may think you can imagine how anarcho-capitalism or economic democracy would work, but you can’t. You’re really just guessing—extrapolating way beyond your evidence. You can’t just stipulate that it works the way you want it to work. Rationally speaking, you probably shouldn’t even suspect that your favorite system comes out better than an actual system. Rationally speaking, your favorite probably shouldn’t be your favorite. Utopia is a guess. Again, this is a general problem. But it does hit especially hard for those who appreciate the unpredictability of complex systems and the inevitability of unintended consequences. It’s no coincidence that Gaus is a Hayekian. As my colleague Jeffrey Friedman argues, expert predictions about the the likely effects of changing a single policy tend to be pretty bad. I’ll use myself as an example. I’ve followed the academic literature about the minimum wage for almost twenty years, and I’m an experienced, professional policy analyst, so I’ve got a weak claim to expertise in the subject. What do I have to show for that? Not much, really. I’ve got strong intuitions about the likely effects of raising minimum wages in various contexts. But all I really know is that the context matters a great deal, that a lot of interrelated factors affect the dynamics of low-wage labor markets, and that I can’t say in advance which margin will adjust when the wage floor is raised. Indeed, whether we should expect increases in the minimum wage to hurt or help low-wage workers is a question Nobel Prize-winning economists disagree about. Labor markets are complicated! Well, the comprehensive political economies of nation-states are vastly more complicated. And that means that our predictions about the outcome of radically changing the entire system are unlikely to be better than random. If your favorite system is quite a bit different from any system that has existed, then even if it were true that it would rank numero uno in terms of your favorite normative standard, you’re not in a position to rationally believe it. Clearly then, it’s not actually useful to aim toward a distant ideal when you don’t really have a good reason to believe that it’s better than actually existing systems in terms of liberty or equality or nationalist solidarity or whatever it is you care about. This is a hard lesson for ideologues to swallow. I still haven’t totally digested it. But a number of things have become much clearer after giving up on my sinful, ideal-theoretic ways. Analysis after ideal theory: measurement and comparison The death of ideal theory implies a non-ideological, empirical, comparative approach to political analysis. That doesn’t mean giving up on, say, the value of freedom. I think I’m more libertarian—more committed to value of liberty—than I’ve ever been. But that doesn’t mean being committed to an eschatology of liberty, a picture of an ideally free society, or a libertarian utopia. We’re not in a position to know what that looks like. The best we can do is to go ahead and try to rank social systems in terms of the values we care about, and then see what we can learn. The Cato Institute’s Human Freedom Index is one such useful measurement attempt. What do we see? Look: Every highlighted country is some version of the liberal-democratic capitalist welfare state. Evidently, this general regime type is good for freedom. Indeed, it is likely the best we have ever done in terms of freedom. Moreover, Denmark (#5), Finland (#9), and the Netherlands (#10) are among the world’s “biggest” governments, in terms of government spending as a percentage of GDP. The “economic freedom” side of the index, which embodies a distinctly libertarian conception of economic liberty, hurts their ratings pretty significantly. Still, according to a libertarian Human Freedom Index, some of the freest places in on Earth have some of the“biggest” governments. That’s unexpected. This is why we need to try to rank social systems in terms of our prized political values. Our guesses about which systems lead to which consequences are likely to be pretty bad. Suppose we were to poll a bunch of American libertarians, and ask them to tell us which country enjoys more freedom, according the Cato Institute’s metrics. The United States or Sweden? The United States or Germany? The United States or Canada? The United States or Lithuania? I’m pretty sure almost all of them would get it wrong in each of these pairwise comparisons. Why? Because typical libertarians carry an ideal-theoretic picture of the “the free society” around in their heads, and (for some reason!) a minimum of taxation and redistribution is among the most salient aspects of that picture. And that means that Denmark, say, doesn’t seem very free relative to that picture. But there’s a great deal more to freedom than fiscal policy. And we see that, as a matter of fact, the country with the biggest-spending government in the world is among the freest countries in the world, and ranks first in personal freedom. That is our basic data. It doesn’t necessarily imply that the United States ought to do more redistributive social spending. But when a freedom index, built from libertarian assumptions, shows that freedom thrives in many places with huge welfare states, it should lead us to downgrade our estimate of the probability that liberty and redistribution are antithetical, and upgrade our estimate of the probability that they are consistent, and possibly complementary. That’s the sort of consideration that mainly drives my current views, not ideal-theoretical qualms about neo-Lockean libertarian rights theories. Though libertarianism is of personal interest to me, I want to emphasize again that my larger point has nothing to do with libertarianism. The same lesson applies to alt-right ethno-nationalists dazzled by a fanciful picture of a homogenous, solidaristic ethno-state. The same lesson applies to progressives and socialists in the grip of utopian pictures of egalitarian social justice. Of course, nobody knows what an ideally equal society would look like. If we stick to the data we do have, and inspect the top ranks of the Social Progress Index, which is based on progressive assumptions about basic needs, the conditions for individual health, well-being, and opportunity, you’ll mostly find the same countries that populate the Freedom Index’s leaderboard. Here: The overlap is striking. And this highlights some of the pathologies of ideal theory: irrational polarization and the narcissism of small differences. Some pathologies of ideal theory, both personal and political Ideal theory can drive political conflict by concealing overlapping consensus. Pretty much any way you slice it, Denmark is an actually-existing utopia. But so is Switzerland. So is New Zealand. The effective difference between the Nordic and Anglo-colonial models, in terms of “human freedom” and “social progress” is surpassingly slight. Yet passionate moral commitment to purist ideals of justice can lead us to see past the fact that the liberal-democratic capitalist welfare state, in whatever iteration, is awesome, and worth defending, from the perspective of multiple, rival political values. We miss the fact that these values fit together more harmoniously than our theories lead us to imagine. I suspect this has something to do with the fact that utopia-dwellers around the world seem to be losing faith in liberal democracy, and the fact that “neoliberalism” can’t get no love, despite the fact that they measurably deliver the goods like crazy. Yet ideologues interpret this loss of faith as evidence of objective failure, which they diagnose as a lack of satisfactory progress toward their version of utopia, and push ever more passionately for an agenda they have no rational reason to believe would actually leave anyone better off. It is intellectually corrupt and corrupting to define liberty or equality or you-name-it in terms of an idealized, counter-factual social system that may or may not do especially well in delivering the goods. Commitment to a vision of the perfect society is more likely than not to lead you astray. Consider how unlikely it is for a typical libertarian to correctly predict more than a couple of the top-ten freest countries on the libertarian freedom index. The fact that ideological radicals are pretty unreliable at ranking existing social systems in terms of their favored values ought to make us skeptical of claims that highly counterfactual systems would rank first. And it ought to lead us to suspect that ideal-theoretical political theorizing leads us to see the actual world less clearly than we might, due to cherry-picking and confirmation bias. If you’ve already irrationally ranked a fanciful social system tops in terms your favored value, you’ve effectively committed to the idea that the world works in a certain way without sufficient evidence that it actually does. This is almost always a commitment of identity and group membership rather than a judgment of reason. And it leads you to cast about for evidence that the world does work the way it would need to work in order to vindicate your ranking. You end up lending a great deal of credibility to comforting evidence, while ignoring and dismissing evidence that the world doesn’t work that way you’d like it to work. The result is that your ideal-theoretic commitment ends up driving your model of the world. But if your ideal theory is likely to be wrong in the first place, using it as a filter for evaluating evidence is going to leave you with a disastrously distorted picture of the way the world actually works. And that means you’re going to make systematically terrible predictions about the likely consequences of this or that policy change. You may want to identify reforms most likely to promote liberty or equality, or whatever, but you’ll end up really bad at this because your distorted ideological model of the world will leave you unable to evaluate evidence objectively. Progress in policy requires idealistic moral passion without preconceived ideals For me, the death of ideal theory has meant adopting a non-speculative, non-utopian perspective on freedom-enhancing institutions. If you know that you can’t know in advance what the freest social system looks will look like, you’re unlikely to see evidence that suggests that policy A (social insurance, e.g.) is freedom-enhancing, or that policy B (heroin legalization, e.g.) isn’t, as threats to your identity as a freedom lover. Uncertainty about the details of the freest feasible social scheme opens you up to looking at evidence in a genuinely curious, non-biased way. And it frees you from the anxiety that genuine experts, people with merited epistemic authority, will say things you don’t want to hear. This in turn frees you from the urge to wage quixotic campaigns against the authority of legitimate experts. You can start acting like a rational person! You can simply defer to the consensus of experts on empirical questions, or accept that you bear an extraordinary burden of proof when you disagree. I think the reign of ideal theory in political philosophy turned lots of incredibly smart, principled, morally motivated people into unreliable, untrustworthy ideologues. This has left the field of rational policy analysis to utilitarian technocrats, who have their own serious problems. Long story short, we ended up with a sort of divide in public policy between morally passionate advocates trapped in epistemic bubbles and technicians capable of objective analysis but devoid of guiding vision. What we need are folks who are passionate about freedom, or social justice (or what have you) who actively seek solutions to domination and injustice, but who also don’t think they already know exactly what ideal liberation or social justice look like, and are therefore motivated to identify our real alternatives and to evaluate them objectively. The space of possibility is infinite, and it takes energy and enthusiasm to want to explore it. Imaginative hypothesis generation is the great intangible without which progress is impossible or maddeningly slow. The technicians, the quants, the lab rats tend to be awful at dreaming up hypotheses. Ideological moral passion is the perfect wild horse to harness; it could power the exploration of the near frontier of the feasible. But thanks to the tyranny of the ideal, it’s a source of intellectual energy more often wasted hooked up to a wagon train headed off the map to Shangri-La.

#### Systemic solution oriented policy is key to effective activism to counter anti-Asian violence – it solves material harms and helps build broader multi-racial coalitions that empower movements, but detail and theoretical nuance are key

Kohli & Belcore 21 [AARTI KOHLI Aarti Kohli is the executive director of Asian Americans Advancing Justice–Asian Law Caucus, the organization that convenes the Asian American Leaders Table. More by Aarti Kohli BECKY BELCORE Becky Belcore is executive director of the National Korean American Service and Education Consortium (NAKASEC), a progressive grassroots organization and a member of the Asian American Leaders Table. More by Becky Belcore "Coalitions and solidarity with others are vital to Asian American activism." https://prismreports.org/2021/06/10/coalitions-and-solidarity-with-others-are-vital-to-asian-american-activism/]

For many Asian Americans, it can feel as if we live surrounded by absolutism and extremes, with little room for nuance. But we often occupy “in-between” spaces and identities, and nuance is necessary in order to understand our work with Asian American and Pacific Islander (AAPI) communities. It’s also essential when it comes to understanding ourselves as immigrants from colonized nations, and as Indigenous people, multi-racial people, undocumented people, or trans-racial adoptees. It may be uncomfortable, but we must persist in the complex work of making progress toward racial solidarity so that we can create a more just future for our communities.

In the wake of increased violence targeting Asian Americans, a new network of 100+ organizations serving AAPI communities was convened. Its goal is to coalesce and leverage our power toward policy change, solidarity, and shifting the public narrative. The “Asian American Leaders Table” provides a ray of hope in the type of coalition building and mutual support that can buoy us during hard times.

Our work broadens our understanding of our own communities, revealing layers that influence how we uplift and support each other, or step aside when necessary. For example, we acknowledge that Pacific Islanders were deliberately combined together with Asian Americans by government systems that have no knowledge or interest in our distinct histories and needs. We know Southeast Asians face higher risks when it comes to criminalization and deportation. We see that East Asians are more likely to be targeted for street harassment and assault due to racist COVID-19 narratives. We know that our Indian American colleagues are feeling high levels of stress with families in the homeland who are struggling with a raging pandemic. Sikh American communities were severely targeted post-9/11, and were the target of a mass shooting in Indianapolis. And our Muslim siblings need our solidarity and support amidst the Israeli-Palestinian conflict.

Our coalition work doesn’t shy away from these complicated aspects of Asian American and Pacific Islander identities. We cleave deeper into the histories, identities, and stories that make us different from one another, and back up our intentions with actions.

Our vision is to shift the narrative around heritage and solidarity. For example, portraying Asian Americans solely as victims does a disservice to the many examples of Asian American resistance, solidarity, organizing, and community development that has benefited our society. Our campaign, “Resistance is our Heritage,” tells stories to inspire current generations of people to change their actions, to effect change within our systems, and catalyze a better future for new generations of Asian American and Pacific Islander communities.

In addition to stories of resistance, it’s also important to share stories of solidarity in order to counteract stereotypes that pit Asian Americans against other marginalized groups and paint Asian Americans as disengaged in politics and activism. That’s why we’ve launched a new series of videos with stories and educational guides that we hope will spark discussions around solidarity in service of transformative change, including stories like:

How Indo-Caribbean populations have organized around economic justice, resulting in new budgetary earmarks for exploited workers affected by COVID-19 in the New York state budget.

Efforts to build a broad multi-racial coalition to end the surveillance of Muslim, South Asian, and Arab community members by local law enforcement and federal authorities.

Using the experience of Japanese American internment to end detention sites and support immigrant and refugee communities targeted by racism, state violence, injustice, and oppression in the United States.

Resistance as heritage carries us through our day-to-day work as well. We owe so much to the work of Black activists and civil rights movements that influences the ethics, values, and strategies that allow us to meet the diverse needs of all communities of color, and enact necessary changes that ultimately make for a stronger U.S.

This includes work like advocating for language access at the polls—not just Asian languages, but Spanish and African languages, too, so that a greater and more diverse cross-section of our citizenry can engage in free, fair, and accessible elections.

We advocate for justice for those whose citizenship, legal status, and livelihood hang in the balance due to outdated immigration laws that hurt families in the U.S. and internationally.

For generations, the model minority myth painted Asian Americans as a successful monolith and stymied policymakers’ understanding of the widening Asian American wealth gap—neglecting the fact that Asian Americans are the most economically unequal racial group in the U.S. Our work channels the voices of millions of Asian Americans calling for good jobs, union rights, affordable housing, strong public education, and reliable health care, not just for us but for all of the groups who depend on these rights. We remember the lessons of the 1982 garment workers’ strike in New York’s Chinatown and the impact Asian American coalition building had on workers’ rights. As COVID-19 cases drop, the number of vaccinated people grows, and we “return to normal,” workers need to be paid fair wages and get basic safety and health protections. Without those at minimum, the economic divide will only keep growing.

The benefits of cross-racial solidarity work are clear. The hard part is figuring out how to do it. We are inspired by the stories of our predecessors because it’s helpful to remind ourselves that the idea of co-liberation is not a new one. The history of Asian American and Pacific Islander coalitions with other oppressed groups includes the Filipino and Mexican farmworkers who organized the Delano grape strike, the civil rights collaboration between Grace Lee Boggs and Malcom X, Japanese Americans first protesting the anti-Muslim and xenophobic violence that followed 9/11, and later the inhumane treatment of migrants and immigrants at the U.S. southern borders. Solidarity and co-liberation isn’t a rarity for Asian Americans; it’s a vital part of our activism.

#### Failure to connect critique of Asian violence to legal change is alchemy, not activism

SAITO 09 (Natsu Taylor, Professor Law at Georgia State University College of Law, “INTERNMENTS, THEN AND NOW: CONSTITUTIONAL ACCOUNTABILITY IN POST-9/11 AMERICA” https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1011&context=dflsc)

The American-Arab Anti-Discrimination Committee called for the removal of Civil Rights Commissioner Kirsanow following his defense of internment in 2002.210 He was not removed, although apparently he did apologize, insisting that his remarks had been taken out of context.211 In January 2006, while Congress was in recess, President Bush appointed Kirsanow to the National Labor Relations Board.212 Congressman Coble expressed his “regret” that “many Japanese and Arab Americans found my choice of words offensive,” but ignored calls for his resignation as chair of the subcommittee on terrorism.213

CIA Director “Leon Panetta announced at his confirmation hearing that CIA agents that engaged in torture, including waterboarding, in the early phases of the war against terrorism, would not be criminally prosecuted.”214 In fact, attorneys in the Obama administration have continued to rely “on the state secret doctrine and thus seem prepared to confer de facto immunity on the CIA for constitutional wrongs as gross as those entailed in extraordinary rendition.”215 According to Attorney General Eric Holder, “It would be unfair to prosecute dedicated men and women working to protect America for conduct that was sanctioned in advance by the Justice Department.”216

It appears unlikely that those who sanctioned the illegal or unconstitutional programs will be prosecuted. As Jordon Paust observed in 2007, the administration of George W. Bush had “furthered a general policy of impunity by refusing to prosecute any person of any nationality under the War Crimes Act or alternative legislation, the torture statute, genocide legislation, and legislation permitting prosecution of certain civilians employed by or accompanying U.S. military forces abroad.”217 Shortly after Jay Bybee issued his torture memorandum in August 2002, President Bush appointed him to the Ninth Circuit Court of Appeals, and he was confirmed in March 2003.218 John Yoo, who drafted the torture memos, has returned to his law professorship at Boalt Hall.219 The Obama Justice Department has rejected recommendations of ethics investigators concerning violations of professional standards by Bybee and Yoo.220 Although President Obama’s January 22 Executive Order “prohibits reliance on any Department of Justice or other legal advice concerning interrogation that was issued between September 11, 2001 and January 20, 2009,”221 when questioned about possible prosecutions for torture, he has only emphasized the importance of looking forward, not backward.222 As things stand, then, there is no reasonable prospect of legal remedies for any of the wrongs associated with the so-called War on Terror.

