



QUEER NECROPOLITICS

a GlassHouse book

ROUTLEDGE

Edited by Jin Haritaworn, Adi Kuntsman and Silvia Posocco

Queer Necropolitics

Queer Necropolitics mobilizes the concept of ‘necropolitics’ in order to illuminate everyday death worlds, from more expected sites such as war, torture or imperial invasion to the mundane and normalized violence of racism and gender normativity, the market, and the prison–industrial complex. Contributors here interrogate the distinction between valuable and pathological lives by attending to the symbiotic co-constitution of queer subjects folded into life, and queerly abjected racialized populations marked for death. Drawing on diverse yet complementary methodologies, including textual and visual analysis, ethnography and historiography, the authors argue that the distinction between ‘war’ and ‘peace’ dissolves in the face of the banality of death in the zones of abandonment that regularly accompany contemporary democratic regimes.

This book comes at a time when the intrinsic and self-evident value of queer rights and protections, from gay marriage to hate crimes, is increasingly put in question. It assembles writings that explore the new queer vitalities within their wider context of structural violence and neglect. Moving between diverse geopolitical contexts – the US and the UK, Guatemala and Palestine, the Philippines, Iran and Israel – the chapters in this volume interrogate claims to queerness in the face(s) of death, both spectacular and everyday.

The book will appeal to activist scholars and students from various social sciences and humanities, particularly those across the fields of law, cultural and media studies, gender, sexuality and intersectionality studies, race, and conflict studies, as well as those studying nationalism, colonialism, prisons and war. It should be read by all those trying to make sense of the contradictions inherent in regimes of rights, citizenship and diversity.

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But we did it! And we have learned things on the way: that gates may open and then slam shut again. That in these times of preemptive censorship, the task at hand is often not to live up to the false promises of meritocracy and academic freedom, but to cushion the blow, to not leave anyone behind, and to build as much community on the way as we can decently manage.

Other forms of publishing are clearly needed.

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Jin Haritaworn, Adi Kuntsman, Silvia Posocco
Toronto, Manchester, London
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Prologue

Sunera Thobani

All around me the white man, above the sky tears
at its navel, the earth rasps under my feet, and there is
a white song, a white song. All this whiteness that burns
me . . .

Where shall I find shelter from now on?

Frantz Fanon (1961)

If I didn't define myself for myself, I would be crunched into other people's
fantasies for me and eaten alive.

Audre Lorde (1984)

The Empire of Terror offers a stark choice to its objects of power: incorporation or extermination. Its forms of sovereignty intend the taking of no survivors: loyalty or death.

Violence and whiteness constitute the intractable foundation of colonial sovereignty and its processes of subjection, argued Fanon (1961) in his radical anti-colonial praxis. Drawing on Fanon's insights, Mbembe (2001) points out that in the 'terror formation' that is the colony, power takes the form of commandment as it incorporates colonizing subjects into its murderous projects of conquest. Embedded in the depths of such stubbornly brutal terrain, power in the postcolony assumes the form of necropolitics as 'it makes the murder of the enemy its primary and absolute objective' (Mbembe 2003: 12).

In the 21st-century post/colonial formation that is the 'war on terror', the simultaneous constitution of the West and its many rests relies no less on occupation, invasion and genocide, albeit in changing configurations and with emergent practices enacted by differentially positioned subjects. For, as Mbembe has astutely noted, 'modernity was at the origin of multiple concepts of sovereignty' (2003: 13). In other words, while liberal democracy celebrates its citizen-subjects, the mark of extermination that infuses its racial logic of power gives rise to the 'Indian' reserve, the slave plantation, the native quarter, the Bantustan, the Nazi camp, as well as the slums, prisons and refugee camps proliferating around the world (Thobani 2012).

Western militarized states, their nationals and private mercenaries now form willing coalitions as readily as they organize death squads; Western feminists recalibrate their alignments with their states as they set out to rescue Muslim women or to protect themselves from their narcissistically construed forms of precariousness; and Muslim women and men supplicants to the West speak in the name of feminism and liberal democracy to indict Islam, along with their families and communities, providing vital alibis for torture and collective punishment. All the while, Muslim men around the world are demonized as misogynist homophobes even as they are incarcerated, deported, raped, tortured and targeted for assassination; Muslim women and queers are raped, killed, bombed and compelled to surrender unconditionally to Western gender regimes if they are to survive. As for the Muslims killed in the hundreds of thousands by bombs, drones and militias, they do not even appear as human in the register of the war, featuring only as collateral damage – if at all.

Islamophobia has thus become the lingua franca that enables trans/national allegiances to be remade, international accords to be signed, aid negotiations to be consolidated, intelligence, security and border control agreements to be implemented, and assassination squads to be deployed across the planet. Such is the moment that marks the (re)birth of the West as the singular model for futurity after the age of independence.

What avenues, then, for contestation? How to strengthen the forces committed to ending the violence that characterizes the contemporary geopolitical moment? What possibilities for the politics of radical transformation? For justice?

Queer Necropolitics makes a particularly timely and critically engaged intervention. Mapping out how deployments of sexuality, gender, race and desire inform the self-constituting practices of unlikely imperialist subjects – queer, feminist, left, and yes, even critical theorists and philosophers – as they simultaneously advance the reach of the Western empire, the authors of this book highlight how these practices also mark out entire ‘queerly racialized populations’ for occupation, subjugation or elimination (Puar 2007). Examining the particularities of the instances where ‘queer vitalities become cannibalistic on the disposing and abandonment of others’, the authors help to disrupt a critical axis on which pivot the imperial heteronormative, homonormative and transnormative politics of violence and pleasure (Introduction: p. 2).

What comes into view when homonationalism is named homoracism? When feminism is defined as imperialist? When human rights are conceived of as recolonization? When queer and trans politics are identified as parasitic? The power of whiteness comes into sharp focus, the everydayness of the institution of white supremacy is exposed in all its stark (in)visibilities. The authors of *Queer Necropolitics* provide the conceptual and analytical tools vital to the politics of resistance against the deathly trajectories of power that mark these times.

Jin Haritaworn, Adi Kuntsman and Silvia Posocco point to the ‘worrying tendency to dismiss queer and trans of colour critiques in particular as identitarian,

pre-theoretical and inferior' (Introduction: p. 4). They are absolutely right to draw attention to such dismissal, for the displacing of radical critical race theory – with all its complexities – in the name of identity politics has become a habitual practice of the Western theoretico-political tradition, including its feminisms, left activisms and LBGTO movements. Refusing to acknowledge the violence of the imperial practices that incarcerate subjugated populations in their suffocatingly codified identities or to recognize the forms of violence they themselves enact as they further the universalization of their own identities in the name of humanism, these intransigent theorists and activists secure their access to white superiority by such dismissal.

Trapped between humanism and its rigidly enforced politics of identities. Where to turn?

It should not be forgotten that the chief architects of this 'war on terror' are the settler colonial societies established by Euro-America, namely, US, Canada, Israel, Australia, along with those seasoned imperialists, the British, the French and the Germans. The massive public support among their nationals for killing 'terrorists' wherever they are to be found, for racial profiling wherever the state deems it necessary and for ripping off Muslim women's veils whenever possible extends Islamophobia into homes, schools, workplaces, cinemas, shopping malls, social service agencies and, yes, in hearts and minds. The public valorization of the statesmen and stateswomen, the generals and soldiers, the corporations and journalists who plan, execute and legitimize the new wars of the 21st century chillingly echo the public celebration of 'Indian hunters', pioneering heroes of an earlier age of US empire and nation-building, as well as of the white lynch mobs who 'hunted' black men and boys in the name of defending the virtue of white women. Indeed, the continuities in such racial violence cannot but be recognized even by the perpetrators themselves, whether by design or otherwise. US and other allied soldiers regularly refer to Afghanistan and Iraq as 'Injun country' and to the black and brown bodies of Muslims as 'Injuns'; mercenaries working for the US state in Somalia define local Somali men as 'savages';¹ 'Project Lawrence' is launched to develop 'cultural proficiencies' among elite US forces working in secret military operations;² and the codename 'Geronimo' is assigned to the mission to kill Bin Laden.

As Western nation-states fortify their various forms of security – military, national and psychic – neoliberalism morphs into its audaciously murderous phase, overtly so now; global capitalism acquires a robust new energy in the privatization of the state's machinery of death; new technologies of surveillance and communication are invented and enthusiastically consumed. The West is resurgent again and . . . *all this whiteness* . . . '(a)ll this whiteness that burns' (Fanon 2008: 86, emphasis added).

It is wise to remember that sovereignty is not abstract. It has a particular name, a face, an address, a geographical coordinate. Its face is white, it remains housed in white bodies, it is located in Westernity. *Queer Necropolitics* does the very important

work of teaching its readers how to recognize the deadly workings of power. We would do well to learn from this book's passionately principled outrage at the order of things.

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Notes

- 1 An 'independent contractor' working for the private security company, Bancroft, is reported to 'thoroughly enjoy' his work: 'Give me some technicals – a term for heavily armed pickup trucks – and some savages and I'm happy', he joked (Gettelman, Mazzetti and Schmitt 2011: n.p.).
- 2 The 'Lawrence' is named for the British Officer, Thomas E. Lawrence (aka Lawrence of Arabia), who was involved in organizing Arabs to fight a war in the Middle East during World War I. See Turse 2011: n.p.

Introduction

Jin Haritaworn, Adi Kuntsman, and Silvia Posocco

This collection came together as a result of several years of thinking collaboratively through the intersection of gender, sexuality, violence and precariousness. In particular, the book attends to the changes in queer politics that emerge in contemporary regimes of racism, neo/colonialism, 'war on terror', incarceration, border enforcement and neoliberalism. In the place of simple dichotomies of repression versus visibility, or oppression versus rights, chapters in this collection complicate dominant understandings of the political by interrogating the ways in which sexual difference is increasingly absorbed into hegemonic apparatuses, in a way that accelerates premature death (Gilmore 2007) for those who are unassimilable in liberal regimes of rights and representation and thus become disposable. Moving from highly visible and ritualized performances of public grief to killing and abandonment of sexually or racially marked subjects and populations; from warfare in the name of queerness and other forms of sexual exceptionalism to queer lives as 'bare lives' (Agamben 1998); and from military funerals to sexualized warzones and zones of abandonment, we ask: What new techniques of governance can be mapped in a context of power which increasingly speaks the language of women's, gay and transgender rights, protection and diversity? What challenges arise from these complicities and convergences, and how are they best addressed?

In feminist discussions, there has long been an engagement with the question of complicity, most recently around the institutionalization of anti-violence movements (Incite! 2006) and the role of women's rights discourses in the 'war on terror' (e.g. Bacchetta *et al.* 2002; Thobani 2002). These contestations are largely indebted to intersectional critiques, especially by women of colour, migrant feminists and indigenous feminists. In queer theorizing, debates over the place of rights discourses in regimes of border fortification, militarization and incarceration have arrived belatedly, to collide with a context of LGBT politics and sexuality studies which, especially in Europe, lacks any serious engagement with racism, coloniality, positionality and intersectionality (but see Ahmed 2011; Bacchetta 2010; El-Tayeb 2012; Eng, Halberstam and Muñoz 2005; Ferguson 2003; Jivraj and de Jong 2011; Manalansan 2003; Petzen 2012; Reddy 2011; Tauqir *et al.* 2011).

Most prominently, Jasbir Puar (2007), tracing the shift from AIDS to gay marriage, identifies a recent turn in how queer subjects are figured, from those who are left to die, to those that reproduce life. Yet, not all sexually or gender non-conforming bodies are 'fostered for living'; just as only some queer deaths are constituted as grievable (Butler 2004),¹ while others are targeted for killing or left to die.

This book comes at a time of growing interest in the necropolitical as a tool to make sense of the symbiotic co-presence of life and death, manifested ever more clearly in the cleavages between rich and poor, citizens and non-citizens (and those who can be stripped of citizenship); the culturally, morally, economically valuable and the pathological; queer subjects invited into life and queerly abjected populations marked for death. Our discussions are inspired by Achille Mbembe's concept of 'necropolitics' – a concept he develops when analysing the centrality of death in subalternity, race, war and terror (Mbembe 2003) – and by Puar's (2007) insightful elaboration of '*queer* necropolitics', which attempts to make sense of the expansion of liberal gay politics and its complicity within the US 'war on terror', while calling our attention specifically to the 'differences between queer subjects who are being folded (back) into life and the racialized queernesses that emerge through the naming of populations', often those marked for death (p. 36).

Our collection assembles various ways of queering the necropolitical and of interrogating claims to queerness in the face(s) of death, both spectacular and banal. Thinking through necropolitics on the terrain of queer critique brings into view everyday death worlds, from the perhaps more expected sites of death making (such as war, torture or imperial invasion) to the ordinary and completely normalized violence of the market. As many of the contributors to this volume point out, the distinction between war and peace dissolves in the face of the banality of death in the 'zones of abandonment' (Biehl 2001; Povinelli 2011) that regularly accompany contemporary democratic regimes. These are not merely about exclusion; more insidiously perhaps they create their own forms of deadly inclusion.

The insistence on the unremarkable, the ordinary and the mundane is of particular importance. In contrast to other works in the field that deal with death in relation to queerness and beyond – such as the AIDS epidemic or the Holocaust – contributors in this book focus less on grand moments or processes of commemoration and more on the everyday and the ordinary. In that respect, our orientation (Ahmed 2006) is not so much towards a past that is remembered and celebrated. In the place of the finished past, we turn to the present and future(s), including those haunted futures (Ferreday and Kuntsman 2011; Gordon 2011) where queer vitalities become cannibalistic on the disposing and abandonment of others. Indeed, we argue that the queer nostalgia for other times, coupled with a victim subjectivity that refuses accountability for current privileges and injustices, may itself work to naturalize and accelerate death-making logics in the present (Haritaworn, 2013). Furthermore, in considering the rise of homonormative and transnormative identities as contingent on settler colonialism, anti-blackness and permanent war – which provide the conditions of queer ascendancies – we refuse

a view of the past as finished and the present as democratic and post-genocidal (e.g. Morgensen 2010; Smith 2007; see also Bassichis and Spade, Chapter 9 in this book).

Using 'queer necropolitics' as a theoretical entry point and as a concept-metaphor, our book explores the processes, conditions and histories that underpin and sustain a range of 'unequal regimes of living and dying' (Luibhéid 2008: 190), consolidating and extending the existing analytical vocabulary for understanding queer politics and experiences. In putting the concept of 'queer necropolitics' at the centre of our discussion, the book is in dialogue with the emerging scholarship focussing on the analysis of the necropolitical (see, for example, Inda 2005; Osuri 2006). We extend this body of scholarship by turning our attention to specifically queer aspects: deadly underpinnings of militarized queer intimacies, nationalized practices of queer mourning, assimilationist logics of feminist, gay and transgender rights and criminalizing policies in the name of sexual safety and queer space. Contributors explore the relations between queerness and war, immigration, colonization, imprisonment and other forms of population control in various cultural and political settings. Among the many topics addressed in the chapters of this book are racism in the name of 'LGBT rights'; queer colonialities; trans migrations; vitality and necropolitics in the new world order; the ontology and phenomenology of sexual and gender violence; the racialization of 'LGBT', queer and transgender politics in the 'wars on terror'; and regimes of remembering and oblivion of queer and non-queer lives and deaths.

But while bringing the queer into the necropolitical, many of the pieces represented here refuse, problematize or challenge knowledge practices and analytical strategies that lead to the collapse of 'queer' into categories of identity (e.g. 'gay', 'transgender', etc.). For some authors, 'queer' marks 'a point of tension to normativity', where theoretical, analytical, political, and affective friction occurs (see, for example, Martin-Baron, Chapter 2 in this book). For others, 'queer' points to differentiated and differentiating values of vitality and futurity. Some authors focus on forms of violence whose brutality routinely goes unremarked and on deaths which remain ungrieved, while others show that rituals of public mourning are also aggressive displays of heteronormativity, neo-colonial nationalism and disavowed homosociality; yet others tackle regimes of captivity and technologies of control over multiple borders to reveal everyday processes of gradual exhaustion of subjects and populations.

The questions asked in this book are therefore distinct from a strategy that critiques 'queer' in order to seek inclusion into it. While it remains vital to contest the sexism and the homonormativity of queer spaces, the transphobia of women's movements, and the racism, classism and disablism of both, the chapters assembled here shift gear by asking what this will do to the bigger picture. Taking inspiration from transnational and anti-colonial feminisms (e.g. Grewal and Kaplan 2001; Kapur 2005; Smith 2007), we ask questions along the following lines: What are the conditions under which gendered and sexual subjectivities and political methodologies – from LGBT to gay marriage to hate crime (Nair 2009) – have

emerged? How do they travel, in predictable directions, from the West to the rest (Hall 1992) – including the rest in the West, as under conditions of settler colonialism, migration and occupation? If modern genders and sexualities (both dominant and subordinate) have been formed against constitutive Others whose primitivity is signified as perversity – and as a failure to perform proper gender binaries – what is at stake in seeking inclusion through or into these identities (see Cohen 1997; Ferguson 2003; Morgensen 2010; Phoenix 1987)? Given the continued deployment of gendered figures of pathology such as the drunken Indian, the welfare mother, the black mugger/rioter, the repressed Muslim woman/queer and the chronic delinquent/terrorist in contexts of settler/colonialism, anti-blackness, anti-Muslim and anti-Arab racism, and war, what would it mean to understand gendered and sexual subjectification as itself a form of necropolitical moulding?

This is not to endorse a ‘vulgar anti-essentialism’ (Crenshaw 1991) that targets and punishes those least legible and most vulnerable for their (again improper) gender performances. Indeed, as concepts such as homonationalism and pinkwashing are gaining currency, we note a worrying tendency to dismiss queer and trans of colour critiques in particular as identitarian, pre-theoretical and inferior. We believe that engaging with biopolitics and necropolitics does not spare us from doing the footwork required to build the less oppressive epistemic communities within which such critical work can happen. For example, soliciting chapters by gender non-conforming authors and on trans politics has been important to us. Several of these chapters (Aizura, Lamble, Shakhsari) indeed ask critical questions about the emergence of recognizable trans identities at this moment of militarization and in/security. In many contexts, racialized hate crime panics have been productive in proliferating victim subjectivities, rendering trans subjects – long the unrespectable margin but newly valuable under racialized numerologies of anti-violence – worthy of protection, visibility and coalition. While trans people of colour in particular are still waiting for allies, the rise of the transnormative subject – with its universalized trajectory of coming out/transition, visibility and self-actualization – must also be interrogated in its convergences with biomedical, neoliberal, racist and imperialist projects (see Snorton and Haritaworn 2013).

Throughout the book, ‘queer necropolitics’ emerges as the concept-metaphor that illuminates and connects a range of spectacular and mundane forms of killing and of ‘letting die’ while simultaneously radically reimagining the meanings, purchase and stakes inherent in ‘queerness’ as a category of analysis and critique. The queer necropolitics examined in the book refer to regimes of attribution of liveliness and deadliness of subjects, bodies, communities and populations and their instantiation through performatives of gender, sexuality and kinship, as well as through processes of confinement, removal and exhaustion. In these analyses, ‘queerness’ is dislodged from systems of referentiality that have primarily connected it to gay and lesbian subjects and identities. The mobility or transferability of

the meanings of ‘queerness’ – which may be on occasions best rendered through metaphors of stasis and dwelling, rather than movement – reconfigure ‘queerness’ in relation to a variety of anti- and non-normative forms of life and politics. Discussions of queer necropolitics, therefore, powerfully evoke the production of disavowed subjectivities, socialities, kinning, intimacy and desire while bringing into sharp relief the consolidating alignment of minoritarian projects of lesbian and gay rights advocacy, for instance, with the production, segregation and mining of pathological bodies, spaces and populations within shifting regimes of racism, colonialism and (neo-)liberalism. Queer necropolitics carefully recovers, against totalizing gestures and deeply reactionary and colonizing projects of ‘giving voice’, ‘queer’ as a marker for a different ontology and a radical rethinking of how queer politics and capacities might be resituated in the context of structural violence. In turn, seemingly ordinary forms of slow death and spectacular violence come to illuminate struggles beyond the logic of capital accumulation and imperial plunder.

The chapters in this book use diverse methodologies – textual and visual analysis, ethnography, auto-ethnography, social movement history, institutional analysis, statistical and documentary analysis. They are located within and across a range of inter/disciplinary formations, including critical race, gender, sexuality and legal studies, anthropology, sociology, media and film studies. Our contributors rely on a broad variety of materials: interviews, media items, activist materials, legal and policy texts, documentaries, performances, and casual conversations. What unites the authors is not just the richness of their archives, but their tendency to read these against the grain, in a way that refuses to privilege queer lives over others and attends to the interlinked histories of racial, sexual and other biopolitical formation and regulation. They engage in reading practices that Puar (2007) describes as ‘reading sideways’: the linking together of ‘seemingly unrelated and often disjunctively situated moments and their effects’ such as indefinite detention, affirmative action, gay marriage, the decriminalization of sodomy, and the Abu Ghraib ‘sexual torture scandal’ (Puar 2007: 117, 120). The authors in *Queer Necropolitics* read queer livability alongside killability, rescue alongside disposability, protection alongside abandonment and celebration alongside violent erasure. This enables them to grasp queer ascendancies within the racially charged atmosphere, within and outside the Eurocentre, where white and whitening subjects legible as female, gay or LGBT enter into visibility and publicity at the expense of racialized bodies that are reinscribed as degenerate (Razack 2002) and sentenced to premature death (Gilmore 2007). The authors examine this with regard to various sites and processes, including the representational economies of queer deaths (Shakhsari, Aizura), the traffic of queer suffering (Ritchie), the production and performance of disavowed intimacy and kinning (Posocco, Martin-Baron), the criminalization of HIV/AIDS, and anti-black assault on subjects and communities of colour (Gossett). The three sections of the book carry out the task of reading sideways by exploring the place of queer in the making of death worlds; the spatiality of queer necropolitics in war- and borderzones; and the queer necropolitics of the prison industrial complex.

Death worlds

In the celebrated essay ‘Necropolitics’, Mbembe (2003) argues that necropolitical analysis supplements the Foucauldian notion of ‘biopower’, that is, ‘a power to foster life or disallow it to the point of death’ (Foucault 1981: 138), with a sustained focus on sovereign power as fundamentally concerned with death-making. The contributors to this volume mobilize a diverse range of analytical trajectories that illuminate ‘necropolitics’, i.e. ‘contemporary forms of subjugation of life to the power of death’ (Mbembe 2003: 39), explicitly as a key domain of queer analysis and critique. More specifically, all the chapters in the book draw attention to the contemporary production of ‘death worlds’, that is, ‘new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of *living dead*’ (Mbembe 2003: 40, author’s emphasis), with reference to, for example, subjects such as US military personnel (Martin-Baron, Chapter 2), Guatemalan transnational adoptees (Posocco, Chapter 3), and Iranian transgender refugees (Shakhsari, Chapter 5). As Jared Sexton points out, these death worlds are not so new: Mbembe, partly as a result of his selective reading of Saidiya Hartman (Saidiya Hartman 1997) and his sidelining of the central role she accords the captive black female, understates the foundational role of slavery and anti-blackness (including as sexual violence) in modern regimes of institutional violence and social death (Sexton 2010: 32ff.). Another forerunning account of the social and cultural production of human disposability that also highlights the centrality of slavery is that of Orlando Patterson (1982). According to Patterson, slavery, as an institutionalized relation between master and slave and a ‘rights relation’ fundamentally instituted through the law, is grounded in an understanding of the slave as a socially dead person (Patterson 1982: 38–39). Patterson thus coins the notion of ‘social death’ in order to describe a process of depersonalization that relies on the suspension of personhood and belonging through the slave’s exclusion from the community, or the slave’s internal exile. The production of alterity as social death is therefore dependent on processes of expulsion or exclusion, and the redrawing of boundaries of belonging and unbelonging. Yet inclusion, too, according to Patterson, is not benign; rather, it amounts to an essentially violent and (socially) deadly process that produces forms of life in segregated proximity, and which may also lead to exceptional violence and death.²

As Gilmore (2007) has argued and many of this volume’s contributors demonstrate, the acuity and relevance of Patterson’s analysis is not confined to the historical study of slavery as an institution at the heart of modernity. Contemporary carceral regimes in particular continue to instantiate social death through fundamentally racialized and racializing structures of captivity where ‘inhuman humans’ (Gilmore 2007; see also Gray and Gómez-Barris 2010) deemed to be beyond rehabilitation are not only physically removed from the social realm but, more fundamentally, are exposed to premature death. The nexus between racism and the production of ‘living dead’ populations most clearly framed by Gilmore³

is at the heart of many of the chapters in this volume, and is tackled with specific reference to carceral regimes in Part III of the book.

Departing from the distinction between queers folded into life, and those destined for death, contributors in this book demonstrate that the work of queer necropolitics is not limited to individual subjects and bodies; rather, it engulfs whole populations consigned to death. From this perspective, death-making is constitutive of the *polis* and directly connects to the everyday experience of those perhaps unremarkable, but not less pernicious forms of 'slow death' (Berlant 2007), that is, of extreme and yet ordinary 'physical wearing out of a population and the deterioration of people in that population that is very nearly a defining condition of their experience and historical existence' (2007: 755). For Berlant 'slow death' is realized in forms of 'physical attenuation' that cannot always be directly attributed to the violent operations of institutions or the state. Indeed, as Rachel Gorman (2013) and Nadia Kanani (2011) show more succinctly through a transnational race and disability studies lens, race and class oppression are at their bases disabling. Neither can slow death, as Berlant argues in her older work on 'traumatized citizenship', be reduced to narratives of suffering, whose volume often drones out the banal workings of violence at the hands of the market.⁴ From this perspective, an exclusive emphasis on social control is too invested in – and continuously reifies and recentres – 'life' and the autonomous subject of rights as the foundations of the political. As a subtle counterpoint to necropolitics, Berlant therefore proposes a substantive rethinking of the status and meanings of agency and personhood through a focus on diffused and less spectacular modes of 'wearing out', which ultimately aims to problematize those aspects of 'practical' necropolitical sovereignty grounded in assumptions regarding the nature of power, the functioning and assumed coherence of institutions – including 'the state' and 'the law' – as well as the 'the subject' of politics. In this book we take 'slow death', as much as the inducement of increased susceptibility to premature death, to be constitutive of ordinary death worlds, and point to the challenges inherent in sustaining the critical imaginaries and projects that nevertheless permeate such worlds, against all odds.

Graduated forms of humanity whose very place within 'the human' is questioned, suspended or rescinded outright, exist in fragmented sovereignties and spatially delimited enclaves that function as 'the outside of the inside' (Esposito 2008; see also Ong 2006). They are located in institutions segregating those categorized as mad, homeless, or poor (Biehl 2001); in the high-rise residential blocks in East Asian mega-cities where migrant domestic labour incarceration routinely occurs (Ong 2006); and in the 'golden gulags' (Gilmore 2007) of the US 'prison industrial complex'.⁵ In these zones of social abandonment, social inclusion is realized through practices of 'letting die', that is, through dying in abandonment (Biehl 2001:139; Povinelli 2008, 2011). Letting die, abandonment and differential belonging are directly connected to the operations of forms of governance in late liberalism that constitute some subjects as morally deserving, while simultaneously

justifying punitive measures on those deemed undeserving as necessary, just and rational (Povinelli 2011). The moral economies in play also engender differential and differentiating mourning where only some deaths are acknowledged and constituted as grievable (Butler 2009), as Shakhsari (Chapter 4) and Aizura (Chapter 6) demonstrate so powerfully in their discussions of wars and borderzones.

Our understanding of queer necropolitics is further in conversation with Eric Stanley's (2011) forerunning discussion. Stanley articulates the sense in which death-making, figured in relation to the brutal murders of trans/queer people in the United States and the exceptional violence inflicted on murdered subjects after death, holds important ontological consequences. The piece documents how this protracted onslaught systematically fails to be registered in public discourse and public consciousness. According to Stanley, the legal category of 'overkill' may account for the vicious assaults that these working-class and largely people of colour gender non-conforming subjects are subjected to in death, and for how their remains become the object of further affront. The 'overkill' of these subjects is far from an anomaly or an exceptional occurrence; rather, it is central to the reproduction of US liberal democracy. As Stanley explains, 'overkill' occupies the same social and political terrain as LGBT identities, where the extreme vulnerability of some can be contrasted to the security of others. LGBT identities appear to be securely tied to subjects of rights to the extent that they become fully invested in claims that anti-queer violence is an exceptional occurrence to be dealt with through the punitive state. 'Overkill', by way of contrast, points to a queer ontology of 'near life' – a form of existence that echoes the notions of 'the living dead' we have discussed in relation to the work of Mbembe (2003) and Agamben (1998), and with reference to the 'social death' theorized by Patterson (1982). Spaces of nonexistence populated by 'near life' and marked by 'overkill' (Stanley 2011) are not external to, but rather constitutive of, the state and the law and form the substratum of contemporary liberal democracies. The chapters in this volume tease out and explore how relations of proximity and contiguity between life and death – as graduated and mutually imbricated domains – articulate in different contexts, and fully *within*, not outside or beyond, the political.

Our first section further resonates with Anna Agathangelou's work (2013), which makes the case that neo-imperial free-market capitalist shifts depend on slavery and the animation of queerness as a speculative economy to mediate political value struggles. Agathangelou engages with two archives on queerness, a 2011 speech by Hillary Clinton at the UN regarding African states' violation of human rights of gays and lesbians, and a 2011 report on the violation of human rights of Iraqi gays. Through these archives, she shows how slavery and queerness are drawn on by a resurgent neoliberalism to sustain regimes of value while generating structures of governance that marginalize slave terror. 'The slave' turns into the suturing matter of epistemologies and practices of sexuality, race and geopolitics, whereby 'the African' is marked as black through lack of gay rights and 'Africa' is figured as the ahistorical scene of the captive flesh. Agathangelou

(2013) traces the ruptures in discourses presupposing that the existence of non-procreative sex as foundational capacity threatens the fulfillment of democratic promises while continuing the production of a structuring ontology that requires blackness and the suffering of the slave to erect queerness as a speculative economy.