I believe we, as lawyers and legal scholars, have responsibilities distinct from those of documentary historians or moral theorists. It is a central tenet of the rule of law that legal rights without remedies are meaningless.223 If the legal system has permitted or facilitated legal wrongs, we have an obligation to ensure that effective remedies are implemented. In other words, it is necessary to address the question of accountability for injustice and, where there are consistent patterns replicating injustices, we must acknowledge that the remedies thus far employed have been inadequate. Otherwise, we are engaging not in legal analysis but alchemy.

The injustices of the Japanese American internment were belatedly acknowledged and partial redress provided to some of its victims, but even these measures were couched in terms which exonerated the institutional and individual actors responsible for the wrongs at issue. This left the door open for the dangers posed by the internment to be replicated in the current War on Terror, and our failure to hold those accountable for contemporaneous wrongs will ensure that they, too, will be repeated in the future.

#### If they’re right that power is a structural constraint they can’t articulate new modes of relationality

Bayet 13, PhD, Catherine and Bruce Bastian Professor of Global and Transnational Studies at the Department of Sociology, University of Illinois, (Assef, Life as Politics: How Ordinary People Change the Middle East, Second Edition, Stanford University Press, pg. 41-46)

The dearth of conventional collective action—in particular, contentious protests among the subaltern groups (the poor, peasants, and women) in the developing countries, together with a disillusionment with dominant socialist parties, pushed many radical observers to "discover" and highlight different types of activism, however small-scale, local, or even individualistic. Such a quest, meanwhile, both contributed to and benefited from the upsurge of theoretical perspectives, during the 1980s, associated with poststructuralism that made micropolitics and "everyday resistance" a popular idea. James Scott's departure, during the 1980s, from a structuralist position in studying the behavior of the peasantry in Asia to a more ethnographic method of focusing on individual reactions of peasants contributed considerably to this paradigm shift.27 In the meantime, Foucault's "decentered" notion of power, together with a revival of neo-Gramscian politics of culture (hegemony), served as a key theoretical backing for micropolitics, and thus the "resistance" perspective. The notion of "resistance" came to stress that power and counterpower were not in binary opposition, but in a decoupled, complex, ambivalent, and perpetual "dance of control."28 It based itself on the Foucauldian idea that "wherever there is power there is resistance," although the latter consisted largely of small-scale, everyday, tiny activities that the agents could afford to articulate given their political constraints. Such a perception of resistance penetrated not only peasant studies, but a variety of fields, including labor studies, identity politics, ethnicity, women's studies, education, and studies of the urban subaltern. Thus, multiple researchers discussed how relating stories about miracles "gives voice to popular resistance";29 how disenfranchised women resisted patriarchy by relating folktales and songs or by pretending to be possessed or crazy;-"-1 how reviving extended family among the urban popular classes represented an "avenue of political participation."31 The relationships between the Filipino bar girls and Western men were discussed not simply in terms of total domination, but in a complex and contingent fashion;32 and the veiling of the Muslim working woman has been represented not in simple terms of submission, but in ambivalent terms of protest and co-optation—hence, an "accommodating protest."33 Indeed, on occasions, both veiling and unveiling were simultaneously considered as a symbol of resistance. Undoubtedly, such an attempt to grant agency to the subjects that until then were depicted as "passive poor," "submissive women," "apolitical peasant," and "oppressed worker" was a positive development. The resistance paradigm helps to uncover the complexity of power relations in society in general, and the politics of the subaltern in particular. It tells us that we may not expect a universalized form of struggle; that totalizing pictures often distort variations in people's perceptions about change; that local should be recognized as a significant site of struggle as well as a unit of analysis; that organized collective action may not be possible everywhere, and thus alternative forms of struggles must be discovered and acknowledged; that organized protest as such may not necessarily be privileged in the situations where suppression rules. The value of a more flexible, small-scale, and unbureaucratic activism should, therefore, be acknowledged.31 These are some of the issues that critiques of poststruc-turalist advocates of "resistance" ignore.3' Yet a number of conceptual and political problems also emerge from this paradigm. The immediate trouble is how to conceptualize resistance, and its relation to power, domination, and submission. James Scott seems to be clear about what he means by the term: Class resistance includes a«/act(s) by member(s) of a subordinate class that is or are intended either to mitigate or deny claims (tor example, rents, taxes, prestige) made on that class by superordinatc classes (for example, landlords, large farmers, the state) or to advance its own claims (for example, work, land, charity, respect) vis-a-vis these superordinate classes.36 (emphasis added) However, the phrase "any act" blocks delineating between qualitatively diverse forms of activities that Scott lists. Are we not to distinguish between large-scale collective action and individual acts, say, of tax dodging? Do reciting poetry in private, however subversive-sounding, and engaging in armed struggle have identical value? Should we not expect unequal affectivity and implications from such different acts? Scott was aware of this, and so agreed with those who had made distinctions between different types of resistance—for example, "real resistance" refers to "organized, systematic, preplanned or selfless practices with revolutionary consequences," and "token resistance" points to unorganized incidental acts without any revolutionary consequences, and which are accommodated in the power structure.37 Yet he insisted that the "token resistance" is no less real than the "real resistance." Scott's followers, however, continued to make further distinctions. Nathan Brown, in studying peasant politics in Egypt, for instance, identities three forms of politics: atomistic (politics of individuals and small groups with obscure content), communal (a group effort to disrupt the system, by slowing down production and the like), and revolt (just short of revolution to negate the system).38 Beyond this, many resistance writers tend to confuse an awareness about oppression with acts of resistance against it. The fact that poor women sing songs about their plight or ridicule men in their private gatherings indicates their understanding of gender dynamics. This does not mean, however, that they are involved in acts of resistance; neither are the miracle stories of the poor urbanites who imagine the saints to come and punish the strong. Such an understanding of "resistance" fails to capture the extremely complex interplay of conflict and consent, and ideas and action, operating within systems of power. Indeed, the link between consciousness and action remains a major sociological dilemma." Scott makes it clear that resistance is an intentional act. In Weberian tradition, he takes the meaning of action as a crucial clement. This intentional-ity, while significant in itself, obviously leaves out many types of individual and collective practices whose intended and unintended consequences do not correspond. In Cairo or Tehran, for example, many poor families illegally tap into electricity and running water from the municipality despite their awareness of their behavior's illegality. Yet they do not steal urban services in order to express their defiance vis-a-vis the authorities. Rather, they do it because they feel the necessity of those services for a decent life, because they find no other way to acquire them. But these very mundane acts when continued lead to significant changes in the urban structure, in social policy, and in the actors' own lives. Hence, the significance of the unintended consequences of agents' daily activities. In fact, many authors in the resistance paradigm have simply abandoned intent and meaning, focusing instead eclectically on both intended and unintended practices as manifestations of "resistance." There is still a further question. Docs resistance mean defending an already achieved gain (in Scott's terms, denying claims made by dominant groups over the subordinate ones) or making fresh demands (to "advance its own claims"), what 1 like to call "encroachment"? In much of the resistance literature, this distinction is missing. Although one might imagine moments of overlap, the two strategies, however, lead to different political consequences; this is so in particular when we view them in relation to the strategies of dominant power. The issue was so crucial that Lenin devoted his entire What Is to Be Done? to discussing the implications of these two strategics, albeit in different terms of "economism/trade unionism" vs. "social democratic/party politics." Whatever one may think about a Leninist/vanguardist paradigm, it was one that corresponded to a particular theory of the state and power (a capitalist state to be seized by a mass movement led by the working-class party); in addition, it was clear where this strategy wanted to take the working class (to establish a socialist state). Now, what is the perception of the state in the "resistance" paradigm? What is the strategic aim in this perspective? Where does the resistance paradigm want Lo lake its agents/subjects, beyond "preventing] the worst and promising] something better"?40 Much of the literature of resistance is based upon a notion of power that Foucault has articulated, that power is everywhere, that it "circulates" and is never "localized here and there, never in anybody's hands."'11 Such a formulation is surely instructive in transcending the myth of the powerlessness of the ordinary and in recognizing their agency. Yet this "decentered" notion of power, shared by many poststructuralist "resistance" writers, underestimates state power, notably its class dimension, since it fails to see that although power circulates, it does so unevenly—in some places it is far weightier, more concentrated, and "thicker," so to speak, than in others. In other words, as a system of power. It is, therefore, not accidental that a theory of the state and, therefore, an analysis of the possibility of co-optation, are absent in almost all accounts of "resistance." Consequently, the cherished acts of resistance float around aimlessly in an unknown, uncertain, and ambivalent universe of power relations, with the end result an unsettled, tense accommodation with the existing power arrangement. Lack of a clear concept of resistance, moreover, often leads writers in this genre to overestimate and read too much into the acts of the agents. The result is that almost any act of the subjects potentially becomes one of "resistance." Determined to discover the "inevitable" acts of resistance, many poststructuralist writers often come to "replace their subject."42 While they attempt to challenge the essentialism of such perspectives as "passive poor" "submissive Muslim women," and "inactive masses," they tend, however, to fall into the trap of essentialism in reverse—by reading too much into ordinary behaviors, interpreting them as necessarily conscious or contentious acts of defiance. This is so because they overlook the crucial fact that these practices occur mostly within the prevailing systems of power.

### 1NC Immigration DA

#### Asian Americans should engage legal architectures—it’s critical to challenge transnational structures of vioence---spills over to challenge immigration exclusion and deportation of undocumented people—coalitions are valuable

Gee, 17—attorney, previously served as an Attorney with the Office of the Federal Public Defender in Las Vegas and Pittsburgh, the Federal Defenders of the Middle District of Georgia, and the Office of the Colorado State Public Defender (Harvey, “Asian Americans and the Law: Sharing a Progressive Civil Rights Agenda During Uncertain Times,” 10 DePaul J. Soc. Just. 1, dml)

The November election of Donald J. Trump as the 45th U.S. President heightened ever-growing concerns about a retrenchment of civil rights for Americans, 2 limiting voting rights, invoking tougher criminal penalties, 3 keeping Guantanamo Bay prison open and returning to aggressive interrogation techniques, 4 mass deportations 5 and stricter immigration laws. 6 Immigration holds particular relevance for Asian Americans because the majority of Asian Americans are foreign-born,7 and they along with Latinos, are among the fastest growing immigrant groups in America.8 This immigration stream shows that immigration has never been a white/brown issue even though mainstream America tends to think of immigration as an issue only affecting Latino/a immigrants. 9 On the contrary, immigration law and historical exclusion have shaped the Asian American legal and political identity within the existing U.S. racial hierarchy: whites on top, African Americans on the bottom, and Asian Americans as somewhere in-between.

The majority of Asian Americans have been identified as immigrants or children of immigrants.1 0 Asian immigrants from Asian countries face the longest backlogs for visas.11 The perennial connection between race and immigration comes up often. historically and as seen and felt in last year's presidential election, race and immigration status have enhanced the unpopularity of immigrants who have become scapegoats for the nation's economic troubles.

Critical race theorist Ian Haney Lopez answers that the efforts to seal the borders allowing no one to come into this country combined with arguments about the issue of illegal immigration has nothing to do with an immigrant's racial background are disingenuous because they share "deep similarities with racial hysteria that accompanied the mass deportation of Mexican Americans during Operations Wetback in the 1950s, and the Asiatic Barred Zone that prohibited all Asian immigration through the first half of the twentieth century." 12

Many citizens in the waiting, including 1.3 million Asian American undocumented immigrants 13 were hoping that that immigration reformers would happen during Obama' s presidency, those hopes were dashed when a deadlocked Court last term in United States v. Texas left in place the nationwide injunction barring implementation of the Deferred Action of Parents of Americans and Lawful Permanent Residents (DAPA) and expansion of the 2012 Deferred Action for Childhood Arrivals (DACA) program, which would have provided deportation relief for up to four million unauthorized immigrants. 1 4

As this past election cycle, along with continued debates over affirmative action, immigration, police brutality, and reports of hate crimes, demonstrate, this country is far from existing in the "post-racial era" that was proclaimed by some pundits when Obama, this country's first African American President, was elected into office eight years ago.

Against this backdrop, it is imperative that social coalitions for justice continue to band together during these uncertain times. To be sure, despite the cultural and class differences and the potential conflicts and impediments that have arisen, African American, Latino, and Asian American civil rights groups have joined together to preserve affirmative action and immigration, to support lesbian, gay, bisexual, transgender ("LGBT") issues; and to advocate for criminal justice reform and against mass incarceration. Perhaps not widely-known, these issues are key components of the Asian American civil rights agenda, which has gradually expanded to accommodate the most pressing issues that affect communities of color and subordinated individuals. As this Article discusses, the past few decades of coalition building between African Americans, Latinos, Asian Americans, and others offer reasons for some optimism about future possibilities notwithstanding a Trump Presidency, a Republican-controlled Congress, and Department of Justice led by Jeff Sessions which could translate into immigration policies and guidelines targeting immigration violations, speeding up deportations, and limiting federal funding to cities refusing to cooperate with the Department.1 5

This Article suggests that given the unique place that Asian Americans are situated in race relations in the U.S.-a racial group situated between black and white-they can inform the struggle for social justice, which has never been binary. This Article draws upon the interdisciplinary areas of social science, critical race theory, and Asian American legal scholarship to explore the manner in which Asian Americans are treated differently form other racial groups, which as seen in affirmative action, same-sex marriage, and criminal justice, can inform litigation and community activism strategy. Professor Eric Yammamoto calls this, "critical inquiry into the interplay between law and racial hierarchy." 16

Far from being a single monolithic voting block holding a particular perspective on important social issues. Asian Americans are a diverse community made up of many ethnicities, holding divergent opinions. For instance, there are Asian immigrants who are against affirmative action, same-sex marriage, and do not agree with the Black Lives Matter movement. These conservative Asian immigrants are deeply insular, and deny the existence of racism, unless it affects them. These Asian Americans act of self-interest, and do not work with other Asian groups or communities of color in fight for social justice. But there are also more assimilated Asian Americans, who may have familial ties span a generation or more in the U.S., willing to work together with others seeking fairness and social justice for all, regardless of skin color or sexual orientation.

While divergent views arise on the many social and political issues amongst Asian Americans, this Article is limited to a discussion of three topical issues: (1) affirmative action; (2) same-sex marriage; and (3) police brutality. I have chosen these issues because there have been recent Supreme Court decisions and recent litigation concerning them.

This Article is distinguishable from existing scholarship about Asian Americans and the law because it connects three areas of civil rights litigation that are rarely discussed together, or at least in relationship to Asian American advocacy. Far from being an academic discussion applying theories to hypothetical parties in the abstract, this Article anchors itself in Supreme Court cases, trial court litigation, and advocacy by real people at the grass roots level.

#### The impact is legal violence- deportability is a direct form of violence imposed by the immigration regime with drastic material consequences on the lives of students- focusing on immigration policy avoids rendering the student as the object of study while allowing for improved understanding to form their own relationship to structures of power

Jeffries 14 (Julian, Department of Reading and Literacy Education, CSU Fullerton. "Fear of Deportation in High School: Implications for Breaking the Cricle of Silence Surrounding MIgration Status" Journal of Latinos and Education, 13)

In the case of one particular immigration raid, both immigrants and the general public got a strong glimpse of the “spectacle of enforcement” (De Genova, 2004, p. 177) of immigration law: In 2007, a total of 361 workers, mostly mothers, were arrested in a factory in the town of New Bedford, leaving 113 children without parental care and producing significant hardship and stress for the people involved (Capps et al., 2007), their relatives, and the community. The television footage of children crying for their mothers and the desperation of family members in newspaper reports resonated in the minds of undocumented migrants, authorized migrants, and citizens alike and plays a major role in the creation of a sense of deportability. Thus, fear of deportation is a powerful presence in the everyday lives of not only adults but also youth and the school personnel serving them. In looking at how administrators treat the issue of migration status in school, it is important to account for the effects these deportation policies have on the daily routine of a school.

The policies that contribute to the fear of deportation are linked to the growing national and international sense of deportation as being the only response to undocumented or unauthorized migration: “It has come to stand in as the apparently single and presumably natural or proper retribution on the part of the state powers to this apparent ‘problem’” (De Genova & Peutz, 2010, p. 1); furthermore, it is normalized as “uneventful, familiar, and legal as individuals come to understand it as ‘the law’” (Menjivar & Abrego, 2012, p. 1414). The effect of immigration is to make visible what scholars have called the “spectacle of enforcement.” As De Genova (2002) described in the “Border Spectacle,” the intensification of military control at the U.S.-Mexico border (Dunn, 1996; Heyman, 1991; Jimenez, 1992) serves not to stop the so-called flow of migrants but to create the “theatre of an enforcement crisis” to render undocumented migrants as distinctive national and racialized “illegals” (p. 439). In a similar fashion, immigration raids in Massachusetts, such as the one in New Bedford, create a public image of an illegal subject and contribute to the distinction between legal and illegal, belonging to this country or not. This illegalization fulfills the intended goals of deportation policies not to physically exclude migrants from the nation state but to include them socially under “imposed conditions of enforced and protracted vulnerability” (De Genova, 2002, p. 249), “pushing them outside the boundaries of jurisdiction [while] simultaneously includ[ing] them by criminalizing their presence” (Menjivar & Abrego, 2012, p. 1403). This study highlights how the conditions of vulnerability and a fear of deportation affect the educational experiences of these youth in high school by honing into their relationships with teachers and administrators and the consequences for educational success.

This study draws from recent scholarship that calls for a shift from studying undocumented migrants as an ethnographic object, as a group whose characteristics need to be described and acted upon. Undocumented populations do not constitute, as such, “an objectively or intrinsically self-delimiting domain for anthropological study” (p. 422), as the term only constitutes a vague descriptive mechanism to represent what is truly a heterogeneous population (De Genova, 2002) with a wide variety of national and regional backgrounds who have different experiences of migration and a variety of contexts of reception. What they do have in common is that they are, most important, migrations that have been tacitly attracted by labor demands (Chavez, 1998; Hondagneu Sotelo, 2001)—or in the case of Central American countries, expelled by a U.S.- induced civil war (Menjivar & Abrego, 2012). In this way, the undocumented students I observed for 4 years do not constitute the sole object of study; the focus is to make visible how laws and policies that produce their illegality have an effect on their daily lives (Jefferies, 2014). In this study, the aim is to bring to light the ways in which immigration laws and deportation measures affect the successful navigation of high school of undocumented youth by describing their communication with teachers and administrators in the context of a school.

THE CONSEQUENCES OF DEPORTABILITY IN THE DAILY LIVES OF UNDOCUMENTED MIGRANTS Deportability is the “specific vulnerability to arrest and spatial removal, as well as linked legal penalties, such as the loss of rights to future ‘legal’ immigration” (Talavera, Núñez-Mchiri, & Heyman, 2010, pp. 166–167). This term refers not to deportation itself but to the constant possibility that one might be apprehended and deported. It acknowledges that undocumented migrants who have never been deported experience this phenomenon and that it has a powerful presence in their everyday lives (Coutin, 2000; Talavera et al., 2010) and drastic material consequences. Some of these are well documented in the literature, such as the transformation of everyday normal activities (like driving, taking public transportation, working) into illicit acts (Coutin, 2000; Heyman, 1998); limited physical mobility (Coutin, 2000; Hagan, 1994; Rouse, 1991); and the nullification of kin ties, as some undocumented migrants cannot petition for the legalization of relatives or leave the country to visit relatives and may even be separated forcefully from relatives (Coutin, 2000, p. 32; Heyman, 1991), among others. This fear and sense of vulnerability affects the way immigrants perceive their current place in U.S. society and affects the way they interact with educational institutions. In Jefferies’s (2014) description of the school enrollment practices of undocumented youth and their families in Massachusetts, fear of deportation played a strong role in delaying eligible youth from enrolling in K–12, forcing them to choose work over education, and delaying and sometimes barring them from enrolling in school.

Menjivar and Abrego (2012) also described the impact of the recent immigration regime on the lives of migrants but did so using the framework of legal violence. Heeding Mary Jackman’s examination of violence, they recognized that some kinds of violence escape attention in society, especially when this violence is “motivated by positive intentions, or is the incidental by-product of other goals, or is socially accepted or lauded” (Jackman, as cited in Menjivar & Abrego, 2012, p. 1383). Focusing on Central American immigrants in Phoenix and Los Angeles, the authors analyzed how the convergence and implementation of immigration and criminal law constitute forms of what they termed “legal violence”: the normalized but cumulatively injurious effects of the law: Legal violence is at once structural in that it is exerted without identifiable perpetrators, and it is symbolic in that it is so thoroughly imposed by the social order that it becomes normalized as part of the cognitive repertoire of those exposed. Importantly, this type of violence is legal, sanctioned, and legitimated through formal structures of power that are publicly accepted and respected. (p. 1413) With this lens, the authors unearthed the psychological, material, and economic effects of these polices that create social suffering in the implementation of the legal system for not only immigrants with tenuous immigration status but also their families and community. For example, the authors described the distress that young migrants experience in schools when they must interact and share information with gatekeepers and school officials whenever they disclose their status: “unsure about teachers’ and counselors’ stances on immigration, they worry about being publicly targeted and ridiculed” (p. 1409). This distress diminishes the chances of students seeking the help they need, severely blocking their paths to higher education. This kind of violence is a direct side effect of the immigration regime in place but goes under the radar and is legitimated through formal structures of power.

Dreby (2012) detailed the consequences of deportation policies for children, families, and communities in New Jersey and Ohio, showing how families are ripped apart as children are forced into foster care and how these policies create the conditions for mostly males to be deported, leaving behind single mothers struggling to provide for their families. In a clear example of how symbolic violence acts to normalize social relations imposed by the immigration regime, the author reported how children who are citizens are afraid of the police and begin to associate all immigrants with illegal status, attempting to “disassociat[e] themselves from their immigrant heritage” (p. 3). In this way, the lens of legal violence allows one to denaturalize the immigration regime and document its violent effects in the everyday lives of undocumented youth in schools.

RESEARCH ON UNDOCUMENTED YOUTH Within the variety of experiences and backgrounds of migrants, undocumented youth occupy a special place within the policy of immigration, with more guaranteed access to some spaces in society than their adult counterparts because of the Plyler v. Doe mandate, with more “legal protections” (Abrego, 2006), and in a situation of what Gonzales (2011) has called “suspended illegality” or “semi-protected status” (p. 608). Gonzales described their last years of high school and beyond as a “transition to illegality” consisting of three stages—“discovery (ages 16 to 18), learning to be illegal (ages 18 to 24), and coping (ages 25 to 29)” (p. 603)—and highlighted the transition, in their last years of secondary schooling, “from protected to unprotected status, from inclusion to exclusion, and from de facto legal to illegal” (p. 603). Abrego (2006) compared the experiences of documented and undocumented children of working-class Latino immigrants in Los Angeles, finding that undocumented children “undergo similar social incorporations processes as their documented peers earlier on” (p. 212) but that the end of legal protections limits their chances to attend college and decreases their motivation for education. Another subset of the literature has focused on the activism and political engagement of these students, often referred as DREAMers, and their attempt to change legislation on this matter (Gonzalez, 2008; SIN Collective, 2007).

Few studies have looked at how children and parents make sense of immigration status in K– 12 schools. One such study is Mangual Figueroa’s (2011) ethnography of mixed-status families in southwestern Pennsylvania, where she examined how citizenship status impacts undocumented parents’ and children’s participation in everyday activities. Focusing on a homework routine between mothers and sons to help “better understand the complex interactions that transpire in homes where federal and state policies mediate local understandings of kinship” (p. 278) showed that educators need to be well versed in how migratory status delimits the sense of participation allowed to them. These kinds of studies remind readers of not only how important it is to take a look at how parents and children are making sense of their undocumented status but also how lack of knowledge of these issues among school personnel in elementary, middle, and high schools can severely affect the educational pathways of these children.

### 2NC Critical Legal Advocacy Good

#### Critical legal advocacy by Asian-American communities has engendered progress—only public pressure and legal advocacy can protect those gains and enable future challenges to succeed

Yamamoto, et al, 17—Fred Korematsu Professor of Law and Social Justice, William S. Richardson School of Law, University of Hawai’i (Erik, with Maria Amparo Vanaclocha Berti and Jaime Tokioka, ““Loaded Weapon” Revisited: The Trump Era Import of Justice Jackson’s Warning in Korematsu,” 24 Asian Am. L.J. 5 (2017), dml)

The Justice Department declined to further appeal the coram nobis decisions. So the Supreme Court did not confront an opportunity to belatedly reverse its World War II rulings. Nor in other subsequent security and liberty disputes has the Court overruled Korematsu. 149 While the case has been sorely discredited by judges150 and scholars,151 as well as by the coram nobis decisions, the Court’s original ruling formally still stands—if not for its now widely recognized wrongful validation of the forced removal and incarceration, then for its embrace of unconditional judicial deference to government claims of national security as justification for broad civil liberties restrictions. 152

Indeed, the late-Chief Justice William Rehnquist153 and influential Seventh Court of Appeals Judge Richard Posner, in important respects, treat Korematsu as “correctly decided.” 154 Underscoring Korematsu’s principle of judicial passivity, Judge Posner indicates that during times of hostility when faced with government national security claims of urgent need, as in Korematsu, the courts can say, “[W]e’re going to defer.” 155 As Justice Jackson predicted, “every repetition” of judicial deference to unsubstantiated government claims of exigency “embeds the principle more deeply in our law and thinking and expands it to new purposes.” 156

Thus the pivotal question for today and tomorrow can be reframed in the following way: If “it”—something akin to the World War II mass exclusion and incarceration—happens again, 157 would the Court’s deferential approach in 1944 be expanded to “new purposes” in the Trump era to validate transgressions of essential democratic liberties?

We submit that the significance of this question is tied to a key sociolegal insight about the forces of lasting social injustice drawn from the Japanese American incarceration experience: national security fears coupled with racism, nativism, or religious animosity and backed by the force of law generate deep and lasting damage.158 It is the “law’s stamp of approval on wartime exigencies plus racism [or religious intolerance] that transforms mistakes of the moment into enduring social injustice.” 159

III. LAW AND POLITICS—INTO THE FUTURE

In light of policymakers’ vociferous after-Paris and post-Trump election calls for sweeping harsh Muslim restricting security measures— along with accelerating harassment of and discrimination against Muslims and other communities of color in the United States160—Justice Jackson’s warning and Judge Patel’s call for vigilance remain hotly relevant. Justice Scalia envisioned the “same thing” happening again. He further foresaw a compliant judiciary, as in Korematsu, falling deferentially in line with the “hand of any authority that can bring forward a plausible,” even if exaggerated or falsely grounded, “claim of an urgent need.” 161

The time is ripe for revisiting and then proactively responding to the challenges posed by the loaded weapon.

The political and legal atmosphere after 9/11 (with some calling for reasoned temperance and judicial checks and balances, citing the WWII internment as a cautionary tale) 162 differs from the environment of the original World War II internment (with few calling for independent judicial scrutiny as a check on government power).163 Recent litigation now challenges wide-ranging government civil liberties violations, placing security and liberty tensions squarely in the public eye.164 Court challenges, public education, and organizational advocacy165 collectively signal what Justice Sonia Sotomayor describes as a “modicum of progress.” 166 But politicians’ regressive prescriptions in the Trump era, with its deeply conservative national security leadership, forefend steep political backsliding.167

An accommodation of security measures and civil liberties protections is essential in a constitutional democracy. But in light of the former’s penchant for overwhelming the latter, we submit, it is combined critical legal advocacy and public pressure that erect the real bulwark against government civil liberties excesses.

We suggest that next steps should not focus entirely on political organizing or primarily on legal action. Rather, strategic steps forward need to embrace an integrated combination of critical legal advocacy and public pressure at two crucial stages. The first, at the front-end, is through organizing, educating, and litigating to prevent politically driven abuses of vulnerable communities before they occur. 168 The second, at the back-end, is through blocking or removing “the law’s stamp of approval” of those abuses once they occur.169 Combining critical legal advocacy and political organizing with public pressure is essential, in Justice Murphy’s words, for closing “the door on discriminatory actions against other minority groups in the passion of tomorrow.” 170

A. Front-end Prevention

In today’s climate of fear, “our first task in protecting both people and key democratic values is to be proactive at the front-end”—to afford government ample berth for security actions while preventing palpable government abuses.171 As the original Loaded Weapon essay prescribed, to facilitate prevention through vigilance and action:

We need to organize and speak out to assure that the expansive new national security regime does not overwhelm the civil liberties of vulnerable groups and move the country toward a police state. We need to mobilize and raise challenges to prevent . . . [exclusion and] incarcerations, particularly en masse.172

More specifically, “[t]hrough political analysis, education, and activism, our job [before abuses occur] is to compel powerful institutions, particularly the courts, to be vigilant, to ‘protect all.’” 173

To illustrate, at the front-end, the Korematsu coram nobis legal team wrote an open letter to President George W. Bush sharply criticizing Commissioner Kirsanow’s prediction of a mass internment of Arab Americans and his resort to the original Korematsu decision as precedent. The legal team stressed that by citing the 1944 Korematsu case and ignoring the coram nobis courts’ later findings, Kirsanow sought to employ Korematsu wrongly as legal and moral justification for present-day imprisonment of another ethnic group in the United States.174 Similarly, Fred Korematsu publically responded to conservative commentator Michelle Malkin.175 In 2004 Malkin argued that the World War II Japanese American internment had been justified and that using the mass incarceration after 9/11 to criticize the government’s expansive war on terror jeopardized homeland security.176 Korematsu responded in words worth quoting at length: It is painful to see reopened for serious debate the question of whether the government was justified in imprisoning Japanese Americans during World War II. It was my hope that my case and the cases of other Japanese American internees would be remembered for the dangers of racial and ethnic scapegoating. Fears and prejudices directed against minority communities are too easy to evoke and exaggerate, often to serve the political agendas of those who promote those fears. I know what it is like to be at the other end of such scapegoating and how difficult it is to clear one’s name after unjustified suspicious are endorsed as fact by the government. If someone is a spy or terrorist they should be prosecuted for their actions. But no one should ever be locked away simply because they share the same race, ethnicity, or religion as a spy or terrorist. If that principle was not learned from the internment of Japanese Americans, then these are very dangerous times for our democracy. 177 Other front-end actions after 9/11 contributed to heightened scrutiny by domestic and international human rights organizations.178 They also fueled Congressional investigations into regressive Bush Administration policies.179

One potent front-end effort emerged from the U.S. Senate Select Committee on Intelligence chaired by Senator Dianne Feinstein. That Committee concluded that the CIA’s coercive interrogations—torture— following 9/11 did not produce “intelligence, result[ed] in false answers, and had historically proven to be ineffective.” 180 Looking forward, Feinstein highlighted the importance of preventive action. She pressed the executive branch’s security apparatus in the future to abide by articulated ethical dictates because “[w]e cannot again allow history to be forgotten and grievous past mistakes to be repeated.” 181 To implement the kind of preventive measures envisioned by the Senate Committee, Feinstein and other senators crafted the “Due Process Guarantee Act” in 2012. 182 The proposed legislation, supported by testimony of Korematsu coram nobis attorney, Lorraine Bannai,183 aimed to afford due process protections to citizens and permanent residents who were apprehended for ostensible security reasons on U.S. soil.184

Community advocates, too, figured significantly in halting or at least impeding proposals for potentially abusive actions before they mushroomed into widespread damage. Immediate national and international criticism followed Mayor Bowers’s 2015 call for a mass Muslim “sequester.” 185 Japanese American organizations immediately denounced Bowers’s resort to the World War II internment as precedent. 186 The Japanese American Citizen League, for instance, rejected Bowers’s “outrageous comments,” criticizing the “fear-mongering proposals” and the “scapegoating of innocent people.” 187 Mainstream media also weighed in.188 These sharp responses, along with strong criticism by U.S. Representatives Doris Matsui189 and Mike Honda,190 coalesced into potent and timely front-end preventive action. In the face of mounting criticism, Bowers apologized to “those offended” and effectively retracted his call.191

Extending Bowers’s earlier citation to the internment to bolster antiMuslim proposals, presidential transition insider Carl Higbie provoked outrage when he relied on Korematsu as precedent for a sweeping Muslim registry and tracking system. California Representative Mark Takano denounced Higbie’s remarks: “People connected to the incoming Administration are using my family’s [racial incarceration] experience as a precedent for what President-elect Trump could do.” 192 Takano added that “[t]hese comments confirm many Americans’ worst fears about the Trump Administration, and they reflect an alarming resurgence of racism and xenophobia in our political discourse.” 193 The Council on American-Islamic Relations characterized Higbie’s reliance upon the internment as precedent as “absolutely deplorable” 194 and warned that it would “return America to one of the darkest chapters of its history.” 195 The director of Anti-Defamation League announced that “if one day Muslims will be forced to register, that is the day that this proud Jew will register as a Muslim.” 196 When President Trump issued the January 2017 Muslim exclusion and removal orders, public protests erupted.197 Those protests built on earlier organized resistance. Combined with critical legal advocacy, those efforts temporarily blocked enforcement of the most prominent executive order.198 The Ninth Circuit Court of Appeals, in denying the government’s request to stay the lower court’s nationwide restraining order, cited “irreparable harm” to wide swaths of Muslims and to the states. 199 It also deemed factually unsubstantiated (thus far) the government’s national security claim of “urgent need.” 200 And it rejected the government’s contention that national security restrictions of noncitizens liberties should be “unreviewable” by the courts.201

The long-term impacts of this type of front-end advocacy are uncertain. What is certain is that this advocacy has piqued public awareness, spurred watch groups, and built a platform for immediate public criticism of and preventive action against newly unfolding repressive policies and practices. And it has placed the courts and their “cultural performance” 202—and the very idea of judicial independence—on center stage.