Although the themes of killing and letting die, mourning and forgetting, privileging and abandonment are discussed throughout the book, this first part, 'Death worlds', is dedicated more specifically to the relation between life and death through analyses of the *making* of death worlds, social death and slow death from a variety of perspectives. In Chapter 1, Che Gossett focuses on 'the lethality of anti-black, anti-queer and/or anti-trans interpersonal violence'. Gossett argues that the criminalization of HIV/AIDS via the prison industrial complex in the United States is inextricably linked to anti-blackness and the sustained assault against black subjects and communities waged through mass incarceration and other forms of everyday and normalized state violence. Gossett shows that slavery haunts the contemporary deathscapes of the prison industrial complex, with its expansive technologies of control and high- and low-intensity forms that extend well beyond the prison. The chapter details the history of the criminalization of HIV/AIDS and delves into the archives of struggle of queer of colour AIDS activists Kiyoshi Kuromiya and Orteza Alderson. The biographies of Kiyoshi Kuromiya and Orteza Alderson provide the thread – lived and embodied – connecting the struggles of the Civil Rights Movement, anti-war activism and queer liberation of the 1960s to the political organizing around AIDS and the direct action of ACT UP of the 1990s and into the present. Within the horizon of ongoing AIDS criminalization, 'lethality' in Gossett's analysis encompasses a range of deadly modalities, which include 'slow violence'. Practices of death-making, however, are also subtended by queer and/or trans abolitionist organizing in these 'times of chains and corpses', as Gossett, following James Baldwin, poignantly shows. Gossett draws on traditions of black radicalism, expanding and enriching the theoretical and analytical registers of queer necropolitical analysis, to refocus attention on the relations between anti-blackness and the 'carceral continuum' in the organization of social life. For Gossett, the legacy of black radical, queer and/or trans left and AIDS activist political ontology and action is the starting point for a fundamental rethinking of how queer and/or trans struggles might be rearticulated in the contemporary, ever-shifting necropolitical terrain.

In Chapter 2 (Martin-Baron), the necropolitical emphasis on death-making is brought to bear on the analysis of military funerals in the US during the contemporary 'war on terror'. Martin-Baron argues that US military funerals amount to queer necropolitical performances of kinship. Provocatively, Martin-Baron notes that this insight emerges in the public protests organized by the Westboro Baptist Church, whose demonstrations aimed at disrupting military funeral processions with slogans such as 'God hates fags' and 'Thank God for Dead Soldiers' are motivated by a view of the US military as fundamentally a harbour for homosexuals. In turn, the response of the Patriot Guard Riders – the group of

veterans and jingoist individuals intent on defending the funerary proceedings and shielding the soldiers' bereaved families from the Westboro Baptist Church protests – and specifically their motorcycle rides alongside the funerary processions, appear as hyperbolic performances of masculinity and nationalism. The Patriot Guard Riders' aim is to reassert the heterosexuality of the military and its dead, but their leather-clad parades appear to be aesthetically not very dissimilar from those found at gay pride events. Martin-Baron argues that the heteronormative emphasis on the biological family evident in military funerals' pageantry is troubled by the ever present, and yet disavowed, homosociality of military kinship bonds. In Martin-Baron's reading, funerals are enactments of queer kinship through which queer same sex intimacy and death-care labour are simultaneously affirmed and made visible, as well as denied and masked. From this perspective, the queer structuring of military intimacy is shrouded in (hyper/in)visibility through performances of homosociality, masculinity, and nationalism. These military funerary performances are the embodiment of patriarchal and colonial structures, and yet they are also reliant on queer affective structures that are constantly deplored, repudiated, or called by another name.

In Chapter 3, Silvia Posocco also questions the status of the subject of rights in late liberalism, including the rights claims of LGBT constituencies, through a focus on the necropolitical analysis of transnational adoption circuits. Posocco tackles these questions from the vantage point of Guatemala, and the analysis of the relation between histories of violence, the emergence and progressive intensification of transnational adoption flows, and processes of social, political, and legal restructuring during the Guatemalan conflict (1960–1996) and its violent aftermath. Historically, Posocco argues, the vitality of the figure of the transnational adoptee was framed as an excess of life generated under the mark of genocidal violence during the Guatemalan conflict. Institutional and legal reforms in the violent post-conflict present reveal renewed concerted claims to the governance – and a renewed incitement to life – of the transnational adoptee. The biopolitics of transnational adoption, however, are underpinned by multiple necropolitical fissures traceable in many social deaths and disappearances. In this view, the testimonies of proud (LGB and non-LGB) parents of adopted Guatemalan children in the Global North ought to be connected to multiple death worlds that not only have the Guatemalan conflict as their horizon, but multiple contemporary processes of (social) death-making as well. The temporary suspension of adoptees' transnational movement, the prospective adoptees' indefinite detention in deregulated institutions, and the social disappearance of those placed beyond 'adoptability' and kinning are uneven and sometimes incongruent processes that recast queerness as a fundamentally necropolitically differentiated futurity.

All three chapters in Part I insist on a critical engagement with notions of 'vitality' and specifically, on the mutual imbrication of 'vitality' – as a differentiated and differentiating state – and violence in the making of death worlds. Thus, for Gossett, vitality is articulated through 'slow death' and forms of lethality that are

fundamentally structured by the discourses and practices of anti-blackness, as evidenced in the workings of the prison industrial complex and the 'carceral continuum'; Martin-Baron also turns to the United States to show how fantasies of liberal democracy are sustained through the spectacular violent denial of vitality through racialized queer deaths removed from collective memory and consigned to oblivion and the public memorialization as disavowal; for Posocco histories of settler colonialism, conquest, racism and legal exceptionalism sediment in the differentiated vitality and futurity of 'transnational adoption' as a phenomenon of the late 20th and early 21st centuries.

In different ways, the chapters in Part I also specifically attend to the *ontological* consequences of a focus on the necropolitical for queer critique, that is, they deal with the complex relations between existence and non-existence in social milieux as well as in representation. Gossett theorizes the making and unmaking of anti-black, anti-queer and/or anti-trans lethality, foregrounding radical challenges to 'given ontologies' and struggles to reimagine the social and the political; Martin-Baron points to oscillations between visibility and invisibility that characterize the performative materialization of dead US soldiers and the US military; Posocco gestures to the multiple appearance and disappearance clustering under the sign of 'transnational adoption'. The chapters in Part I therefore hone the critical vocabulary for thinking about the ontologies of death worlds, resisting redemptive narratives and challenging simplistic understandings. They are in dialogue with contemporary critical scholarship that focuses on processes of death-making – ranging from theorizations of the gradual (Berlant 2007) and yet structural (Gilmore 2007) wearing out of populations, to the remarkably ruthless and yet mostly overlooked murder – and on explorations of the ontological consequences of queer necropolitical analysis (Stanley 2011).

Wars and borderzones

Continuing the discussion of death worlds, Part II of the book, 'Wars and borderzones', focuses more specifically on the *spatial* aspect of queer necropolitics, by looking at zones of displacement, movement, war and everyday abandonment. In that respect, concerns raised in this part owe intellectually to the field of queer migration, queer diaspora and queer of colour critique – fields that address the intersection between queerness and racism, migration and border policing, globalization and diasporic cultural formations (Cruz-Malave and Manalansan 2002; Ferguson 2003; Gopinath 2005; Luibhéid 2002, 2008; Manalansan 2003; Patton and Sanchez-Eppler 2000; Reddy 2011). A close rereading of this work is crucial at this moment where sexuality is becoming racialized as a property of the West and a deficiency on the part of the rest (as well as the rest in the West; see Hall 1992). While the new turn to race, religion and the global south, which is reflected in a mushrooming of courses and conferences on queer globalization, sexual nationalism, queerness, nationalism and racism, transnational sexuality

studies, queer postcolonial studies, and intersectionality, appears promising at first sight, it often happens in the absence of sustained contestations of racism and coloniality. Besides erasing a long tradition of, often minoritized, thought and labour on the intersections of gender, sexuality, nation, race and class, the newly institutionalized work often fails to interrupt, and sometimes even intensifies, exceptionalist teleologies, homo- and transnormative complicities, and neo/colonial geopolitics (Bacchetta and Haritaworn 2011).

In contrast to this, earlier scholarship has problematized a single-issue view of gender and sexuality, while also being mindful of the endless ways in which minoritarian approaches (e.g. those that appear to foreground Third World women) can be appropriated for racist and colonial projects (e.g. Mohanty 1988; Spivak 1999). One highly productive angle for our discussion has been the focus on the intersections of various queer practices, attractions and forms of embodiment – only some of which conform to homonormative and transnormative labels such as LGBT – with movement and displacement. Scholars such as Gayatri Gopinath (2005), Martin F. Manalansan IV (2003), Eithne Luibhéid (2002, 2008) and others brought to the fore the lives and experiences of queer migrants, often ignored by mainstream research, and question the very assumptions, surrounding both the notions of national and diasporic belonging, on one hand, and of white queer politics, on the other. Beginning with the silenced and marginalized experiences of queer migrants, refugees and diasporic subjects, these scholars have often positioned questions of exclusion at the centre of their discussion, be it exclusion from the ability to cross borders, or from acquiring citizenship, or from belonging to a (white) queer scene.

Recently, however, these and other scholars have turned their attention to the violence of inclusion itself, looking at the ways various intersections between racism, border regimes and wars differentiate between those queers folded into legal and political subjecthood, and those destined for wartime killing or everyday deadly abandonment. This critical new turn in theorizing queerness emerged in the aftermath of the ‘wars on terror’ and globalized Islamophobia, even if a simple ‘post 9/11’ periodization misses the longer standing incorporation of queer subjectivities into racial, national and transnational formations of settler/colonialism (Morgensen 2010) and anti-blackness (Bassichis and Spade, Chapter 9 in this book). While most attention has been paid to the problematic sexual formations that have occurred in the context of the US war on terror (Puar 2007), this work coincided with similar scholarship in other contexts, from Australia (Abraham 2009) to Europe (El-Tayeb 2003; Haritaworn 2008; Haritaworn, Erdem and Tauqir 2008; Petzen 2004) and the Middle East (Hochberg 2010; Kuntsman 2009). Many of these writers in turn acknowledge their debt with earlier feminist theorizations of the gendered entanglements of war, racism, nationalism and imperialism (see, for example, Bacchetta *et al.* 2002; Bhattacharyya, 2008; Hunt and Rygiel 2006; Riley, Mohanty and Pratt 2008; Thobani 2002).

Moving away from queerness as always necessarily transgressive, this heterogeneous queer scholarship has pulled into focus queer complicities with

militarism, state violence and imperial carnage – whether through direct actions of killing, or via queer adoration of militarism and war. Jin Haritaworn's work on queer sexuality in Britain, for example, demonstrates how white gay masculinities 'loyally repeated the nation' during the military invasions in Afghanistan in Iraq (Haritaworn 2008); Adi Kuntsman (2008) similarly shows how Israeli gay men and recent Jewish immigrants to the country embrace the soldier as an ultimate queer icon, and specifically adore the soldier for his acts of warfare in Palestine. For national(ist) gay subjects these colonial and imperial wars act as sites of proud gay patriotism and belonging; however, what is particularly important is that war itself figures here as sexy. As Agathangelou, Bassichis and Spira (2008) have likewise suggested, there are 'intimate investments' and seductions to violence, which draw one 'emotionally, libidinally, and erotically in[to] global capitalism's mirages of safety and inclusion' (p. 122).

The seductive erotics of war are precisely what facilitate the necropolitical distinction between queers destined for life and those discarded for death. However, this critical attention to the impact of 'wars on terror' on feminist and queer politics is not limited to the analysis of deadly distinctions between those queers who are included as legal and (bio)political subjects, and those cast outside state protection or even the boundaries of the 'human'. Rather, as the contributors in Part II demonstrate, some racialized queer subjects are simultaneously excluded from and incorporated into those deadly regimes of war, occupation, coloniality, exploitation and abandonment. In other words, the discussion of queer necropolitics is here about the simultaneity of racialized queers' exclusion from zones of the living and their deadly incorporations into sexual war topographies and globalized colonial and imperial borderzones.

Sima Shakhsari, for example, in Chapter 4, demonstrates that in the Western media and political imagination the Iranian transgender refugee emerges at once as a politicized figure in need of protection that authorizes war and imperialism in the Middle East and as a *homo sacer* whose life is disposable and whose only value is in its circulation in neoliberal economy. Examining three separate but related stories of three queer deaths – Naz, an Iranian refugee trans woman who died in Canada; Ayaz Marhouni and Mahmoud Asgari, two young Iranian men who were hanged in Mashad; and Mark Bingham, an American gay man who died in the 9/11 attack – Shakhsari suggests that within the civilizational logic of imperialism and the 'war on terror', the Iranian queer subject is not necessarily outside the neoliberal hegemony. On the contrary, the Iranian queer is incorporated into it, to create and sustain the binary configurations of freedom and oppression, a configuration that is at the core of both representation and management of populations through life or death. Being simultaneously within and outside the neoliberal logic, the Iranian refugee, as Shakhsari convincingly argues, is the queer living dead 'subject who is produced as desiring the enshrined notions of democracy that govern its bio, and at the same time the one who beholds the danger of terrorism and is therefore subjected to death in the state of emergency to keep alive the ideals of democracy' (Shakhsari, this volume).

Another way in which racialized queer subjects are incorporated into the civilizational logic of colonial nationalism and ‘war on terror’ as both objects of bio- and necropower is addressed by Jason Ritchie in Chapter 5. Ritchie’s analysis departs from two seemingly unrelated events that took place in 2006 – Israel’s attack on Palestinian civilians in Gaza, and its legislation regarding same-sex marriages and adoption. Ritchie describes the two moments of life and death, inclusion and exclusion as part of ‘the continuous double movement that is Israeli sovereignty’ (Ritchie, this volume): a set of discourses and practices that regulate and govern Israeli/Jewish life, while also regulating the distribution of Palestinian deaths. But it is not simply the relations between lives and deaths that are addressed in this chapter – rather, Ritchie focuses on the ghostly figure of the queer Palestinian – a figure ambivalently positioned at the intersection of bio- and necropowers; a figure that, in Israeli imagination, haunts both queer lives and Palestinian deaths. Drawing on the analysis of Israeli representations of Palestinian queers’ suffering, Ritchie demonstrates that the Israeli queer subject emerges through the colonial knowledge of the Palestinian queer as both a victim and a threat, whose death becomes the price for ‘realizing the fantasy of queer life under late-modern colonialism’ in Israel/Palestine (Ritchie, this volume).

The final chapter in Part II, Aren Z. Aizura’s Chapter 6, also begins in Israel/Palestine, where lives – and deaths – of Filipino migrant care workers who perform as drag queens are ignored both by the pinkwashing liberal narrative of Israel as a gay-friendly country and by the political and scholarly focus on death in the area as being exclusively about the Israeli–Palestinian conflict and colonial occupation. Aizura’s discussion of labour value and gender non-conforming bio- and necropolitics rests on a critical reading of three films, *Bubot Niyar*, *Les travestis pleurent aussi* and *The Amazing Truth About Queen Raquela*. Aizura analyzes representational practices of the films in relation to questions of modernity and the politics of death, turning our attention to the ways Euro-American notions of gendered non-conformity and sexual attraction produce putatively ‘gay’ bodies that are simultaneously placed within a liberationist narrative of gay identities and freedoms and discarded as bodies whose death does not matter. One particularly important intervention made by Aizura’s chapter concerns the notion of trans necropolitics, which, as he argues, cannot be explored without addressing ‘the mobility of gender variant bodies and the circuits of capital they/we exploit and are exploited by’. Trans necropolitics, then, reside not only and not so much in acts of murder by a state or a colonial power, but operate through mundane regimes of abandonment and disposability, of ‘letting die’. Such abandonment does not equal exclusion – on the contrary, Aizura’s chapter points to the notorious paradox of necropolitics: even as some bodies are destined to death, the labour they produce is valuable and thus targeted by the state for a (deadly) incorporation.

What emerges in all three contributions in Part II is the question of queer incorporation into interrelated regimes of life and death, living and dying, prosperity and abandonment. But what also unites the three chapters is their attention to the topographies of life and death; or in other words, to the spatiality

of queer necropolitics. All three chapters describe governance of queer lives and deaths in the context of migration, displacement and other forms of movement – be it the transnational labour migration of the Filipino care workers; their movement across Tel Aviv and its queer scene or their disappearing presence once outside the making of the film; the forced immobility of the Iranian refugee (awaiting refugee status in Turkey, arriving to homelessness in Canada) or the ease with which military planners and generals move across the globe in various acts of ‘war on terror’; the everyday movements of the Palestinians through Israeli military checkpoints or the virtual checkpoints posed for them by the Israeli queers.

These ‘topographies of cruelty’ (Mbembe 2003: 40) can be understood as borderzones – inspired by postcolonial feminist work on borders as spaces where ‘formations of violence are continuously in the making’ (Alarcón 1996: 44). Surveillance, minefields, pain, death, loss and clashes of impositions, discussed by scholars of borderlands in the 1990s, operate in today’s borderzones of colonial occupation and transnational migration and military regimes, working both in the realms of identity and cultural formations and in the physicality of the everyday struggle and survival. These borderzones, however, are not only about the movement of wars and the types of militarized global and local governance they produce. Rather, they are also about ‘zones of abandonment’ (Povinelli 2011) and oblivion, where, supposedly released from military and biopolitical targeting, racialized queer and non-queer bodies are left to die, ignored and forgotten.

Incarceration

The third and final part of the book explores another topography of cruelty and its relation to queerness: the prison. If prisons have occasionally been scandalized as sites of ‘torture’ or ‘war crime’ – e.g. in the spectacles of ‘Abu Ghraib’ and ‘Guantanamo’ – the exceptional status of the violence inflicted in these spaces is increasingly put in question. Most succinctly, Avery Gordon (2006) has drawn our attention to the striking overlaps between military and civilian sites of lockdown, in terms of funds, personnel, and techniques of torture/punishment, and the regularity with which epistemologies and methodologies of imprisonment travel across borders, and between exceptionalized contexts of ‘war’ and normalized contexts of ‘peace’. This underlines the need to understand the globalizing prison industrial complex in all its biopolitical, necropolitical and geopolitical dimensions (see also Sudbury 2005).⁶ While we are not aware of a specifically necropolitical lens being applied to incarceration so far, prisons and psychiatric institutions have regularly been described as sites of social and sometimes literal death (Breggin 1995; Davis 2003; Gilmore 2007; Gordon 2006; Halmi 2008). They serve the production of surplus populations marked as criminal or mad, and their segregation from the realm of the properly alive. These populations are profiled through the same signifiers of criminality and/or madness – poverty, perversion, racial inferiority, physical/mental deficiency, social non-conformity – that in these avowedly post-eugenicist, post-genocidal times are supposed to be firmly in the past

(see Roberts 2008). The bodies read this way are the raw material (Davis 2003) from which bio-value is generated in the carceral and biomedical industries that prevail under post-Fordism. As neoliberal restructuring produces disentitled surplus populations, poor racialized people are converted from cheap workers into unproductive bodies that must be controlled and capacitated in novel ways (Ben-Moshe 2011; Gordon 2006; Roberts 2008; Wacquant 2009). They are also, we argue, the raw material from which recognizably queer, disabled and multicultural subjects are carved out. Borrowing from Jodi Melamed (2011), we can note how the emergence of a minoritarian subject that is ‘fit for neoliberal subjectivity’ requires a distinction from disposable populations marked as ‘monocultural, irrational, regressive, patriarchal or criminal’ (ibid.: 87), which we must further examine in its disablist logics (Everelles 2010).⁷

The chapters in Part III describe incarceration as a method for the production of respectable and innocent genders and sexualities that are worthy of visibility, recognition and protection. Justice and liberation here become co-terminous with the punishment of populations that, in the newly gay-friendly societies of the West, are forced to bear the residues of gendered and sexual violence.⁸ These populations – ‘Muslims’ (in West Europe), ‘Punjabis’ (in British Columbia), ‘Palestinians’ (in Israel/Palestine), ‘African Americans’ or ‘Latinos’ (in the Californian Proposition 8 debate), ‘Africans’ (in global LGBT rights debates) – become interchangeable in the face of rapidly travelling scripts and methods of liberation, on the one hand, and punishment and neglect, on the other. What they frequently share is that their main path of inclusion has often been through prison doors.

This forces us to examine the prison as a foundational paradigm in liberal democracies (Rodriguez 2010). In the US, a growing body of activist and academic writing conceptualizes the prison system as a continuation of slavery, whose formal abolition was accompanied by an ‘except[ion] for punishment of crime’ (13th amendment of the American constitution; see Gilmore 2007). We may put this nationally conceived insight in transnational conversation with other exceptionalized and commemorated times and spaces. In Germany, forced labour was abolished in the constitution of the Federal Republic, yet allowed to continue in the prison system. While the concentration camps were closed in 1945, prisons and psychiatric institutions were not: in the latter, the first were gassed and killing officially continued until 1948/1949 (Halmi 2008). Rather than treat institutional violence as an anachronistic remnant that can be reformed away, we should seek to understand contemporary carceral and medical industries as key growth sectors in the neoliberal era (Davis 2003).⁹

The prison (and also the psychiatric institution, which has not received critical attention to the same extent, including in this book) are further key sites for the vitalization of queer subjectivities. Sarah Lambie’s Chapter 7 shows how, with regard to the emergence of hate crime as the new single issue in LGBT organizing, the prison is now a key terrain for queer vitality. This is ironic, as sexually and gender non-conforming subjects, even those with race and class privileges, were

long among the prototypical deviants and, with the belated and incomplete decriminalization and depathologization of same-sex and transgender practices and identities, have only just escaped the prison themselves. Several conversions concur at this punitive moment: as sexual justice turns into criminal justice, the homonormative subject nevertheless remains close to the old site of its death, which paradoxically becomes the site of its rebirth as a respectable subject. This goes along with another spatial reconfiguration, by the degenerate inner city into the revitalizing downtown neighbourhood, whose first gentrifiers often include queer and trans people with race and class privileges. As the old trope of the 'ghetto' as dangerous (hate) crime scene converges with the new trope of the 'recovering' inner city, where the properly alive like to live, eat and party, a certain queer subject comes to life in the shadows of the regenerating buildings. In homo-neoliberal accounts such as urban expert Richard Florida's (2002), gays are interpellated as 'creative classers' whose 'pioneering' ventures into hitherto ungentrifiable territory must be encouraged in urban policy (see Tongson (2007) for a critique). This globalized settler colonial fantasy has also returned to Western Europe, where the struggle of queer lovers and hateful Others is regularly scripted through anti-Muslim racism. There, the arrival of queers, which marks an area's recovery and discovery as a 'queer space', goes hand in hand with the displacement and policing of the degenerate bodies once confined to it (Decolonize Queer 2011; Hanhardt 2008; Haritaworn 2013; Manalansan 2005; Razack 2002). This brings home the need to think the necropolitical alongside the geopolitical, and the prison alongside the border and the inner city, and discourses on queer space, safety and security alongside racist, neoliberal and neo/colonial urban, immigration, military and development policies.

Elijah Edelman, in Chapter 8, examines this with regard to prostitution free zones, a spatial profiling instrument that is part of revanchist gentrification policies in Washington, DC. There, anybody 'looking like a prostitute' (which regularly interpellates trans feminine people of colour) can be searched, banished and criminalized with no further grounds. Edelman shows how this has in some contexts led to the formulation of a queer and trans politics that begins with the experiences of sexually and gender non-conforming people who are poor, of colour, homeless, criminalized, pathologized, or otherwise precarious, and attends to the intersecting regimes of killing, both spectacular and banal, institutional and interpersonal, which target some much more than others for premature death. However, any such inclusionary moves must themselves account for the ways in which black trans feminine bodies in particular have become the raw material for an expanding LGB(now-including-the)T non-profit sector. In fact, the new tendency in queer, trans and LGBT organizing to include those deemed precarious often reinscribes their killability while securing a newly professionalizing class of experts in the realm of life. As Snorton and Haritaworn (2013) suggest, it is in the moment of their death that those most in need of survival become valuable, as experts, allies and funders become literate and numerate in hate crime paradigms

whose main function is to secure further funding. Most starkly, this is illustrated by the globalization of Transgender Day of Remembrance, whose travels again call for a bio-, necro- as well as geopolitical lens (see Bhanji 2013). Thus, TDOR events from Toronto to London to Berlin enable mainly white trans people from the global north to commune by reading out the names and looking at the photos of dead people, mainly poor, trans feminine, black and/or from the global south, who would have unlikely had much access to trans communities while alive (see Lamble 2008). This illustrates how queer and trans vitality, besides symbiotically enhancing the death-making capacities of the market and the state, is often cannibalistic on the lives and deaths of the very people it claims to represent.

Transnational investigations such as Lamble's are important, as they force us to understand queer necropolitics through various racial formations. If in Western Europe, the drama of queer lovers and hateful others both brings home and renders palpable globalized demonologies of Islam that allow white Europeans to come together and cohere against highly disparate contexts of colonialism, slavery, genocide and migration, in the US white gay activists have treated black people as their significant Other (Bacchetta and Haritaworn 2011). In this context, Morgan Bassichis and Dean Spade argue in Chapter 9 that anti-blackness is foundational to sexual citizenship claims. Non-black queers become 'junior partners' to a violently anti-black state, whose prime lens for blackness is criminality. Rather than a mere by-product of neoliberalism, Bassichis and Spade demand that we understand queer racism as a minoritarian modulation of the structures of anti-blackness, settler colonialism and permanent war that are at the basis of the American project itself.

Yet if queer necropolitics is not reducible to neoliberalism, it is neoliberalism's capacity to diversify racism and politically correct 'necessary killing' (Foucault 1981) by rewriting it into minoritarian languages such as LGBT rights and protection that serves to usher into consent those who have traditionally been critical of the racist state. Nowhere is this more apparent than in the area of policing. As race and class-privileged queers across the West mobilize police to protect them from 'homophobic' and 'transphobic' others, for whom the prison is already carved out as natural habitat, the forces that render sexually and gender non-conforming people vulnerable to violence ironically disappear from view. In contrast to the visibility and publicity politics of mainstream hate crime activism, which tend to imag/ine the innocent victim as white, gender conforming, consumptive and respectable, those who are most vulnerable to violence and premature death are left completely unrecognizable in the institutionalized and professionalized anti-violence discourse (Alliance for a Safe & Diverse DC 2008; R. Gossett 2011; Lavers 2011; Young Women's Empowerment Project 2009). Thus, the kinship with death that all queer and trans people seem to nostalgically inherit (Nunokawa 2007) is very literal for sexually and gender non-conforming people whose race and class locations are marked as targets and topoi of cruelty, for whom more police in the neighbourhood will regularly mean more abuse.¹⁰ As activists have long shown, low-income gender non-conforming people of colour

are especially easy targets for a criminal ‘justice’ system whose routine deployment of gender and racial violence in the street continues and intensifies in the gender-binaried space of the prison (Mogul, Ritchie and Whitlock 2011; Sears, Clay, Fields and Martinez 2011; Stanley and Smith 2011; Sylvia Rivera Law Project *et al.* 2009).

Thinking through and beyond queer necropolitics: fostering survival in the face of death

As a queer & trans person of color and a person working within gender liberation & self-determination movements I so often hear about death. More specifically I so often interact with the overkilling of queer and trans people, often low income, living with HIV/AIDS, undocumented, disabled and people of color. So much death, so much killing, has made me wonder how to be accountable to (the) dead as well as the living.

(R. Gossett 2011: n.p.)

We have seen how our communities – black, disabled, queer and trans, poor, houseless, drug user, sex worker – have been impacted in the past and at present, by the prison industrial complex and criminalization. We have been subject to obliteration by police violence, so many lives have been extinguished and stolen. We are meant to perish but we are not disposable. Even as the prison industrial complex tries to contain our communities, keep our bodies and genders captive and policed, we know that our political imaginations are free. There are viable alternatives – both that already exist and are being created – to ‘organized abandonment,’ to interpersonal harm, to the regulation of our lives and institutionalized death via the prison industrial complex. Let’s support and expand them.

(C. Gossett 2011: n.p.)

Through the concept-metaphor of queer necropolitics, the contributors to this book broaden our perception of life, death, violence and survival by attending to different sites, such as the borderzone, the warzone, the prison and the gentrifying area. These Mbembian ‘topographies of cruelty’ are by no means an exclusive map of necropolitical spatialities. More work is needed in order to make sense of the queer vitalities that have proliferated across various sites – including institutions of punishment alongside institutions of ‘care’, such as schools, psychiatric units and youth work, as well as the informal spaces and connectivities – the queer ‘scene’, the queer ‘neighbourhood’, the globalizing LGBT movement – that increasingly follow similar punitive and pathologizing logics.

While queer necropolitics is not the only tool through which such work is possible, we have offered it up as an insurgent vocabulary that can help us make sense of the many forms of death that accompany and condition queer claims to life, visibility and protection. Its attraction lies precisely in its ability to capture seemingly unrelated phenomena simultaneously, and to bring back into a shared plane of intelligibility struggles that we are often told are mutually exclusive. It may

help us, for example, to understand figures such as the ‘welfare queen’ (Cohen 1997; Roberts 1997), the ‘monster-terrorist-fag’ (Puar and Rai 2002), the ‘drunk Indian’ (Razack 2012), the ‘black rioter’ (Breggin 1995) and the ‘hateful Muslim youth’ (Haritaworn 2013), as related not only to one another but also to the figure of the ‘queer lover’, whose ascendancy from degeneracy occurs in shared environments shaped by the same murderous processes. What would it mean to enter into kinship with these pathologized figures? How might we – from our various positionalities – explore gender and sexuality beyond these necropolitical moulds?

One way to think crucially and responsibly about queer politics in these times is to refuse the call to become what we call ‘happy queers’ (or, indeed, nostalgic queers) whose recruitment for sexual celebration serves to euphemize and accelerate the death of Others – who for some of us indeed include our own. Instead, we must attend to the forces that prepare queer and indeed non-queer bodies for premature death (see also Cohen 2011). Yet our motivation must be to go much further, to foster the survival of those who were ‘meant to perish’ but *are not disposable*, to repeat Che Gossett’s moving words (2011: n.p.). What would a politics, queer or otherwise, that is serious about such a resistant and allied task look like? How can we engage in unalienated politics, where safer spaces are not won by reproducing cannibalistic, criminalizing and pathologizing regimes or by inserting ourselves into militarizing and security logics, and where the violence of the most powerful (such as the racist and neo/colonial state, the market, the prison and the hospital) is scandalized at least as loudly as the acts of those thus subjugated?