B. Back-end Accountability

Combined critical legal advocacy203 and political pressure are essential to a second task. That task is for legal and community advocates, policymakers, businesses and journalists to be “assertive at the back-end – to call out injustice after it occurs, to spell out the damage it does to real people [and communities] in our midst and to our constitutional democracy, and to demand accountability to principles of equality and due process.” 204 The aim is to rectify injustice.205 And the demand for accountability is expressed through advocacy and pressure for heightened judicial scrutiny of proffered government justifications for curtailing essential democratic liberties.206

FOOTNOTE 203 Critical legal advocacy encompasses, critical legal argument by lawyers and civil and human rights organizations aimed at shaping judges’ threshold selections of the level of judicial scrutiny, and ultimately the judges’ response to the specific legal challenges to executive actions. . . . [And by supplementing] traditional legal arguments . . . critical legal advocacy aims to reveal what is really at stake, who benefits and who is harmed . . . who wields the behind-the-scenes power, which social values are supported and which are subverted, how political concerns frame the legal questions, and how societal institutions and differing segments of the populace will be affected by the court’s decision.

Yamamoto, supra note 179, at 285, 291–92.

The task is crucial because uncertainty persists at the back-end. Some courts embrace an exceedingly deferential judicial posture, particularly where the president acts with congressional authorization,207 relying upon, if not citing, the 1944 Korematsu majority. 208 In this fashion, the Supreme Court in its 1993 Reno decision implicitly recognized Korematsu as precedent. 209 Justice Scalia, writing for the majority, employed a highly deferential approach to reject juvenile detainees’ due process claims challenging their indefinite detentions en masse. 210 In dissent, Justice Stevens pinpointed Scalia’s reliance on, but without citation to, the “one notable exception” to the rule of individualized due process—Korematsu. 211 The “Court’s holding in Korematsu obviously supports the majority’s analysis.” 212 The Supreme Court exhibited similar Korematsu-like deference in its 2010 Holder decision in upholding chilling restrictions on free speech and association activities of a nonprofit humanitarian organization on thinly substantiated national security grounds. 213

Other courts chafe at the jurisprudential notion that the judiciary should largely defer to the government whenever the government claims national security to justify curtailing civil liberties. They cite the Korematsu dissents and the coram nobis rulings as a cautionary tale and reject turning a blind eye to abuses by the elective branches. 214 These latter courts would undertake independent scrutiny as an integral separation-ofpowers component of government accountability in a constitutional democracy. 215

Justice Sotomayor overall perceives a “modicum of progress.” 216 She sees judges, mindful of the need to accommodate both security and liberties, embracing heightened judicial solicitude. For instance, District Judge Robert G. Doumar in Hamdi v. Rumsfeld217 carefully scrutinized the executive branch’s designation of American citizen Hamdi as an “enemy combatant.” 218 While recognizing deference due to the executive branch in matters of military personnel and tactics,219 Judge Doumar, a Reagan appointee, announced the court’s commitment to “meaningful judicial review” 220 of the government’s proffered evidence justifying Hamdi’s continued detention. Judge Doumar’s demand for bona fide government proof of necessity underscored a well-recognized if unevenly employed “watchful care” approach to judicial scrutiny—notably articulated in Ex parte Milligan. 221 U.S. District Judge Katherine B. Forrest similarly scrutinized the government’s necessity claim in Hedges v. Obama. 222 American citizens, writers, journalists and civil liberties advocates sued the President, challenging their potential indefinite incarceration under the National Defense Authorization Act.223 Plaintiffs feared their free speech and associations would subject them to prolonged military detention as vaguely defined supporters of terrorist groups. 224 The government urged the district court essentially to “stay out of it.” 225 It asserted that the court should defer to the executive and legislative branches’ contention that national security justified the restrictions and, on that basis, uphold the government’s expansive security reach. 226 Judge Forrest acknowledged the importance of the government’s need for latitude in safeguarding the country.227 She maintained, however, that this partial deference “does not eliminate the judicial obligation to rule on properly presented constitutional questions,” 228 especially because “[c]ourts must safeguard core constitutional rights.” 229 Judge Forrest therefore subjected the restrictions to “exacting scrutiny” 230 and concluded that the executive and legislative branches failed to show that the restrictions—particularly indefinite detention without procedural safeguards—were necessary. 231 In Hassan v. City of New York,232 American Muslim communities claimed to be targets of excessive post-9/11 surveillance and harassment by New York City police. They sued “to affirm the principle that individuals may not [be subject to] pervasive surveillance that cause[s] them continuing harm simply because they profess a certain faith.” 233 The district court granted the City’s motion to dismiss.234 On appeal, the Third Circuit concluded that plaintiffs had pleaded enough factual content to state a claim.235 The City argued that, nevertheless, the program was justified by national security.236 The court disagreed. It acknowledged that elective branches possess broad power over most security matters. 237 To justify impinging upon protected liberties, however, “[t]he gravity of the threat alone cannot be dispositive.” 238 The government’s necessity contention needs to “be substantiated by objective evidence.” 239 To legitimize careful scrutiny, Judge Thomas L. Ambro, writing for the Third Circuit, recounted lessons from the World War II internment and the McCarthy-era witch hunts about government persecution of innocent people driven by “unfounded fears.” 240 Judge Ambro first highlighted how those fears led to harsh discrimination against one hundred thousand innocent Japanese Americans on an unfounded claim of necessity and how a deferential judiciary passively accepted the government’s misrepresentations: Yet when these citizens pleaded with the courts to uphold their constitutional rights, we passively accepted the Government’s representations that the use of such classifications was necessary to the national interest. In doing so, we failed to recognize that the discriminatory treatment of approximately 120,000 persons of Japanese ancestry was fueled not by military necessity but unfounded fears. 241 Judge Ambro then highlighted how that passive judicial stamp of approval sacrificed fundamental freedoms and led later to national regret: The World War II relocation-camp cases and the Red scare and McCarthy-era internal subversion cases are only the most extreme reminders that when we allow fundamental freedoms to be sacrificed in the name of real or perceived exigency, we invariably come to regret it. 242 Judge Ambro’s summary account of the World War II internment focused the appellate court’s specific inquiry into alleged police harassment and disruption of Muslim religious and community life in the name of national security. Turning a blind eye in Korematsu, he observed, enabled a Supreme Court majority to constitutionally validate the continuing incarceration of innocent citizens and noncitizens on a badly flawed factual claim of necessity—something the Third Circuit would not countenance in the case before it. 243 Echoing Judge Patel’s call for vigilance, Judge Ambro described what “[w]e have learned from experience”—that courts “must be most vigilant in protecting constitutional rights.” 244 On behalf of the Third Circuit, Judge Ambro therefore cautioned all federal judges to avoid similar future injustices and to apply “the same rigorous standards [of judicial scrutiny] even where national security is at stake.” 245 Unconditional [court] deference to the government’s . . . invocation of emergency . . . has a lamentable place in our history, . . . bending our constitutional principles merely because an interest in national security is invoked. . . . We have learned from experience that it is often where the asserted interest appears most compelling that we must be most vigilant in protecting constitutional rights.246 In 2017, the Ninth Circuit similarly embraced judicial vigilance in language that mirrored Judge Ambro’s. The court denied the Trump Administration’s motion to stay the lower court’s nationwide temporary order restraining enforcement of the President’s Muslim exclusion and removal order.247 In doing so, it soundly rejected the Justice Department’s broad contention that “national security” renders an executive order’s immigrant restrictions judicially “unreviewable” even if the order transgresses constitutional freedoms. Total judicial deference, the court observed, “runs contrary to the fundamental structure of our constitutional democracy.” 248 The judicial role “will sometimes require the resolution of litigation challenging the constitutional authority of one of the three branches.” 249 The Ninth Circuit therefore chided the Justice Department for failing to submit evidence of “urgent need” to justify the executive order’s immediate enforcement. As in Korematsu, “[r]ather than present evidence to explain the need for the Executive Order, the Government has taken the position” that the courts simply must acquiesce. 250 While counseling deference to executive and legislative national security measures generally, the Ninth Circuit declared that the “Government’s ‘authority and expertise in [national security] matters do not automatically trump the Court’s own obligation to secure the protection that the Constitution grants to individuals,’ even in times of war.” 251 The judges in these cases evinced—in Justice Sotomayor’s words—a “modicum of progress” toward shaping the judicial role and affirmatively blocking or removing the law’s stamp of approval on government sponsored injustice. CONCLUSION—LOOKING BACK TO FORGE AHEAD

Despite incremental progress, the Supreme Court has never formally overruled its sorely discredited 1944 Korematsu decision. Most significant, it has not definitively rejected the case’s contested principle—advanced by the Trump Justice Department—that when the government asserts national security, the courts should “stay out of it,” even when the government transgresses civilians’ fundamental liberties.

Harassment of and violence against Muslim individuals and communities has intensified. Republican presidential candidates called loudly for broad Muslim surveillance, exclusion, and “sequestration.” Then-candidate Trump bolstered his call for a complete and total shutdown of Muslim entry with a call for torturing Muslim terror suspects. And after Trump’s election, transition insiders signaled coming repressive religion-targeting measures and cited the Japanese American internment as precedent. The President followed with his thinly vetted January 2017 Muslim exclusion and removal executive orders.

The questions posed earlier thus remain intensely relevant today: “What will happen when those profiled, detained, harassed or discriminated against [or tortured] turn to the courts for legal protection? How will the courts respond to the need to provide for society’s security and to protect fundamental democratic values?”

One response is that former Justice Scalia is correct: a serious violation of peoples’ liberties en masse could happen again, and, following former Chief Justice Rehnquist’s and the Trump Justice Department’s lead, conservative judges may well defer to the government’s loosely or even falsely grounded assertion of national security necessity. Another and contrasting response is that many judges now will carefully scrutinize the government’s national security justifications for curtailing liberties essential to a functioning democracy—endeavoring to accommodate both security and liberty. Those courts, in an exercise of judicial independence, will require a bona fide government showing of “urgent need” and strike down unsubstantiated sweeping restrictive measures. Lower court rulings in Hassan, Hedges, and Washington offer a glimpse. Legal commentators, at this juncture, tend to end their national security-civil liberties analyses of Supreme Court cases by noting divergent judicial approaches and expressing worry yet cautious hope for the future. The Loaded Weapon Revisited steers further analysis in a different direction—it does so in broad fashion, leaving explication for longer works. It outlines the realpolitik dynamics of how: How we as a society are to continue overall progress in the face of politicians’ regressive policy prescriptions and public fear-mongering; and how, “in times of international hostility and antagonism,” as Judge Patel cautioned, “our institutions, legislative, executive and judicial, [are to] exercise their authority to protect all citizens from the . . . fears and prejudices . . . so easily aroused.”

Peering into the future, for those committed to both security and liberty, this Article charts realpolitik dynamics along dual paths of critical legal advocacy (for heightened judicial scrutiny and against mass ethnic or religious restrictions) and public pressure (to compel policymakers’ and judges’ accountability). The first path, at the front-end, is through organizing, educating, and litigating to prevent politically popular abuses of vulnerable communities before they occur. The second, at the back-end, is through blocking or removing “the law’s stamp of approval” upon those abuses once they occur. For it is the failure at both the front and back ends—where national security fears “coupled with racism or nativism [are] backed by the force of law”—that generates deep and lasting social injustice.

Combined critical legal advocacy and public pressure—through assertive communities supported by justice groups, lawyer and scholar advocates, attuned media, and an informed public—heighten prospects for shutting the “door to discriminatory actions against other minority groups in the passions of tomorrow.” More broadly, collective action for both prevention up-front and accountability at the back-end empowers communities to break the cycle Justice Jackson envisioned of “repetition that embeds that principle” of judicial passivity and harsh government discrimination “more deeply in our law and expands it to new purposes.”

It may be this kind of collective strategic action that compels the Supreme Court to formally, and finally, overrule Korematsu—both its approval of the internment and its principle of unconditional court deference—while reclaiming the Korematsu coram nobis call for judicial vigilance.

### AT: JACL Bad

#### Their example of the Japanese-American Citizen’s League [in the Chambers-Letson card] goes neg—their advocacy of specific policy proposals enacted postmemory by refusing to let the government and public forget the injustices of internment—state engagement does not obscure that history!

Fukarai and Yang, 18—Professor of Sociology and Legal Studies AND Associate Professor of History, UC-Santa Cruz (Hiroshi and Alice, “The History of Japanese Racism, Japanese American Redress, and the Dangers Associated with Government Regulation of Hate Speech,” 45 Hastings Const. L.Q. 533 (2018), dml)

Activists in the 1960s and 1970s also dismantled claims that the camps were necessary for national security by publicizing studies that documented the racism behind mass exclusion and incarceration. To gain credibility outside the community, it was important that a growing list of books by non-Japanese-American researchers could be cited as evidence for the injustice of the incarceration. 128 Accounts by historian Roger Daniels and journalist Allan R. Bosworth denounced government euphemisms that called mass ",129 removal an "evacuation" and labeled the camps as "relocation centers. Instead, these authors argued that the camps should be called "concentration camps" because they had caused widespread suffering. Documenting the racist views of DeWitt and other architects of the incarceration, this scholarship helped Japanese Americans recognize the camps were not just a wartime "mistake," but reflected a long history of anti-Asian racism. 130 Researchers also began presenting evidence of suffering within the camps, including the fact that several prisoners were shot and killed by trigger happy guards, which helped activists persuade former prisoners that there was no shame in sharing their personal accounts of trauma they experienced during and after the war. Activists frequently quoted this scholarship to convince Americans who had no familiarity with the Japanese-American community that the damage mass incarceration inflicted on individuals, families and the community was significant and pervasive.131

To counter claims that Japanese Americans should "move on" and avoid dwelling on the past, activists Edison Uno and Raymond Okamura organized a grassroots campaign in 1967 to repeal Title II of the 1950 Internal Security Act to prevent other groups from being incarcerated without due process. 132 This act provided funding for detention sites, including the former Japanese-Amenican camp at Tule Lake, to imprison individuals labeled as subversives without hearings. While the act specifically targeted communist agitators, black power and antiwar protesters feared that they also might be placed in "concentration camps." After the campaign gained momentum within the ethnic community and increasing media coverage, more conservative JACL lobbyists, Senator Daniel Inouye, and Congressman Spark Matsunaga shepherded the legislation through Congress in 197 1.133

This history of militant community activists putting pressure on more conservative leaders who then used their political contacts to achieve legislative changes became a model for redress' passage. In 1970, Edison Uno persuaded the JACL to pass a resolution calling on the government to "compensate on an individual basis a daily per diem requital for each day spent in confinement and/or legal exclusion."l34 Uno passed away in 1976 without seeing any significant progress. Two years later, however, the JACL elected an outsider, Clifford Uyeda, as president and he, in turn, recruited John Tateishi, the son of a famous critic of the wartime JACL, to serve as JACL's redress chair.1 3 5

Under this new leadership, the JACL developed a multifaceted campaign to build support for redress. To overcome redress opponents and skeptics within the JACL, Uyeda wrote thirty-five articles for the JACL's newsletter defending the concept of redress and explaining that the campaign's goal was not to "put a price tag on freedom or justice" but "to acknowledge the mistake by providing proper redress for the victims of the injustice, and thereby make such injustices less likely to recur. "136 To help marshal support for one plan, the redress committee reviewed various proposals that defined redress eligibility, form, and scope in different ways. Seattle activists maintained that redress compensation should be determined by the amount of time spent behind barbed wire. Critics of this plan argued that it would penalize Japanese Americans who left camp early to serve in the military, to attend college, and to find jobs to support their families.13 7 JACL old guard leaders, offended by the concept of individual compensation, called for the creation of a community trust fund that could support educational programs and charity projects. Critics of this plan questioned who would administer the program and worried that public relations programs would take priority over housing and health services for low-income Japanese Americans.138

To achieve consensus, Uyeda and Tateishi incorporated components from multiple proposals. Their 1978 proposal called for both a community trust fund and payments of $25,000 to each individual, or their heirs, who had experienced removal and incarceration regardless of age, national origin, or camp experience. Ironically, the $25,000 figure was based on a fabricated claim made by a JACL leader during hearings for the 1948 Evacuation Claims Act that the Federal Reserve had calculated Japanese Americans lost $400 million in property during the war. 139 Realizing that Japanese Amencans needed to project an image of unity before the government, JACL leaders designed a survey that disguised conflicting views of redress eligibility and compensation. They simply asked if "the injustice of internment affected your life" and if people favored the concept of redress without wading into more specific definitions. 140 As a result, the campaign could claim a mandate based on support by ninety-four percent of the organization for redress and eighty-three percent for compensation.' 4

JACL activists then developed a media campaign to educate other Japanese Amenicans and the mainstream public about the injustice Japanese Americans experienced during the war. They were unintentionally assisted by redress opponents who made inflammatory comments that attempted to minimize or deny Japanese American suffering. The most prominent critic, S. I. Hayakawa, a Canadian-born semanticist and Republican senator from California who spent the war in Chicago, actually claimed the camps were "the best thing that could have happened" to Japanese Americans because they "forced them out of their segregated existence" and allowed them to take "advantage of new opportunities." 42 News outlets spread Hayakawa's claims along with redress criticism by others who continued to blame Japanese Americans for Pearl Harbor, the Bataan Death March, and more recent trade wars with Japan. Instead of diminishing support for redress, this publicity boosted the campaign by enraging former prisoners who felt compelled to counter Hayakawa's depiction of the benefits of mass removal and incarceration and to debunk the racist conflation of Japan and Japanese Americans.1 4 3 Such accounts made it difficult to argue that racism was an irrelevant vestige of history and convinced more Japanese Americans to become activists. 44

The creation of a federal commission to investigate the causes and consequences of the wartime removal and incarceration became a vital component in the passage of redress. Japanese-American members of Congress advised JACL redress leaders that such a commission was necessary to educate the public about what happened during the war. JACL leaders knew that this proposal would be controversial and would be criticized as a stalling tactic or a replacement for meaningful redress. JACL reformers, especially within the Seattle chapter, denounced this strategy and argued there was no need for an investigation given the large body of scholarship that documented the racism behind Executive Order 9066.145

Declaring that redress delayed was redress denied, JACL redress leaders noted that increasing numbers of former prisoners were passing away each month. Political leaders, however, recognized that having a government commission provide an official determination of the injustice was critical to win congressional support. Senator Daniel Inouye and Congressmen Spark Matsunaga, Norman Mineta, and Robert Matsui cosponsored the legislation that created the Commission on the Wartime Relocation and Internment of Civilians in 1980.146 This Commission held hearings in twenty cities around the country and included testimony from more than 750 witnesses.1 47 As the National Coalition for Redress and Reparations ("NCRR") activist Lillian Nakano explained, "the burden of guilt has finally shifted onto the government, where it rightly belongs." "Bitter tears," she proclaimed, "intermingled with pride and determination as we reaffirmed our resolve to continue our quest for justice." "At every city hearing," she noted, "the united demand for monetary reparations was virtually unanimous, and irresistible."4 s

Media portrayals of the incredibly moving testimony completely obliterated "model minority" images of Japanese Americans and increased public understanding of the trauma experienced by former prisoners and their children. For example, Time's 1981 article, "Burden of Shame," noted the "terrible ironies" of Fourth of July celebrations held "behind barbed wire, in the shadow of sentry towers" and "parents wasting away in tar-paper camp shacks" that "proudly displayed starred banners indicating that their sons were American soldiers." 49 While some Japanese Americans worried that this focus on loyalty and patriotism obscured a history of protest and resistance within the camps, it clearly helped in winning support for redress outside of the Japanese American community.150

## FW

### Topic Solves—2NC

#### Militarism explains Yellow Peril and anti-Asian violence.

Luo, 21—writer and organizer in movements for decarceration, economic justice, and Asian-American issues (Nina, “The American Victims of Washington’s Anti-China ~~Hysteria~~,” <https://newrepublic.com/article/162429/yellow-peril-rhetoric-selling-war-with-china>, dml)

A month later, a shooting at a massage parlor in Atlanta killed six Asian women. In response, #StopAsianHate marches spread across the nation, including in my Chinatown neighborhood. Perhaps after four years of Trump, marches couched in the reductive language of individual “bias” are enough for some. But long before Trump took office, xenophobia, anti-Asian racism, and Yellow Peril–style propaganda served as useful tools to advance American domestic and foreign policy goals. They may yet again.

In recent decades, the defense industry has perfected this rhetoric to make the case for war on China. Republicans and Democrats—including both President Biden and even our most progressive members of Congress—amplify the warmongering and push for increased defense spending. There is no violence like the mass rape and murder of war, yet in this moment of outcry against anti-Asian violence, lawmakers in D.C. are bringing us to the brink of global conflict. Asian and Pacific Islander peoples around the world—who are, like my grandparents living in China, often loved ones of people here—will suffer that violence. And as in all wars, the enemy abroad becomes the enemy at home, making Asian Americans at home once again the target of state and community brutality.

The brinkmanship began in 2011 with former President Barack Obama’s “pivot to Asia,” which transferred 60 percent of American air-naval forces to the Asia-Pacific. Many of these forces are based on the Pacific Islands, including Guam, Okinawa, Palau, and the Chagos Islands, where the U.S. military has deported Indigenous peoples, excavated sacred lands, committed mass sexual violence against women and children, and poisoned drinking water with chemical and biological weapons. We rarely question such contemporary colonialism, but Pacific Islander Indigenous sovereignty is only table stakes in the American “pivot to Asia.”

Indeed, the same people and organizations calling China a grave threat nakedly reveal the real reason for American brinkmanship. The Council on Foreign Relations reports in 2015 that “preserving U.S. primacy in the global system ought to remain the central objective ... in the twenty-first century.” President Biden himself wrote in 2020, “The Biden foreign policy agenda will place the U.S. back at the head of the table.… The world does not organize itself.”

China is not a threat because it’s attacking U.S. soil. China is a threat because it threatens American global hegemony. Here the underlying logic of Yellow Peril becomes clear. Proliferating the false idea that China will take over the West rationalizes starting conflict in the Asia-Pacific; this nearly perfectly parallels the geopolitical theater of a century ago. The Yellow Peril, the faceless horde, the ever-growing yellow population, an existential threat to the West, to liberal human rights, to the market economy, to the “rules-based” order, to American primacy.

In 2021, an elderly woman was knocked to the ground and kicked in the stomach in midtown Manhattan. Before walking away, the alleged attacker said, “Fuck you, you don’t belong here.”

In 1989, two white men ambushed and pistol-whipped Chinese American Jim Loo, killing him. They blamed Loo for American soldier deaths in the Vietnam War. “Our brothers went over to Vietnam, and they never came back.”

In 1982, two white autoworkers beat Vincent Chin to death with a baseball bat. They blamed Chin, a Chinese American, for the rising competitiveness of the Japanese auto industry and decimation of the Detroit Big Three. “It’s because of you little motherfuckers that we’re out of work.”

In 1954, courts convicted Eugene Moy, the editor of the leftist China Daily News, for running advertisements for Chinese banks. He died shortly after his release from prison. A white mob had just rampaged in a Chinatown restaurant in San Francisco to “avenge American deaths” in the Korean War.

Who we define as our international enemy, or perhaps just competitor, also becomes our enemy at home. These incidents are not accidents—they are collateral damage—because Yellow Peril and its relatives xenophobia, sinophobia, anti-Asian racism, and McCarthyism have always been tremendously useful in building consensus in the American public.

Grazier describes a military-industrial-congressional complex first warned of by President Eisenhower in 1961. Defense industry money drives increased military budgets in three ways: defense contracts, operating like pork barrel, that impact the districts and constituents of members of congress; political contributions to congressional campaigns and at least $100 million in annual defense lobbying; and the funding of a national security elite, including $1 billion for think tanks such as the Center for New American Security, the Atlantic Council, and the Council on Foreign Relations, which launder industry interests through mainstream media.

“There’s a lot of talk about flat budget levels. That’s distressing for Pentagon people who want to fund their pet weapons projects,” says Grazier, explaining that defense spending has typically increased during conflicts but can also grow during peace times if officials “talk up an existential military threat” to justify the budget. That new foe is China.

In 2020, a bipartisan group of senators and Admiral Davidson established a new fund for militarism in the Asia-Pacific, the Pacific Deterrence Initiative, or PDI. In March of this year, Davidson asked for $27 billion for PDI to pay for new airfields, long-range missiles, space-based surveillance radars, joint exercises, and more. President Biden’s initial budget, released last month, signals “most, if not all” of these PDI requests will be funded; identifies China as the top “threat”; increases defense spending by 1.6 percent; and allocates half of our nation’s discretionary budget toward defense.

Richard Falk, professor emeritus of international law at Princeton University, notes, “Biden is very much a creature of Cold War bipartisanship. His comfort zone was established by this western alliance against the Soviet Union and communism. Therefore I was worried during the campaign that [Biden] was going to try to reconstitute bipartisanship in foreign policy while pursuing a more partisan agenda domestically. That’s precisely what has happened.”

This summer, the Senate will likely pass a broad, bipartisan package to counter China, including the Strategic Competition Act, which contains a number of hardline stances, some inserted by Senator Marco Rubio. The act expands unilateral sanctions on China, requires referring to Taiwan as a government, and strikes references to “One China” policy. According to Tang, the act also appropriates $100 million annually for 2022 through 2026 for the U.S. Agency for Global Media—including government propaganda programs, such as Voice of America and CIA-backed Radio Free Asia—to spread information on “the negative impact of activities related to [China’s] Belt and Road Initiative.”

Tang speculates the Belt and Road Initiative is targeted because it isolates U.S. trade power and therefore reduces U.S. sanction power. The appropriation is part of a larger $1.5 billion Countering Chinese Influence Fund to combat the “malign influence of the Chinese Communist Party globally.” The act also requires that the Committee of Foreign Investment review any higher institution donation above $1 million for fear of espionage. Senator Mitt Romney recently said he’s “very, very reluctant to bring in students from China ... here to steal technology.”

The Strategic Competition Act—and the rhetoric around it—echoes sinophobia during Cold War McCarthyism, when the FBI banned Chinese Americans from transferring money to their relatives in China who depended on them for survival, tapped phone lines, interrogated an officer of the leftist Chinese Hand Laundry Alliance until he committed suicide, demanded 40 major Chinese American associations produce full records and photographs of their membership within 24 hours, and imprisoned and deported Chinese American intellectuals. When the U.S. is in conflict with another nation, that nation’s diaspora becomes the target of state suspicion and violence here.

The bipartisan Strategic Competition Act is part of Biden’s larger infrastructure proposal, which he pitched in his first address to Congress, arguing we’ll lose to China without it. Progressives celebrated his speech, taking the seemingly not-so-bad (anti-China rhetoric) with the good (massive investments in jobs and infrastructure).

There is “in the Democratic party a desire to [use] a new cold war with China as a tool to organize politics in the U.S. Traditionally, much liberalism after World War Two is Cold War liberalism. Keynesian stimulus is tied to military spending, and you see the Department of Defense as a tool for economic development,” says Chase Madar, legal scholar, adjunct professor at NYU, and author of The Passion of Chelsea Manning. “Good jobs shouldn’t have to depend on a foreign threat, but according to the political logic of many in Washington, that’s what you need to do to make it palatable and salable to people.”

This trade is not only short-sighted, it is immoral. Protracted war, including nuclear, is a “very real possibility,” especially because the U.S. rejects committing to a no-first-use policy for nuclear weapons. Military and military-adjacent spending is some of the least efficient stimulus the government can engage in when compared to investments in education and health care. As warmongering escalates, the powerful military-industrial-congressional complex will likely swallow a larger share of the federal discretionary budget than Democratic consultants had originally planned. Moreover, anti-China rhetoric is easily transformed into anti-socialist rhetoric, the growth of which would make other progressive priorities, such as universal health care, politically toxic.

#### This is offense—excluding analysis of empire makes Asian identity into a monolith.

Jung and Nakagawa, 21—Senior Partners of ChangeLab (Soya and Scot, “A DIFFERENT ASIAN AMERICAN TIMELINE,” <https://aatimeline.com/intro>, dml)

Most Asian American timelines focus only on events related to people who arrived in the United States from Asia. However, that approach paints a misleading picture. It implies that Asian American experiences can be understood in the absence of a broader context of race and capitalism, that the history of a given population can somehow be placed outside the systems of power that organize society. It also assumes that Asian Americans share more in common with each other than with other groups of people, yet there is no single Asian or Asian American past, politics, or culture. Most people from ethnic and national subgroups considered to be Asian American don’t call themselves Asian Americans. Many harbor prejudiced notions of one another. This stems from histories of conflict, conquest, and colonization within the vast and ill-defined continent that Europeans labeled Asia many centuries ago. The boundaries of Asian American identity, like the boundaries of Asia itself, are always in flux, constructed by dynamics of power that demand to be studied: imperialism, racial domination, gender oppression, labor exploitation, war, and social movements.

We cannot fully understand Asian American history without asking why Asians arrived in the Americas, and what relationship their arrival had to the global conditions affecting people across racial and national boundaries at the time. For example, why did the British “coolie” trade accelerate after Britain outlawed slavery in 1833? A more traditional Asian American timeline might not make this correlation visible, yet enslaved African people and indentured “coolies” were closely related within British and U.S. systems of racialized labor control in the 19th Century. Viewing Asian migration to the Americas in this context starts to erode the myth of the United States as a benevolent land of immigrants, to reveal instead a nation effectively ruled by oligarchy in which the plights of various kinds of exploited workers and oppressed groups have been inextricably connected.

Many of us learn to think of race as natural categories of human difference based on skin color, culture, or national origin. This timeline invites us to think of race differently, as an instrument of empire. As Asian American scholar James Kyung-Jin Lee has stated, “Race is better described as a verb than a noun, as production rather than destiny.” Race is the verb that animates a centuries-old world economic process, constructing human difference among the many to build power for the few.

No timeline could fully account for six centuries of history, and this one is no exception. Instead it is meant to serve as a resource for critical thinking, a tool for in-depth and nuanced discussions to see Asian Americans and others both as subjects of domination and as agents of history. It is organized by historical time periods marked by major shifts like the U.S. Civil War, the Spanish-American War, World War II, and Reagan-Era neoliberalism. Events are organized by the reasoning, or logics, that have shaped the United States economically, politically, and culturally – the interrelated struggles over land (settler colonialism), labor (slavery), and geopolitical power (empire). It also features sample stories of freedom, a contested idea that has fueled efforts both to lift greater numbers of people out of oppression, and to amass benefits for some people at the expense of others.

This tool invites us to see both the specificity of group-differentiated oppressions and their relationships to one another within racial capitalism. The importance of studying Asian American history in this way lies in the urgent need to work toward democracy amid rising forms of authoritarianism and nationalism. These dangers are the products of American empire, which has accumulated power and wealth for the few by producing and leveraging divisions among the many. True democracy will depend on our ability to imagine new ways of being that reject racial subjugation and supremacy in favor of “a new society based more on human values,” as the great Grace Lee Boggs put it so well.

### TVA—2NC

#### TVA is a prerequisite to the alt.

Ahn, et al, 21—executive director of Women Cross DMZ and coordinator of Korea Peace Now (Christine, with Terry Park, lecturer in the Asian American Studies Program at the University of Maryland, College Park, and Kathleen Richards, communications director of Women Cross DMZ, “Anti-Asian Violence in America Is Rooted in US Empire,” <https://www.thenation.com/article/world/anti-asian-violence-empire/>, dml)

Yet such hawkish rhetoric against China—which was initially spread by Donald Trump and other Republicans around the coronavirus—has directly contributed to rising anti-Asian violence across the country. In fact, it’s reflective of a long history of US foreign policy in Asia centered on domination and violence, fueled by racism. Belittling and dehumanizing Asians has helped justify endless wars and the expansion of US militarism. And this has deadly consequences for Asians and Asian Americans, especially women.

Anti-Asian violence through US foreign policy has manifested in the wars that have killed millions, torn families apart, and led to massive displacement; in the nuclear tests and chemical weapons storage that resulted in environmental contamination in Okinawa, Guam, and the Marshall Islands; in the widespread use of napalm and Agent Orange in Vietnam, Laos, and Korea; in the US military bases that have destroyed villages and entire communities; in the violence perpetrated by US soldiers on Asian women’s bodies; and in the imposition of sanctions that result in economic, social, and physical harms to everyday people.

These things can’t happen without dehumanization, and this dynamic has had dire consequences for Asian Americans, especially women. Of the 3,800 hate incidents reported against Asian Americans last year, almost 70 percent were directed at women. Exoticized and fetishized Asian American women have borne a dual burden of both racism and sexism, viewed on one hand as submissive and sexually available “lotus blossoms” and on the other as manipulative and dangerous “dragon ladies.”