We see the necropolitical as one in a range of possible tools to explore the possibilities of such a politics, since it helps us make sense of the symbiotic co-presence of life and death, manifested ever more clearly in the cleavages between rich and poor, citizens and non-citizens (and those who can be stripped of citizenship at any moment); the culturally, morally, economically valuable and the pathological; queer subjects invited into life and queerly abjected populations marked for death. Yet this book is in conversation not just with those interested in testing the promises and limits of a specifically necropolitical framework, but also with other trajectories of decolonizing gender and sexuality. More generally, it responds to the new hunger for queerly theorizing about structural violence and injustice, from tightening borders, mass incarceration, and the wars without end, to the everyday, banal workings of the market. On an activist level, this is reflected in the growth of feminist, queer and trans movements that radically refigure that which counts as a ‘queer and trans issue’, by moving away from narrow liberal and identitarian notions of protection, tolerance, victimhood and visibility and towards careful mappings of the bigger picture (Bassichis, Lee and Spade 2011). We are especially encouraged to witness, through international collaborations such as this, the growth of a radical queer and trans activism which, stepping into the footsteps of a re-radicalized anti-racist feminism, seeks to fight oppression in all its intersections and manifestations, including the normalized, the banal, and the

systemic (Decolonize Queer 2011; Gender Just 2011; Incite! – Critical Resistance 2001; Incite! 2006; Khalass We're Vex 2013; SUSPECT 2010; Sylvia Rivera Law Project *et al.* 2009). If this has so far largely remained parochial to the North American context, we hope that projects such as *Queer Necropolitics* will help us catch up with the moves of capital and ideology, so that resistant knowledges, too, may begin to cross borders and 'unmap' (Razack 2002) the geopolitics of violence, abandonment, and death. We hope that this book will be a stepping stone for forging a transnational lens that is adequate to this task.

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Notes

- 1 That performances of grief per se are not the solution is brought home to us by the growing popularity of activism that capitalize on subaltern deaths while refusing to become accountable to subaltern lives. See later for our critique of Transgender Day of Remembrance.
- 2 Patterson's figure of the slave as 'socially dead' thus predates Agamben's (1998) discussion of 'homo sacer'. Drawing on Roman law, Agamben argues that 'homo sacer' refers to 'the one whom the people have judged on account of a crime' and may be killed, but not sacrificed or murdered. For Agamben, 'homo sacer' therefore lies outside both divine and human law and exists in a zone of indistinction, as 'the living dead' (Agamben 1998: 71). See also Sexton's (2010) critique, of which we became aware after writing this.
- 3 Gilmore explains that 'racism, specifically, is the state-sanctioned and/or extralegal production and exploitation of group-differentiated vulnerability to premature death' (2007: 28).
- 4 See Kuntsman (2009) and Haritaworn (2013) for critiques of specifically queer formulations of traumatized citizenship claims in contexts where the figure of 'the homophobe' is clearly racialized.
- 5 The 'prison industrial complex' refers to the progressive expansion, privatization and marketization of the prison system, phenomena that have been carefully charted in relation to the US (Davis 2003; Gilmore 2007). The growth of the prison industrial complex is unambiguously linked to the progressive mass incarceration of people of colour and the poor.

- 6 We might add to this further overlaps and continuities, such as between prisons as sites of punishment and psychiatric institutions as sites of reform, or indeed the school, the job centre, the hospital and the prison (see later).
- 7 The chapters in this book focus on the prison rather than the psychiatric institution. Nevertheless, the two institutions cannot be examined in isolation from one another and follow similar biopolitical logics, techniques of profiling and reform, and methods of confinement (see Halmi 2008; Haritaworn 2013).
- 8 Here we are in conversation with Onyinyechukwu Udegbe and Darcel Bullen's unpublished piece 'Black Incarceration, Gay Liberation: Mapping Queer Necropolitical Power in the Gay Liberation Movement and Prison Industrial Complex'. Bullen and Udegbe draw our attention to the spatial and temporal convergence of gay liberation and prison expansion in California, which besides being considered home to the 'gayest' scene also has the world's largest prison population. Developing Mbembe's arguments that political power is 'necro-erotic', and that 'death and freedom are irrevocably interwoven' (Mbembe 2006: 38), they urge us to understand the seemingly unrelated spaces of the gay scene and the prison as 'co-animated'. Udegbe's and Bullen's case study of California can be read as a challenge to existing theories on the relationship between spaces of exceptionalism (a tolerant/queer California that is co-terminous with whiteness or ascendant whiteness) and spaces of exception (a growing prison system with a growing dis/proportion of black and brown bodies). Thus, the prime mode of inclusion for the majority of people of colour in the US, and especially for black, brown and indigenous people, has been through prison doors. As Michelle Alexander (2010) observes in her widely discussed book, with more black men incarcerated now than enslaved in 1850, this trend is if anything intensifying.
- 9 We must further problematize another periodization, of the war on terror as the birth date of a state of exception that apparently rolls back an older – more natural – state of freedom and democracy (see Agamben 1998). As Andrea Smith and other discussants at the Critical Ethnic Studies conference (Riverside, March 2011) argued in their US context of settler colonialism, anti-blackness, imperial war and liberal multiculturalism, we can understand the shrinking of rights and liberties in the last decade, not as a threat to Western democracies, but rather as their fulfillment (see also Sexton 2010).
- 10 Ironically, dominant queer historiographies imagine AIDS as belonging in a romanticized past of collective suffering and radical action that revolved around white gay men. This serves to reify death in the present by cutting off from queer community the majority of queer and trans people living with HIV/AIDS, most of whom are poor, of colour and trans feminine (see Chapter 1 (Che Gossett).

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Part I

Death worlds

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We will not rest in peace

AIDS activism, black radicalism, queer and/or trans resistance

Che Gossett

We are living in a time in which more than ever, as James Baldwin presciently wrote in his beautifully moving open letter to then imprisoned black radical Angela Y. Davis, ‘Americans . . . measure their safety in chains and corpses’ (Baldwin 2011: 255). We are living in a time of ‘chains and corpses’, death, loss and mourning, of outrage and activism in response to mass incarceration, mass detention and deportation, HIV criminalization, AIDS phobia and the ongoing AIDS epidemic, anti-queer and anti-trans police violence. Mass incarceration is the normalized backdrop on which the ideological screen of ‘post-racial’ neoliberalism is projected. The carceral and military industrial complexes are figured as necessary institutions safeguarding the American neoliberal scene and as providing a haven for ‘diversity’ through the enforcement of ‘hate crime’ legislation and DADT. Is this the dream of inclusion?

In this chapter, I explore the ways in which the prison industrial complex and the persisting AIDS epidemic are tied together within a broader history of criminalization of and medical malign neglect towards our communities – of colour, queer, transgender, gender non-conforming, poor and disabled. I make the case that in the face of continued HIV criminalization, the war on drugs and the rendering of the political, along with the just, captive to the carceral, HIV/AIDS prevention and treatment are best addressed in the register of PIC abolitionism. In particular, I highlight how inside/outside organizing against homophobia and for medical services by ACT UP members such as Gregory Smith and Kiyoshi Kuromiya force us to rethink AIDS activist, black and queer liberationist and anti-prison activism as interlaced. Thus, queer and/or trans liberationist, AIDS activist and prison abolitionist critiques converge in the struggle for the decriminalization of HIV/AIDS as a crucial component of AIDS and abolitionist activism. The essay adds to queer and/or trans abolitionist critiques of the prison industrial complex as seen in such texts as *Queer (In)Justice* (Ritchie, Whitlock and Mogul 2011), *Captive Genders* (Stanley and Smith 2011) and *Against Equality: Prisons Will Not Protect You* (Conrad 2012). While incarcerated people’s resistance movements during the height of 1970s liberationist struggles have been researched, there remains a need for work that explores how the prison system has been a site of, and struggle against, anti-black, anti-queer and/or anti-trans violence. As will be argued in this

chapter, inside/outside AIDS activism, including by queer and/or trans activists of colour, is one important optic through which to examine this legacy. The inside/outside history of AIDS activism seems especially relevant if we consider past forms of criminalization and securitization – from the HIV prison camp at Guantanamo during Clinton’s presidency to the Jesse Helms-inspired HIV travel ban – and considering the present moment in which segregation of HIV-positive prisoners continues in South Carolina as well as emergent scholarship on the ways in which mass incarceration, criminalization of sex work, drugs have all escalated HIV/AIDS. While scholarship about AIDS activism is often retrospective, there is also a need for scholarship that addresses the (con)temporality of AIDS and ongoing AIDS activism. The essay ends by revisiting and reframing James Baldwin’s writing as an abolitionist call to anti-carceral conscience. Baldwin’s black radical, anti-Zionist (but not anti-Semitic), and critical anti-prison politics cut against the grain of (racial) liberalism and called for democratic awakening – which resonates now in our age of neoliberal anti-blackness and the carceral state of everyday life.

The necropolitics of the prison

In ‘Necropolitics’, Achille Mbembe begins by inquiring whether Foucault’s concept of ‘biopower’ accurately reflects the capacity of the state to regulate the lives and deaths of its subjects:

Is the notion of biopower sufficient to account for the contemporary ways in which the political, under the guise of war, of resistance, or of the fight against terror makes the murder of the enemy its primary and absolute objective? Imagining politics as a form of war, we must ask: What place is given to life, death and the human body (in particular the wounded or slain body)? How are they inscribed in the order of power?

(Mbembe 2003: 12)

Mbembe thus relates the politics of life to the politics of death. ‘I examine those trajectories by which the state of exception and the relation of enmity have become the normative basis of the right to kill’ (Mbembe 2003: 16). One of Mbembe’s prime examples is the settler colonial occupation of Palestine, where areas such as the West Bank are cordoned off via an Israeli carceral–military industrial complex of occupation and apartheid. The necropolitical also indexes various anti-black enterprises and state violence, from lynching, Jim Crow-era racial apartheid and terrorism, to contemporary militarized police violence against black people crystallizing in ‘stop and frisk’ orders and reminiscent of slave patrols, to outright police assassination of black ‘citizens’ such as Amadou Diallo, Oscar Grant and so many others. It was in response to ‘this record of mass slayings on the basis of race, of lives deliberately warped and distorted by the willful creation of conditions making for premature death, poverty and disease’ that the 1951 UN

petition presented by Paul Robeson and William Patterson, 'We Charge Genocide', materialized (Patterson: 1970). The title of the petition is as instructive as it is declarative: 'We Charge Genocide: The Historic Petition to the United Nations for Relief From a Crime of The United States Government Against the Negro People'. The petition was in response to anti-black racism, through which bio- and necropolitical violence converges in state violence against black 'citizens'. As James Baldwin so passionately argued in *Evidence of Things Not Seen*: 'Blacks have never been, and are not now, really considered to be citizens here. Blacks exist, in the American imagination, and in relation to American institutions, in reference to the slave codes: the first legal recognition of our presence remains the most compelling' (Baldwin 1995: 31). This is echoed in Colin Dayan's elegant and harrowing account in *The Story of Cruel and Unusual*, which traces how 'the ghost of slavery still haunts our legal language and holds the prison system in thrall' (Dayan 2007: 16). The vast landscape of the prison industrial complex (PIC) can thus be described more generally as an example of what Mbembe calls a 'deathscapes' – 'new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of living dead' (Mbembe 2003: 40).

The prison industrial complex is an always already anti-black, violently anti-queer and anti-transgender enterprise that perpetuates what Saidiya Hartman names the 'afterlife of slavery' (Hartman 2008: 6). It institutionalizes forms of restricted life: following 're-entry', a formerly incarcerated person loses access to public housing, benefits and federal educational loans and faces chronic joblessness due to stigma. Incarceration has been historically employed as a means of maintaining an anti-black and white supremacist sociopolitical and racial capitalist order – from antebellum 'black codes' that criminalized vagrancy (Dru Stanley 125–126) post-'emancipation', to more recent attempts to extinguish the spirit and destroy the momentum of black liberationist movements in the United States (ranging from surveillance and sabotage of the Revolutionary Action Movement, to COINTELPRO, to the current renewed targeting of Assata Shakur). Journalist Shane Bauer (2012) has documented how in California, the mere possession of black radical literature results in being criminalized as gang related and put in solitary housing units (SHU) – a form of torture from which exit is uncertain, whose administration is often based on whether one informs on other incarcerated people (Bauer 2012: 1–4). Prisons thus continue the logic of COINTELPRO, which aimed to neutralize and eliminate black freedom movement(s).

The prison industrial complex is at once a manifestation of a disciplinary and of a control society. The prison is one of the central and proliferating oppressive technologies through which bio- and necropolitical violence and the apparatuses of surveillance that reinforce it are naturalized. The insidious morphology of the carceral is such that even as it is dismantled via lobbying for decriminalization and decarceration, on the one hand, it proliferates via extended modes of surveillance and control – ankle bracelets, probation and parole – on the other.

Carceral violence is maintained in various penal registers and forms. In the post-9/11 age of the Patriot Act, which expanded surveillance and police militarization (implemented during the continuing war on drugs), we are witnessing the violence of what I propose to describe as penal securitocracy. The call for the abolition of the prison industrial complex requires the complete dismantling of spaces of confinement and detention – what Foucault termed the ‘carceral continuum’ (Foucault 1977: 297, 303) – ranging from the torturous sensory deprivation of solitary confinement that is the signature of the supermax prison, to the coercive containment that characterizes psychiatric institutionalization.

The criminalization of HIV is one site in which anti-blackness, AIDS phobia, queer phobia and carceral violence converge. While recent research, particularly in public health, has begun to address the impact of mass incarceration on AIDS treatment and prevention, inside/outside AIDS activism and the struggle for HIV decriminalization in relation to queer and/or trans prison abolition politics have so far been neglected. As I will illustrate next, we have much to learn from this and I will turn to the insightful history of this struggle in the following section.

HIV: the history of a criminalization

Thanks to the powerful media activism and journalism by AIDS activists and advocates we now have a clearer picture of the history of the criminalization of HIV. In June 1988 the Presidential Commission on the HIV epidemic published a report calling for legislation on criminal non-disclosure (not disclosing HIV status before sexual activity) that should contain HIV-specific criminalization laws. In contrast to current criminal laws, which are applied blanketly, the commission recommended HIV-specific statutes that would ‘provide clear notice of socially unacceptable standards of behavior specific to the HIV epidemic and tailor punishment to the specific crime of HIV transmission’ (Presidential Commission on HIV Epidemic 1988: 130). The report recommendations were echoed in the 1990 Ryan White Care Act, which stipulated that states have the ‘affirmative responsibility’ to implement laws around criminal disclosure in order to receive federal money for HIV/AIDS care and education:

Two years later, Congress added its voice to the call for criminalization when it passed the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (the CARE Act), which mandated that states prove the adequacy of their laws for criminal prosecution of intentional transmission of HIV before they could receive federal funding for HIV/AIDS prevention. By 1993, almost half the states had HIV-specific criminal legislation.

(McArthur 2008: 715)

Interestingly, HIV criminalization model (proposed legislation and/or legal frameworks/paradigms for state and jurisdictions) legislation was created by the

American Legislative Exchange Council (ALEC) which, in the wake of public outcry following the tragic death of Trayvon Martin, also abandoned efforts to push for voter ID and stand your ground legislation. As investigative journalist Todd Heywood reports, HIV criminalization laws emerged at the nexus of political conservatism, AIDS panic and corporate power:

In the late fall of 1988, state lawmakers and representatives from major insurance and pharmaceutical companies were hard at work addressing the looming AIDS crisis for the American Legislative Exchange Council, a conservative-leaning think tank that produces state-based business-friendly model legislation. The efforts of ALEC's AIDS policy working group were published that year in a 169-page book containing 13 HIV-specific legislative recommendations. Some of those model laws would, after becoming real state laws, go on to effectively criminalize the behavior of people living with HIV and perpetuate a lasting stigma against HIV-positive people.

(Heywood 2013: 1)

The war on drugs – as a moral, racialized, classed and police-militarized enterprise – intensified and escalated the AIDS epidemic through zero-tolerance policies, mandatory minimum sentences, and by creating unsafe and vulnerable conditions for injection drug users. As the recently released report by the Global Commission on Drug Policy attests, the war on drugs effectively led to a situation in which resources are now being used for law enforcement instead of HIV prevention, where syringe sharing has increased, and where resources have been divested from public health interventions (Soros 2012: 1). It has fuelled the AIDS epidemic and been a central mechanism driving what might be understood as both mass (in terms of sheer volume) and hyper (in terms of concentration) incarceration rates facing poor black communities throughout the United States. As Steve Martinot argues, the war on drugs 'is a metaphoric war since a war cannot be fought against substances but only against people' (Martinot 2010: 76). The United States is not only the world's leading 'prison nation' but also its leader in HIV criminalization. HIV criminalization has also resulted in another harmful phenomenon often referred to as 'take the test and risk arrest', which describes how many people are now avoiding HIV testing so as not to be penalized under HIV disclosure laws (Strub 2012: 1). Revisiting the legacies and genealogies of queer and/or trans resistance and inside/outside AIDS activism, including organizing against the prison industrial complex by incarcerated AIDS activists, black queer and transgender liberationists, we can see how the carceral has always been a site of struggle.

Incarcerated AIDS activists – from David Gilbert of the Weather Underground, who co-founded an HIV peer education programme following the death of queer Black Liberation Army member Kuwasi Balagoon (Kaplan 1998: 1), to the 1992 medication strikers at CMF Vacaville (Rosenblatt 1996: 120) – have courageously

fought for AIDS services and medical care within penal institutions across the United States (and the world). AIDS is framed as a threat to the internal order of the total institution (Goffman 1991) of the prison, as opposed to a threat to the survival of those struggling to survive within its confines. The history of inside/outside AIDS activism speaks to the resistance that continues to thrive even as the prison industrial complex continues its abysmal telos towards the extinguishing of civic life and enactment of 'social death', even as structures of sociality and survival are repressed and denied within as well outside the prison, through the racist architecture of what Michelle Alexander refers to as the 'new Jim [and I would add Jane] Crow' (Alexander 2010). Collaborative efforts by AIDS activist groups and anti-prison organizations represent a dual mode of political response to the prison and medical establishment as well as advocacy for immediate implementation of standards of care, on the one hand, and resistance to the historical and institutionalized forces that produce prisons (racism, disablism, heteropatriarchy, classism, transphobia, homophobia, etc.), on the other.

These intersections are well reflected in the overlaps between radical social movements on the issue of AIDS. The fact that in most historiography, queer, black liberationist and decolonial movements are considered parallel but separate constitutes an act of epistemic and archival violence that invisibilizes the contributions and theorizations of queer of colour activists – especially political formations (however short lived) such as 'Third World gay revolutionaries'. Kiyoshi Kuromiya participated in and was radicalized as part of the black freedom struggle during the period of the Civil Rights Movement – a chrono-political designation that James Baldwin called a 'misnomer' (a more accurate description for him was 'the latest slave rebellion') (Baldwin 1989: 194) – as well as in anti-war activism and queer liberation. In March 1965 Kuromiya, while marching with Martin Luther King Jr., Fred Shuttlesworth and countless others, was attacked by the volunteer mounted posse of Montgomery, AL Sheriff Mac Sim Butler and hospitalized. Underlining the continuity of anti-black police violence in that historical moment, and illustrative of how such violence travels and concretizes in white supremacist institutional memory, the current Montgomery, Alabama jail is named the Mac Sim Butler Detention Facility. Placed under FBI surveillance during COINTELPRO, Kuromiya's file is over 100 pages long and he was included on the Security Index because of 'anarchist tendencies'. Kuromiya's name is listed in the papers liberated from the Media PA FBI field office by the concerned citizens collective that exposed the existence of COINTELPRO in March 1971 (WIN 1972: 1, 33, 34). The 1970s Gay Liberation Front and 1980s ACT UP collectives were also monitored by the FBI (Osborne 1993; Stockdill 2003).

Both Kuromiya and Ortez Alderson attended the Black Panther Revolutionary People's Constitutional Convention in Philadelphia in 1970, as part of a queer people of colour contingent. Following the People's Convention, Ortez Alderson was arrested for breaking into an Illinois draft board and was incarcerated for a

year. After being at Peoria County Jail for three months, he was transferred to a prison in Ashland County, Kentucky (Highleyman 2004: 1). While imprisoned in Kentucky, Alderson and three other queer men of colour attempted to form a gay liberation chapter. As a result of this, as Alderson described in his 1972 *Motive* magazine interview (appropriately titled with an excerpt of his commentary 'On Being Black and Gay in Prison: There Is No Humanity'), they were all 'immediately arrested by the goon squad and put in the hole' (Alderson 1972: 26). In a moving essay in the anthology *That's Revolting: Queer Strategies for Resisting Assimilation* edited by Mattilda Bernstein Sycamore, AIDS activist and former Los Angeles AIDS city coordinator Fred Eggen recounted how Alderson, following his release from prison for anti-war activism, organized a protest against police violence in response to the killing of a black 'drag queen' (and/or trans woman) by Chicago police officers in the 1970s (Sycamore 2008: 8). Alderson would go on to become a central figure in both NYC and Chicago ACT UP chapters, as well as a main organizer of a people of colour HIV/AIDS conference in Chicago. He passed away in December 1990. His partner, Arthur Gursch, carried Alderson's ashes to the political funeral action at the White House in 1992 (Gould 2009: 8).

For queer AIDS activists of colour involved in ACT UP Philadelphia, issues of AIDS, securitization and anti-blackness were inseparably intertwined. In the 1990s, in an of radical performance against the securitization of AIDS and anti-blackness, ACT UP Philadelphia members Jon Paul Hammond, Kiyoshi Kuromiya and David Acosta imprisoned themselves in a makeshift barbed wire concentration camp in front of the United States courthouse in downtown Philadelphia in solidarity with HIV-positive Haitians incarcerated at Guantanamo (Acosta and Jaynes 1999: 16–19, 23–24). Yet the securitization of AIDS continues. Since Congress mandated the creation of the US military HIV research programme in 1986, military HIV/AIDS research has expanded. As several scholars in security studies have pointed out, infectious disease and HIV/AIDS treatment provided under the aegis of the US military is directly related to the management of social unrest and other perceived threats that have the potential to undermine neoliberal governance and geopolitical order (see Elbe 2009; Ingram 2011; Pereira 2008). Military HIV/AIDS research and treatment occur within a context of humanitarian violence and securitization and thus, despite profound success in HIV research, remain inextricably intertwined with military aims and geopolitical security objectives. AFRICOM's HIV/AIDS prevention work and drone bases (Wiley 2012: 147–161) are both measures designed to safeguard mutual security interests (Skinner 2011: 1). Securitization and criminalization have been two major state responses to HIV/AIDS, from the Jesse Helms-inspired HIV travel ban to the incarceration of HIV-positive Haitians during the Clinton administration in an HIV prison camp at Guantanamo Bay, to the segregation of incarcerated people living with HIV/AIDS in Mississippi at Parchman Prison/plantation Unit 28 and in Alabama at Limestone, which is still ongoing in South

Carolina (ACLU and Human Rights Watch 2010: 1–50). While the use of torture in Guantanamo and other offshore prisons has been rightly scandalized, a less exceptionalist framework might treat torture as a carceral technology that has been naturalized and normalized across the domestic prison landscape (ACLU and Human Rights Watch: *ibid.*). Thus, the force feeding that has been reported at Guantanamo, in response to the ongoing hunger strikes, has precedent in prisons across the US as a means to ‘preserve order’ (Ingram and Sutton 2013: 1). This intertwining of securitization and racism is also brought home by the legacy of Gregory Smith.

‘We will not rest in peace’: the legacy of Gregory Smith

On 18 May 1990, in New Jersey’s Camden County Superior Court, Gregory Smith, a black HIV-positive gay man, was sentenced to 12½–25 years in prison for attempted murder. He had allegedly bitten a police officer – a charge which Smith denied (Petty 2005: 76–88). Smith, who was taking AZT at the time of his sentencing, was denied the drug once he was incarcerated at Camden County Jail in April 1989 (McKnight 1990: 1). On 10 June Smith collapsed in his cell, injuring his back. When he got to the hospital and his requests to be x-rayed were denied, he refused to leave and was taken by one of the guards to an adjacent room and beaten. In the process of this attack, the guard cut his hand and then ‘later claimed [the cut] was a bite wound inflicted by Smith’ (*ibid.*: 1). ACT UP and other local Philadelphia groups organized protests and forums in Smith’s defence. AIDS activists including Judy Greenspan of California Prison Focus and ACT UP Philadelphia members including Kiyoshi Kuromiya, as well as the ACLU, organized in support of Smith. Cindy Patton wrote passionately about Smith’s case in *POZ* magazine, highlighting prison as an HIV/AIDS issue (Patton 1998: 1). ACT UP Philadelphia produced a fact sheet about HIV criminalization: ‘Biting, Spitting and Other Murderous Acts: Greg Smith and the Criminalization of HIV’ (ACT UP Philadelphia 1999: 1–1).

Smith’s HIV status aggravated his punishment. Assistant prosecutor Harold Kasselmann described him as wielding his HIV status as ‘his own personal weapon of misery’ (Patton 1998: para. 15). He was convicted and sentenced by Judge Mariano to the maximum of 25 years for aggravated assault and attempted murder. Smith was one year away from his release when he received this new sentence (Strub 2011: 5). A 1992 study by Harvard School of Public Health showed that AIDS-related prosecutions disproportionately resulted in harsher sentences and reinforced moral panic, AIDS phobia and misinformation. ‘While the public health services long have said the only way to transmit the HIV virus is through blood, sex or needles, judges are perpetuating the belief that AIDS can be spread casually, through spitting or biting’, said Larry Gostin, chief author of the Harvard School of Public Health study. ‘We like to think judges are leaders of public

opinion, but in this case, they have been perpetuating some of the fears that are prevalent in society' (Hopkins 1992: paras 2–3).

An incarcerated AIDS activist, Smith regularly contributed to the *Critical Path* newsletter and advocated for AIDS education and treatment inside. Rather than exemplary, criminalization, as ACT UP Philadelphia activist Jose De Marco states, 'is not new for our communities' (In The Life: 2010). As Jared Sexton argues, black people have always figured as 'perennial threats to national security' (Sexton and Lee 2006: 1014). Anti-black violence has been central to safeguarding the security of a white supremacist sociopolitical and psychic order. Being black, as poet and critic David Marriott (2000) argues, is so often 'a fatal way of being alive' (p. 15). The black body is situated in an anti-black world saturated in the violent and white supremacist affect of what the incomparable public intellectual and freedom fighter Frederick Douglass named an 'anti-black feeling', in his 1848 *North Star* article 'Prejudice Against Color' (Douglass, Foner and Taylor 1999: 99). Black people are especially targeted by the material violence of racism, which Critical Resistance founding member and geography professor Ruth Wilson Gilmore so aptly and influentially theorizes as 'the state-sanctioned and/or extralegal production and exploitation of group-differentiated vulnerability to premature death' (Gilmore 2007: 28). Ultimately, as Fred Moten ever poetically and illuminatingly states, 'what is inadequate to blackness is already given ontologies' (Moten 2008: 187).

While incarcerated, Smith organized People Living with HIV/AIDS (PWAs), published a newsletter about prison and HIV/AIDS issues and also started writing a memoir. He remained public about his sexuality and his HIV-positive status, despite the threat of institutional and personal, psychological and physical violence that this entailed. Gregory Smith passed away on Monday 10 November 2003 at the St. Francis Medical Center in Trenton, New Jersey (ACT UP NY: 2003). He was 40 years old. 'Greg did not have to die. AIDS bigotry and hysteria took his freedom, and now medical neglect has killed him', Asia Russell, of ACT UP Philadelphia, stated following his untimely death (ACT UP NY: 2003).

ACT UP has always spoken for the living and the dead. Gregory Smith was murdered by the state but held in collective memory by ACT UP Philadelphia members. In an act of radical performance designed to both keep Gregory Smith's memory alive and draw attention to the continued need for better medical care for incarcerated people in New Jersey's prisons, in January 2004 ACT UP Philadelphia members travelled on buses to retired Superior Court Judge John Mariano's home, where they held a funeral procession and placed a black coffin and flowers on his front yard (Gambardello 2004: 1).

ACT UP Philadelphia members have organized as a collective over the past two decades, operating outside the non-profit industrial complex as a network of PWAs and their allies, to make sweeping changes to the political landscape of the city. In addition to decriminalizing condoms in Philadelphia jails, fighting for

condom availability in schools, securing nursing homes, advocating for enhanced AIDS budgets and services, as well as for adherence to ethical and humane standards of treatment and care, ACT UP members conducted numerous protests and helped to organize an (extra-legal) needle exchange. Extending the political aspirations of queer liberationist movements, ACT UP Philadelphia members have radicalized the city's politics of public health, HIV/AIDS prevention and treatment. Yet as the recent release of the 'Ending and Defending Against HIV Criminalization' advocacy manual by the Center for HIV Health Law and Policy and the Positive Justice Project makes abundantly clear, the struggle against murderous policy – whether it is against the criminalization of HIV-positive sex workers in Pennsylvania who face felony charges regardless of disclosure and/or condom use (Positive Justice Project 2010: 168) or for housing justice for HIV-positive Philadelphians currently living on the streets of a neoliberal city – continues.

ACT UP Philadelphia's campaigning for Gregory Smith is particularly relevant today, at a time when HIV/AIDS and black queer and transgender people are actively criminalized and stigmatized. Daniel Allen, a black gay Michigan resident who allegedly bit his neighbour during a fight in 2009, was initially charged with 'bio-terrorism' (Gonzalez 2012: para. 1). The historical practice of segregating incarcerated people living with HIV/AIDS in abhorrent conditions within penal institutions in Mississippi and Alabama continues today in South Carolina (ACLU and Human Rights Watch 2010: 1–50). The imperative voiced in 1993 by incarcerated and long-time AIDS activist Yusuf Shakoor, who assisted in building the Prisoners Educating Prisoners on AIDS (PEPA) project at Auburn Correctional Facility (Greenspan 2000), still holds true: 'Action needs to be taken in order to stop the genocidal actions this state has implemented by withholding adequate treatment and care for HIV/AIDS prisoners' (Greenspan 2000: para. 14). A critical genealogy and social history of organizing against the prison industrial complex by incarcerated AIDS activists, black queer and transgender liberationists is all the more essential.