Asian women are particularly harmed by US militarism and foreign policy—economically, socially, and physically. In Korea, women have long been collateral damage from militarized US foreign policy. The 1950–53 Korean War, which killed 4 million people, led to social and political chaos, separated families, and orphaned and widowed millions, creating conditions where women were without homes and work. This forced women into prostitution, according to Katherine H.S. Moon, an expert on US military prostitution in South Korea and author of the book Sex Among Allies.

Over a million Korean women have worked in “camptowns” that surround US military bases in South Korea. This system of military prostitution was controlled by the South Korean government and supported by the US military in order to strengthen military alliances and prop up the South Korean economy. Yet the women were stigmatized, “destined to invisibility and silence,” according to Moon.

These camptowns not only facilitated the immigration of thousands of Korean “war brides” to the United States, but also transported the system itself. As the US military steadily reduced its troop presence in Asia, camptown establishments, facing social upheaval and economic uncertainty, began sending their madams and sex workers to US domestic military sites through brokered marriages with US servicemen. Many of these exploited Korean women arrived in the US South, a region housing many domestic military bases, which saw the proliferation of military prostitution. By the 1980s, the Korean American sex trade would spread from these Southern military towns to elsewhere in the United States—including the Atlanta metropolitan area, site of Tuesday’s horrific mass shooting.

We see this anti-Asian violence now manifesting in ramped up US aggression toward China and the ubiquitous US military presence throughout the Asia-Pacific region. According to American University professor David Vine, there are approximately 300 US bases in the Asia-Pacific region circling China, which along with “aggressive naval and air patrols and military exercises, increases threats to Chinese security and encourages the Chinese government to respond by boosting its own military spending and activity.” The military buildup is raising regional military tensions, and increasing the risk of a deadly military clash or what should be an unthinkable war between two nuclear-armed powers.

If we are to successfully stop anti-Asian hatred here in the United States, we must recognize how US foreign policy perpetuates it and end US militarism and wars throughout the Asia-Pacific region. The Biden administration could start by formally ending the Korean War, which cost nearly $400 billion (in 2019 dollars) to fight, and continues to be a source of justification for military-centered policies by the United States, South Korea, Japan, and others in the region.

As we address violence against Asians and women and dismantle white supremacy here at home, we must also fundamentally reorient US foreign policy in the Asia-Pacific region away from domination and control and toward true human security for all.

## Anti-Blackness K

### 1nc anti-blackness links

#### They have the wrong starting point – their move to situate the conversation to the position of Asian immigrants renders global anti-blackness anon issue – this starting point of the Pacific passage ignores the original violence of the Middle Passage

**Copeland and Sexton 3** [2003, Raw Life: An Introduction Jared Sexton

AND

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It is at this impasse and with such questions that the essays collected here begin: with the notion derived from Fanon, of the impossibility of representing race, either for the slave or the master, outside of an entrenched visual schema predicated on the fungibility of the black slave that this reckoning comes to the fore at this moment and that it connects cultural practitioners working across a range of disciplines –art, history, literature, film, critical theory –not only suggests the longevity of Fanon’s insight, but also underlines the pressing need to think the structural and structuring function of racial difference for our symbolic economies. For it is that very function which contemporary racial theory more often than not seeks to leap over, in the process revealing its own ineffectuality, a kind of willful blindness that cannot be overstated. In its single-minded capacity to concentrate on everything except that which matters most in the restructuring of white supremacy, such theory is undoubtedly more egregious than intellectual faux pas or public disservice. It is a modality of complicity, or better, fraud. But the fraudulence of this diverse intellectual project is not only analytic; it is also ethical. Besieged by the conservative restoration, the Left finds itself today enamored of political pragmatism and in thrall  to the lures of counter-hegemonic populism. From the emergent networks of anti-globalization to the reinvigorated peace movement, from the embattled environmentalist campaigns to the desperate efforts at urban police reform, the official rhetoric is multiracial and the organizational logic is coalition. Yet, for whatever energies are dispensed in elaborating the new complexity of race in the age of globality, the radical imagination inexorably comes to rest on the assumption of horizontality, that is ot say, a progressive community-in-struggle, even if only a possible one. Indeed, it has become commonplace in the U.S. to call for a paradigm shift with respect to racial theory and the politics of anti-racism. This clarion call resonates in the ivory towers of academe, in the pages of the most useless print media outlets, certainly in the alternative press, and in the policy papers and strategic deliberations of progressive non-profit institutes and community-based organizations. What we are told, in a variety of tones and tenors, is that race matters are no longer –if they ever were – “simply black and white” at the least, the focus of such a Manichean lens is deemed inadequate to apprehend the current and historical relatity of U.S. racial formation (to say nothing of the Americas more generally or other regions of the world) At its worst, this dichotomous view is rendered as politically stunting and, moreover, as effectively excluding “discussion of the colors in the middle, now inexorable parts of the Black/White spectrum.” We now enjoy a vast literature in the social sciences and humanities detailing the vexed position (or positions), between the black and the white. “Neither black nor white” thus indicates not only the articulation of multiracial (or Mixed race) identity claims in the post-civil rights era, but also the contemporary reformulations of critique and political mobilization among Asian Americans, Pacific Islanders, Chicana/os, Latina/os, and Native American peoples. Of course, racial discourse in what would become the U.S., from the colonial era onward, has always been multi-polar, so to speak, and the psychodynamics of race have always been quite complex; the lines of force and the relations of racial power have been reconfigured regularly across a multiplicity of times and spaces. In fact, the notion of a black/white paradigm is something of a theoretical fiction, deployed for a wide range of purposes. In our attempts to displace it, then, we do well to recognize it as a recent emergence, involved in an imaginary lure that says more about the historical preoccupations of white supremacy than it does about, say, the blind insistence of black scholars, activists, or communities. When perusing the critical literature on the “explanatory difficulty” of present-day racial politics, one frequently wonders exactly to whom the demand to go “beyond black and white” is being addressed. Also puzzling is the singularly incoherent nature of the reasoning demonstrated in current race talk, a failure, that is, to offer cogent accounts of the implications of this newfound (or, more precisely, rediscovered) complexity. Taken together, these twin ambiguities beg a key question: what economies of enunciation are involved in this broadly atterned discursive gesture to put an end to “biracial theorizing”? Legal scholar Mari Matsuda offers a provocative thought on this score. During a symposium on critical race theory at the Yale Law School in 1997 she claimed: [When we] say we need to move beyond Black and white, this is what a whole lot of people say or feel or think: “thank goodness we can get off that paradigm, because those black people made me feel so uncomfortable. I know all about Blacks, but I really don’t know anything about Asians, and while we’re deconstructing that Black-white paradigm, we also need to reconsider the category of race altogether, since race, as you know, is a constructed category, and thank god I don’t have to take those angry black people seriously anymore.”  Importantly, the comment is drawn from an otherwise sympathetic mediation on a particular danger attendant to the desire for new analyses, and the often anxious drive for multiracial coalition, namely, the persistent risk of forgetting the centrality of anti-blackness to global white supremacy. Fanon, again, is prescient: “Wherever he goes, the negro remains a Negro” (B, 173). Wherever; there is no outside. Too often we forget, here in the U.S. especially, that there are blacks everywhere. When so many speak of the peculiarity of race as a North American obsession (one hears of the odd rigidity of the Anglo-Saxon racial formation), it is important to think about black people as situated in those myriad locales supposedly outside of or alternate to the black-white binary. Lewis Gordon, philosopher and leading contemporary commentator on Fanon, writes: Although there are people who function as “the blacks” of particular contexts, there is a group of people who function as the blacks everywhere. They are called, in now-archaic language –Negroes. Negroes are the blacks of everywhere, the black of blacks, the blackest blacks. Blackness functions as the prime racial signifier. It is the element that enters a room and frightens Reason out… The historical specificity of blackness as a point from which the greatest distance must be forged entails its status as metaphor.

#### They parallel black suffering to Asian suffering – every attempt to position the black by the way of analogy is parasitic upon blackness

Wilderson 10 [Frank B. Wilderson, Associate Professor of African American Studies and Drama at the University of California & former member of the Umkhonto we Sizwe, Red, White and Black: Cinema and the Structure of US Antagonisms]

This is one of several moments in *Black Skin, White Masks* when Fanon splits the hair between social oppression and structural suffering, making it possible to theorize the impossibility of a Black ontology (thus allowing us to meditate on how the Black suffers) without being chained to the philosophical and rhetorical demands of analogy, demands which the evidentiary register of social oppression (i.e., how many Jews died in the ovens, how many Blacks were lost in the Middle Passage) normally imposes upon such meditations. The ruse of analogy erroneously locates the Black in the world—a place where s/he has not been since the dawning of Blackness. This attempt to position the Black in the world by way of analogy is not only a mystification, and often erasure, of Blackness’s grammar of suffering (accumulation and fungibility or the status of being non-Human) but simultaneously also a provision for civil society, promising an enabling modality for Human ethical dilemmas. It is a mystification and an erasure because, whereas Masters may share the same fantasies as Slaves, and Slaves can speak as though they have the same interests as Masters, their respective grammars of suffering are irreconcilable. In dragging his interlocutors kicking and screaming through “Fact of Blackness,” or what Ronald Judy has translated more pointedly as “The Lived Experience of the Black,” Fanon is not attempting to play “oppression Olympics” and thus draw conclusions that Blacks are at the top of every empirical hierarchy of social discrimination, though that case has also been made.xv Having established that, yes, the Jew is oppressed (and, yes, the Black is oppressed) Fanon refuses to let the *lived experience* of oppression dictate the terms of his meditations on suffering. He writes: [The Jew] belongs to the race of those [who] since the beginning of time have never known cannibalism. What an idea, to eat one’s father! Simple enough *one has only not to be a nigger* [emphasis mine]…[I]n my case everything takes on a new guise. I am the *slave* not of an *idea* others have of me but of my own appearance. (*Black Skin, White Masks* 115-16) Two tensions are at work here. One operates under the labor of ethical dilemmas-- “simple enough one has only not to be a nigger.”xvi This, I submit, is the essence of *being* for the White and non-Black position: ontology scaled down to a global common denominator. The other tension is found in the impossibility of ethical dilemmas for the Black: “I am,” Fanon writes, “a *slave* not of an *idea* others have of me but of my own appearance.” Being can thus be thought of, in the first ontological instance, as nonniggerness; and slavery then as niggerness. The visual field, “my own appearance,” is the cut, the mechanism that elaborates the division between the non-niggerness and slavery, the difference between the living and the dead. Whereas Humans exist on some plane of being and thus can become existentially present through some struggle for/of/through recognition, Blacks cannot attain the plane of recognition (West 82). Spillers, Fanon, and Hartman maintain that the violence that has positioned and repetitively re-positions the Black as a void of historical movement is without analog in the suffering dynamics of the ontologically alive. The violence that turns the African into a thing is without analog because it does not simply oppress the Black through tactile and empirical technologies of oppression, like the “little family quarrels” which for Fanon exemplify the Jewish Holocaust. Rather, the gratuitous violence of the Black’s first ontological instance, the Middle Passage, “wiped out [his/her] metaphysics…his [her] customs and sources on which they are based” (*BSWM* 110). Jews went into Auschwitz and came out as Jews. Africans went into the ships and came out as Blacks. The former is a Human holocaust; the latter is a Human *and* a metaphysical holocaust. That is why it makes little sense to attempt analogy: the Jews have the Dead (the *Muselmenn*) among them; the Dead have the Blacks among them. This violence which turns a body into flesh, ripped apart literally and imaginatively, destroys the possibility of ontology because it positions the Black within an infinite and indeterminately horrifying and open vulnerability, an object made available (which is to say fungible) for any subject. As such, “the black has no ontological resistance in the eyes of the white man” (110) or, more precisely, in the eyes of Humanity.

#### There is an impact to all of these links – obscuring the structural position of blackness causes their coalitional politics to fail – this explicitly indicts their method which is BASED upon intersectionality/coalitions – only the alt solves

Sexton ’10 [Jared Sexton, Associate professor of African American studies and film and media studies at the University of California, Irvine, 2010, “People-of-Color-Blindness; Notes on the Afterlife of Slavery,” <http://socialtext.dukejournals.org/content/28/2_103/31.full.pdf>]

If the oppression of nonblack people of color in, and perhaps beyond, the United States seems conditional to the historic instance and functions at a more restricted empirical scope, antiblackness seems invariant and limitless (which does not mean that the former is somehow negligible and short-lived or that the latter is exhaustive and unchanging). If pursued with some consistency, the sort of comparative analysis outlined above would likely impact the formulation of political strategy and modify the demeanor of our political culture. In fact, it might denature the comparative instinct altogether in favor of a relational analysis more adequate to the task. Yet all of this is obviated by the silencing mechanism par excellence in Left political and intellectual circles today: “Don’t play Oppression Olympics!” The Oppression Olympics dogma levels a charge amounting to little more than a leftist version of “playing the race card.” To fuss with details of compara- tive (or relational) analysis is to play into the hands of divide-and-conquer tactics and to promote a callous immorality.72 However, as in its conserva- tive complement, one notes in this catchphrase the unwarranted transla- tion of an inquiring position of comparison into an insidious posture of competition, the translation of ethical critique into unethical attack. This point allows us to understand better the intimate relationship between the censure of black inquiry and the recurrent analogizing to black suffering mentioned above: they bear a common refusal to admit to significant dif- ferences of structural position born of discrepant histories between blacks and their political allies, actual or potential. We might, finally, name this refusal people-of-color-blindness, a form of colorblindness inherent to the concept of “people of color” to the precise extent that it misunderstands the specificity of antiblackness and presumes or insists upon the mono- lithic character of victimization under white supremacy73 — thinking (the afterlife of) slavery as a form of exploitation or colonization or a species of racial oppression among others.74

The upshot of this predicament is that obscuring the structural position of the category of blackness will inevitably undermine multiracial coalition building as a politics of radical opposition and, to that extent, force the question of black liberation back to the center of discussion. Every analysis that attempts to understand the complexities of racial rule and the machinations of the racial state without accounting for black existence within its framework—which does not mean simply listing it among a chain of equivalents or returning to it as an afterthought—is doomed to miss what is essential about the situation. Black existence does not represent the total reality of the racial formation — it is not the beginning and the end of the story—but it does relate to the totality; it indicates the (repressed) truth of the political and economic system. That is to say, the whole range of positions within the racial formation is most fully understood from this vantage point, not unlike the way in which the range of gender and sexual variance under patriarchal and heteronormative regimes is most fully understood through lenses that are feminist and queer.75 What is lost for the study of black existence in the proposal for a decentered, “postblack” paradigm is a proper analysis of the true scale and nature of black suffer- ing and of the struggles — political, aesthetic, intellectual, and so on — that have sought to transform and undo it. What is lost for the study of nonblack nonwhite existence is a proper analysis of the true scale and nature of its material and symbolic power relative to the category of blackness.76

This is why every attempt to defend the rights and liberties of the latest victims of state repression will fail to make substantial gains inso- far as it forfeits or sidelines the fate of blacks, the prototypical targets of the panoply of police practices and the juridical infrastructure built up around them. Without blacks on board, the only viable political option and the only effective defense against the intensifying cross fire will involve greater alliance with an antiblack civil society and further capitulation to the magnification of state power. At the apex of the midcentury social movements, Kwame Ture and Charles Hamilton wrote in their 1968 clas- sic, Black Power: The Politics of Liberation, that black freedom entails “the necessarily total revamping of the society.”77 For Hartman, thinking of the entanglements of the African diaspora in this context, the necessarily total revamping of the society is more appropriately envisioned as the creation of an entirely new world:

I knew that no matter how far from home I traveled, I would never be able to leave my past behind. I would never be able to imagine being the kind of person who had not been made and marked by slavery. I was black and a history of terror had produced that identity. Terror was “captivity without the possibility of flight,” inescapable violence, precarious life. There was no going back to a time or place before slavery, and going beyond it no doubt would entail nothing less momentous than yet another revolution.7

### at: intersectionality

#### INFINITE ENSEMBLES—the uncritical laundry-listing of gender, sexuality, race, class, etc etc reproduces the infinite permutations of Whiteness – it erases the specificity of Blackness and destroys our ability to fight Whiteness – it must be theorized as a larger ensemble, not in its specific manifestations

Wilderson 10 –

(Frank, Red White & Black, pgs 297-8)

The diversity of Whiteness is so profound that there are no fixed, always already, positions within it, no a priori criminality, for example, and no permanent saintliness. Spatial and temporal capacity is so immanent on the field of Whiteness that the effects and permutations of its ensemble of questions and the kinds of White bodies that can mobilize this universe of combinations are seemingly infinite as well: White prostitutes can catalyze a 180-degree ethical reversal (given that prostitution is cinema's role-of-choice for Black women, one would expect—if Blacks and Whites were both structurally alive—these catalytic moments to pop up in every other film!). Even the White dead can hold the White living to account. We are dealing here with a structure whose idiom of power is auto didactic and auto productive: it generates its lessons, its ensemble of questions and their attendant ethical dilemmas, and its institutional ca- pacity, internally, without recourse to bodies or questions beyond its own gene pool. What keeps it from replicating the decline in genetic health experienced when incest takes place in biology is the fact that it is not biological. Whiteness has an infinite ensemble of signified possibilities: The infinite possibilities themselves cannot be definitively named; their dramas of value cannot be predicted with anything approaching precision; nor can the reproduction of these possibilities be threatened with mortality, because Whiteness's internal mutation is limitless. But what can be named, predicted, and put to death is the coherence of the ensemble as an ensemble. And the same thing that guarantees the ensemble's coherence is the thing that threatens its coherence with destruction: the Black.¶ The diversity of Whiteness, its "recovery of difference in a hierarchical and vertical distribution of being," depends on the "laterality" of Blackness to maintain its internal diversity. Hortense Spillers uses the term laterality to mean that whereas Whiteness exists on a vertical plane where the "recovery of difference" is not only guaranteed, but ethically mandated, Blackness exists on a lateral plane where "it [is] possible to rank human with animal." In other words, the taxonomy of things would indeed be dismantled as a taxonomy if "White person" were added to the list; but it would merely be expanded if "Black person" were added to the list. Blacks, broadly speaking, connote a taxonomy of things. As Ronald Judy asks, in a question I used as an epigraph for chapter 1 0 , "Can there be a community' of niggers, as opposed to a 'bunch' or a collection'?" "In effect, the humanity of the African personality is placed in quotation marks under . . . signs" like community.