All too often the violence of representation – whether taking the shape of the LGBT taskforce that cooperates with the police, or the elevating of one moderate or conservative representative as the 'authentic' voice of queer and/or trans community – evacuates the radical potentiality that can emerge out of collective anguish and outrage in response to violence. All too often institutionalized LGBT 'leadership' perform as a managerial class, channelling the affective intensity and electricity of protest against anti-queer and anti-trans violence back into neoliberal institutions/forces. When interpersonal anti-queer and/or anti-trans violence happens, there is often a call for the criminal injustice system and for legislation to prosecute hate crimes such as the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2010. The prison industrial complex is hailed by mainstream 'LGBT' and racial justice organizations as an arbiter of 'social justice' in our neoliberal (and allegedly post-racial) era. The larger bill of which the Matthew Shepard and James Byrd Hate Crimes Act was an amendment to, the

National Defense Authorization Act (NDAA) drastically increased the military budget. As the members of the Sylvia Rivera Law Project pointed out: 'This particular bill was attached to a \$680-billion measure for the Pentagon's budget, which includes \$130 billion for ongoing military operations in Iraq and Afghanistan. Killing people in Iraq and Afghanistan protects no one, inside or outside of U.S. borders' (Sylvia Rivera Law Project n.d.).

As Kuwasi Balagoon incisively argued, 'when a gay group protests lack of police protection, by making an alliance with police to form a gay taskforce, they ain't making a stand against the system they are joining it. Putting more power in the hands of those who attack them for being what they are in the first place' (Lydon 2008: para. 2). This type of (neo-)liberal response – which reduces systemic and layered violence to individual, private and atomized acts – is at cross-purposes to forms of critical inquiry about hate violence and organizing that really understand and address the social abandonment, criminalization and stigmatization that trans and gender non-conforming people of colour face. For those released following imprisonment, the mark of criminality and the stigma of the ex-offender label render access to survival needs including stable employment, subsidized housing and food stamps extremely precarious, if not foreclosed.

Our communities, poor, black, queer and trans – women in particular – face malign neglect and social abandonment, from homelessness to job discrimination and criminalization. So many lives have been extinguished by barrages of police bullets, suffered under police brutalization, been left to perish and die while in police and/or state custody, or killed by other penal technologies of torture and execution. Incarcerated trans people face sexual violence and involuntary disclosure of HIV/AIDS status by guards, are penalized for violating the prison-enforced binaried gender regulations, and are subjected to physical isolation and solitary confinement (Grant, Jaime M., *et al.* 2011: 158–173). The prison regulates and attempts to reinforce a racialized penal gender binary – by outlawing and criminalizing gender non-conformativity and black radical aesthetics by controlling dress, hairstyles and other forms of expression, as is further shown by Gabriel Arkles in his recent article 'Correcting Race and Gender: Prison Regulation of Social Hierarchy Through Dress' (Arkles 2012). Incarcerated trans women of colour are often specifically targeted by guards and other incarcerated people. In Pennsylvania, legal cases speak to the trans misogynistic and sexual violence within the prison system that incarcerated trans women of colour face. In one of these cases, a trans woman of colour was sexually harassed and coerced by a guard and once she spoke out about the violence she was penalized and transferred from the prison where she was being held, which was designated as the women's prison, to one designated as the men's prison (Kulwiki 2011). Similar to the so-called 'feminist' response of 'gender responsive' prisons, the carceral-political imaginary is growing accustomed to and therefore, in pure neoliberal multicultural fashion, beginning to recognize, all of our sexual and gender diversity. However, the queer and trans inclusion promised by carceral order is the so-called 'freedom' to be held in queer and trans inclusive prison cages. Anti-black and trans misogynistic police

violence against black trans women continues: Duanna Johnson in Memphis (Brown 2008: 15) and Nizah Morris were found with fatal head injuries after receiving a 'courtesy ride' from local Philadelphia police (Tackzyk 2003: 16). The biopolitical regulation of carceral state (as opposed to self) gender determination is also exemplified by the sentencing of CeCe McDonald, for physically defending and protecting herself against a racist, homo- and transphobic attack.¹ The state's attempts to 'determine' McDonald's gender continue (Solomon 2012: para. 6). Yet in the face of this, queer and/or trans liberationist marches and actions from Paris to Manhattan have popularized messages of enduring love and support to free CeCe.

The political project of gender self-determination as an abolition of the policing of gender(s), bodies and lives has roots in the revolutionary trans political horizon outlined by Sylvia Rivera, Marsha P. Johnson and other members of the 1970s collective Street Transsexual Action Revolutionaries (STAR). In 1971, Marsha P. Johnson spoke of STAR's politics of queer and trans decarceration: 'we'd like to see our gay brothers and sisters out of jail and on the streets again' (Jay 1992: 113). STAR placed sex worker dignity, gender self-determination, trans liberation, housing justice and anti-capitalism at the very core of their organizing. Similar to the Panthers, they came together to create interstitial radical spaces against organized abandonment, providing housing and clothing for each other and protecting each other. Rather than retreating from the violently anti-trans and anti-queer world, or engaging only in polemics and manifesto writing, they also actively worked to transform it. STAR was proto-intersectional and specifically centred sex workers, homeless youth and incarcerated queer and trans people, particularly people of colour.

STAR, like so many radical trans and queer organizations of that time period, was abolitionist in the sense that it did not look to prisons and police for solutions to social, economic and political injustice. Rather, it struggled for gender self-determination and against policing – of bodies, genders and sex – and centred formerly or currently incarcerated people, poor people, sex workers and queer homeless youth in its political organizing work. 'We were fighting for our lives', Sylvia Rivera told Leslie Feinberg in an interview about the Stonewall era (Feinberg 1999: 97). Indeed, gender self-determination and HIV decriminalization remain a critical part of the continuing struggle for trans and queer life in the face of carceral violence and policing.

There is a pressing need for queer and/or trans abolitionist socio-political formations to face the lethality of anti-black, anti-queer and/or anti-trans interpersonal violence. In the place of, to repurpose a phrase coined by Rob Nixon (2011), the 'slow violence' often reproduced within neoliberal non-profits, including AIDS service organizations, that valorize multiculturalist market rhetorics of 'diversity' and expert credentials while maintaining rigid staff hierarchies within which poor trans people of colour mainly comprise the lower order, with little room for upward mobility, we need to expand forms of horizontal governance and

consensus based organizing in the spirit of prefigurative politics and collective liberation. Why do so many non-profit structures – even those which are politically progressive – resemble vertical/top down hierarchies of corporate power? How can we create more HIV/AIDS resources in anti-oppressive and decolonial ways?

Yet, the politics of racial uplift and rescue are prevalent in the social service and risk rhetorics that dominate AIDS activism in the United States. Such rhetorics promise to ‘overcome’ AIDS for black communities through an individualizing neoliberal logic of choice and responsibility (as in the injunction to ‘use a condom’). This forecloses a systematic analysis of forces structuring choice and responsibility, including blame and gay shame. Centers for Disease Control interventions that target black queer and/or trans people often unfortunately reinforce uplift ideology through measures such as ‘role model stories’, that retell how reformed neoliberal subjects and members of ‘high risk’ populations – the ‘highest’ being black, queer and/or trans people and youth – have come to transcend their old problematic behaviours, sex work and drug use especially. ‘The primary purpose of the role model stories was to model risk-reducing behaviours, suggest solutions to risky situations, and illustrate positive outcomes of taking steps toward protecting oneself’ (CDC Divisions of HIV/AIDS Prevention 2007). The politics of racial uplift saturate AIDS risk rhetorics in sex negative, objectifying *and* abjectifying ways. Both the MSM (‘men having sex with men’) discourse and the dominant regime of risk categorization always already mark black people (youth, non-trans men, trans women) as ‘vulnerable’, ‘at risk’, a ‘statistic’. We arrive again, circuitously, through another ‘vector’ of anti-blackness – in this case the disease frame – to W.E.B. Du Bois’s question, which he argued perennially confronts black people: ‘How does it feel to be a problem?’

As long as we have prisons we will never have ‘universal’ health/care. Prisons exacerbate public health crises by increasing Hepatitis C and HIV on the inside and on the outside. Following ‘release’ formerly incarcerated people face disproportionate rates of homelessness – one of the key social drivers of HIV/AIDS – and joblessness. What is the meaning of ‘healthcare’ within the context of a carceral system designed to foster death, despair, destitution and depoliticization? How can we organize healing and care for those who are incarcerated in ways that do not further the dehumanizing and decaying capacities (body and soul) of the carceral? Carceral ‘healthcare’ stands in stark contrast to the legacy of radical health activism – ranging from the detox acupuncture clinic that the Young Lords and Black Panthers established at Lincoln Memorial Hospital in the Bronx (Pates and Riley 2012: 373) to the clinics and sickle cell campaigns of the Black Panthers (Nelson 2011). Professor Ruth Wilson Gilmore often speaks of – following Andre Gorz – ‘non-reformist reform’, i.e. aiming for socio-political changes which do not ultimately reinforce carceral violence and prison expansion. AIDS activists fighting for harm reduction services and anti-prison activists lobbying for decarceration and re-entry services that put more resources into education than incarceration are working to create a socio-political landscape in which the prison is not the readymade and given answer to complex social problems.

We might extend our notion of abolition as HIV prevention and treatment not only for those in the nominally ‘free world’ – whose ‘freedom’ anyway is rendered ephemeral by stop and frisk, ‘walking while trans’ and other everyday conditions of criminalization and profiling – but also for those who are currently incarcerated. Solitary confinement, along with being a form of psychic torture, disrupts AIDS med routines (GMHC 2012: 1–32). Incarcerated trans people are often automatically placed in forms of solitary ‘for their protection’, which means more vulnerability to violence from prison staff. For HIV-positive people held under the policies of mass detention and mass deportation, medications are often irregular, destabilizing ‘health’ and ‘care’. As the Human Rights Watch reported in its 2007 report *Chronic Indifference*, when detained HIV-positive people do not regularly receive medications, it increases the possibility for drug resistance (Human Rights Watch 2007). Conditions are harrowing for detained HIV-positive and queer and/or trans people – who are especially targeted. We should note how incarcerated people face higher rates of disabling health conditions more generally. The prison industrial complex is indeed designed to bring about death and extinguish life. Prisons impose ableist violence and general trauma, including attacks on disabled people by guards and little to no resources for infirm older incarcerated people or people with dementia. ‘Elderly’ has been set at 55 for incarcerated people because of the levels of trauma and violence that increase illness conventionally seen in people over 65 and thanks to mandatory minimums this is the fastest growing group within prisons (Human Rights Watch 2012: 1–110). While the struggle to decriminalize condoms and needles continues on the outside, they are prohibited on the inside. Furthermore, what constitutes the carceral ‘inside’ has been dramatically expanding over the past three decades. It is the expansion of the (im)moral calculus and penal economy of innocence into everyday life that has been the subject of organizing for alternatives for transformative justice and abolitionist forms of accountability (see Critical Resistance 2012; see also Chin, Dulani, Samarasinha and Smith 2011). Such abolitionist politics resist these penal logics that make the prison seem necessary and natural – but which are as historically produced as the prison itself.

‘My dungeon shook’: beyond the carceral and towards abolition

I want to conclude by turning to the politics of black radicalism and prison abolition in James Baldwin’s writing on the politics of the carceral, and by revisiting it as a queer desire. The questions of prison, and of liberation from confinement and policing, both as personal and as socio-political factors (as in the carceral violence deployed under COINTELPRO alongside the domestic war against the black liberation movement), figure centrally in Baldwin’s political interviews and essays. Baldwin often theorized what might be called abolition – end(s) to forms of incarceration and policing – of self and of peoples, as a potential path to realizing

the democratic potential and humanity. In Baldwin's essay 'This Far and No Further', he demystifies the figure of the criminal as a manifestation of the state. The criminal, by Baldwin's lights, is a creation of the state, in that the state needs a cipher to justify its own criminal procedure. In other terms, the figure of the criminal is crucial in order to paint the violence of the state as legitimate violence:

Now, the State creates the criminal of every conceivable type and stripe, because the State cannot operate without the Criminal. The nature of their operation demands fraud, coercion, secrecy, and the power to intimidate: in no way whatever, do the tactics of the financier or the successful racketeer differ from those of the FBI or the CIA – or for that matter, the cop on the corner.

(Kenan 2010: 162)

Baldwin argues passionately that the criminal justice system is uneven in its alleged distribution of justice, as heads of state and wealthy people are not subject to the same carceral violence as the poor and the non-elite: the prison system is inherently anti-poor, anti-black, etc: 'All that we can really claim to know about the Prisoner is that he or she is a human being, like ourselves, who has been caught, who has been incarcerated' (ibid.: 163). Here Baldwin renders the innocent vs. criminal dichotomy false. 'The Criminal, that is, may or not be a Prisoner and the Prisoner may or not be a Criminal . . . rare and spectacular it is that a Prisoner has been dragged from the seat of Power' (ibid.: 163).

He argues that prisons are not rehabilitative but sites of concentrated violence and dehumanization:

I do know that prisons do not rehabilitate, because it is not their purpose and not in their power. One is not rehabilitated by learning to cooperate with the structure designed to debase the person into the Prisoner . . . The incarceration of the Prisoner reveals nothing about the Prisoner, but reveals volumes concerning those who hold the keys.

(ibid.: 164)

Having recently visited Death Row, Baldwin casts a limelight on the prison system as being towards death, an anti-black and we might say necropolitical enterprise. He stresses that an overwhelming number of those who are caged and awaiting state execution on Death Row are black. Baldwin suggests that the American prison system is symptomatic of what Malcolm X saw as the 'American nightmare', namely yet another incarnation of what we might call premature death: 'And finally, since I am discussing American Prisoners, we are also discussing one more aspect of the compulsive American dream of genocide' (ibid.: 164).

In his earlier 1971 open letter to Angela Davis, Baldwin points towards the ways in which anti-blackness flows through the carceral continuum – how the past of chattel slavery is chained to the penal present of 'chains and corpses':

One might have hoped that, by this hour, the very sight of chains on black flesh, or the very sight of chains, would be so unbearable a sight for the American people, and so unbearable a memory, that they would spontaneously rise up and strike off the manacles.

(Baldwin 2011: 255)

Yet instead, Baldwin observes that Americans 'seem to glory in their chains and corpses' (ibid.: 255). Against the grain of carceral common sense, Baldwin's hope and the legacy of black radical, queer and/or trans left and AIDS activist political horizons impresses upon us the imperative to organize, imagine and ultimately, to live otherwise.

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Notes

- 1 For more information about CeCe McDonald, in her own words and information on the collective organizing to support her, see the wordpress site <http://supportcece.wordpress.com/>

(Hyper/in)visibility and the military corps(e)

Michelle R. Martin-Baron

Representations of US military funerals constitute a necropolitical performative. In his articulation of necropolitics, Achille Mbembe argues that sovereign power can be characterized as the right to determine who shall die. Drawing on Foucault's notion of biopower, in which populations are divided into 'a split between the living and the dead' (Mbembe 2003: 17), Mbembe expands the latter half of the equation, finding that within the modern nation-state, entire populations are marked for death, whether by globalizing forces from the outside, or local sovereigns managing their own populations through overt or invisible death (Mbembe 2003). In other words, necropolitics describes the way certain bodies are marked and marketed to as live, lively and deserving of life, wherein other bodies are seen as either already dead or destined towards death: their lives are of little consequence, whereas their deaths consolidate sovereign power. Mbembe conceptualizes necropolitics in relation to global wars, where sovereigns use military might to enact necropolitics on the populations they wish to manage. Armies and soldiers are the agents of Mbembe's necropolitics, operating within war machines: 'segments of armed men that split up or merge with one another depending on the tasks to be carried out or the circumstances' (Mbembe 2003: 32). War machines take on many forms, and even the state can 'transform itself into a war machine' (Mbembe, 2003: 32). A fundamental characteristic of war machines is their self-sufficiency, as they operate not only as martial power, but also as economic and commercial power. Thus war machines can serve multiple simultaneous functions all under the aegis of waging war and maintaining the divisions between those who 'deserve-to-live' and those who 'deserve-to-die'. In her ground-breaking monograph *Terrorist Assemblages*, Jasbir Puar (2007) draws out the connection between necropolitics and queer theory, recognizing that the targets of necropolitics are marked 'queer'. For Puar, queer does not connote homosexuality *carte blanche*, but rather either inhabiting identities or carrying out behaviours that resist rather than align with and uphold the neoliberal state. This political formation is deeply marked by racial and sexual norms, the ghostly remnants of an ongoing imperial history, which demarcates which bodies are queered and marked for death. Puar draws connections between the US war on

terror, and the conflation of queer and terrorist that maps out a neoliberal necropolitical agenda. She begins an important process of blurring the war front and the home front as profoundly implicated.

While for Mbembe war machines are primarily concerned with carrying out the task of managing death through acts of violence and killing, I will follow Puar's lead and turn to the domestic aspects of a war machine. However, my focus will be the performative aspects of the military's internal necropolitics, which assure the perpetuation of the war machine and its necropolitical aims. I assert that military funerals provide performative justification, and even impetus for the perpetuation of the US war machine. As such, military funerals illustrate the complicated dance between biopolitics and necropolitics at work in US militarization as it plays out in the domestic front. The gestures and symbols of the military funeral are intended to account for, honour and manage the grief and mourning experienced by military families in the face of loss. When these funerals circulate in the media, military families become surrogates for the nation at large, playing out a national drama. Performance, according to theatre scholar Joseph Roach, is always an act of surrogation, the drive to replace that which is inevitably lost with a copy that will always fail to be that which it replaces. Military funerals dramatize this surrogation, and in doing so both disguise and lay bare the real stakes of war: not the tragedy of the individual lives lost (expressed in economic terms as a 'high price to pay') but the process through which those bodies are ultimately interchangeable and perpetually replaceable.

Funeral performances create and justify the war machine, through which the military corpse becomes a launching point for the perpetuation of the military corps and its war activities. Thus the performativity of military funerals can be identified in the corpse and the rituals that attend it, enacted by soldiers and next of kin. Through (hyper/in)visible queer intimacy funerals are simultaneously the panacea to the death of soldiers in war as well as the means through which to continually recruit more bodies into the corps. The strength of this performative lies in the queer intimacy simultaneously hidden and exposed through military funeral rituals (and thus (hyper/in)visible).

Although each military funeral is a unique event honouring a specific life, the presence of a number of ritual activities differentiates the military funeral from a civilian funeral. In 2007, the US Department of Defense defined military funeral honours as follows:

The ceremonial paying of respect and the final demonstration of the country's gratitude to those who, in times of war and peace, have faithfully defended our Nation. The military funeral honors ceremony consists of, at a minimum, the folding and presentation of the American flag and the sounding of Taps by a detail of two uniformed members of the Military Services. At least one of the detail's members shall be from the parent Service of the eligible beneficiary.

(Department of Defense 2007: 9)

Described as a 'beneficiary', military funeral protocol positions the fallen soldier as one who is afforded special advantages, rights and honours. Although the Department of Defense does not elaborate on this distinction, one could extrapolate that the fallen soldier is a special type of citizen, one whose life, in retrospect, is upheld and distinguished, via ceremony, as emblematic of an ideal citizen – one whose blood, in the words of Thomas Jefferson, 'refreshed . . . the tree of liberty' (Jefferson 1787: 356). The once ordinary life of the enlisted military man or woman is, upon his or her death, vaulted to a new and special status – American hero/ideal citizen – through a series of ceremonial and ritual practices. These ceremonies rely on a patriotic sign system: the national banner, salutes, the melody of Taps, the volley of shots in a 21-gun salute (Villanueva 2001).¹ Protocol manuals, oral instruction and government legislation issue a script of symbolic action, teeming with these official signs, which are visual, aural and performative. In all funerals, but particularly military funerals, the ceremonies provide a narrative for incomprehensible events, placing the death within a normative and consumable framework. Their representation is therefore significant for supplying the nation with a narrative to hold on to.

I will examine two contemporary sites of the representation of military funerals for the general public: the military funeral protests and counter-protests performed by the Westboro Baptist Church and Patriot Guard Riders, respectively; and the investigative journalism and photojournalism of Jim Sheeler and Todd Heisler, respectively, found in the Pulitzer Prize-winning article 'Final Salute' and subsequent book of the same title. The workings of military funerals represented by both demonstrate why 'queer', as both an analytic and a category of sexual identification (whether chosen or interpolated), must be central to this discussion.

With the term 'queer', I invoke the same-sex intimacy detailed through ritual and affect. In applying queer theory and analysis, I am not making claims that any of the individuals discussed, or the institution of the US military, are gay. Rather, queer marks a point of tension to normativity. I do not foreclose the possibility of sexuality entering the picture, but I do not take it as a necessary component or starting point for engaging in queer analysis. I take queer beyond its location as inherent in certain non-normative bodies and consider instead queer as an act of provocation, of challenging the naturalness of established categories, sexual and otherwise (Cohen 1997; Puar 2007). Yet, in doing so, I illustrate the entangled nature of national, anti-queer projects with queer lives, aesthetics, and politics. The necropolitical performative of military funerals relies on queer intimacy, challenging the notion that queer is antithetical to national, normative structures. Let me be clear – I am not reiterating an argument about the homonormative, which sees LGBT people embracing neoliberal subjecthood in order to enter an expanded realm of normativity while leaving the structures that produce such norms intact; rather, I am arguing that queer feelings, those that fall outside normative bounds, have a central location within necropolitical, imperial projects, even as similar structures of queerness are the markers of death. Thus

the state must closet and take advantage of the queer intimacy, central to the workings of the military, to hold steady the world order.

An unexpected queering: the Westboro Baptist Church's military funeral protests

In the summer of 2005, a small but vocal religious group seemingly re-scripted the drama of military funerals, casting soldiers as gay lovers, the United States as the land of the queer and home of the depraved. The ceremonial landscape of military funerals across the country was pierced by shouted slogans, profaned national military anthems and blazing neon signs which proclaimed 'God hates dead soldiers' and 'Thank God for IEDs'.² The Westboro Baptist Church, already infamous for its inflammatory protests during the funeral of Matthew Shepard, set the media ablaze with its protests at military funerals of fallen soldiers.³ An interview in the *St. Louis Post-Dispatch* reported, '[Reverend Fred] Phelps protests homosexuality by proclaiming the death of soldiers as holy retribution against "a fag army – don't ask, don't tell – for a fag-loving agenda of a fag-loving nation"' (Jadhav 2005: n.p.). Although one might expect military funeral protests during a highly controversial and unpopular war, the focus of the Westboro Baptist Church was not on national policy or human rights. Instead, it violently exposed the homosexual implications of the highly homosocial institution of the US military. Although these protests began before the repeal of Don't Ask Don't Tell in 2011, the Westboro Baptist Church argued that the military was a site in which homosexuality ran rampant, both within the various branches of the military as well as the country the military defends.⁴

Employing the historical figure of the vigilante patriot, a grassroots counter-protest movement known as the Patriot Guard Riders operates as a responsive foil to the anxieties provoked by the Westboro Baptist Church. Mobilized in November of 2005, the Patriot Guard Riders unofficially re-established the national pageantry of military might. Comprised mostly, but not solely, of veterans, the Patriot Guard Riders formed an 'honour guard', blocking out the 'uninvited guests' through a wall of motorcycles, leather, and American flags. Members ride to military funerals in a blaze of revved engines and national banners and restore the sacred nature of the military as both honourable and undeniably, excessively, masculine. This portrayal of military and national honour transforms the Westboro Baptist Church protest into a distasteful spectacle of free speech gone wrong, promoting the Judeo-Christian ideal of 'turning the other cheek' as a masculine, patriotic pursuit ostensibly protecting the nation and the individual (heterosexual) family unit.

Indeed, it is the heterosexual family unit at the centre of this military funeral pageantry that provides the Patriot Guard Riders justification for such an elaborate show of national manhood. While the membership of the Westboro Baptist Church is comprised almost entirely of the progeny of leader Fred Phelps, in a hyperbolic celebration of its own heteronormative values, the kinship structures

of the military provide an altogether more complicated paradigm. The members of the military care for their own through military kinship structures, in which familial terms are employed by military personnel for one another, and the duties of daily life as well as the specifics of death care are dispersed among the military's own ranks. However, the performative pageantry of the military funeral ceremony constructs the next of kin as the proper mourners, overshadowing these familial, homosocial, military kinship bonds. A visual standard is created through the privileging of the biological bonds of parenthood and the legal ties of heterosexual marriage within military funeral protocol. Although the members of the military are hyper-present in their uniformed attendance as they conduct the labours of death care and military funeral honours, the scope and depth of these bonds *as kinship bonds* is simultaneously rendered invisible by the privileging of the next of kin. Members of the military *as mourners* are (hyper/in)visible – simultaneously visible and invisible. Seen but unseen, the care of men by men in a homosocial family structure is what the Westboro Baptist Church violently forces into visibility and what the Patriot Guard Riders, through their networks of grassroots performances, propel back into (hyper/in)visibility, even as they themselves are enacting this homosocial care network.

Although it seems as though the Patriot Guard Riders are indeed successful in re-establishing this precarious (hyper/in)visible balance, the ghostly spectre of homosexuality stubbornly lingers in, as Avery Gordon describes: 'all those forces that which makes its mark by being there and not there at the same time' (Gordon 1997: 6). In response to the new presence of the Patriot Guard Riders, the Westboro Baptist Church added a new sign to its repertoire: 'Biker Chicks', complete with a stick-figure rendering of anal intercourse between men. In doing so, it continues to evoke the homosocial undertones of the military by identifying it in the performance of the Patriot Guard Riders.⁵ The Westboro Baptist Church points to the 'Pride Parade' undertone identifiable in the visual image of a large group of men in leather on motorcycles. The Patriot Guard Riders ignore this provocation, continuing to perform masculine military might as their national membership swelled exponentially: over 280,000 members by February 2013 (Patriot Guard Riders 2013). The fluctuating, nebulous meaning attached to the physical care of members of the military for one another is stubbornly queer due to its very ghostliness – the visibility and invisibility that both obscures and suggests meaning. The military's own (hyper/in)visible homosocial kinship structures simultaneously uphold and threaten the "war without end" that has come to stand in for "peace" in our current war on terror' (Mbembe 2003: 23). There is a national dedication to queer memory keeping in the military funeral and its reliance on the care-labour/love of soldiers for one another that masks its own legibility as such. This (hyper/in)visible structure allows queer kinship to support the twinned biopolitical and necropolitical aims of military funerals, which are evident in an exploration of military funeral ritual.

Managing death: historicizing the visibility of military funerals

Writing about World War I, G. Kurt Piehler, in his article 'The War Dead and the Gold Star: American Commemoration of the First World War' (1996), demonstrates how national leaders utilized the war dead and war memorialization during World War I as a political tool for creating a favourable national memory. The nostalgia generated was then used by national leaders as a launching pad for garnering public support for further military action. The construction of this national memory, asserts Piehler, is contingent on cementing normative societal beliefs about the nature of memory and mourning – in this instance, the gender of grief. World War I brought about the advent of the 'Gold Star mother', a woman whose son(s) had been killed in war, so named because the silver star she hung at her home on her child's deployment was replaced with a gold one on news of the son's death. The bond between mother and child was imbued with new, privileged meaning above any other kinship ties and Gold Star mothers were upheld by the nation as the natural keepers of memory (Piehler 1996).⁶ According to Piehler, mothers became political subjects as they never had been before, women (albeit a certain kinds of women) gained a new type of citizenship, in which their opinions and actions had a political currency they had never experienced. Although privileging mothers was intended, by the Department of Defense, as a political manoeuvre for generating a climate of national support, it had the additional effect of reconfiguring social hierarchies. Thus government intervention in the realm of military memorialization had the unexpected effect of changing the very fabric of citizenship and of normative kinship structures.⁷ Military funerals and memorials today continue to both utilize and construct national norms. Although legislated censorship, in the form of the Dover Ban, limited the parts of the corpse's journey home that were accessible during the Bush presidencies, representation was not completely erased, especially to those whose social and familial networks include members of the US military.⁸ The highly charged rituals of military funerals rely on the presence of, and promote the visibility of, gendered, sexualized, classed, and raced understandings of mourning, memory keeping and caretaking. The particular coding of US military funerals queers the norms found in civilian funerals while simultaneously presenting a highly patriarchal and norm-affirming (read: heteronormative) exterior.

The death care that precedes a military funeral demands that members of the military invoke rituals that imbue that national banner with personal meaning for those mourning the fallen soldier. The stars and stripes, perhaps the most self-evident state symbol, cloak the corpse throughout its journey from the battlefield to the cemetery. From the moment the corpse is placed in a coffin, which occurs almost immediately after the recovery of the body, an American flag is draped over the body, with the stars oriented towards the head. A member of the military is present at every moment of the corpse's journey home and the flag always rests atop the coffin until it is ritualistically removed in the funeral ceremony. During

the funeral, the attending military personnel carefully fold the flag and present it to the next of kin, reciting the words of an official script, slightly different for each branch of the military. Having accompanied the body from the earliest stages of its journey home, the flag is intended to provide comfort to families and functions as a relic: a little piece of the deceased delivered to those who loved him best. When there are multiple flag recipients involved (such as in the instance of divorced parents, or parents and a widow), two flags are interchanged throughout the journey. The flag's performance as shield throughout the journey transforms it into a sacred object, even as this holy quality erases the labour that produced it as such.

Presumably, all bodies are rendered equal, as citizens, under the flag.⁹ As with the rhetoric of multiculturalism and plurality in the contemporary US, the flag functions as a 'colour blindfold' of sorts. The rituals surrounding the use of the American flag at military funerals are normalizing, creating a homogeneous symbol of hero, a corpse that represents 'the Corps(e)' of all-American heroes, rendering invisible the individual acts of devotion required for each soldier's journey home. As with any act of blinding, difference is erased rather than honoured and incorporated. The position of all-American hero is actually a raced, gendered, classed and sexualized position: white, male and straight.¹⁰ The race, gender and sexuality of the normative soldier is not merely happenstance, but historically grounded in the practice of creating armies and war heroes. While African Americans and other racial minorities have a long history of service in the US army, segregation and unequal treatment were practised legally until 1948, when executive order 9981 established 'equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin' (Truman 1948). Similarly, although women have served in the US Army since the Revolution, sometimes disguised as men, it was not until 1941 that the first Women's Army Auxiliary Corps was established and women could enlist openly. Despite the legal incorporation of women into the military, their service was not to cross into combat, although many have been active on the frontlines in 'non-combat' capacities (Bumiller and Shanker, 2013). While Defense Secretary Leon Panetta lifted the ban in January 2013, change is not expected to fully take effect until 2016 (Bumiller and Shanker 2013). Until 2011 homosexuality was a legitimate basis for dismissal at any time, overturned with the repeal of Don't Ask Don't Tell. Contemporary representations of US soldiers reflect these biases. It's not that America doesn't imagine diverse soldiers of colour, but that it doesn't imagine *heroes* outside the white, straight ideal.¹¹

This normalizing process becomes more complicated around questions of kinship and family. A uniformed service member, preferably from the deceased's 'parent service' transfers the flag that drapes the coffin from the care of the military into the care of civilians (Department of Defense 2007: 9). This act theatricalizes the soldier's joint membership in two distinct 'families': the biological or marital family and the military family. While both 'families' are normalized, this process occurs very differently and with specific symbolism for each 'family'. The next of kin are the embodiment of freedom itself: the loved ones for whom security must

be procured at all costs. In popular representation, such as film, news media and novels, the next of kin are most often war mothers, widows and young children, creating a distinct gendering of military mourning (Piehler 1996). However, the kinship of military personnel also operates in familial terms, but queerly, from the 'parent service' to the brotherhood of military personnel, to the intimacy and care exchanged by and for (with few exceptions) male-gendered individuals.¹² But it is the next of kin, the official family, that is at the heart of the military funeral, the subject and object of military funeral display. Although queer military kinship is a highly visible and essential component of rendering military funeral honours, it is simultaneously invisible; that is, (hyper/in)visible.

In a military funeral, servicemen actively care for and mourn their peers. Whether acting in an official capacity to render military funeral honours or acting as a surrogate for the fallen to support the next of kin at their time of loss, uniformed military presence elevates the funeral from a civilian burial to military honours. Despite their ostensible visibility, the acts and relationships that comprise queer military kinship are actually invisible, which is to say illegible in their depth and meaning in the context of the military funeral. The obscured intimacies are essential to the operation of the military funeral, and this (hyper/in)visibility itself becomes the queer structure through which military funerals operate – simultaneously legible and illegible, layers of coded meaning that may never entirely be decoded. The politics of presence and visibility in funerals are essential for determining whose lives and bodies are nationally understood as mournable and therefore as citizens. The types of visibility and their accompanying invisibilities establish the very definition of citizenship and humanity, which operate along lines of race, gender, class and sexuality, maintaining hierarchical distributions of power that privilege raced, classed, gendered, and heteronormative kinship and familial models. By casting fallen soldiers as homogeneous heroes, a biopolitical story is told through necropolitical means: the white, straight, male hero-as-martyr provides the dramatic narrative front, while many of those historically barred from the military continue to be buried and recruited. Maintenance of the hero narrative through visual tropes thus supports a necropolitical system utilizing invisibilized queer kinship.

Queer kinship: *Final Salute* and the Marine Corps(e)

Final Salute exemplifies the relationship between the production of a national imaginary and the (hyper/in)visibility of queer kinship structures; structures of normativity depend on the simultaneous flaunting and erasing of the non-normative structures that allow for the normative's existence. Sheeler's article reported a human interest story on military death and funeral practice as war activities in Iraq and Afghanistan were gearing up. The detailed journeys of a handful of fallen soldiers, from their battlefield deaths to their homefront burials and beyond make up the majority of the book. He and photographer Heisler spent a year following Casualty Assistance Officer Major Steven Beck of the US Marines

as he informed families of the death of their marine and then facilitated and oversaw funerals. When it was published on Veteran's Day 2005, 'Final Salute' immediately appealed to the greater public and received widespread praise (Amazon.com 2008; Carroll 2008; Maslin 2008). It brought the plight of families suffering the loss of children and spouses from the war to the forefront, providing a framework for understanding the loss of American soldiers fighting abroad. The book and article allowed readers the cathartic experience of attending a military funeral by empathizing with grieving war widows, parents and siblings. Although ostensibly about the particular grief of the next of kin of soldiers, Sheeler's text pays much attention to the grief the marines feel for their fallen comrades. By placing Major Steven Beck as the narrative axis, Sheeler offers readers a glance into the subjectivity of a marine in mourning. With remarkable detail about the experiences of the marines who carry out the military death care, albeit in service of the next of kin, *Final Salute* re-centres the complex subjectivity of and interpersonal relationships between marines. While Sheeler's book contains multiple narratives, the story of the death and burial of 2nd Lt. James J. Cathey, killed during combat while on his second tour of Iraq, provides a focused lens through which to understand the work of military funerals.

Cathey's pregnant war widow, Katherine, as well as Cathey's parents figure as the central mourners in Sheeler's text, but his best friend, Sgt. Gavin Conley, and other marines function as Cathey's second, and (hyper/in)visible, queer family. I define a queer family as a network of same-sex care, intimacy and affection, operating in juxtaposition to the heteronormative family, in which marriage and biology are the primary, legal definitions of family. The use of familial terms among the marines enact this queer kinship, challenging and transforming the limits of heteronormative understandings of family. Describing Conley's relationship with Cathey, Sheeler explains: 'All Marines call each other brother. [Sgt. Gavin] Conley and Jim Cathey could have been. They finished each other's sentences, had matching infantry tattoos etched on their shoulders, and cracked on each other as if they had grown up together – which, in some ways, they had' (Sheeler 2005: 2S). Sheeler's description emphasizes this bond of friendship as a familial bond. Their brotherhood emerges from a temporal trajectory of growing up together, echoing recognizable sibling behaviours: finishing one another's sentences, giving each other a hard time, etc. Matching infantry tattoos legibly link their bodies permanently as belonging together, a sign of connection.¹³ Although the bond between Cathey and Conley is not biological, blood metaphorically flows between them and their fellow marines – blood risked, blood spilled. Furthermore, Conley has taken on caretaking responsibilities for Cathey, accompanying his corpse on the journey from Iraq to Nevada. Other marines, both who knew and didn't know Cathey, assist in the care of his body, making sure that the fallen soldier had been properly cleaned, identified, and transported according to proper protocol.¹⁴ Mortuary affairs in the military are, by and large, taken care of in-house, in facilities both at home and abroad. The mortuary preparations, involving direct handling of deceased bodies, constitute an act of care by and for men.

In a family's shared history, behaviour patterns and a repertoire of repeated gestures accumulate meaning to its members and these gestures become part of the family's traditions. This is no different among the marines. The gesture of the salute, from which both the book and article take their name, is particularly poignant. Describing Cathey's official commissioning ceremony, Sheeler narrates, 'For Cathey, it was one of the most important days of his life, and Conley knew the best way to share his pride. At the end of the ceremony, Conley walked up to the new lieutenant and snapped his arm to his brow, giving the new Officer his first salute' (Sheeler, 2005: 13S). Sheeler marks this exchange of salutes as a rite of passage, in which the institution of the marines at large recognizes the accomplishments of Cathey, leading to a change in status within that community. Perhaps more importantly, the salute performed by Conley represents an acknowledgement between 'brothers' of growth and hard work. As represented in the text, the salute is a shared signal between two people with an emotionally intimate relationship. It is a gesture of respect and obedience, signalling an understanding of the hierarchy within the military family and one's place within it. The commissioning ceremony Sheeler details and its gestures characterize the 'growing up together' that Cathey and Conley shared, providing each other emotional support in ways specific to the community to which they belong. Furthermore, Sheeler notes that there is something special about Conley's relationship to Cathey that makes him the person who knows, above anyone else, the 'best way to share his pride'. This description bespeaks an emotional intimacy that comes of pride in mutually recognizable accomplishment. Conley's first salute to Cathey foreshadows the final salute Conley performs at Cathey's funeral. Nothing is more visible than this salute, yet the meaning behind the specific gesture is opaque to the unknowing eye – what might seem an empty ritual to an outside observer (perhaps even to a biological family member) is queered by its place in the military family. In part, queerness emerges from what is unspoken and unknowable even to Sheeler's journalistic eye. While the gesture is hypervisible at the funeral, the affective resonances extend into an intimate invisibility. These queer valences become sharper in relation to the queer care enacted through the ritual acts of the funeral itself.

While preparing for and performing military funeral rites, the dichotomy of marine family versus legal/biological family plays out both along queer/straight lines and also in terms of inside/outside. Cathey's corpse and casket are drawn on by both the marines and next of kin, with special attention paid to what is buried in the ground with Cathey's corpse. The day preceding the funeral, Sheeler narrates, Katherine Cathey engages in a heartbreaking ritual of placing meaningful objects next to her deceased husband's body, inside his casket.

Sheeler's narrative focuses on Katherine's scripting of the specifically heterosexual elements of her personal memorial through the photographs and objects she places over her husband's shroud: a photograph of them kissing, their wedding bouquet, and a recent sonogram of the couple's future child (Figure 2.1).

It is through the placement of these tokens that Katherine reconstructs her husband's body: the photograph of kissing laying at Cathey's lips, the ultrasound at his heart. Interestingly, however, Katherine's careful constructions are reliant on the knowledge of another: Major Steve Beck. Before bringing Katherine to see the casket, Beck meticulously prepared both the room and the body. As Sheeler notes, he had been the one to place the uniform, double check Cathey's shroud, and to open and close the casket that held Cathey's remains.

When Katherine spends time 'alone' with the casket, she is constantly in the presence of marines. When she stands before Cathey's shroud, unsure of how to relate to the veiled body, it is Beck who guides her hand over her husband's remains, orienting her. Later, when Katherine requests to spend the night with her husband's casket, the marines, too, are there to guard both her and Cathey until the interment (Figure 2.2).

Although Sheeler's narrative and military funeral protocol position Katherine and the structures of heteronormativity as having control over the 'inside' – literally the inside of Cathey's coffin as well as being the 'inside' decision makers – marine presence positions this queer family as mediating this insider status, again in a (hyper/in)visible mode. Figure 2.3 shows the marines as they take shifts guarding Katherine and Cathey's corpse. The photograph is particularly striking for the feeling of shared domesticity it evokes, an illustration of the caretaking work the marines perform for each other at the height of their grieving – even when that grief is positioned outside the central story.

When the marines attend Cathey's funeral, they perform a ritual of their own creation, one that, in relation to Katherine's ritual, plays out on the outside. Sheeler explains:

The Marines, many of whom had flown in from Okinawa the night before, walked up to the casket. One by one, they removed their white gloves and placed them on the smooth wood. Then they reached into a bag of sand the same dark gray shade as gunpowder.

A few years ago, while stationed in the infantry in Hawaii, Jim Cathey and his friends had taken a trip to Iwo Jima, where nearly 6,000 Marines had lost their lives almost 60 years before. They slept on the beach, thinking about all that had happened there. The day before they left, they each collected a bag of sand.

Those bags of sand sat in their rooms for years. Girlfriends questioned them. Wives wondered what they would ever do with them. One by one, the young Marines poured a handful of sand onto the gloves atop the casket, then stepped back.

Sgt. Gavin Conley, who had escorted his friend's body to Reno, reached into the bag, made a fist and drizzled the grains onto the casket.

Once again, he slowly brought his bare hand to his brow.

A final salute.



Figure 2.1 Major Beck prepares to open the casket for Katherine to view
Denver Public Library, Rocky Mountain News Photo archives, photos by Todd Heisler 'Final Salute'



Figure 2.2 Katherine spends the night with her husband's casket, constantly guarded by Marines
Denver Public Library, Rocky Mountain News Photo archives, photos by Todd Heisler 'Final Salute'



Figure 2.3 Taking a break at the mortuary

Denver Public Library, Rocky Mountain News Photo archives, photos by Todd Heisler 'Final Salute'



Figure 2.4 Cathey's casket covered with the white gloves of the Marines who carried him

Denver Public Library, Rocky Mountain News Photo archives, photos by Todd Heisler 'Final Salute'

‘(The day after sleeping on the beach), we all did a hike up Mount Suribachi, where our battalion commander spoke, and we rendered honors to all the fallen on Iwo Jima,’ Conley said.

He looked over at the sand.

‘Now they can be a part of him, too.’

(Sheeler 2005: 23S)

While Conley and his fellow marines perform their devised ceremony during the official military funeral, its queer systems are (hyper/in)visible. The presence of the marines, and their performance for the gathered crowd, is heightened by their uniforms. Yet the queer valences are masked through the reiteration of soldierly, masculine tropes. The presence of marines *as* mourners and the distinct brand of kinship demonstrated through exclusively shared symbols and gestures, articulate an alternative queer lineage through non-heteroreproductive tropes.

The sand of Iwo Jima is illustrative of the manner in which queer kinship rewrites the heteronormative genealogy of bloodlines and genetics, fashioning history, lived bonds, and shared experience and caretaking as the elements that create a family (Butler 2002). Representative of a specifically queer genealogy, Cathey’s marines perform as a family of men bound together by loss of life, the horrors of combat and war, but more importantly, by love, care and fidelity. From the moment Cathey entered the Marines, his daily care was the responsibility of the corps, carried out by other members of the corps. This did not change throughout his journey in death. Although the rites of death articulate a handing over of Cathey back to his ‘natural’ biological and marital family, the sand of Iwo Jima and its invocation history symbolically claim Cathey within a distinctly queer lineage. Conley and the other marines script a vision of life beyond death as entering and becoming a part of a distinct family tree. The ritual of visiting the historical battle site of Iwo Jima together and imbuing this sand with meaning constructs a narrative of ancestry. The marines view the shores on which other marines bled and lost their lives as a sacred space, one in which the legacy of their queer family finds its origins. The sand is transformed into a relic through the actions historically performed on the shores of its origins. Each grain of sand is one on which a marine may have lost his life in the act of protecting his brothers and his country. When Cathey’s marines sprinkle this same sand on his casket, they symbolically return the body to this space. The legacy of marine brotherhood is extended to include Cathey, ritualistically transforming him into an ancestor, a part of this queer family lineage. His death enters into an historical future, in which it will become an act of heroism that defines the lives of all marines who enter into the corps.

This reclamation is a coded action, one from which women, particularly wives and opposite-sex partners are excluded. Sheeler notes the way they ‘question’ the marines and ‘ponder’ what meaning their marine husbands could possibly find in a bag of sand. The marines stubbornly guard their sand, and the family that it stands for, as the exclusive domain of their military family. Just as they have

meticulously cared for Cathey's corpse, they care for his memory as part and representative of the legacy of the marines. Lest the aspects of care, a highly feminized verb, expose this tightly protected bond, marine comportment and the precision of the ritual place this ceremony back within the realm of the masculine and the militaristic, even while invoking funereal tropes that once again belie the rich complexity of marine bonds.

Final Salute's descriptions and photographs of the Cathey family throughout the process of Cathey's repatriation and burial focus on highly demonstrative tropes of grief – weeping, wailing and collapsing. The marines are shown in a nearly opposite light. As trained, the marines are stoic and still, with a precision of motion and lack of visible emotion. This affect contextualizes and protects the more vulnerable gestures to come. The marines strip their hands bare of the pristine white gloves that formal dress requires. Remnants of an earlier mode of masculinity, the gloves contain the potential to contradict the hyper-masculinity with which marines are associated. The gloves worn by marines are recast as symbols of containment and stoicism. The sand, laden with symbolic resonance for the marines, then sullies the pristine cleanliness of their dress gloves. In removing their gloves, the marines strip their hands of their shield, suddenly exposed, open, and vulnerable. As they clasp the hands of one another and of family members as a gesture of shared sorrow, they are no longer separated by the pristine white cloth of US Marine uniform. The gloves no longer sheath the hands of the marines but symbolically protect their fallen comrade, replacing the American flag that has been presented to the next of kin.

The body of a marine is an essential symbol for both the carefully scripted national stories of the military funeral as well as the queer stories that lie (hyper/in)visibly at hand. There are the literal bodies of servicemen and service-women, returning home on planes – the military corpse, that which demands a reckoning, recognition, and remembrance through its very materiality. The flag represents the membership of the individual corpse in a larger corps, in this instance the Marine Corps, itself a living body of people and relationships that acts as a single unit. Each unit, a smaller body within the larger body, is an entity described in familial, kinship terms: a brotherhood. Cathey's corpse, though shielded by many layers of tokens (the gloves, sand, and rose of the Marines) still serves as a raw reminder of mortality – particularly for the marines who shared his duties, wore identical uniforms to his, and who could someday return home in an identical coffin.

The presence of Cathey's corpse disturbs of the wholeness of the corps. Though the Marine Corps as a whole will absorb Cathey's loss as a casualty as it replenishes its numbers by recruiting more marines, the grief felt by individual marines for their specific friend shows that this kind of reincorporation can never be completely successful, given that the corps is always made up of individuals with their own losses and grief. The relationship between the Marine Corps and the marine corpse negotiates boundaries of the self and the other, and the institution of the military provides narratives that make create the unity necessary to turn an individual into

a unified member of something larger than him/herself. This network of bonds is familial, an institution of care.

The Marine Corps motto, *semper fidelis*, Latin for ‘always faithful’, demands that marines stay faithful ‘to each other, to the Corps and to country’ (US Marines 2010). This language is strikingly reminiscent of the bonds of marriage, which also demand fidelity. I find the queer structuring of military intimacy, one that is shrouded in (hyper/in)visibility through performances of homosociality, masculinity and nationalism, particularly valuable in pointing out the ways in which the military, as the embodiment of patriarchal, colonial structures, is in fact reliant on queer structures that it constantly needs to denounce, repress and/or call by another name. Thus to assertions that ‘queer’ operates as a carefully constructed opposition to the normative that drives war machines, I offer that there’s a way that ‘queer’ is also part of the operations of war machines.

The visibility of fallen US soldiers signifies the emotional heart of the project of war. Although the recruiting of military personnel is not a massacre or organized social slaughter, there’s a serious disjunction between the makeup of the US military and the representations of those who stand for it in representations of military funerals. All the fallen marines and their families who serve as the subject of the article ‘Final Salute’ are white. In the book, one fallen marine is a Lakota Sioux, and the descriptions of his funeral and posthumous homecoming are focused on the ethnic difference found at his funeral. Sheeler justifies the inclusion of this particular story by noting that the Lakota Sioux are the ethnic group with the highest percentage of its population serving in the armed forces, but does not acknowledge the lack of diversity in his reporting. Second, there’s very little discussion of class within Sheeler’s analysis. Reading between the lines, one can see that the bulk of the families of the war dead included in Sheeler’s book and article are socioeconomically stable; Cathey, for instance, comes from a certain amount of economic privilege, as illustrated by his wife Katherine’s laptop in Figure 2.2. Sheeler never mentions whether or not class factors into each man’s decision to enlist in the Marines. Last, all the soldiers Sheeler discusses have traditional families awaiting their return home. There’s no mention of a soldier without a family, wife, or fiancée, thus painting a specific picture of the American family. In leaving all these factors unexplored, the return journeys of all Sheeler’s marines are eerily similar, from weeping ‘Gold Star’ mothers and stoic dads to pregnant war widows. Thus, if one was to glean an image of the quintessential fallen soldier from Sheeler’s iconic work, that soldier is a young, white, heterosexual, middle-class man – the all-American hero icon who serves as the symbolic hypervisible face of the war machine, despite the actual makeup of the US military forces, the labour and lives that literally perform warfare. Fit, straight, white, male bodies serve as symbolic containers, nationally mourned, while aspects of identity that deviate from this standard are camouflaged in the types of representation of military funerals that circulate. Indeed, many of those who are mourned in military funerals would not, without their military service, be considered ‘mournable’, due to their abject status resulting from intersecting factors of racial,

economic and sexual identity. Military recruitment practices, focusing on poor communities and communities of colour, make evident the divide between who is recruited into the military and the stories circulating about how soldiers are mourned. This disjunction is illustrative of the necropolitics at play within the perpetuation of the military itself through the military funeral: marking bodies for death, but remarking those bodies as 'ideal citizens' through representations of military funerals, such as Sheeler's, or the reporting on the Westboro Baptist Church's protests.

The carefully scripted military funeral cultivates the American hero icon that manages the lives and deaths of Americans lost during the war in order to perpetuate the war itself. The war dead are used not only to propagate the war machine but also to uphold the image of the US nation and US citizenship – this is in stark contrast to those who are imagined to be the enemy. Following the assassination of Osama bin Laden, for instance, the corpse was immediately disappeared through a burial at sea, illustrating the importance and symbolic weight of burial practice. The American hero exists in opposition to the terrorist, the enemy, but also to the ways non-normative bodies are being used to carry out the practices of war in a dangerous nostalgia of Revolutionary War values: liberty and freedom at any cost. Instrumental to the cycle of war death and the surrogations it engenders is the spotlighting of the next of kin/nuclear family. This spotlighting renders (hyper/in)visible the queer affect and kinship through which the military itself operates.

Ultimately, the successful performance of a military funeral transforms the military corpse from the excess of war into the very justification for that war. The individual corpse was once a member of this larger corps. I've argued for an understanding of this brotherhood as a queer system – a network of same-sex care, intimacy and affection. These queer practices tug at the iconizing of the fallen, as the deep care between soldiers is both that which creates the unity of the corps as well as that which potentially disrupts it. This both/and structure speaks to what is queer about military funerals: the seeds of exposing and disrupting the norms military funerals create are part of the practices themselves.

In *Final Salute*, the location of queerness is in this very brotherhood, the Marine Corps. The Corps protects its own and mourns the loss of its members, behaving like a family and drawing on its own male-centred lineage, stretching back to the beginnings of the US military. This is evident in way the military performs its own mortuary care work, as well as through the foundation of specialized military cemeteries. By containing its own set of rituals and distinct codes, the military corps sets itself apart from civilians and normative kinship structures: a queer family. Even beyond death, this family continues to care for its own – disseminating stories and memories to the generations the institution recruits. The queerness of the military corps operates in (hyper/in)visibility – so present and obvious that its meaning becomes illegible and unrecognizable as such. This (hyper/in)visibility protects the queer military family, even as 'Don't Ask, Don't Tell' fades into the history books; the potential presence of gays and lesbians serving in the military

instead serves to highlight a changing US masculinity: one that runs peace-keeping operations more than battles, and promotes 'freedom' on all levels. It is (hyper/in)visibility that makes these two seemingly opposed practices align, transformed from oxymoron to business as usual.

Diametrically opposing 'queer' to institution, structure, and conservative movements greatly limits our ability to unravel, understand, and ultimately critique and change institutional power dynamics. The institution of the US military relies on queerness, but as a simultaneously upheld and disavowed structure. Queerness is not just the undoing of patriarchal power hierarchies, but is also the structures through which patriarchy itself operates – hypervisibly, invisibly, but especially (hyper/in)visibly. The conundrum of the (hyper/in)visible and grappling with its tendencies to be both the site of disparity as well as the location of resistance is an essential task, made evident through understanding the ways that kinship, caretaking, and the psychic life are 'queered' in US military funerals. The necropolitical performative of military funerals is discernible in those performances that take bodies marked for death and transform them, through ritual, into corpses of ideal citizens who had been marked for life. This enables a transformative mourning that justifies war by creating new necropolitical populations against whom war must be waged so that the military lives lost have not been lost in vain. Untangling the layers of visibility, normativity and queerness that constitute military necropolitical performatives is a necessary step towards unravelling the US war machine.

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Notes

- 1 Taps is the bugle call that is used to signal lights out. It is a uniquely American bugle call, adapted from the French melody, Silas Casey's (1801–1882) 'Tactics', by Union General Daniel Butterfield (1831–1901) in July of 1862. With the help of his brigade bugler, Oliver Wilcox Norton (1839–1920), he rewrote the French melody, which he felt was too formal, and the tune spread throughout both the Confederate and Union Armies after its debut on a July evening. It was made a formal bugle call after the Civil War.
- 2 IED stands for improvised explosive device, another name for a roadside bomb. These types of explosive device are most commonly used in guerilla warfare and have been used prominently in the wars in Iraq and Afghanistan. An estimated 60 per cent of American casualties in Iraq and 50 per cent of American casualties in Afghanistan are the result of IEDs. For more information, see Wilson.
- 3 Matthew Shepard, a gay college student at the University of Wyoming in Laramie, died on 12 October 1998, the victim of a hate crime. His death inspired nationwide memorials and vigils and was covered extensively by media worldwide. The events surrounding his death have also been memorialized theatrically through Moisés Kaufman's *The Laramie Project*. Shepard quickly became a rallying point for LGBT activists working to fight homophobia and hate crimes nationally.
- 4 It seems that the repeal of Don't Ask, Don't Tell has not significantly changed the activity of the Westboro Baptist Church.
- 5 Whether accidental or purposefully, the Westboro Baptist Church's claims of same-sex sociality and desire in the military enact an unexpected historicization of claims made by members of the military itself. See J. Spring. Thanks to Silvia Possoco for bringing my attention to this literature.
- 6 The state sanctioned and supported this heightened importance in a number of ways, including fully funded trips for Gold Star mothers to visit the battle sites and graves of their deceased sons, in the days before repatriation of US military corpses was common practice. See K. Piehler.
- 7 Examples can be seen in legislation and other political speech acts about the Gold Star mothers and service flags such as Public Resolution 123(1936) and Department of Defense (1967).
- 8 Devised by the Pentagon, the 'Dover test', intended to measure whether the American public at large will find certain representations of war palatable, brought about the 2003 re-issuance of the Dover Ban by the Department of Defense. Fearing a reprise of the civil discontent in the wake of the Vietnam War, during which censorship of war news and imagery was at a minimum, the 2003 re-issuance of the Dover Ban was a careful attempt to cultivate patriotism and positive national sentiment towards the activities of war. The Department of Defense has, over time, issued a number of different bans, the first in 1991 under President George Bush, Senior. The Dover Ban was lifted under the Obama administration on 26 February 2009. See B. Gan.
- 9 Historically, citizenship could be acquired by an immigrant by joining the armed forces. Thus for a fallen soldier, leaving the battlefield under the US flag might be one's first (and last) act as a US citizen, as laid out in the Immigrations and Nationality Act. See J. Preston.
- 10 Class is the one category that is slightly more variable. While the military is positioned as an institution through which one can gain economic mobility, heroes are usually positioned as middle class or at least as individuals with middle-class aspirations.

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- 11 The website of the Department of Defense features stories on its heroes, in an 'employee of the month' gesture. As a featured hero, a brief biography is recounted, along with a description of the hero's heroic deeds. At the time I began this research, of the 12 featured heroes, all are men, and all but one is white. The sexuality of these heroes is impossible to determine. Department of Defense, 'Heroes'. Online: www.defense.link.mil/heroes/ (accessed on 13 April 2009).
 - 12 By 'male-gendered individuals', I am referring to the gendered position of soldier, which is undeniably masculine in a US national context. Although women have been admitted into the military, when they step into the position of 'soldier', they step into a new gender position, which, while not exactly male, is no longer only female. Female soldiers are not excluded from my consideration of military funerals as 'queer', although they certainly occupy a double position as being insider-outsiders within this queer kinship network. Female soldiers are excluded from the vast majority of journalism and scholarship that examines the military, which is still understood, perhaps rightly so, as male dominated. They are also largely absent from media coverage of soldiers and military affairs or else presented specifically as a fascinating anomaly. Given that the objects I deal with in this article fit within this categorization, female soldiers do not play a large role in my discussion, however, it is my hope that their (hyper/in)visibility within this chapter draws attention to their absence, opening up avenues for future scholarship specifically addressing women.
 - 13 Matching tattoos are one way that queer couples, who wish to choose alternative symbols of belonging together, replace the traditional 'wedding ring' and mark their lifelong commitment to one another.
 - 14 For a fictional glimpse in the extensive preparation of military corpses, see R. Katz (dir.), *Taking Chance*. Interestingly, the representation of the labour of death care is gendered and raced in ways that do not necessarily reflect the labour breakdown in actual military death care operations.

On the queer necropolitics of transnational adoption in Guatemala

Silvia Posocco

Introduction

In popular discourse as in academic analysis,¹ ‘transnational adoption’ is often figured in reference to ideas of new forms of relatedness, kinning and sociality, while simultaneously conjuring up the spectre of illegitimate appropriation, unscrupulous commerce and degrading commodification of underprivileged bodies and persons moving across transnational circuits through uneven, unequal and non-reciprocal relations of exchange. As Briggs argues, it may initially appear counterintuitive to study the ‘hard politics’ of neoliberal globalization – and post-conflict adjustment – through ‘soft subjects’ like the family, reproduction and by analytical extension and abstraction, gender and sexuality (Briggs 2009, 2010: 49). ‘Transnational adoption’, as an assemblage of situated cultural forms, political and legal technologies of governing, social relations and subjectivities, directly connects to processes of economic, political and legal restructuring² that have taken place periodically since the debt crisis of the 1980s through policies associated with the Washington Consensus.³ Thus, transnational adoption, as a peculiar form of intimate labour through which the act of bearing children on others’ behalf is commodified, marketized and, crucially, made the object of inequitable and non-rescindable relations of ownership and exchange – is a particularly poignant point of entry for an inquiry into how transnational processes and dynamics associated with neoliberalism play out in contradictory and complex ways (Briggs 2009, 2010, 2012; Marre and Briggs 2009; Posocco 2011) and connect to life/death problematics.