### at: asian diaspora

Their narration of the Asian diaspora ONLY through the lens of loss, trauma, and displacement DISTRACTS from our complicity in settler and antiblack violence

Menon and Balasubrimanian 14 [4-23-2014, Alok Vaid-Menon and Janani Balasubrimanian, DarkMatter, a queer South Asian performance and literary arts duo, “Part 2: When White Supremacy isn’t About White People,” <http://darkmatterrage.com/part-2-when-white-supremacy-isnt-about-white-people/>]

4. While it is often convenient to blame white settlers, people of color can also participate in settler colonialism. We have to name our privileges as settlers and attempt to operate in solidarity with indigenous peoples in order to do transformative work.¶ Another fabricated parallel between our work and queer Palestine was the common enemy: white homonationalism. This is simply not the case. Queer Palestinians are fundamentally fighting a decolonization struggle where the political ask is for the actual unsettlement of foreign peoples and the right of return to land. It was easy for us to agree with this demand in Palestine, and yet harder and more necessary for us to approach North American queer politics with unsettlement as a mandate.¶ Our class- and caste- privileged Indian families came to this land for economic opportunity. In other words our families benefit from the spoils of centuries of genocide and anti-black racism. Rather than challenging the systematic racism that allowed our families to succeed and obtain economic progress in this country, our families remained silent and continued to succeed on the backs of other people of color. As Asian Americans we have previously narrated our diasporic stories only through the lens of loss, trauma, and a sense of displacement. What this does is distract away from our mutual complicity in violence against Native Americans and African Americans who were involuntary brought to this context. As privileged diasporic people of color we have to reframe and rearticulate the ways we narrate our immigration toward mutual accountability. We must not only see ourselves as ‘oppressed,’ but also perpetrators of settler colonial and anti black violence. This means that we must come at our queer of color domestic activism from a position of allyship in similar ways to the transnational work that we participate in.

#### This turns the K and causes their intersectional analysis to fail –by failing to interrogate how their own self reinforces oppression they poison their own performance and perpetuate the harms of the 1NC – intersectional analyses must begin with “I”

Moore 11 [12/2011, Darnell L. Moore is a writer and activist whose work is informed by anti-racist, feminist, queer of color, and anti-colonial thought and advocacy. Darnell's essays, social commentary, poetry, and interviews have appeared in various national and international media venues, including the Feminist Wire, Ebony magazine, and The Huffington Post. “On Location: The “I” in the Intersection," <http://thefeministwire.com/2011/12/on-location-the-i-in-the-intersection/>]

The most general statement of our politics at the present time would be that we are actively committed to struggling against racial, sexual, heterosexual, and class oppression and see as our particular task the development of integrated analysis and practice based upon the fact that the major systems of oppression are interlocking. The synthesis of these oppressions creates the conditions of our lives. As black women we see black feminism as the logical political movement to combat the manifold and simultaneous oppressions that all women of color face. -The Combahee River Collective in A Black Feminist Statement¶ Many radical movement builders are well-versed in the theory of intersectionality. Feminists, queer theorists and activists, critical race scholars, progressive activists, and the like owe much to our Black feminist sisters, like The Combahee River Collective, who introduced us to the reality of simultaneity–as a framework for assessing the multitude of interlocking oppressions that impact the lives of women of color–in A Black Feminist Statement (1978). Their voices and politics presaged Kimberlé Crenshaw’s very useful theoretical contribution of “intersectionality” to the feminist toolkit of political interventions in 1989.¶ Since its inception, many have referenced the term—sometimes without attribution to the black feminist intellectual genealogy from which it emerged—as a form of en vogue progressive parlance. In fact, it seems to be the case that it is often referenced in progressive circles as a counterfeit license (as in, “I understand the ways that race, sexuality, class, and gender coalesce. I get it. I really do.”) to enter resistance work even if the person who declares to have a deep “understanding” of the connectedness of systemic matrices of oppression, themselves, have yet to discern and address their own complicity in the maintenance of the very oppressions they seek to name and demolish. I am certain that I am not the only person who has heard a person use language embedded with race, class, gender, or ability privilege follow-up with a reference to “intersectionality.”¶ My concern, then, has everything to do with the way that the fashioning of intersectionality as a political framework can lead toward the good work of analyzing ideological and material systems of oppression—as they function “out there”—and away from the great work of critical analyses of the ways in which we, ourselves, can function as actants in the narratives of counter-resistance that we rehearse. In other words, we might be missing the opportunity to read our complicities, our privileges, our accesses, our excesses, our excuses, our modes of oppressing—located “in here”—as they occupy each of us.¶ Crenshaw’s theorization has provided us with a useful lens to assess the problematics of the interrelated, interlocking apparatuses of power and privilege and their resulting epiphenomena of powerlessness and subjugation. Many have focused on the external dimensions of oppression and their material results manifested in the lives of the marginalized, but might our times be asking of us to deeply consider our own “stuff” that might instigate such oppressions?¶ What if we extended Crenshaw’s theory of intersectionality by invoking what we might name “intralocality”? Borrowing from sociologists, the term “social location,” which broadly speaks to one’s context, highlights one’s standpoint(s)—the social spaces where s/he is positioned (i.e. race, class, gender, geographical, etc.). Intralocality, then, is concerned with the social locations that foreground our knowing and experiencing of our world and our relationships to the systems and people within our world. Intralocality is a call to theorize the self in relation to power and privilege, powerlessness and subjugation. It is work that requires the locating of the “I” in the intersection. And while it could be argued that such work is highly individualistic, I contend that it is at the very level of self-in-relation-to-community where communal transformation is made possible.

### at: black/white binary bad

#### Their desire to go beyond the black white binary simply strengthens anti blackness. We must start with analysis of the slave to every have truly meaningful cross racial political analysis – the impact is anti blackness

Smith ‘6 [Andrea smith- activist/educator who was born in San Francisco and grew up in Southern California. She received her PhD in History of Consciousness from the University of California, Santa Cruz.- Heteropatriarchy and the three pillars of whaite supremacy- Color of Violence-Incite! The anthology- p. 69-70]

Our organizing can also reflect anti-Black racism. Recently, with the out- growth of "multiculturalism" there have been calls to "go beyond the black/white binary" and include other communities of color in our analysis, as presented in the third scenario. There are a number of flaws with this analysis. First, it replaces an analysis of white supremacy with a politics of multicultural representation; if we just include more people, then our practice will be less racist. Not true. This model does not address the nuanced structure of white supremacy, such as through these distinct logics of slavery, genocide, and Orientalism. Second, it obscures the centrality of the slavery logic in the system of white supremacy, which is based on a black/white binary. The black/white binary is not the only binary which characterizes white supremacy, but it is still a central one that we cannot "go beyond" in our racial justice organizing efforts. If we do not look at how the logic of slaveability inflects our society and our thinking, it will be evident in our work as well. For example, other communities of color often appropriate the cultural work and organizing strategies of African American civil rights or Black Power movements without corresponding assumptions that we should also be in solidarity with Black communities. We assume that this work is the common "property of all oppressed groups, and we can appropriate it without being accountable. Angela P. Harris and Juan Perea debate the usefulness of the black/white binary in the book, Critical Race Theory. Perea complains that the black/white binary fails to include the experiences of other people of color. However, he fails to identify alternative racializing logics to the black/white paradigm. Meanwhile, Angela P. Harris argues that "the story of 'race' itself is that of the construction of Blackness and whiteness. In this story, Indians, Asian Americans, and Latinos do exist. But their roles are subsidiary to the fundamental binary national drama. As a political claim, Black exceptionalism exposes the deep mistrust and tensions among American ethnic groups racialized as nonwhite."~ Let's examine these statements in conversation with each other. Simply saying we need to move beyond the black/white binary (or perhaps, the "black/non- black" binary) in US racism obfuscates the racializing logic of slavery, and prevents us from seeing that this binary constitutes Blackness as the bottom of a color hierarchy. However, this is not the only binary that fundamentally constitutes white supremacy. There is also an indigenous/settler binary, where Native genocide is central to the logic of white supremacy and other non-indigenous people of color also form "a subsidiary" role. We also face another Orientalist logic that fundamentally constitutes Asians, Arabs, and Latinos as foreign threats, requiring the United States to be at permanent war with these peoples. In this construction, Black and Narive peoples play subsidiary roles. Clearly the black/white binary is central to racial and political thought and practice in the United States, and any understanding of white supremacy must take it into consideration. However, if we look at only this binary, we may misread the dynamics of white supremacy in different contexts. For example, critical race theorist Cheryl Harris's analysis of whiteness as property reveals this weakness. In Critical Race Theory, Harris contends that whites have a property interest in the preservation of whiteness, and seek to deprive those who are "tainted" by Black or Indian blood from these same white property interests. Harris simply assumes that the positions of African Americans and American Indians are the same, failing to consider US policies of forced assimilation and forced whiteness on American Indians. These policies have become so entrenched that when Native peoples make political claims, they have been accused of being white. When Andrew Jackson removed the Cherokee along the Trail of Tears, he argued that those who did not want removal were really white.7 In contemporary times, when I was a non-violent witness for the Chippewa spearfishers in the late 1980s, one of the more frequent slurs whites hurled when the Chippewa attempted to exercise their treaty-protected right to fish was that they had white parents, or they were really white. Status differences between Blacks and Natives are informed by the different economic positions African Americans and American Indians have in US society. & African Americans have been traditionally valued for their labor, hence it is in the interest of the dominant society to have as many people marked "Black," as possible, thereby maintaining a cheap labor pool; by contrast, American Indians have been valued for the land base they occupy, so it is in the interest of dominant society to have as few people marked "Indian" as possible, facilitating access to Native lands. "Whiteness" operates differently under a logic of genocide than it does from logic of slavery. Another failure of US-based people of color in organizing is that we often fall back on a "US-centricism," believing that what is happening "over there" is less important than what is happening here. We fail to see how the United States maintains the system of oppression here precisely by tying our allegiances to the interests of US empire "over there." Heteropatriarchy and White Supremacy Heteropatriarchy is the building block of US empire. In fact, it is the building block of the nation-state form of governance. Christian Right authors make these links in their analysis of imperialism and empire. For example, Christian Right activist and founder of Prison Fellowship Charles Colson makes the connection between homosexuality and the nation-state in his analysis of the war on terror, explaining that one of the causes of terrorism is same-sex marriage: Marriage is the traditional building block of human society, intended both to unite couples and bring children into the world . . . There is a natural moral order for the family . . . the family, led by a married mother and father, is the best available structure for both child- rearing and cultural health. Marriage is not a private institution designed solely for the individual gratification of its participants. If we fail to enact a Federal Marriage Amendment, we can expect not just more family breakdown, but also more criminals behind bars and more chaos in our streets." Colson is linking the well-being of US empire to the well-being of the heteropatriarchal family. He continues: When radical Islamists see American women abusing Muslim men, as they did in the Abu Ghraib prison, and when they see news coverage of same-sex couples being "married" in US towns, we make this kind of freedom abhorrent-the kind they see as a blot on Allah's creation. We must preserve traditional marriage in order to protect the United States from those who would use our depravity to destroy us? As Ann Burlein argues in Lift High the Cross, it may be a mistake to argue that the goal of Christian Right politics is to create a theocracy in the United States. Rather, Christian Right politics work through the private family (which is coded as white, patriarchal, and middle class) to create a "Christian America." She notes that the investment in the private family makes it difficult for people to invest in more public forms of social connection. In addition, investment in the suburban private family serves to mask the public disinvestment in urban areas that makes the suburban lifestyle possible. The social decay in urban areas that results from this disinvestment is then construed as the result of deviance from the Christian family ideal rather than as the result of political and economic forces. As former head of the Christian Coalition, Ralph Reed, states: "'The only true solution to crime is to restore the family,"10 and "Family break-up causes poverty."" Concludes Burlein, "'The family' is no mere metaphor but a crucial technology by which modern power is produced and exercised."'\* As I have argued elsewhere, in order to colonize peoples whose societies are nor based on social hierarchy, colonizers must first naturalize hierarchy through instituting patriarchy.13 In turn, patriarchy rests on a gender binary system in which only two genders exist, one dominating the other. Consequently, Charles Colson is correct when he says that the colonial world order depends on heteronormativity. Just as the patriarchs rule the family, the elites of the nation-state rule their citizens. Any liberation struggle that does not challenge heteronormativity cannot substantially challenge colonialism or white supremacy. Rather, as Cathy Cohen contends, such struggles will maintain colonialism based on a politics of secondary marginalization where the most elite class of these groups will further their aspirations on the backs of those most marginalized within the community. Through this process of secondary marginalization, the national or racial justice struggle takes on either implicitly or explicitly a nation-state model as the end point of its struggle-a model of governance in which the elites govern the rest through violence and domination, as well as exclude those who are not members of "the nation." Thus, national liberation politics become less vulnerable to being coopted by the Right when we base them on a model of liberation that fundamentally challenges right-wing conceptions of nation. We need a model based on community relationships and on mutual respect.

### ---at: andrea smith bad

#### The attacks on Andrea Smith are founded in anonymous online blogs and elite Cherokee councils- NEITHER of which reflects the grass-roots Natives who claim and embrace Smith as an important and dedicated participant in social justice struggles

Little, 15 – Muscogee Creek/Seminole woman from the Skunk clan; ceremonial practitioner and a language revitalizationist; degree in Native Studies from the University of Oklahoma

[Tawna, "Statement from Tawna Barnett-Little" Against the Politics of Disposability, 7-2-15, https://againstpoliticsofdisposability.wordpress.com/2015/07/02/tawna-little-muscogee-creekseminole/, accessed 10-2-15]

[Dawes era note: The Dawes Act of 1887 authorized the President of the United States to survey American Indian tribal land and divide it into allotments for individual Indians.]

First, I will identify who I am unlike the rest of these coward academics hiding behind anonymous online spaces. Tanuce cv hocefkvt omen vm liketvt konepvlket on vm etvlwvt kvlicet os. Momen ocesvlke ecustet owis mon nokosvlke ecuste owis. Este-cate sofvckat owis. My name is Tawna Little and I am a FULL-BLOOD – Muscogee Creek/Seminole woman (YES, I am enrolled/CDIB carrying) from the Skunk clan, and a daughter of the Bear clan. I was raised and still reside in my community; i’m a ceremonial practitioner and a language revitalizationist. My family has maintained strong ties and leadership roles in Muscogee ceremonial, church, and political life. I hold a degree in Native Studies from the University of Oklahoma. I am not interested in entertaining silly online identity attacks that seem to consume your academic careers in order to make you feel personally more authenticated as Indigenous persons, HOWEVER, Andrea Smith is a long time dear friend of my family and your actions are beyond offensive and belittling to someone we deeply care about. Thus, I wish to lend my support to Andy by speaking truth while you all continue to act as bullies and process your own insecurities. I want to point out that my family has long visited Cherokee ceremonial grounds (quite regularly during some seasons) to lend support in participation just as Cherokee ceremonial practitioners have long done the same during our Muscogee ceremonial dances. **I have never seen any** of these **Andrea Smith-attackers in attendance at Cherokee ceremonies; none of them are Cherokee speakers nor are they ceremonial practitioners**; most of these folks are of minimal blood quantum and look white. In fact, these very kind of identity police are who traditional ceremonial practitioners get a good laugh at. I should also make a disclaimer here that I do not uphold blood-quantum, tribal enrollment and phenotype as authenticating markers of Indigenous identity; I am however very much aware that the only factor distinguishing Andrea Smith from her attackers is a tribal enrollment card. What else signifies these attackers as Indigenous? **Who employed them as the authority on Cherokee identity?** It certainly wasn’t the grass roots Cherokee persons with whom I fellowship. If I felt like participating in these kinds of colonial games instead of working to save my language from extinction and participating in my ceremonies in order to maintain the essence of my Muscogee identity, I would endeavor to call out all of these insecure “native” academics on their whiteness. Why do these attackers not speak their languages? Why weren’t they raised in traditional ceremonial ways? Why are they living far from their communities to pursue selfish academic positions? It’s because life is complicated! Moreover, historical realities are often ugly. For these same reasons I even find compassion for these hateful acting persons. Just because Andrea Smith’s ancestors did not enroll in the Cherokee Nation during the Dawes era does not mean she does not have the right to identify as Cherokee. It sounds as though you all are upholding Cherokee enrollment as the ultimate standard for Cherokee identity and the right to claim Cherokee identity. If so, that means you uphold an individual with a blood quantum of 1/4,096 (the last I heard it was the lowest recorded Cherokee Nation blood quantum, meaning the last full-blood in the family was 15 generations ago), who may have never even seen or interacted with another native person in their life, as somehow more legitimately Indigenous than an individual that grew up knowing she was Indigenous from oral tradition (but not enrolled) in her family and accepted a responsibility **to engage social justice advocacy for Indigenous Peoples.** All academics have shortcomings and it amazes me that you choose to attack Andy’s identity as her shortcoming and take it to this level. That’s the best you could do in finding something to call her out on? How pitiful. Why not go after her scholarship, her arguments? Oh yeah, because they’re brilliant! And her work is used in both grass roots organizing spaces and academic settings. **Testimonies of Indigenous female rape survivors have asserted Andy’s work to be healing and empowering.** Andrea and her sister Justine have both been extraordinarily positive voices in my life as well as other members of my family. This also rings true during times of hardship when their words have been encouraging and they have been physically present in our lives…..oh, remember that I said i’m a FULL-BLOOD (black haired-brown skinned-Indian looking individual unlike the rest of these insecure-in-your-identity-academic-mixed-bloods who I would not have criticized until you decided to exercise identity policing) which means that Andrea does hang out with Native People, contrary to previous blogging claims that she does not hang around other Natives. Many others can attest to that as well. As we say in Muscogee, “mistvlke fekcahke owet fullet owes” (they are going about in a jealous way). I guess if my academic scholarship was lacking, I might also develop jealousy toward Andrea Smith. So, attacking her identity on grounds of not having an enrollment card and “misrepresenting herself” is an easy target eaten up by non-grass roots Indigenous Peoples and is something that only mainstream whites and insecure Natives seem to care about. It is obvious that these attackers do not know Andrea and her personal family challenges, particularly those surrounding her lineage. Trying to survive in academia can be brutal in Native Studies arenas where everyone wants to be Indianer-than-thou. I am altogether compassionate toward her claim/misunderstanding about enrollment in the Cherokee Nation. That doesn’t dismiss her exceptional work, commitment to social justice and desire to end global oppression. Andrea does not claim to be a Cherokee cultural or language expert and these attackers evidently have fooled folks into thinking they are somehow culturally and linguistically superior to Andy in their Native identity. Wow, that’s a joke! Andrea has not used her Cherokee identity as a way to promote herself; rather, she identifies with what she was told her identity is growing up and she participates in social justice advocacy- for people other than herself. In fact, she went to law school to defend those who cannot defend themselves. Andrea has made INCREDIBLE personal sacrifices for her family and herself in order to fight for justice, and anyone that attempts to discredit her clearly does not get the whole picture. The virtues of my Muscogee People (vnokeckv, eyasketv, mehenwv, kvncvpkv) do not support this kind of hateful behavior. It sounds like most of these attackers are without traditional teachings from their respective nations; they have yet to learn how to live on this earth.

#### Presumption should go toward Smith- the politics of passing is different for Natives than other marginalized groups- the biggest danger from settler colonialism is eliminating Natives by denying them identity- which means you should always err against authenticity tests. AND Process over product- the push to interrogate Smith’s authenticity was founded in settler motivations- no matter your conclusions on Smith’s authenticity the chilling effect on young Native scholars outweighs- it marginalizes Native students who fear having their authenticity challenged

Jolivétte, 15 -- San Francisco State University American Indian Studies professor

[Andrew Jolivétte is a Creole whose cultural heritage includes Opelousa, Choctaw, Atakapa-Ishak, Cherokee, French, African and Spanish, "Rachel Dolezal and Andrea Smith: On the Politics of Racial Identity and “Passing” from a Critical Mixed-Race Studies Perspective," Against a Politics of Disposability, 7-5-15, https://againstpoliticsofdisposability.wordpress.com/2015/07/05/rachel-dolezal-and-andrea-smith-on-the-politics-of-racial-identity-and-passing-from-a-critical-mixed-race-studies-perspective-by-andrew-jolivette/, accessed 10-2-15]

Let me begin by stating that the recent comparisons between Rachel Dolezal and Andrea Smith are deeply problematic and troubling for a number of reasons. 1. **Smith** unlike Dolezal **grew up being told she was Cherokee, she did not invent this identification** as a child. 2. **The politics of tribal enrollment** and citizenship, especially within the Cherokee Nation **are deeply politicized, racist, and** in my view **Eurocentric** to say the least (see Sturm, Blood Politics). 3. Smith has not held official appointments in Native American Studies, unlike Dolezal who held positions in African American organizations. While Smith has held positions in Native organizations, this was not her source of employment. 4. Passing functions differently in Native and Black contexts and while both benefit from supposedly passing the issue of who is and who is not Indian is much more tied to state and **federal laws** both historic and contemporary that **seek to limit the number of Indians** while increasing the number of Blacks. **In other words kill the Indian through a paper genocide so no one can be an Indian** unless the U.S. Government approves and anyone with Black blood is black according to the U.S. Government so that they can be thoroughly disenfranchised. 5. When the Cherokee were removed in the 1830s not all Cherokee left many remained, unrecognized in their original homelands but we both native and non-native academics tend to favor the enrolled to the detriment of the unrecognized (I.e., California Indians especially in Northern California who are also “Not Indian” like Smith for the very same reasons). I’m not going to sugarcoat this. Smith like the Ohlone are Not recognized because of a government system that seeks to erase Indian people, especially mixed-race Indians. This happens throughout the United States and Latin America where blackness is in fact used to erase Indian blood, while whiteness in Indian country is rarely questioned. 6. The problem of the census and enrollment from a critical mixed race perspective—census takers did not enroll all Indians nor did they even record the blood quantum of siblings with the same parents in a consistent manner. In Louisiana, where my father is from the practice of categorizing mixed race people especially after 1890 focused on making as many multiracial people into African Americans as possible to disenfranchise them. This is not to say that these individuals were not Black, but they were also White/Latin and American Indian. 7. Oral versus written records. I’m not writing this piece to claim Andrea Smith is Indian, I am writing it to question the way we have come to overwhelmingly accept the ways that Europeans have defined Indianness based on written versus oral forms of “evidence”! For all we know Smith could descend from the Cherokee who never left during removal. I only raise this to say that culture, not biology should determine identity, but as is the case with mixed race identity in the black community, it is too tempting to read mixed-race as fake race. I did attend graduate school with Andrea Smith. I do NOT know her family or her ethnicity other than what she told me during the time we were in school together, but my point is why did the Cherokee nation in Oklahoma begin to question her identity in the first place? Was it because of the political questions she was asking? 8. Disappearing one of “their own”? Whether Smith is biologically Cherokee or not, I find it ironic how whiteness has so thoroughly taken hold of the Cherokee Nation in Oklahoma. Indeed they are a nation with a long-standing series of tribal chiefs who were partially and often predominantly white. Whiteness within the nation has been at the very least less offensive than blackness (Cherokee freedmen, who like Smith have been disappeared because supposedly they are NOT Cherokee by blood) but why disappear a mixed white person in this case when this has not been the consistent pattern of a nation with no minimum blood quantum? Did she ask one too many questions? Racial identity politics are tricky business to say the least but at the end of the day mixed race scholars argue that culture and cultural participation is what we should use to determine group membership. This case of questioning Smith opens up a set of other larger questions with enormous stakes for the future of American Indians—who should determine who is an Indian? Many say tribes have the sovereign right to grant citizenship, but what happens to tribes like the Ohlone who live without recognition? Are they Indians? What about nations like unlike the U.S government deny citizenship on the basis of race or inaccurate or distorted written records. In the end, how does Smith’s work further or take away from Indian struggles for justice? How do Dolezal’s claims serve as an act of anti-blackness in that she purposefully wanted to perform blackness, no where has Smith romanticized being an Indian to my knowledge. Let us ask ourselves are we who are grandmothers and mothers tell us we are or should we be what the government wants us to be? If it’s the latter I fear all the Indians will be gone and soon all the blacks will follow, albeit for different reasons. PART TWO: One more note to my earlier post today regarding Andrea Smith. While I believe we should use her case to raise bigger questions about the politics of recognition and problematic census rolls I would be remiss if I did not state that no one should ever, ever claim enrollment status if they know it is false. As some who comes from unrecognized people I would never claim enrollment and on this point I can agree that misrepresentation is an abuse when so many look up to a person who is by all rights “representing” a Native nation or Native issues period. It is a sad day in many ways and I appreciate and thank colleagues who are taking up the issue from many very honest and difficult vantage points. PART THREE: I’d like to further clarify my post yesterday about Andrea Smith. My comments were not meant as a defense of her knowingly claiming to be an enrolled member of the Cherokee Nation of Oklahoma. My post was about what issues make it possible for someone to be denied or granted citizenship and how are current systems deeply flawed and how racial mixing has been used to deny citizenship and erase some people who are Native because no records exist. It’s really a simple question. Was every person of Cherokee/American Indian descent counted? If not could there be folks who claim Native identities based on oral traditions that have no written documentation? Could Andrea Smith be one of these people? I’m not saying whether she is or is not. I was raised not to question people’s identity. That is between them and their community(ies). My reference to policing is really a question about why we as academics are engaging in questioning the identity of another person and their integrity? As a legal issue hasn’t this already been decided? Do these discussions take away from the real entity that gets to decide—the tribe? At any rate as I’ve said it I’m not defending nor critiquing the choices she made. I don’t believe it’s my place to do so. I will say that collectively perhaps as a Native Academic community there is a responsibility to the communities we serve to ensure that indigenous peoples are not being represented in ways that are NOT of their own choosing. My point here was not to say without a doubt that Andy is mixed-race or even Native. My larger point was who gets to decide? The Cherokee Nation decides but are there problems with how people have been included and excluded from the nation on the basis of racial mixing? My point is we don’t know if she was raised Native/Cherokee or not and I was merely suggesting that there could be legitimate reasons why her family has no paper trail. The only two plausible reasons- she has no ancestry or the paper work for her family like many Indian people just isn’t in the records and we do know that this happened a lot even among tribes with great records. How many Natives reading this have relatives and ancestors who had an incorrect BQ or none listed at all? I used unrecognized tribes like the Ohlone to suggest a similar problem with written records not always under the control of the tribes themselves. All **this language we are using is not from us, it comes from a Western, essentialist construct**. But I do often feel as many of you do that academia is not necessarily the place where change really happens because in the end whether she is or isn’t Indian or mixed and whatever the reason for her actions—what will change other than she won’t be considered Indian anymore? That she will no longer be a “Native” academic. This is also an opportunity for all of us to ask ourselves what does it mean to be a Native academic and who/what are responsible for? All other Native academics? All tribes? Just our specific tribes? The tribes located in the regions where we work and live? This is not the first case and it probably isn’t the last and certainly not the last among “Cherokee” academics…there will be more (there have already been whispers about other prominent figures) so this is why I chose to focus on the larger, structural and systemic problems related to BQ and census records. How in all of this do we bring kinship, clan, cultural participation and family back into the conversation to also get more Native students, faculty, staff, and administrators in higher education if that’s what they/we want to do? And how will engaging with academia benefit our home communities, territories, and nations. We owe it to the coming generations of Native scholars to create spaces, where their multiple identities are not cause for concern that **they too will be** chased away. In the end it is up to our families and communities to determine our identities. I have heard from students all acr**oss the** country since writing my statements and many have expressed both gratitude for the perspective and fear/concern for their own well-being as they pursue their own academic careers. So let us elevate our discussion to focus not on individuals, but rather on institutions and structural practices that continue to marginalize Native peoples.

#### This authenticity politics reproduces the chief weapon of settler colonialism- convincing the world of the “vanishing Indian” myth is the primary settler mechanism to destroy Natives

Gilio-Whitaker, 15 -- Center for World Indigenous Studies research associate

[Dina, NDN in the Colville Confederated Tribes, "‘Real’ Indians, the Vanishing Native Myth, and the Blood Quantum Question," Indian Country, 8-30-15, indiancountrytodaymedianetwork.com/2015/08/30/real-indians-vanishing-native-myth-and-blood-quantum-question, accessed 10-2-15]

Of all myths associated with American Indians no myth is as pervasive as the myth of the vanishing Indian. We are all familiar with many of the other myths that were invented over the last 500 years and thanks to the work of Native activists, writers, intellectuals, and their allies we have begun to dismantle some of them in meaningful ways. Take for example the myth of Columbus as the discoverer of America. Campaigns over the last couple of decades in the United States have led to changes at the level of local and state governments to repudiate the veneration of Columbus as a hero and instead recognize indigenous peoples on October 12. Despite the fact that it is still a national holiday it seems entirely possible that the day will come when it will be no longer. In another example, with each passing year we see more and more media coverage on the mythic nature of the conventional Thanksgiving narrative. Not all Americans may understand the nuances of what makes this story largely a myth, but with each passing year there seems to be a growing sense in the general public that there is little truth to the story they grew up with. The vanishing Indian myth, on the other hand, is far more intractable because it has so many different manifestations. The reason for this is because of **the inherent nature of the settler state**, which **is to eliminate the Native.** This it does in a huge variety of ways, and because it is woven throughout the social fabric of the settler state it is well concealed. Even before the United States was created European immigrants counted on the disappearance of the indigenous population because they wanted the land, and so they narrated the reality they wanted to see as soon as they got here. It’s recognizable through every era of post-contact North America and has been written into every aspect of American history. First Indians were disappearing due to mass epidemics. Then they were disappearing through slavery. They were disappearing by being pushed out of their territories. They were disappearing through massacres and other acts of violence. By the end of the nineteenth century when the vanishing Native myth reached its crescendo and most Indians had been contained on reservations, disappearance took the form of culturecide by assimilation. Thanks to the boarding school system which killed the Indian but saved the man, Indians throughout the twentieth century were disappearing through trauma and identity murder. Trauma—from shame induced by the boarding schools, for example—caused many Native people to deny their heritage in order to survive racism, contributing to what I call identity murder. Identity murder is one of the most common (and insidious) modes of Native disappearance today. It takes many forms within American culture, and is always based on definitions of the “real” Indian. Real Indians dress like Indians. Real Indians live on reservations. Real Indians have reservations. Real Indians are full blood. Real Indians are at least half blood. Real Indians are enrolled. Real Indians know their language. Real Indians practice their ceremonies. Real Indians have dark skin and long black hair. The list goes on, and it isn’t based on any sense of logic. These impossible criteria are markers of authenticity and those who fail to meet them are deemed inauthentic, either in the minds of individuals or in governmental institutions. They are effectively eliminated as Natives. Blood quantum is perhaps the biggest determinant of Indian authenticity, but even those who are full blood can be deemed not real based on some stereotypes or legal definitions of what real Indians are. All Indians are subject to being judged for their authenticity, and even despite high blood quantum or enrolled status they can be deemed inauthentic simply by virtue of the fact that they live in the modern world. Because after all, the real Indians were the ones who dressed in buckskins and hunted buffalo and deer for their living, and didn’t speak English. And they’ve been gone a long time. **Non-natives, whether they know it or not, are conditioned to determine the authenticity of Native people** whenever they encounter them, especially those that live in places where Indians are highly invisible, like large cities or in states with low Native populations. Because they have been indoctrinated with the idea of the vanishing Native their whole lives, the assumption that there is no such thing as real Natives anymore is like a software program constantly running in the background. So when they meet someone who claims to be Native, the unconscious impulse is to automatically determine the truth of the claim. They do this by asking how much Indian blood you have. And depending on your physical characteristics, they’ll either say that “you look it,” or that “gee, I don’t see it.” Your authenticity as a Native person is thus based on your appearance, not on who you actually are. For you non-Native readers, keep this in mind. Native people rarely ask each other about their blood degree because they know that being Native is not about an abstract mathematical equation that parses out their identity into measurable fractions. When you demand to know how much “Indian blood” someone has, whether you realize it or not you are presuming the untruth of their identity claims, which is why the question can be so offensive. But most Native people don’t mind talking about who they are, so instead ask what Native nation they are from. That opens the door for a broader dialogue without subtly accusing them of a fake identity.