Neoliberalism, as a political rationality with variegated and malleable modes of governing subjects and populations, very explicitly connects to the exponential growth in transnational adoptions globally and the mass relocation of adoptees from the Global South to the Global North. Povinelli reframes the political rationality at stake in these processes as ‘late liberalism’, arguing that this can be understood in specific relation to the set of *dispositifs* introduced in liberal governmentality in the aftermath of multiple eruptions of dissent, including those of the anti-colonial movements and new social movements in the 20th century, and the new Islamic movements in the early 21st century (Povinelli 2007, 2011:

25). In these terms, both neoliberalism and late liberalism delineate not so much a temporality or epochal shift, but rather, they stand for 'uneven terrains of social maneuver' (Povinelli 2011: 28) articulated in relation to myriad modes of governance and 'microphysics of power' (Foucault 1977, 2000). The analytics of late liberalism refocus these dynamics in relation to a notion of antagonism, but carefully avoid any collapsing or reconciling of struggle and difference, given that, in the governmentality of late liberalism, 'recognition' is neither benign nor transparently affirmative, but, rather, normative and disciplinary. Questions of justice, within this horizon, are always aporetic, that is, both paradoxical and in a state of being at a loss, insofar as they relate to a sense of recurrent crisis, risk, expropriation and seemingly ever deepening vulnerability and (in)security. Late liberalism's temporalities of justice are always/already fundamentally overdetermined, as they reference the space of difference and incommensurability between the socially situated law and the always deferred and yet to come realm of ethics (Derrida 1997, 2001).

Transnational adoption thus foregrounds questions and problems concerning the proximity and complex interrelatedness of social realities of deprivation, desertion and exclusion, on one hand, and value extraction, accumulation and privilege, on the other. It marks, in ways that are perceptible and embodied, those often occluded points of articulation of late liberal *dispositifs* of governance that are productive of shifting and uneven distributions of life and death. Within this terrain, 'race' and 'sexuality' cease to refer exclusively, or indeed primarily, to the domain of identity. Rather, they compellingly designate a nexus of articulation, or an *apparatus*, in the Foucauldian sense, as the coming together of discourses, institutions, spatial forms, regulatory frames, legal and administrative practices as well as modes of conduct, affect and desire.⁴ Further, as *dispositifs*, they precipitate questions regarding how modalities of relatedness grounded in social practices of expropriation and acquisition – that is, forms of sociality where a specific type of convergence occurs between models of property and value, and models of the person – may have sedimented in cultural forms and social relations in the postcolonial present. The confluence of 'race' and 'sexuality', as domains of regulation, and processes of production of subjectivities and affective states, on one hand, and the emphasis on the genealogical character of these dynamics of sedimentation, on the other, reframe 'the contemporary' – the 'here and now' – as a textured terrain in which bodies, subjects and their relations materialize and bring into view histories of conquest and domination. This is a condition of 'multi-temporal heterogeneity', of daily strategies 'in and out of modernity' (García Canclini 1995: 47), and a 'combination of several temporalities' (Mbembe 2001: 15) that bring together an 'interlocking' of duration and emergence.⁵ In this sense, 'transnational adoption' designates a range of 'material anchors' for social worlds which are at once incommensurate and connected, both grounded and yet in-the-making, as are 'the racial and sexual discourses that apprehend them' (Povinelli 2007: 2). A number of important analytical moves are at stake here, not least one that requires relinquishing attachment to the seemingly self-evident status of

identitarian designations – including those born out of situated struggles for recognition – and the reorientation of attention towards the political rationalities and genealogical dynamics in play in processes of articulation of sociality, relatedness and belonging, as well as disposability, confinement and death. This critical perspective also stresses incommensurability and deferment in relation to the domains of ethics and justice, insofar as it refers to the analysis of interlocking experiences of sociality and displacement, relatedness and disintegration, affirmation and exemption, life and death.

In this chapter, I am concerned with an analysis of transnational adoption in late liberalism, and more specifically, with a theorization of the relations between transnational adoption and realignments of ‘race’ and ‘sexuality’, as domains of regulation deeply implicated in the transnational redistribution of life and death. This main aim links to questions that have most recently been propelled to the centre of social theory and cultural analysis under the mark of biopolitical and necropolitical thinking (e.g. Agamben 1998; Esposito 2008; Foucault 1977, 2000; Mbembe 2001, 2003), but that in turn connect to a variety of genealogies of critique. The figure of *homo sacer* (Agamben 1998), for example, as the one who can be killed, but not sacrificed or murdered, and whose killing therefore does not constitute a violation of the law of man or the law of God, but rather, exemplifies the relation between sovereignty and exception, significantly echoes the analysis of slavery offered by Orlando Patterson in the influential text *Slavery and Social Death* (1982). This can serve as an example of important, if at times sidelined or forgotten antecedents of some contemporary work on biopolitics and necropolitics.⁶ Such a critical approach to transnational adoption queries the status of the subject of rights in late liberalism, in the form of a set of reflections regarding rights-bearing figures that are central to the articulation of ‘transnational adoption’, especially, but not exclusively, adoptive parents. Here I include lesbian and gay constituencies explicitly making a claim to entitlement to transnational adoptive parenthood. I also refer to those gay and lesbian subjects more implicitly furthering family-building projects with tacit, rather than public, reference to lesbian and gay identities.⁷ The temporalities of these social and cultural processes of kinning are structured around and oriented towards heteronormative and homonormative ‘futures’ that are imagined in relation to the promise of new forms of relatedness, identity and belonging and simultaneously predicated on the occlusion of genealogical temporal frames. An analysis of transnational adoption circuits in late liberalism thus refocuses attention on a range of figures whose rights-bearing capacities and entitlements have historically appeared less clear, for example, adoptees, birth mothers, birth families, and those deemed non-adoptable. I tackle these questions from the vantage point of Guatemala, a ‘context’ that I invoke through a transnational analytical lens. While a transnational framing of ‘context’ problematizes assumptions regarding the assumed self-evidence of bounded, naturalized, organic and/or integrated social wholes such as ‘nation’ and ‘community’ as units of analysis,⁸ I propose an emphasis on radically denaturalizing scales of analysis that stress the productivity of juridical and political manoeuvres

in the social organization of vitality and the management and governance of life and death in a broader context marked by colonial, postcolonial and neo-imperialist histories of violence and plunder, at times cunningly and oxymoronicallly reconfigured as humanitarianism.

***El Conflicto Armado*, the inception of legal exceptionalism and late liberalism's privatized kinning**

The circulation of children in Guatemala has a long history, but significant transnational adoption flows from Guatemala to North America and Europe were established and consolidated from the mid-20th century onwards. The country consistently ranked among the top four countries sending transnational adoptees internationally for over 25 years and from 1975 to 2000 specifically, it was ranked as the Latin American country with the largest number of adoptees moving transnationally (Selman 2002). Transnational adoptions of children from Guatemala quadrupled in the period between 2002 and 2006, placing Guatemala immediately before China in the league tables of 'sending countries', with 3,783 children adopted by United States citizens in 2005. In the same year, China – a country whose population is dramatically greater than Guatemala's 14 million – sent 7,906 adoptees to the USA (Selman 2002: 575–577). Demographer Peter Selman (2009) notes that between 2003 and 2007, transnational adoptions from Guatemala steadily increased from 2,677 in 2003, to 3,424 in 2004 and culminated in 4,844 transnational adoptions in 2007. In 2007, then, 'Guatemala had the highest ratio [adoptions per 1000 live births] of all sending countries, with one out of every 100 live births leading to an overseas adoption, a level exceeded only by Korea in the 1980s, Romania in 1990–1 and Bulgaria in 2002–3' (Selman 2009: 584). The painstaking work of demographic recording is a culturally, socially and politically significant practice, precisely as a technology that exposes not merely the diasporic flow – always seeming to fall short when aiming to convey the magnitude of the circuit moving adoptees from Guatemala mainly in the direction of North America and Europe – but also a range of administrative technologies invested in performative practices of 'accounting for', in the double sense of enumerating and legitimizing, the transnational movements of adoptees.⁹ Beyond an examination of the practice of administrative technologies, the fluctuations in the statistics gathered by demographers map very directly onto Guatemala's relationship to Western imperial power over time, with peaks in transnational adoptions coinciding with the times of most ferocious political repression (early to mid-1980s) and unbridled neoliberalization (mid-1990s and 2000s).

A perspective less narrowly focused on accounting practices suggests that in Guatemala, the vitality of the transnational adoptee as a key attribute of the 'symbolic child' that is at once a figure of discourse and a cultural trope,¹⁰ has also progressively been framed as an excess of life generated under the mark of genocidal violence during the Guatemalan conflict that engulfed the country over

36 years, between 1960 and 1996 (see, for example, ODHAG 2006a: 129–138, 2006b). In this context, it has been widely noted that the transnational adoptee's vitality has been consistently underscored by generalized cultural anxieties around illicit appropriation, theft, abduction and profiteering, very clearly exemplified by many accounts – vociferously refuted, at times unsubstantiated, but nevertheless culturally significant – of disappearing children said to be destined for organ harvesting and human trafficking (Adams 1997; Briggs 2005; Dubinsky 2010; Metz 2008; Posocco 2011). These violent imaginings of exceptional violence, death and disappearance ought to be connected to the Guatemalan conflict. As the Commission for Historical Clarification noted (CEH, Conclusions, First Paragraph), the 36 years of political violence fomented by a succession of neo-imperialist United States governments in the throes of Cold War expansionism, left over 200,000 dead, many of whom were victims of arbitrary executions and forced disappearance, the great majority Maya and the rest Ladino, that is, the term used in Guatemala for those belonging to the dominant culture (see Hale 2006). The Commission also argued that:

The structure and nature of economic, cultural and social relations in Guatemala are marked by profound exclusion, antagonism and conflict – a reflection of its colonial history. The proclamation of independence in 1821, an event prompted by the country's elite, saw the creation of an authoritarian State which excluded the majority of the population, was racist in its precepts and practices, and served to protect the economic interests of the privileged minority. The evidence for this, throughout Guatemala's history, but particularly so during the armed confrontation, lies in the fact that the violence was fundamentally directed by the State against the excluded, the poor and above all, the Mayan people, as well as against those who fought for justice and greater social equality.

(CEH 1999: Conclusions, Third Paragraph)

Against the backdrop of the Guatemalan conflict, increasingly large numbers of adoptees moved transnationally through a peculiar form of state-sanctioned legal exceptionalism. Specifically from 1977 to 2007, and thus corresponding with the years that registered the greatest number of adoptees leaving the country through transnational adoption circuits as well as the harshest political repression, a seemingly obscure but very influential piece of legislation, the Law Regulating the Voluntary Jurisdiction of Notaries' Operations, or *Ley de la Tramitación Notarial de Asuntos de Jurisdicción Voluntaria* (Decree 54–77) established that the process of adoption regulated by the Guatemalan Civil Code could be formalized by a public notary (*notario público*), bypassing the judicial system and, in practice, eluding the intervention of a judge (Art. 28). Securing the approval of an official responsible for such matters in the Procuraduría General de la Nación – the department of the Guatemalan State overseeing all technical and procedural juridical matters – would be deemed sufficient (Art. 32), and this could be routinely accomplished

through an act of public certification (*escritura pública*) undertaken by a notary (*notario*).¹¹ In view of this, the law concerning the Voluntary Jurisdiction of Notaries' Operations amounted to a structurally very significant legal technology of privatization, deregulation and de-judicialization of the adoption process that was to remain in place for 30 years. The transference of the handling of the process of transnational adoption from the courts to the offices of notaries, and by extension, their clients as either prospective adoptive parents or adoption agencies, by all intents and purposes established transnational adoption's legal exceptionalism, making the great majority of transnational adoptions extrajudicial (AA. VV. 2007; Posocco 2011). This extrajudicial quality of the process is of interest, in that it evokes in very direct ways contemporary theorizations of 'the state of exception' (Agamben 2005). In the political and juridical structure marked by the Guatemalan conflict and its violent aftermath, this arrangement turned into a permanent and substantive placement of transnational adoption beyond and outside judicial processes.¹² Poignantly, Mbembe (2003: 3–4) connects the analysis of the state of exception to 'terror formations' and 'topographies of cruelty', which allow for a discussion of colonies, concentration camps and plantations as specific necropolitical formations, where 'necropolitics' mark 'the analysis of contemporary forms of subjugation of life to the power of death' (Mbembe, *ibid.*).

The spatial dynamics and topographies at stake in the management of vitality in transnational adoption circuits clearly deserve further attention. An emphasis on related legal technologies and forms of exceptionalism, however, goes some way towards explaining the conjuncture between aggressively pursued neoliberal reforms on the part of a succession of late counterinsurgent and post-Peace Accords Guatemalan governments, on one hand, and the exponential growth in numbers of adoptees moved through squarely privatized arrangements from Guatemala to North America and Europe in the years running up to, and in the immediate aftermath of, the Peace Accords signed in 1996 by the Guatemalan government and Marxian guerrillas, on the other. The exponential growth in adoptions continued in post-Peace Accords times in a period of post-conflict neoliberal adjustment that coincided with an aggressively pursued privatization of the family and hollowing out of public services in so-called 'receiving countries'. From the perspective of the United States, for example, Briggs (2010, 2012) has convincingly shown that the exponential growth in transnational adoptions can be directly tied to two key factors. First, moral panics about 'foetal alcohol syndrome' and 'crack babies', the offspring of a racially minoritized urban underclass progressively framed as drugs dependent, morally undeserving and increasingly deemed to be fundamentally unsuitable for domestic adoption. Second, the increased securitization and privatization of middle-class family life and domesticity, processes that have been widely noted to be differentially significant depending on class as well as the racially minoritized status of the subjects and populations in question (see, for example, Hill Collins 1990: 46).

The intensification of transnational adoption flows also connects to the articulation and progressive consolidation of heteronormative and homonormative

identitarian claims, acquisitive forms of sociality, practices of kinning and related assimilationist logics in both North America and Europe, actively pursued through claims to citizenship as inclusion and assimilation into the body politic by, for example, lesbian and gay constituencies, in what Puar (2007) has called a process of incorporation of gay and lesbian subjects into the fold of the nation-state. From the perspective of an analytical and ethnographic focus on gay adopters in New York, Horridge (2011) documents how in the first decade of the 21st century, this constituency of newly defined 'suitable adopters' were able to take advantage of the increased neoliberalization of child welfare services. Both Briggs (2010) and Horridge (2011) – whose respective studies include explicit discussion of transnational adoption networks from Guatemala – connect the emergence of gay and lesbian adoptive parents as new subjects of rights and entitlements specifically to the erosion of state provisions, to the extent that, according to Briggs, 'adoption is above all the neoliberalization of child welfare. As states abandon public services like subsidized health care and staple foods . . . they have placed impoverished children in privatized families, rather than provide state services to support them with their birth families' (Briggs 2010: 58). For Horridge (2011), while the neoliberalization of child welfare may have had both positive and negative impacts on children in need of care, the practices of matching gay and lesbian adopters and adoptees 'leave legacies of race, class, and gender inequalities intact' (Horridge 2011: 1). These practices of kinning are marked by multiple temporalities of conquest, exploitation, violence and plunder that exceed the immediate states of emergency and exception through which state provisions are revoked. Far from transparent acts of benevolence, these practices of kinning in late liberalism are, as Fonseca (2008) has noted, 'co-productions' articulated at the points of intersection between law, technology and money. In other words, kinning is figured, materialized and lived through highly commodified and marketized relations that are produced through securitized privileged access to the law, technology and the market.

This unevenly distributed access to futurity can provisionally be framed with reference to Edelman's trenchant polemic on 'reproductive futurism', that is, the cultural logic which, in Edelman's view, regulates, and therefore delimits, the political to a very specific and unquestioned 'economy of sentimentality' centred on the figure of the child as the pivot of the heteronormative (and, indeed, homonormative) political projects of 'those fighting for the children' (Edelman 2004). Paradoxically, the reproductive futurism associated with transnational adoption and geared towards the production of viable and deserving subjects and populations of transnationally mobile adoptees – as well as virtuous, solvent and vigorous adopting parents – is predicated on legal technologies of erasure and suspension of the past. The termination of the parental authority of the birth mother, for example, is dependent on a laborious set of declarations through which the severing of the parental relation is performatively actualized and legally sanctioned (for a fuller account, see Posocco 2011). Legal framings and popular discourses insist on what Schachter (2009) has termed a fundamentally culturally

imperialist 'as-if-begotten' model for parent–child relationships, a cultural fantasy firmly established in international and national domains of legal jurisdiction and one that has to be periodically reiterated and renewed in social practice. Access to futurity here is clearly produced through the iteration of 'carnal logics', in the sense Povinelli gives to carnality: carnality marks flesh both 'as a juridical and political maneuver' (Povinelli 2007: 7) and an 'unruly vector', or a 'physical mattering forth' of disciplinary discourses. In turn, the production of morally undeserving humanity appears as a complex formation that operates transnationally to reward some, while condemning those deemed to be unsuitable due to a variety of biopolitical categories such as age and health status – for adoptees – or poverty – notably for mothers – to existence in 'zones of indistinction' (Agamben 1998), whether in Guatemala, North America or Europe. For Agamben, the figure of the *homo sacer* produced through political exceptionalism as the one included within the *polis* and the law through the very act of exclusion (Agamben 1998: 170) dwells in 'zones of indistinction'. Zones of indistinction therefore mark spaces of marginality, abandonment and internment within the body politic where 'bare life' is located and where the boundaries between the citizen and the outlaw, law and violence and life and death are blurred as a result (Agamben 1998). Crucially, these dynamics for Agamben are absolutely central to the sphere of the political, to the extent that 'politics is now literally the decision concerning the unpolitical, that is, concerning bare life' (Agamben 1998: 173). As Thobani (2007) has argued, however, the intimate mutual imbrication of law and violence ought to be framed in relation to the regimes of absolute violence of coloniality, so as to foreground racialized and racializing forms of power, situated topographies of cruelty and processes of production of bare life structured in and through (neo)colonial relations. In more explicit terms and following Thobani (2007, 2012), it is clear that the politics of the unpolitical – or the politics of bare life – have historically been structured by specifically racial logics of power that produced 'bare life as racialized life' (Thobani 2012: 3). A deep sense of historicity marks the social, cultural, political and spatial structuring of racialized abjection as well as the differential temporalities of racialized forms of life articulated in and through transnational adoption circuits.

Queer necropolitics, paradoxes of regulation and indefinite temporalities of social death

The biopolitical management of the transnational adoptee's vitality did not wane, but rather, was reconfigured in the post-conflict period in Guatemala. Institutional and legal reforms linked to post-Peace Accords adjustment exerted concerted renewed claims to the governance of 'the unpolitical', that is, the privatized and extrajudicial transnational adoption circuits. On 31 December 2007, responding to mounting international pressure to subscribe to and implement the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption, the governance of transnational adoptions in Guatemala was overhauled. The Guatemalan government introduced the Law of Adoptions

and established the Guatemalan National Council of Adoptions – an independent but government-funded body with a mandate to oversee all matters relating to national and transnational adoptions (see Posocco 2011). An immediate effect of these reforms was the interruption of the transnational flow of adoptees, a suspension still largely in place to date.

Interestingly, such regulatory interventions have engendered not the demise, but a renewed incitement to life of the transnational adoptee, as well as a restaging of fractures in the transnational regulation of race and sexuality in the aftermath of the regime of terror that was the Guatemalan conflict. Such fractures are evident in the suspension of adoptees' transnational movements in place since 2007 and their seemingly 'indefinite detention' in lightly regulated, but *de facto* privatized, institutions: *hogares* (homes) and orphanages run by lay and religious organizations or simply by individuals. The reforms created a National Council of Adoptions register, where in November 2012 about 26 'authorized' organizations appeared. Many more – 92 to be precise – were listed as pending full authorization.¹³ These establishments, in part newly state registered but largely privatized and ultimately autonomous, exemplify the ambiguous status of 'regulation' as well as the process of production of zones of indistinction. Most fundamentally, therefore, they relate to the articulation of connections between transnational adoption and older modalities of social death (Patterson 1982), confinement and disappearance. In other words, the ambivalent rise of the child as a rights-bearing figure heralded by the reforms of 2007 is coterminous with the inception of a regime of regulation which in this context relates to the (re)emergence of technologies of institutionalization, detention and forced removal from the body politic. The social and cultural production of human disposability has long, profound and complex local histories in the country and directly connects to the Guatemalan conflict and its multiple 'terror formations' (Mbembe 2003). If terror, as Mbembe suggests, is connected to the incitement of aberrations in the body politic, in Guatemala one cannot ignore the historical salience of the figure of the *guerrillero*, the insurgent deemed to be '*el enemigo interno*' or 'the enemy within' of counter-insurgency (Posocco, 2014). More recently, figures such as '*el marero*', the gang member, have been mobilized by increasingly remilitarized governments as justifications for punitive 'zero tolerance' interventions, or '*mano dura*' (Grassi 2011), that can kill, without such acts registering as either murder or sacrifice (Agamben 1998). Under the government of former head of the military's intelligence division G-2 and ex-Army General Otto Pérez Molina, whose party symbol is precisely an iron fist and who was elected in September 2011 with the slogan 'No more poverty, no more insecurity, with *mano dura*, yes we can', popular protest in different areas of the country has been quashed by violent police and army repression. The analytics of 'social death' reference very explicitly and directly Orlando Patterson's (1982) groundbreaking analysis of slavery. According to Patterson (1982), slavery, as an institutionalized relation between master and slave and a 'rights relation' fundamentally instituted through the law, is grounded in an understanding of the

slave as a socially dead person (*ibid.*: 38–39). For Patterson, the ‘social death’ of the slave relates to a process of depersonalization that relies on the suspension of personhood and belonging through the slave’s exclusion from the community, or the slave’s internal exile. The production of alterity as social death is therefore dependent on processes of expulsion or exclusion and the redrawing of boundaries of belonging and unbelonging. Yet inclusion, too, according to Patterson is not benign; rather, it amounts to an essentially violent and (socially) deadly process which produces forms of life in segregated proximity, and which may also lead to exceptional violence and death. From this perspective, the testimonies of proud heterosexual, lesbian and gay parents of adopted Guatemalan children in the United States and Europe,¹⁴ and the public declarations made by those whose marketized, assimilationist and acquisitive kinning practices are frustrated by the current moratorium on adoptees’ transnational movements, ought to be connected to multiple death worlds that not only have the Guatemalan conflict as their horizon, but multiple contemporary processes of (social) death-making as well. Likewise, it is important to note that groups of adoptees from Guatemala exist in the US, Canada, France, Belgium and Italy. Some insist that the very term ‘adoptee’ is profoundly misleading and should be replaced by ‘abductee’, to better describe the conditions under which they found themselves placed in families in the Global North.¹⁵ These interventions therefore refocus analytical and political attention onto the biopolitical and necropolitical formations that underpin heteronormative and homonormative accounts of transnational adoption and participate in a broader critical reflection on the meanings and place of ‘queerness’ in these dynamics.

The temporary suspension of adoptees’ transnational movements, the prospective adoptees’ indefinite detention in deregulated institutions, and the social disappearance of those placed beyond ‘adoptability’ and kinning are uneven and sometimes incongruent processes which recast queerness as a fundamentally necropolitically differentiated futurity. Here I reference again Achille Mbembe’s definition of ‘necropolitics’ as ‘contemporary forms of subjugation of life to the power of death’ (Mbembe 2003: 39), as a key domain of queer analysis and critique. In Jasbir Puar’s influential iteration, the critical register of ‘queer necropolitics’ specifically attempts to make sense of the expansion of liberal gay politics and its complicity with contemporary neocolonial geopolitics, while calling our attention specifically to the ‘differences between queer subjects who are being folded (back) into life and the racialized queernesses that emerge through the naming of populations’, often those marked for death (2007: 36). Queerness in this context marks a terrain of biopolitical articulation in late liberalism and more specifically a reconfiguration of the terrain where subjects and populations whose rights-bearing capacities have remained in question – among them adoptees, birth mothers, birth families and those deemed non-adoptable – dwell. This is also a genealogical sedimentation, where histories of conquest, racism, imperialism, and legal exceptionalism play out in uneven, haphazard, and yet deadly ways, in the

differentiated distribution of vitality and futurity actualized through transnational adoption as a phenomenon of late liberalism.

Conclusion: unruly vectors and temporalities of justice

An analysis of transnational adoption circuits in and through Guatemala from the mid-20th century to the present articulated around a focus on selected juridical and political apparatuses suggests that this is a domain of complex realignments and articulation of life and death through *dispositifs* such as ‘race’ and ‘sexuality’ transnationally. The last two are terms that refer not to identities, strictly speaking, but to a biopolitical and necropolitical reconfiguration of death and life chances. The analytical labour of tracking the biopolitics and necropolitics of transnational adoption in the relations between local histories of violence, the emergence and progressive intensification of transnational adoption flows, and processes of social, political, and legal restructuring during the Guatemalan conflict (1960–1996) and its violent aftermath, however, foregrounds a broader task. It raises questions regarding the multiple and shifting rationalities of governance and microphysics of power associated with ‘transnational adoption’, and the social, cultural and historical production of privileged entrance into the body politic, and violent indefinite removal or exclusion from it.

The analytical, spatial, embodied, lived, ever-situated and emergent contiguity of life and death is powerfully articulated in contemporary biopolitical and necropolitical thinking, but differences in emphasis and orientation remain. Thus while for Foucault (1990: 143) biopolitics refers to a discipline that ‘brought life and its mechanisms into the realm of explicit calculations and made power-knowledge an agent of transformation of human life’, for Agamben (1998), the process of production of the biopolitical body is organized around the fundamental distinction of *zōē* and *bios*, a distinction that Agamben positions in relation to the different terms and meanings assigned to the word ‘life’ in Ancient Greece. Thus for the Ancient Greeks, Agamben argues, *zōē* ‘expressed the simple fact of being common to all living beings’ (Agamben 1998: 1), while *bios* ‘indicated the form or way of being proper to an individual or group’ (ibid.). The distinction between ‘natural life’ and ‘political life’ marks the operation of sovereignty through the mechanisms of exception. The exclusion from the *polis* locates *homo sacer* in a zone of indistinction, or a threshold (ibid.) where a multitude of living dead are found, often in unexpected relations of proximity (see also Sanchez 2004). This genealogy of theorizing is provokingly and creatively unsettled by a different reading of the articulation of the relation between *zōē* and *bios* offered by Derrida (2009). In the Twelfth Session of the collection of seminars *The Beast and the Sovereign*, Derrida (2009) questions the emphasis on the point at which ‘life’ fractures into two discrete domains and at which sovereignty is reconfigured into a biopolitical paradigm. Derrida stresses instead the fundamental instability at the heart of the distinction. Likewise, when dwelling on the notion of the threshold so central to

Agamben's characterization of *homo sacer*, Derrida argues:

When we say that in these seminars we are remaining on the threshold, that doesn't mean that we are lingering on it or attesting to the existence of a threshold, whether to remain on it or to cross it interminably. Rather, it would mean . . . that we don't ever consider the existence (whether natural or artificial) of any threshold to be secure, if by 'threshold' is meant either an indivisible frontier line or the solidity of a foundational ground. Supposing that we dwelled on the threshold, we would also have endured the ordeal of feeling the earthquake always under way, threatening the existence of every threshold, threatening both its indivisibility and its foundational solidity.

(Derrida 2009: 413, emphasis in original)

This detour through the Derridean critique of Agamben raises a number of important problems for biopolitical critique and necropolitical analysis, mainly in the form of a questioning of the quasi-paradigmatic status of key distinctions such as the one between *zōē* and *bios*. More fundamentally, it recovers a sense of an emphasis on instability, both rhetorically and politically. Beyond the confines of Derrida's deconstructive readings, a recovered sense of instability also foregrounds that queer multitude of unruly vectors who may be subject to shifting regimes and sovereign bans, but who may be nevertheless aggregating in incipient agitation.

The redrawing of boundaries between the drowned and the saved (Levi 1988) occurs on a terrain transversed by circuits of capital and is transnational in scope, creating queer agglomerates of *Lumpenproletariat* – that is, the layer of the working class destined never to achieve class consciousness, a constituency dismissed by Marx but recovered by Fanon (Fanon 1990: 137) – across what have traditionally been understood as national borders. These are queer conglomerates in a larger formation of late liberalism which produce a juxtaposition between the acquisitive familism of reproductive futurism, on one hand, and an unassimilated and expelled queerness which marks politics as antagonism, and hence, as a matter of disturbance to the social order (Edelman 2004), on the other. As it has been widely noted (for example, Muñoz 2009), Edelman's account is evasive in respect of the racial, classed and cultural dimension of futurity, particularly reproductive futurism. In Cathy Cohen's (1997) important analysis, by way of contrast, the idea of queerness entails a decisive anti-assimilationist stance that connects to forms of subjectivity, sociality and desire actively disrupting normative orders, but without such erasures. Anti-normativity and antagonism for Cohen foreground a politics where marginal subjects such as 'punks, bulldaggers and welfare queens' (Cohen 1997: 438) become pivots of queerness: 'if there is any truly radical potential to be found in the idea of queerness and the practice of queer politics, it would seem to be located in its ability to create a space of opposition to dominant norms, a space where transformational political work can begin' (Cohen 1997: 438). Further, for Cohen (2011/12), the radical possibilities of queer connections are articulated between 'a traditional queer theory and a more intersectional theory and politics

rooted in the lives of folks of color' (Cohen 2011/12: 128), that challenge liberal rights-based approaches and related individualizing responses to violence through punitive criminalization. These changing and shifting processes and spaces of opposition are both situated and genealogical. They connect to histories, but are also recurring, not in a reductionist deterministic sense, but in a permanent condition of emergence. A consequence of the shift to a biopolitical and necropolitical theoretical register is precisely the detachment of 'queerness' from one of its key referents, i.e. 'gay and lesbian'. Queerness here connotes those whose bodies are marked by racialized and sexualized technologies and produced through the *dispositifs* of race and sexuality for death, including social death. The emphasis is on how queerness disrupts networks of power, access, control, normativity, and most importantly, necropolitical networks. In this view, queerness no longer fits within temporal structures of unhampered access to futurity. On the contrary, the temporalities of queerness are oriented towards the past and the (always deferred) future tense of justice *à venir*.

In the context of an analysis of transnational adoption in Guatemala, then, the queer 'unruly vectors' (Povinelli 2006: 7) are emerging subjects whose claims to justice *à venir* (Derrida 1997, 2001) relate fundamentally to the past: women increasingly vocal in their demands to access the archives so that children taken from them violently or through deception may be traced and returned (see Posocco 2011), transnational adoptees questioning the temporal structures of normative, assimilationist and acquisitive practices of kinning geared towards the submergence of the past under normative versions of reproductive futurity, those indefinitely interned in lightly regulated but privatized networks of institutions. These are *queer* unruly vectors currently reframing the temporalities of justice in Guatemala and beyond, converging on that chasm between the socially situated law and the always deferred realm of ethics.

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Notes

- 1 Academic research has framed transnational adoption as a practice linked to a radical redefinition of notions of kinship, procreation and identity (Franklin and McKinnon 2001; Howell 2006); a reproductive technology of relatively low technological specialization (Edwards *et al.* 1999); an example of 'reproductive disruption' (Inhorn 2007); a privileged migration flow associated with forms of 'flexible citizenship', elite migration (Ong 1999) and emerging queer diasporas (Eng 2003). While significant progress has been made in these diverse research trajectories, notably in the field of kinship studies and emergent modes of relatedness, the explicitly transnational character of adoption is yet to be theoretically and analytically connected to a sustained interrogation of shifts in the organization of race and sexuality transnationally, where both race and sexuality are understood not in identitarian terms, but as *dispositifs* of governance and regulation, as I discuss further, later.
- 2 For a discussion of the notion of 'assemblage' in social and cultural analysis, see Ong and Collier 2005.
- 3 For situated analyses of these processes, see, for example, Comaroff and Comaroff 2000, Ong 2006. For a discussion of the rise of transnational adoption globally in relation to the temporal frames of neoliberalism, see Selman 2009.
- 4 For an extensive discussion of the notion of 'apparatus' in the work of Michel Foucault, see Agamben 2009. For a discussion of 'race' and sexuality as *dispositifs* or apparatuses see Povinelli (2007), Puar (2007), Stoler (1995). These authors move from critical readings of Foucault (1978).
- 5 Diane Nelson suggests that the temporality of late 20th-century Guatemala is reframed as 'Quincentennial Guatemala' (1999). The expression refers to Guatemala as a Latin American country that imagines itself in a Quincentennial time, that is, 500 years after the Conquest. Nelson argues that in the early 1990s, in the run-up to the Guatemalan Peace Accords that ended a 36-year war, the postcoloniality of Quincentennial Guatemala appeared as an 'open wound'. This foregrounds the long- and short-term histories of indigenous genocide, violent *mestizaje* (or 'mixing') and elite oligarchic whitening, and refigures history, according to Nelson, as catastrophe (Nelson 1999: 7). In a Guatemala marked by a multiplicity of Conquests, Nelson argues, we should consider what happens to bodies – we should think of 'bodies politic': 'raced and sexed bodies always carry more than their somatic markings. That is how, and why, bodies matter so terribly . . . The problem is that bodies also splatter: they break apart wetly under the weight of signification they are meant to carry, and they overflow and obliterate the messages inscribed on them, messing up any clean, unified categories' (Nelson 1999: 209).
- 6 Genealogies of analysis and theorizing in relation to debates on biopolitics and necropolitics are addressed in detail in Part III.
- 7 This is an important constituency, as Guatemalan law explicitly prohibited transnational adoption by gays and lesbians. As single people could adopt children from Guatemala, many gay and lesbian adoptive parents simply omitted references to their gay and lesbian identities in the applications.
- 8 See, for example, Glick Schiller 2002, Ong 2006, Ong and Collier 2005.
- 9 For a poignant discussion of the complex relations between knowledge practices of enumeration and accounting, and situated processes of 'reckoning' with the legacy of the conflict in Guatemala, see Nelson (2009).
- 10 See Castañeda 2002; Dubinsky 2010, Chapter 4.
- 11 For a fuller discussion of the legal framing, see Posocco 2011.
- 12 Elsewhere (Posocco 2011), I have argued, following Derrida, that this arrangement marks the violence that is at the very heart of the law, and not outside or beyond it.

- 13 For a full list, please see the relevant pages of the National Council of Adoptions, CNA. Online: www.cna.gob.gt (accessed on 1 November 2012).
- 14 In addition to the ethnographic work of Horridge (2011) with gay and lesbian adopters in New York (2011), the following online publications are example of lesbian and gay parents' narratives, Fernandes (22 September 2009). Online: www.momlogic.com/2009/09/gay_adoption_navigating_the_process.php (accessed on 17 July 2012); www.internationaladoptionstories.com/guatemala-adoption_gay-adoption.htm (accessed on 17 July 2012). From Fernandes (2009), this narrative is instructive: 'Vicky wanted to adopt a baby from Latin America because of her roots. "I connected on a cultural level – I speak Spanish, so it made sense." The couple chose Guatemala and began the complex application process in 2002. "We were very motivated and have pretty type-A personalities, so we got things done quickly." The requirements for international adoption are much stricter than adopting in the U.S. There's no foreign country that will place a baby with an American gay couple, so that means only one person can apply for a baby. Beth had a stable job with a bigger paycheck, so her name appeared on the paperwork – Vicky had to remain in the shadows. They had to hide their relationship from everyone: the adoption agency, the state, the federal government, and the host country. "I posed as the godmother, and that kind of sucks", says Vicky, who described the waiting process to momlogic as an emotional roller coaster. "We weren't getting much information, and we started hearing rumors that the country was changing its adoption rules. I wanted to scream!" . . . The adoption process, which can cost between \$15,000 and \$35,000, "is treacherous, emotionally and financially", Levine says. She explains that it's not a business transaction and should not be looked at that way. It's important to do a lot of research before choosing an agency and an attorney. "Be mindful about getting all the information about fees up-front", suggests Levine, who warns that with an independent adoption, there are many extra charges.' (Full text online: www.momlogic.com/2009/09/gay_adoption_navigating_the_process.php (accessed on 17 July 2012).
- 15 As the Transracialabductees blog explains, 'Abduction is the word we like better than adoption. "Adoption" conceals the unequal power between abductors and abductees, and in the abduction industry in general.' Online: www.transracialabductees.org/ (accessed on 6 October 2012).

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Part II

Wars and borderzones

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Killing me softly with your rights

Queer death and the politics of rightful killing

Sima Shakhsari

On 8 July 2008 an Associated Press reporter asked the US Presidential candidate Senator John McCain why, despite the US sanctions against Iran, the US cigarette exports to Iran grew more than tenfold during President Bush's presidency. McCain responded, 'Maybe that's a way of killing them' (Bradley 2008). There is an uncanny relation of sorts between McCain's racist statement, disguised under the cloak of a light joke and the following sobering quote from Mahtab, an Iranian transgender refugee applicant in Turkey:

My life is not like a cigarette that you can smoke and then put away, as I will live and suffer in its ashes. We are (we live). The world has a forgettable mind, and I will be forgotten very quickly. I might get to Canada, or I might not. But I will never forget that all my rights were taken away from me and there are even no selected individuals who I can blame for this. From now on, I want to build my life.

(Mahtab, Interviewed by the Iranian Queer Organization)

Mahtab made this statement in Turkey, where she was waiting for several years to be recognized as a legitimate refugee by the United Nations High Commission on Refugees (UNHCR) and the Canadian embassy. In 2008, not too long after arriving in Canada, Mahtab quietly took her life in her apartment, which she was asked to vacate as the terms of her subsidized housing had come to an end. The cigarette as a metaphor for a desired yet easily disposable commodity, and as an object with which to kill slowly, links the above two statements, positioned very differently in the neoliberal militarized economy of sexed bodies. There is no one to blame for the suffering of that which becomes killable like an extinguished cigarette, except for the self-responsible willing individual. It is as though to kill slowly (through sanctions or poverty), without bearing the responsibility for murderous laws and policies, is not only contingent on the possible threat that the killable subject poses to the population whose life is worth protecting (Shakhsari 2010), but it also requires desire and willingness on the killable subject's part.

As a form of political 'branding', refugee incites the affective experience of freedom one has not had yet, but expects in future activation and repetition

(Clough and Willse 2011). A necessary component of the refugee discourse, the desire for freedom is eerily present in the branding of cigarettes.¹ It is no accident that the ‘Don’t be a Maybe’ Marlboro advertising campaign in Germany claimed ‘There is no freedom in maybe’. Neither is it surprising that an online design competition for Marlboro included a pack of cigarettes adorned with an American flag next to the phrase ‘packed with freedom’. The promise of freedom is also present in the 2012 ‘Be Marlboro’ campaign that targeted Indonesian youth whose ideal future is ensured against the uncertain present: ‘No poems finished, no mountains climbed, oceans crossed, no freedom won, no city lights, no love letters, this world would be nothing if we just said maybe, so let it out, set it free. Don’t be a maybe. Be Marlboro’ (*Tobacco Tactics*). If Marlboro is ‘packed with freedom’, death may be the price to pay for the self-responsible subject who desires to experience the sweet taste of the ‘Marlboro Country,’ knowing its risks. If queer life is imbued with freedom in the ‘West’, death is the price to pay for the desiring queer refugee whose rights are taken away in the name of rights in the ‘free country’ (see Figure 4.1).



Figure 4.1 ‘Maybe that’s a way of killing them’

Collaborative project by Loriana Espinel and Sima Shaksari, 2012

In what follows, I compare the unspeakability of Mahtab's death to the representability of two other stories of death during the 'war on terror', in order to examine the representational economy of queer death in relation to biopolitics and necropolitics as they concern different populations. Although it is the individual who is subjected to the management of life and death through biopower, as Foucault has argued, it is the *population* that is the target of the art of governmentality through biopolitics, where the management of life of one is inevitably connected to death of another. As such, the management of life and death of the transgender refugee is inherently connected to the government of *the population*. However, there is a difference in the value of life and death of different populations, different multitudes, in the transnational context and beyond Foucault's analysis of the state. How does the government of the life of one population connect to the techniques of the killing of another population? When does the sovereign who has the right to kill, do so softly with sanctions (which are selective in allowing or disallowing the type of commodities; cigarettes are allowed, but medicine is not) and when does it kill in the manner of shock and awe? When does the sovereign kill in the name of rights and when does it let die, forgetting those rights?

Through examining representations of deaths of Mahtab, Mark Bingham and Ayaz Marhouni and Mahmood Asgari, I argue that during the 'war on terror', hegemonic representational politics not only produce universalized sexual identities that are mobilized according to the logic of US homonationalism (Puar 2007), but they also contribute to the management of life and death of different populations. The representational economy of queer death is implicated in an assemblage that includes state and non-state institutions, individuals, human rights regimes, civilizational discourses, diasporas and the international media. I suggest that the Iranian transgender refugee, as the paradigmatic figure of the *homo sacer* (Agamben 1998), is an important site of inquiry in the analysis of the politics of life and death of different populations during the 'war on terror'. The representability of some queer deaths and unspeakability of others complicate biopolitics and necropolitics, pointing to the killability of lives that are simultaneously imbued with and stripped of liberal universal rights; lives that are subjected to *the politics of rightful killing*.

The discursive production of the Iranian transgender refugee as one who is in need of rescue and protection by human rights regimes and Western democracies is inevitably connected to performances of citizenship in First World locations such as the United States.² Therefore, in the first part of this chapter, I discuss the way in which successful performances of American citizenship are tied to the visibility and concealment of queer life and death, disciplining of queer bodies according to conventions of gendered and raced citizenship in the US, production of queer difference vis-à-vis the demonized and dangerous Muslim other, and the protection of the victimized Third World queer. In the second part, I explore the connection between the representability of death to *the politics of rightful killing*.

Heroic death

In America, we are free. Free to choose, free to say, free to voice our opinions, free to be ourselves. In many places around the world, I could not be myself. Regardless of others' opinions, I can be who I am, and not have to fear my life. I am proud to be me, proud to be an American, and proud to be gay! Only in America can I be this FREE!!!

(Testimony on the *Tribute to American Spirit*
Online Photo Quilt)³

As multicultural America hinders the exclusion of racialized and gendered sexualities through the myth of equality, it reifies the sovereignty of the figure of the coherent citizen subject vis-à-vis its refugee other. The queer refugee's instability and lack of freedom is juxtaposed to the freedom that First World queer citizens seemingly enjoy. The willing American queer subjects who have historically been excluded from the realms of the 'normal', often exercise belonging to the national culture through performances of normative citizenship, against the figure of the dangerous terrorist or the victimized refugee.⁴ Events of 11 September 2001 provided an opportunity for American queer citizens to insert themselves into the imaginations of the nation, in a moment of crisis when particular forms of queerness became tolerable and even encouraged in the American nationalist discourse.

As Puar and Rai (2002) have observed, celebrations of outness had an unprecedented prevalence in gay and lesbian cultural circuits in the US after 9/11.⁵ One of the most publicized stories in mainstream media was that of Mark Bingham, a successful gay white businessman with a bi-coastal firm who lost his life as he supposedly thwarted the plan of the hijackers to crash the plane into the White House. Even though the overarching discourse of male hero and patriotic wife occupied every media representation of American-ness, Mark Bingham was celebrated for his masculinity along with the other three athletic men who according to the *Life* magazine 'were the hijackers' worst nightmare'.⁶

While the hypervisibility of the post-9/11 American nationalism emphasized the heteronormativity of the nation through images, language, and nationalist practices, queer forms of American nationalism had an overarching presence in gay and lesbian websites.⁷ Emulating heteronormative media praise of Bingham's masculinity, many queer websites focused mainly on the way in which Bingham broke the stereotypes on gay masculinity by showing that gays are 'men' too. Attempting to counter homophobic stereotypes, queer celebrations of Bingham's death constructed his masculinity – which eerily approximated that of the heterosexual citizen soldier – as an ideal to be reached by the patriotic gay American on his path to fulfilling the American dream. While there were instances of dissent, what enabled the American gay subject to successfully join the imaginations of the nation and citizenship in the mainstream gay and lesbian media was to perform 'manhood' and patriotism.⁸ Bingham's hypermasculinity became an ideal to which every queer was expected to aspire: 'I didn't have a gay role

model or hero growing up; our future generations now have one. God Bless America!' (Mark Bingham Forum n.d.).

Like any performance, the drama of patriotism and masculine success requires an observer: becoming a citizen subject necessitates visibility and 'coming out' into the purview of the nation. The post-9/11 critical 'outing' was intertwined with the trope of protectorship, which served two purposes in the US nationalist discourse. On one level, the masculine gay man was tolerated as 'out' and proud when he performed hegemonic norms of masculinity and took on the role of the 'protector' of the nation. On another level, being 'out' became significant as a patriotic act when it designated a spatial division within a Manichean logic. Within this logic, the US signified freedom and democracy, the Muslim world stood for homophobia and gay oppression and the protection of queers against the homophobic enemy became the *raison d'être* of war.⁹ For example, on 21 September 2001, Andrew Sullivan wrote:

Of all wars, this is surely one in which gay America can take a proud and central part. The men who have launched a war on this country see freedom that gay people have here as one of the central reasons for their hatred . . . Gay Americans should not merely support this war as a matter of patriotism and pride; they should support it because the enemy sees us as one of their first targets for destruction.

(Sullivan 2001: n.p.)

Of course, the opposition between the 'civilized' West and the 'barbaric' Muslim world pre-dates the 'war on terror' and has a colonial history. The spatial binary division also involves a mapping of time into space, where the US is juxtaposed against a temporally backward Muslim world.¹⁰ These temporal and spatial contrasts, as Weston argues in discussing rural/urban divides, structure the 'very subjectivity that allows people to think of themselves or others as gay' (Weston 1998: 41). While Islam and Muslims become associated with an archaic past, gayness becomes foundationally American. In this dual field of signification, the American gay citizen subject identifies both as the *protector* and the one who is *protected* from the Muslim enemy. The American gay subject and the victimized Muslim gay are constructed through difference and commonality. As Minoo Moallem argues, 'the barbaric other is there to legitimize and give meaning to the masculine militarism of the "civilized" and his constant need to "protect". Protection enables an alliance between the protector and the protected against a common foe' (Moallem 2002: 300). This common foe to the heterosexually imagined American nation, the homogeneously imagined visible gay subject and the victimized queer refugee is the barbaric Muslim other.

Barbaric death: Iranian queer victims

An example of the way in which the binary opposition of the backward homophobic Muslim/civilized queer has been deployed repeatedly during the

'war on terror' is the widely publicized case of the hanging of two young men, Ayaz Marhouni and Mahmood Asgari, in Iran. Marhouni and Asgari were hanged on charges of raping a male minor (*lavat beh onf*) in the city of Mashad, on 19 July 2005. While it is unclear if the two young men were 'gay', the international media, the international gay and lesbian organizations and diasporic Iranian opposition groups publicized the case on the Internet, alleging that Marhouni and Asgari were hanged because of their sexual orientation (Kim 2005). Images of the Mashad hangings spread quickly on news websites, YouTube and weblogs, while email lists and weblogs were used to mobilize protests internationally in different cities.¹¹ The overwhelming circulation of images of the hanging on the Internet was to the extent that most (and the top) results produced in an image search for the keywords 'gay' and 'Iran' in the Google search engine are still those of Marhouni and Asgari's hanging.

Several groups, including the International Gay and Lesbian Human Rights Commission, Human Rights Watch and the Amnesty International issued statements and disclaimers about the lack of credible information about Marhouni and Asgari's sexuality or the reasons for their execution. Scott Long, a human rights activist with a history of working on Iranian cases argued that the investigations into this case (and similar 'gay' cases) are merely based on speculations and are not rooted in any evidence leading to the conclusion that Marhouni and Asgari were gay. The Human Rights Campaign, the Log Cabin Republicans and Britain's Outrage, however, insisted that Marhouni and Asgari were executed for their 'sexual orientation'. Representing the UK-based group, Outrage, Peter Tatchell announced: 'This is just the latest barbarity by the Islamo-fascists in Iran. . . . The entire country is a gigantic prison, with Islamic rule sustained by detention without trial, torture and state-sanctioned murder' (Kim 2005). Log Cabin Republicans denounced the execution of Marhouni and Asgari and reaffirmed the organization's commitment to the global 'war on terror'. Like Sullivan, who used this case to legitimize the 'war on terror', Patrick Guerrero, the president of the Log Cabin Republicans, issued a press release announcing that 'this barbarous slaughter clearly demonstrates the stakes in the global "war on terror". Freedom must prevail over radical Islamic extremism' (2005). The case has become the prime example of violence against queers in Iran, inciting the masculine protectorship of the First World and the need to rescue the victimized Iranian queer.

Unspeakable death: Iranian transgender refugees

Midoonam keh hastam, mikhaam zendegi konam.

[I know that I am. I want to live.]

(Mahtab, excerpt from the film *I Know that I Am*)

The above statement, which inspired the title of a documentary film about transsexual Iranians, is telling of Mahtab's desire for a better life. At the time that Mahtab made this statement, she was living under dire conditions as a refugee

applicant in a remote 'satellite town' in Turkey, waiting for her case to be handled by the United Nations High Commissioner for Refugees (UNHCR) in Ankara.

While most of the Iranian queer asylum seekers in Turkey are gay or lesbian, a small number of transgender people leave Iran in hopes of a better life abroad. Even though the numbers are not large, media representations of Iranian transsexual individuals have made them the centre of a particular discourse on homosexuality. Within this discourse, transsexual Iranians are represented as homosexual victims who are *forced* by the Iranian state to go through sex reassignment surgeries. Sex change, in this narrative, is seen as a state measure to prevent homosexuality – punishable under the Islamic Republic's sodomy laws – while transsexual Iranians' desires are deemed inauthentic and secondary to an inherent homosexual desire that is persecuted by the state.¹²

Arguably, the narrative of 'forced surgeries' is an inaccurate account of sex surgeries in Iran. Yet, the inaccuracy of this account does not contradict with the fact that the Iranian transsexual subject is produced as a normalized and 'corrected' non-homosexual citizen, governed by modern medical, psychological, legal and religious discourses and practices (Najmabadi 2008). To be fair, the Iranian state's religious and biopolitical practices that enable sex change surgeries have provided relatively amicable opportunities for transgender Iranians, compared to many other states, including those in the so-called free world.¹³ Despite the official policies of the Iranian state, many transsexual and transgender Iranians face social harassment, job discrimination, and violence in Iran, where, as is the case with many locations such as North America and Europe, modern binaries of sex are naturalized and govern norms of cultural and political citizenship. The violence and the economic and social hardship that many transgender and transsexual Iranians endure, along with the much valorized vision of freedom and democracy in the West, have compelled some transsexual and transgender individuals to seek refugee status in Canada, Australia and the United States through the UNHCR offices in neighbouring Turkey.

While the transsexual Iranian as a 'corrected' body is disciplined into norms of heterosexuality in Iran, she is simultaneously produced as a subject of universal rights in need of protection by the international human rights regimes. For transsexual Iranians who leave Iran to seek refugee status, the concomitant loss of citizenship rights and the geopolitically driven 'protection' of rights by the 'liberating states' entail new forms of regulation according to norms of the international refugee regimes and the transitory and destination 'host' states. Ironically, it is under the rhetoric of protection that the refugee has very little or no rights in transition.¹⁴ Iranian refugee applicants are required to register with the Turkish Ministry of the Interior, and with the UNHCR, while waiting to be interviewed several times in a span of several years. If approved as 'true refugees', they are allowed to apply for resettlement to a third country of asylum. On registration with the UNHCR, the applicants are assigned to small 'satellite towns', where they are registered by the Turkish police and are required to stay during the time they are interviewed and evaluated through medical and

sometimes psychological examination by the UNHCR and the embassy of the country of asylum.¹⁵

According to a June 2009 report by ORAM (Organization for Refuge, Asylum, and Migration), queer asylum seekers and refugees in Turkey often have limited or no access to financial support, face consistent harassment from local townspeople, and experience work and housing discrimination (*Unsafe Haven*). When filing complaints with the Turkish police, they are encouraged to 'dress like real men or women' in order to avoid being harassed. While the UNHCR has improved its guidelines and produced literature to educate its staff, many asylum seekers have reported being asked invasive questions by the Ministry of the Interior in Turkey and the UNHCR about their preferred sexual position or the number of sexual partners they have had. These questions are meant to verify that the applicants are 'true refugees', 'true gay and lesbians' or 'true transgender' individuals.

The assumptions of refugees' 'immutability' in the essentialist juridical discourses of asylum produce the refugee as one with a fixed, timeless and universally homogeneous identity.¹⁶ It is inevitable that queer refugee applicants repeat essentialist notions of identity in order to fit the 'immutability of character', the criterion that qualifies gays, lesbians and transgender individuals as refugees. Applicants' narratives, their material conditions and their multiple and complex subjectivities are reduced to rational and linear definitions in order to match the acceptable 'immutable' identity, defined and sanctioned by the refugee law and reified by some diasporic queer organizations that coach queer refugees in 'homonormativity' (Duggan 2002).¹⁷ Through performative acts, universalized and iconic gay, lesbian and transgender identities are reified and reproduced. However, the regulatory practices of the nation-state and human rights discourses conceal the process of the construction of refugee subjects, by portraying them as prior to discourse.¹⁸

Normative notions of authentic gender and sexuality are not the only conventions that the queer refugee applicant has to repeat convincingly and without contradictions in multiple interviews. Given that the credibility of an asylum case is decided according to the 1951 Geneva Convention's notions of human rights violation, human rights groups are heavily involved in gathering and providing information on global human rights abuses. Reports by organizations such as the International Gay and Lesbian Human Rights Commission (IGLHRC), International Gay and Lesbian Association (ILGA), Lesbian and Gay Immigration Rights Task Force and Amnesty International, together with media reports on the violations of human rights, US State Department country reports, samples of UNHCR assessment of asylum and refugee claims, the applicant's personal testimony, and letters of support from friends and relatives and several other organizations constitute the materials that document 'human rights abuses' of queers worldwide. Advocates and UNHCR officers often measure the credibility of an applicant's claim for a 'well-founded fear of persecution' against these documents. In order to present a successful and legitimate claim to asylum officers, the

refugee/asylum seeker often has to repeat a story that inevitably demonizes the 'home country' (Anker 2005; Luibhéid 1998; Miller 2005), thus reproducing the Third World barbarism vs. First World freedom narratives (Razack 1998).¹⁹

While refugee applicants often have no choice but to repeat the 'story' that is expected from them, diasporic Iranian entrepreneurs, including LGBT organizations, may find these stories lucrative in a market where information about human rights abuses in Iran may translate into funding by think tanks, democratizing states and individual funders.²⁰ The 'war on terror' has provided entrepreneurship opportunities for some opposition groups (queer or not) that compete over envisioning the most democratic future for Iran by providing expertise and 'insider' information to the liberating states and think tanks.²¹ The exaggerated, and in some cases, fabricated stories of gay persecutions in Iran provide fame and/or fundraising opportunities for some organizations that bank on these stories.²²

Mahtab's story exemplifies the opportunistic appropriations of queer life and death during the 'war on terror'. Mahtab was the subject of several documentary films about transsexual Iranians. Screened at international film festivals, distributed through YouTube, or broadcast on television outside Iran, most of these films juxtapose a repressed life in Iran to a free life in the West. The suffering of working-class Iranian transsexual women, who are ostracized by their families and subjected to social discrimination, is showcased, rendering it visible to the often non-Iranian audience. Mahtab's statement 'I know that I am' became the title of an award-winning Canadian documentary film that represents transsexual Iranians as victims of a fundamentalist state, in need of rescue by the 'free world'. The film repeats a narrative that Anne-Marie Fortier has aptly called 'queer homecoming', the familiar story of queer flight from the home of oppression to seek refuge in the home of freedom in the West. Through testimonial documentary style and juxtaposition of words and images, the film creates a stark opposition between freedom in the West and oppression in Iran. This narrative style is very prominent in the promotional video of the film. While transsexual Iranians are constructed as powerless victims, the white Canadian immigration attorney is depicted as a saint-like figure in a slow-motion caption, where her image is juxtaposed to subtitled lyrics that interpolate her as 'a saviour angel'. Not surprisingly, the image of a cleric is accompanied with lyrics that construct him as the unsympathetic enemy. Ironically, Hojattoleslam Karimnia, the cleric depicted in this promotional video, is a transsexual rights advocate and has played a key role in removing the stigma around sex change by arguing that sex change surgeries are religiously sanctioned.²³

While Mahtab's life in Iran was represented as an example of the horrific situation of transsexual people in Iran, her story in Canada was never publicized in queer or mainstream media, neither did her story in Canada make it to any documentary films.²⁴ On 31 July 2008, almost two weeks after Mahtab's death, the co-director of the film wrote in his weblog, 'I would like to take this opportunity to share with all my good friends the good news of a first prize Audience Award for the documentary, *I Know that I Am*.'²⁵ Ironically, the director did not

acknowledge that the transgender woman whose life was the subject of the film and whose utterance of 'I know that I am' inspired the title of the film, no longer is.²⁶ In Mahtab's case, suicide and failure of promises of freedom in cosmopolitan gay destinations disrupt the usual narrative of refugee flight and rescue, thus rendering her death unspeakable. In a reversal of the liberal celebrations of outness that equate silence to death, Mahtab's death becomes unspeakable: death equals silence.

Politics of rightful killing

In *Bodies that Matter*, Judith Butler argues that bodies that fail to materialize constitute the 'necessary outside' of the heterosexual hegemony (Butler 1993:16). This abjected realm of bodies do not matter, are not worth protecting, saving, or grieving. The three queer death stories I have narrated, however, highlight the fact that while some queer deaths are mourned within the nationalist discourses of 'war on terror', and while some queer deaths become highly representable as evidence of homophobia in the Muslim world, other queer deaths remain ineffable. While Mark Bingham's death on United flight 93 made him into a masculine American hero (albeit a gay one), and Mahmood Asgari and Ayaz Marhouni's deaths made them into 'gay victims' of the homophobic and savage Iranian state, Mahtab's death in Canada remains unworthy of news coverage. Her death highlights that while some abjected bodies are transformed into intelligible valued ones, not all queer bodies 'matter' the same way. Not all queer bodies are the necessary outside of the heterosexual hegemony, but may, in fact, be integral to maintaining forms of nationalism that reify hetero and homonormative hegemonies. As such, any analysis of heterosexual hegemony in a transnational context needs to be articulated in relation to other scattered hegemonies (Grewal and Kaplan 1994) such as neoliberal ideals of freedom and liberation and geopolitical deployments of queer life and death. But what does this inconsistency in representations of queer death tell us about the production and management of democratic life and its entanglement with death in a transnational context?

We may turn to Foucault and Mbembe to understand this aporia where the production of desire for free and democratic life is intertwined with death. According to Foucault, desire is the 'mainspring of action' of the population, meaning that the regulated play of individual desire will allow the production of collective interests, thus pointing to both the naturalness of population and the artificiality of its management (Foucault 2007: 73). Foucault defines populations as 'not a collection of juridical subjects in an individual or collective relationship with a sovereign will', but rather as 'a set of elements in which we can note constants and regularities even in accidents, in which we can identify the universal of desire regularly producing the benefit of all, and with regard to which we can identify a number of modifiable variables on which it depends' (Foucault 2007: 74). One can expand Foucault's notion of the management of population beyond

the turf of the state and ask, what constitutes 'all' and how does one define universal desire? For whom are those desires considered to be natural and for whom are they seen as ill fitting? What would happen to the excesses of the art of governmentality; those who are seen as risks to the manufactured desires (for liberal democracy) and thus become the threat and the danger? Is biopolitics sufficient to analyse the 'global' division of populations into those whose lives are produced and managed – sometimes under the rhetoric of 'our way of life' – and those whose lives are deemed disposable, not necessarily by the juridical sovereign power of the state, but by international entities and transnational market-driven actors who have close ties to state actors?

Mbembe's notion of necropolitics (2003), which focuses more on the place given to death in relation to human bodies and their inscription in the order of power, is helpful in approaching these questions. Using examples of slaves in plantations and the colonized in the colonies, where the absolute lawlessness stems from the denial of humanity to the 'native' and where the violence of the state of exception is exercised in the name of civilization, Mbembe argues that the state of exception and the state of siege become the normative basis of the right to kill. Mbembe points out that the modern colonial occupation combines the disciplinary, the biopolitical and the necropolitical.

Mbembe's analysis is an important intervention in the scope and the relevance of the biopolitical in the colonial context. However, neither Foucault's biopolitics nor Mbembe's necropolitics may be sufficient in the analysis of populations that are not reduced to bare life, but whose death is sanctioned in the name of rights. I draw on biopolitics and necropolitics to suggest a form of power over the liminal state between death and a life, which is not bare, but is imbued with rights. As a trope, the 'people of Iran' constitute a population which is produced through the discourse of rights and for which death through sanctions and/or bombs is legitimized within the rhetoric of the 'war on terror'. I call the politics of the unstable life, which is simultaneously imbued with and stripped of liberal universal rights, *the politics of rightful killing*. Standing between biopolitics and necropolitics, the *politics of rightful killing* explains the contemporary political situation in the 'war on terror' where those whose rights and protection are presented as the *raison d'être* of war, are sanctioned to death and therefore live a pending death exactly because of those rights.

Following Foucault's notion that one's life at the expense of the other's death is compatible with the exercise of biopower (Foucault 1997: 255), I argue that the management of the life of one population relies on the discipline, control, and ultimately, death and diminishment of the other who stands outside and threatens the interests of the population whose life is worth saving and which may or may not have a territorial boundedness ('international community').

The politics of rightful killing is not to replace necropolitics or biopolitics, but exists in the same political terrain in which bodies are disciplined, normalized, and where bare life is subjected to death. It addresses an impending death, but not the bare

life, not the life of the shadow slave, or the life of the absolute enemy (as discussed by Agamben in camps and by Mbembe in the colonies, plantations and in Palestine). Neither is it limited to the state of emergency in the camps, state of exception or unique state of lawlessness – although it is legitimized under those states. It extends itself to the state of normalcy in which the living dead can be killed *rightfully with rights*, insofar as it contains the danger to the population whose life is worth saving, protecting and managing (even as the living population is eliminating its internal dangers through technologies of government and calculations – Foucault's example of racism). Unlike the *homo sacer*, the rightful living dead (who is imbued with rights) cannot be killed by anyone (certainly not by the illiberal states), but only – righteously – by the liberating states, in the name of rights, freedom, democracy, free market and global security.

If the Iranian population at large is subjected to the politics of rightful killing, how does the Iranian transgender refugee figure in the state of normalcy that characterizes the 'war on terror'? Here, Agamben's (1998) argument, that declarations of rights presuppose man as the natural bearer of rights and a citizen, thus bringing together the biological and the political and making the bare life central to politics in modernity, is instructive. If, as Agamben argues, camp is the *nomos* of modernity where the state of exception becomes the rule of law, I suggest that the transgender refugee as a paradigmatic figure of *homo sacer* can further complicate the naturalness of rights and the link between the biological and the political.

Camp as the state of exception signifies both the body-in-excess and the location one occupies as a refugee and as such can highlight the limitation of rights associated with the converged notions of natural and political. Shuttling between life and death, the transgender refugee is caught between biopolitics and necropolitics, where her body is produced and managed through religious, medical, psychological, and geopolitical discourses, and her death is sanctioned in the state of exception as a refugee (outside the nation-state) and transgender (outside the naturalized binaries of sex). Just as the insistence on revealing the truth of her gender/sex is necessary to the maintenance of norms of gender and sexuality – because the transgender body's ambiguity translates into deception and concealment of the truth of one's sex and gender (Beauchamp 2009) – the insistence on visibility and testimonies of oppression become necessary to the civilizational narratives of queer oppression in Iran and liberation in North America and Europe. It is in this context that the Iranian transgender refugee is at once politicized and produced through discourses and practices that authorize war and imperialism in the Middle East, and depoliticized as *homo sacer* – one whose life is disposable once it loses value in neoliberal economies and geopolitical discourses. To kill the desiring transgender subject softly with rights does not violate the law of desire, insofar as desire for individual freedom reproduces 'freedom for all', where 'freedom' and 'all' remain unfulfilled promises.

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Notes

- 1 For an analysis of Marlboro's global branding strategies and the significance of freedom as a core branding value, see Hafez and Ling (2005). For deployments of freedom in relation to cigarettes, see Marlboro.com 'packed with freedom promotion' created by Justin Bryan Cox at Leo Burnett Advertising Agency.
- 2 As scholars of citizenship have argued, the universalizing American citizenship is realized through the process of individuation where citizen subjects are constituted and regulated by both the state and social institutions (Berlant 1997; Ong 1996). This process is also entangled with the construction of dangerous and victimized non-citizens whose elimination or protection through the ethos of American democracy becomes a task that is not limited to the apparatus of the state, but includes non-state institutions such as human rights organizations (Shakhsari 2002).
- 3 This online photo gallery was established by Kodak and AOL, shortly after 9/11.
- 4 The desire to be included in norms of cultural and political citizenship has seen a shift in the US. As Escoffier argues, 'queer politics in the late 1980s and early 1990s

celebrated the otherness, the different-ness, and the marginality of the homosexual, whereas the gay politics of citizenship acknowledges the satisfactions of conforming, passing, belonging, and being accepted' (Escoffier 1998: 226).

- 5 Ellen DeGeneres acting as the emcee for the Emmy Awards as an 'out' lesbian, observation of the National Coming Out Day on the one-month anniversary of 9/11 and window posters and postcards that read, 'United We Stand! Gay and Proud', were examples that revealed that being out and patriotic were not contradictory, but necessary for performances of an American gay identity in times of crisis.
- 6 This quote from an issue of *Life* magazine that featured stories of those who died in the 9/11 attacks is a telling example: 'Bingham, a six-foot-five surfer and rugby player, had ridden the horns of a bull this summer in Pamplon, Spain and lived to tell about it. The publicly gay San Franciscan had once wrestled a gun from a mugger's hand, then beat up the mugger and his accomplice. He was tough as nails' (2001: 89).
- 7 Some queer sites I explored soon after 9/11 included MetroG, Planetout, The Slant, Gay Today, the Independent Gay Forum, Rainbowquery, HRC (Human Rights Campaign), IGLHRC (International Gay and Lesbian Human Rights Commission), NGLTF (National Gay and Lesbian Task Force), GLAAD (Gay and Lesbian Alliance Against Defamation) and Andrew Sullivan's blogs.
- 8 For example, in a letter on an online forum dedicated to Mark Bingham, a gay man wrote: 'Thanks be to his Mother who let him become who he was. What a true inspiration he will be to all the scared and intimidated people coming to terms with their sexual identity. For entirely too long we as a society were considered to be less than a man, because of how we felt or what we did in our private life. Mark set the example that so many of us lead day to day. Praise to a Hero, who happened to be gay' (Mark Bingham Forum). This celebration of a 'gay hero' repeats heteronormative conventions of militarized nationalism, where women's role in bearing and rearing of future masculine soldiers is emphasized. Interestingly, women do not appear in this playfield of masculinity, except as patriotic mothers and wives of heroic men, or as repressed victims of 'barbaric' patriarchy. This absence in the political field of citizenship and the nation is reflected in the gendered imaginations of a gay community that stands proud and united with the rest of America where queer women do not 'matter' (Cohler 2006).
- 9 The outness of the queer citizen subject becomes problematic in the paradoxical coupling of visibility and concealment for trans people. As Toby Beauchamp (2009) has convincingly argued, the category of 'transsexual' in the US is produced through both legal and medical discourses through a double act of concealment and transparency. Those who fit the profile of suffering from the 'gender identity disorder' are expected to disclose their deviancy to the medico-legal apparatus in order to get approval to medically transition in the form of hormones and/or surgeries. At the same time, transgender people are expected to erase any trace of their birth gender in order to fit in, and to re-establish the normalized binaries of gender. 'Going stealth', however, as Beauchamp argues, is complicated by 'surveillance practices that are intimately tied to state security, nationalism and the "us/them", "either/or" rhetoric that underpins U.S. military and government constructions of safety' (ibid.: 357). While encouraged by queer advocates to reveal their trans status to circumvent post-9/11 increased security restrictions, not all trans bodies have the same stake in visibility. Beauchamp rightly points out that 'Bodies made visible as abnormal or unruly and in need of constraint or correction may likely experience increased vulnerability and scrutiny' (2009: 363). Pointing to the security anxieties provoked by trans concealment, Beauchamp rereads 'going stealth' within the context of 'war on terror', as 'not simply erasing the signs of one's trans status, but instead, maintaining legibility as a good citizen, a patriotic American – erasing any signs of similarity with the deviant, deceptive terrorist' (2009: 364).

- 10 For example, in 'The New Culture War', Paul Varnell (2001) wrote: 'Modernity with its individualism, capitalism, rationality, and undermining of religious dominance has more or less invaded an Arabic Muslim culture which is literally in its 1400s, and no doubt feels strange, foreign, threatening, rather as if the same institutions had suddenly appeared in Europe in [the] 1400s' (Varnell 2001: n.p.).
- 11 For example, see the San Francisco-based gay activist, Michael Petrelis' blog entry about the protests on the anniversary of Marhouni and Asgari's death (2006).
- 12 It is true that the Islamic state in Iran combines modern medical and religious discourses to produce ideal heteronormative citizen subjects. Post-revolutionary Iran has seen a proliferation of sex reassignment surgeries that can be attributed to Imam Khomeini's fatwa to make these surgeries religiously and legally permissible. Since the early 1980s numerous 'sex reassignment surgeries' have taken place, allegedly making Iran the 'capital of sex change surgeries' after Thailand. The Iranian state offers relatively sizable subsidies and loans for sex change surgeries. (See Fathi 2004; Tait 2005, 2007.)
- 13 In order to protect the privacy of those who undergo surgery, the post-revolutionary Iranian state issues new birth certificates and passports with the post-surgery assigned gender to people with 'gender identity disorders' – a pathologizing term, which, as Najmabadi (2008) argues, emerged in the 1960s in Iran and was adopted from the American medical and psychological books of the same period in the US.
- 14 Turkey extends protection under the 1951 United Nations Convention relating to the Status of Refugees and the amending 1967 protocol only to persons originating in Europe. However, the Turkish government does permit non-European asylum seekers to remain in Turkey temporarily while their cases are pending with the UNHCR.
- 15 The registration process with the UNHCR, registration and assignment to small satellite towns in Turkey, interviews with the UNHCR for refugee status determination, and interviews with the third country of asylum, take years, during which time asylum seekers are required to pay for their own basic expenses. While the Turkish government provides limited social and medical services, this requires a fee-based 'temporary resident permit', which has to be renewed every six months. The cost in April 2009 was 273 YTL, which is equal to \$218 USD.
- 16 A few organizations have advocated for the training of the Turkish government employees and the UNHCR interviewers and criticized the homophobia and trans phobia to which refugees are subjected. However, while these organizations' work is important in reducing the violence that queer refugees experience in transitioning between national borders, they keep state and UNHCR regulations of border and gender intact. For example, ORAM, an organization that assists many refugee applicants in Turkey, relies on the UNHCR interpretation of 'membership in a particular social group' in its advocacy for queer refugee applicants. Membership in a particular group is interpreted by the UNHCR as either sharing a 'characteristic which is immutable or so fundamental to human dignity that [one] should not be compelled to forsake it', or 'a characteristic which makes a group cognizable or sets it apart from society at large. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience, or the exercise of one's human rights' (*Unsafe Haven* 6–7). ORAM explains that gay men have the immutable characteristic of being sexually or emotionally attracted to men, and lesbians to women. Transsexuals' gender identity, rather than their sexual orientation, ORAM explains, is viewed as immutable and fundamental to the person's identity (*Unsafe Haven* 7).
- 17 In order to pass the medical and psychological exams successfully, before their interviews with the UNHCR and the embassy of the third country of asylum, queer and transgender Iranians often rehearse and repeat conventions of 'authentic' and believable sexual and gender identities.

- 18 The autonomous subject, as Butler points out, 'can maintain the illusion of its autonomy insofar as it covers over the break out of which it is constituted' (1992: 12). The queer refugee is often depicted in dominant representations of the refugee discourse as the subject *in front of law*, as opposed to the subject produced *by law* (Shakhsari 2002). The Iranian transsexual refugees' performances of immutable gender identity are consistent with modern discourses of sexuality that produce universalized gender and sexual identities. As several scholars have argued (Beauchamp 2009; Spade 2003, 2008; Stone 1991), 'transsexual' as a category that signifies 'gender identity disorder' was recognized in the US through legal and medical discourses. In the same way that medical and psychological texts were/are used to determine the authenticity of a client's claim to 'true transsexuality', the Iranian transsexual refugee is tested by the UNHCR for the authenticity of her/his sexual and gender identity, which subsequently qualifies one as a 'true refugee'.
- 19 This is not to say that refugee applicants do not have legitimate reasons for seeking asylum. Neither does pointing to the formative and performative processes of asylum suggest that queer refugee applicants and asylum seekers are duped or that they 'lie'. Clearly, the pressure to tell *the story* is tied in with the refugee's claim to available public spaces and legitimacy of presence (Sanadjian, 1995). Even when one is officially recognized as a 'true refugee' by the international refugee regimes, requests for testimonies by the media and random 'hosts' (ranging from individuals to universities and LGBT organizations) repeat the interview processes for the refugee. The refusal to answer is exhausted, for it may open the gates to accusations of abusing the asylum privilege, a *right* granted to those who qualify for it by their 'lack' in relation to the citizen.
- 20 In a gay Iranian man's words, some have launched a 'queer importing business', without actually supporting those who they claim to protect.
- 21 I have discussed neoliberal diasporic entrepreneurship during the 'war on terror' elsewhere (Shakhsari 2010, 2011).
- 22 In fact, in my conversation with an ORAM staff member, I learned that in some cases, exaggerated stories of persecution have proven to be detrimental to the asylum seeker's case, when they raise the possibility of deceit.
- 23 For a promotional video of this film see www.youtube.com/watch?v=wF_WOnSndgQ&feature=related
- 24 It was only in 2010 that ILGA published a sensationalized story by an unknown author about Iranian transgender people. In one short paragraph, the article mentions Mahtab's death in Canada, focusing on the story of abuses she experienced in Iran. Ironically, there is very little or no advocacy on behalf of queer refugees after their arrival in destinations such as the United States or Canada, where very few job opportunities and services are available to refugees in a market economy where the individual is increasingly responsible for her or his own economic well-being.
- 25 The film won the Melbourne Queer Film Festival Audience Choice Award for Best Documentary. The co-director's blog at the address www.baabakye.com is no longer active. See the film blog at http://iknowthatiam.blogspot.com/2009_01_01_archive.html (accessed on 15 September 2011).
- 26 Representations of lives of queer Iranians as victims of a backward Iranian homophobia may also serve as opportunities for immigration for those who produce and reproduce the victim narrative. For example, the cameraman and co-director of *I Know that I Am* was granted asylum in Canada for his courage to make the film. A self-identified straight cisgender man who assumes himself the mission of rescuing transsexual Iranians, the co-director told a queer Canadian online journal that he 'chose to seek asylum in Canada because of this country's reputation for trans acceptance and human rights protection' (Xtra, 16 August 2006).

Black skin splits

The birth (and death) of the queer Palestinian

Jason Ritchie

Two years into the second intifada, and just months after the election of Ariel Sharon – a right-wing ‘hawk’ on whose behalf he and other ‘gays for Sharon’ enthusiastically campaigned – Shaul Ganon embarked on a mission to expose the suffering of queer Palestinians to the world. As head of the Palestinian Rescue Project at HaAguda, Israel’s oldest and largest gay rights organization, Ganon had worked for several years to provide food, clothing and condoms to Palestinian male sex workers who lived illegally in the slums and parks of Tel Aviv. But in the aftermath of the intifada, letters from HaAguda verifying the queerness of their holders were no longer sufficient to protect his ‘children’, as Ganon calls them.¹ The Israeli police began arresting and deporting Palestinians who had, until then, flown under the radar of the state as harmless queers. In response, Ganon began issuing press releases, contacting Israeli and Western journalists, and circulating transcripts of interviews he had conducted with a few queer Palestinians, who recounted in disturbing detail their stories of suffering and victimization at the hands of Palestinian fathers, brothers, police and other terrorists.

In August 2002 Ganon struck gold when Yossi Klein Halevi, an American-Israeli journalist, wrote an article in the generally liberal – and consistently pro-Israel – American magazine, the *New Republic*, that would become the authoritative text on the suffering of queer Palestinians (Halevi 2002). Cited and recycled in countless popular and journalistic sources, Halevi’s article documents a supposed epidemic of anti-gay violence in Palestinian society. ‘Because the world hasn’t forced the P.A. [Palestinian Authority] to tolerate gays, Palestinian homosexuals are increasingly seeking refuge in the only regional territory that does: Israel. In the last few years,’ Halevi writes, ‘hundreds of gay Palestinians . . . have slipped into Israel . . . beyond the reach of their families and the P.A.’ (Halevi 2002: n.p.). To validate his proclamations about the nature of Palestinian society – and the suffering of queer Palestinians – Halevi, like most journalists after him who would take an interest in the subject, relied primarily on interviews with Shaul Ganon; and he focused, in particular, on the story of one young Palestinian man whom he calls ‘Tayseer’. Before ‘seeking refuge’ in gay-friendly Israel, Tayseer was ‘arrested and hung by his arms from the ceiling . . . forced to stand

in sewage water up to his neck, his head covered by a sack filled with feces . . . thrown into a dark cell infested with insects . . . and forced to sit on a Coke bottle' (Halevi 2002: n.p.).

Tayseer's horrific story was quickly circulated among American, European and Israeli queers, many of whom raised money and successfully lobbied on his behalf for asylum in a European country. His story was also quickly severed from its particular social and historical context and took on significance, not just as the story of one queer Palestinian's escape from the homophobic backwaters of the Arab/Muslim East into the secular, liberal, gay-friendly West, but as a timeless representation of the suffering of queer Palestinians generally. Indeed, Tayseer would ultimately cease to exist as a noteworthy element of his story, the details of which, however, would continue to be resurrected – without reference, even, to the original journalistic account that made them famous – as a symptom of the 'pogroms' faced by queer Palestinians, who are apparently regarded (by Palestinians) as 'criminals plain and simple'² (Post 2009: n.p.).

In the following years, Shaul Ganon and countless journalists, activists, filmmakers and other queers – various iterations of what Joseph Massad calls the 'Gay International' (Massad 2002) – would build on Tayseer's story to develop and refine a robust corpus of gory representations of queer Palestinian suffering. In magazine and newspaper articles, books, films and even the public relations materials of pro-Israel advocacy groups, they would offer up queer Palestinian horror stories as proof of a widespread campaign of anti-gay violence in the Palestinian territories. To be sure, there *are* occasional acts of violence against queer Palestinians (perpetrated by other Palestinians), especially those who adopt Western and Israeli practices of visibility and 'coming out' but the actual extent and intensity of that violence is vastly overstated by local 'experts' and activists such as Shaul Ganon and their Israeli and Western collaborators. As an ethnographer, however, I am less interested in investigating the *truth* of that narrative than understanding how and why it becomes intelligible – and valuable – in a context in which suffering has assumed such ideological and cultural weight. Why has a particular set of stories about queer Palestinians emerged so consistently – and so frequently – in the discourse of queer Israelis? What kinds of assumptions – about personhood and politics, for instance – undergird this traffic in the suffering of queer others? And what does it mean that the *queer Palestinian* came into discourse, *as a subject*, chiefly through the efforts of queer Israelis?

Queer liberalism and the suffering of queer others

On 8 November 2006, ostensibly in response to Palestinian rocket fire on Israeli border towns, the Israel defence forces attacked the village of Beit Hanoun in Gaza, killing 19 Palestinian civilians and wounding more than 40 (McCarthy and Urquhart 2006). Israeli Prime Minister Ehud Olmert dismissed the deaths as the unfortunate result of a 'technical failure' (Macintyre 2006), which, Israel's UN ambassador argued the following day, 'would never have happened' anyway if

Palestinians would 'stop using terrorism as a means to achieving their goals' (Aziakou 2006).

Two weeks later, the Israeli High Court of Justice ordered the government to recognize same-sex marriages conducted abroad, in a decision that would, most significantly, extend to same-sex couples the right to adopt children.³ The decision fell short of an outright legalization of gay marriage, but it was, as proof of the greater incorporation of Israeli queers into normative kinship and family structures, widely viewed as a crucial step forward in the struggle for gay rights (Ellingwood 2006; *USA Today* 2006).

Queer life: formally recognized in the invitation, however grudging and incomplete, to reproduce the life of the nation. (The right to defend it, through military service, had already been granted.)

Palestinian death: so complete that an accidental massacre of those deemed innocent even in the twisted logic of the state can be justified in the name of security and the fight against 'terrorism'.

Although separated by a short period of time – and emanating from a common source – these two moments of *life* and *death* might seem coincidental. That is, at least, the consensus among many queer Israelis, for whom, as Mike Hamel, the director of HaAguda, explained to me, 'the struggle for gay rights and the struggle against the occupation . . . are separate issues' (Hamel 2008). In fact, however, the Israeli military's imposition of violence on Palestinian villagers in Beit Hanoun ('the occupation') and the High Court's extension of marriage and adoption rights to Israeli queers ('gay rights') were entirely logical – and not entirely 'separate' – expressions of the 'violence and paternalism' that constitute the modern state (Arexaga 2003: 406–407). In Israel–Palestine, these parallel impulses materialize in an assemblage of discourses and practices that 'endeavour', on the one hand, 'to administer, optimize, and multiply [Israeli/Jewish] life' (Foucault 1990: 137) and, on the other hand, 'to regulate the distribution of [Palestinian] death' (Mbembe 2003: 17). If, together, these forms of power constitute the foundational paradox of sovereignty *everywhere* and the 'nomos of the political space in which we are still living' (Agamben 1998: 95), in Israel–Palestine their mechanisms collide/collude nowhere more clearly than in the figure of the *queer Palestinian*, the embodied object of 'liberal–democratic' inclusion and racist exclusion, of the simultaneous violence and paternalism – the *life* and *death* – of the nation-state.

Situated at the intersection of the (biopolitical) incorporation of normalized queers and the (necropolitical) abjection of racialization, queer Palestinians like Tayseer emerge with increasing frequency, both as a ghostly counterpoint to *queer life* and a grotesque embodiment – and vindication – of *Palestinian death*. Validating the collective nightmares of Israeli national security, gay and lesbian Israelis (and their liberal allies) circulate images of queer Palestinian suffering that justify all manner of violence against Palestinians as a result, not of the exclusionary logic of Israeli nationalism or the racist practices of the state, but the 'backward' and 'inferior' essence of Palestinians. Jasbir Puar has lucidly argued that the national incorporation of some queers in the US has been 'paralleled by a rise in the

targeting of queerly raced bodies for dying' (2007: xii). That process has been perfected in Israel–Palestine, where queer Israelis proudly enter into the space of national belonging and, under the guise of a compassionate liberal humanitarianism, relegate their queer Palestinian others to a discursive space where the possibilities of being – or not-being – are limited to 'stoning . . . torturing and disfigurement . . . brutal harassment and honor killings', in the words of a prominent – and vocally Zionist – gay porn producer/actor (Lucas 2009: n.p.). This space reserved for queer Palestinians is marked not by life, liberty and the pursuit of (queer) happiness but suffering, victimization and death.

While representations of queer Palestinians as 'victims' have, for reasons I discuss, taken on greater currency internationally, occasional contradictions emerge even in popular sources, with queer Palestinians represented not as victims but as threats. Ironically, however, in the local realms of everyday speech and everyday life, precisely the inverse is true: queer Palestinians are *primarily* represented – and practically regarded – as threats. Their proximity to – and suspected sympathies for – *Palestinianness*, on the one hand, and their perceived reluctance (or inability) to fully partake of the queer 'good life', on the other, consign them to a dangerous, uncertain, 'extraterritorial' *non-space*, 'neither here nor there', between queerness and Palestinianness, between life and death (Said 2000: 99).

In this chapter, I draw on popular sources and ethnographic data to analyse the significance of images of queer Palestinians for queer Israelis. In recent years, many queer Israelis have worked hard to articulate and widely disseminate a particular narrative of queer Palestinian suffering. Inspired especially by Jasbir Puar's work, I suggest that this project is a crucial element of an emerging Israeli 'homonationalism' that relies on the constant 'invocation of the terrorist', who is always understood as the *cause* of queer Palestinian suffering. This is a 'discursive tactic that disaggregates' Israeli queers from Palestinians – including *queer* Palestinians – and constitutes a properly 'domesticated' queer Israeli subject, whose newfound sense of belonging hinges on his capacity 'to provide ammunition to reinforce [Israeli] nationalist projects' (Puar 2007: 39). While Puar and many others have drawn attention to the unrelenting violence of that project, I conclude by arguing that the ambivalence with which queer Palestinians are regarded – as victims *and* threats – also exposes the fragility of the necropolitical and the normatively sexed/raced subjects propped up by it.

Queer activists and (their) victims

As a gay Israeli activist whose work focuses almost exclusively on Palestinians – and by implication, on 'political' issues – Shaul Ganon is something of an anomaly. He explained that, when he began his work with queer Palestinian refugees, 'people actually came to [him] from HaAguda and told [him] to drop it . . . because it makes HaAguda look bad' (Ganon 2008). Without commenting on the merits of Ganon's work, Mike Hamel, the current chair of the organization, explained that

it '[tries] to shy away from Israeli-Palestinian issues . . . because beyond everybody's sense of moral justice, these are really political issues', as opposed to 'GLBT issues' (Hamel 2008). Minutes after he asserted the apolitical nature of HaAguda's activism, Hamel offered a lengthy description of his work with Israeli politicians to demand recognition of 'gay rights' to representation and legal redress against homophobia.

Even had Hamel described such work as 'political', there would be no logical contradiction because politics is conceivable and appropriate, in the discourse of liberal Israeli (and Western) gay activism, only to the extent that it *shies away from* 'transformative' demands in favour of 'affirmative remedies for injustice', such as visibility and recognition, that aim to '[correct] inequitable outcomes of social arrangements without disturbing the underlying framework that generates them' (Fraser 1997: 23). 'Politics', as Hamel and many mainstream gay activists use the term, refers to transformative demands for precisely such a restructuring of the underlying social framework – in particular, a restructuring of relations between Israelis and Palestinians – and such demands, 'beyond everybody's sense of moral justice', fall outside his sense of the *gay* quest for justice. This 'depoliticization' of Israeli gay activism – which continues to be dominated by Ashkenazi men and has been harshly criticized by women, Mizrahim and other marginalized Israelis – is arguably a function of the privileged status of its leaders, who can afford to avoid the 'political' concerns of less privileged groups. But the case of Israel is unique from many other contexts insofar as entrenched, widespread representations of Palestinians as *the* common enemy of Israeli Jews create a particular incentive – and opportunity – even among marginalized queer Israelis, to ensure their proper place in the nation by disassociating themselves from 'the conflict' as a 'political' issue that has no necessary connection to 'gay and lesbian' issues.

After all, HaAguda has, Hamel insisted, learned from its history of exclusion and now aims to represent 'the Israeli GLBT population at large', including women, Mizrahim, immigrants, religious Jews and even 'gays and lesbians in the settlements in the West Bank', who might be offended if the organization takes a stand on 'the conflict'. When pressed about whether he was concerned that *not* taking a stand might alienate another part of the 'GLBT population', namely, queer Palestinian Israelis, Hamel said, somewhat resignedly, 'damned if you do, damned if you don't', leaving unsaid an obvious assumption about who qualifies as an 'Israeli GLBT' or, at least, who *matters* (Hamel 2008). That assumption reflects a broader set of discourses in Israeli society, with a long genealogy in Zionist thinking, that equate 'Israeli' with 'Jewish' and continually enforce the invisibility of non-Jewish, Palestinian others.

There is, however, at least in the case of *queer* Palestinians, one important exception: the queer Palestinian *victim*, whose visibility is passionately endorsed by queer Israeli activists, liberal (Western and Israeli) Zionists and even, sometimes, the Israeli state. While the primary sources of representations of queer Palestinian suffering are queer Israelis (and Westerners) – and my focus here is on the significance of those representations for queers – it is worth noting that the Israeli

state and its more or less loosely affiliated propaganda machines in Israel and abroad have also discovered the utility of queer Palestinian suffering as a means of defending the state against potential criticism of its treatment of Palestinians by redirecting the attention of liberal humanists to the presumed treatment of queers by Palestinians (Israel Project 2008; MFA n.d.; StandWithUs n.d).

One might argue that queer Israelis – as the presumed beneficiaries of a liberal–democratic tolerance that, in practice, falls short of its own pretensions – are just as strategically (or just as cynically) *used* by the Israeli state and its defenders as queer Palestinians. But as they critique the homophobia/heteronormativity of the state to demand greater access to the privileges and benefits of national belonging, traditionally reserved for heterosexuals, queer Israelis actively assuage any fears about the radical content of their demands by demonstrating their complicity with the violence of the state and the value of ‘tolerance’ to the maintenance of that violence. In one concrete example of this ironic confluence of interests, Mike Hamel and a number of other HaAguda activists joined forces with the Ministry of Foreign Affairs on a speaking tour of Europe and the US to expose ‘European and American liberals . . . [to] the gay community in Israel’, so as to ‘highlight [its] support of human rights and to underscore its diversity [to] a population that tends to judge Israel harshly *solely on the basis of its treatment of Palestinians*’ (Lazaroff 2006: n.p., emphasis added). Hamel’s joint venture with the state brings to the fore the interconnectedness of queer inclusion/Palestinian exclusion: the very existence of queer Israelis is offered as an answer to critiques of Israeli violence against Palestinians. At the same time, it suggests the centrality of queer Palestinian suffering to that project; queer Palestinians, Hamel informs his Western audiences, ‘have been killed and tortured . . . [and] Israel is the only country that is trying to help them’.

The ubiquity of the victim motif in Israeli stories about queer Palestinians is perhaps to be expected; in addition to the ideological value of queer Palestinian suffering as a public relations strategy for defending the state against international criticism, the liberal gay politics of visibility and recognition is ultimately about the ‘[development of] a righteous critique of power from the perspective of the injured’ (queer) victim, who demands the protection of the benevolent state from the ‘social injury’ of homophobia (Brown 1995: 27). There *are* modes of radical queer activism that employ strategies of visibility to challenge the narratives of nationalism and the practices of the state. Groups of queer Israeli activists sometimes stage public spectacles – at Independence Day celebrations and Tel Aviv’s annual gay pride parade, for example – in which they offer harsh critiques both of the assimilationist politics of mainstream gay activism and of the violent militarism of the state. However, ‘the relative weakness with which economic, racial, ethnic, and non-American cultures have been enfolded into queer counter-publicity’ in the United States similarly characterizes the ‘counter-publicity’ of queer radicals in Israel. That both ‘[remain] bound to the genericizing’, and fundamentally exclusionary, ‘logic of [national] citizenship’, moreover, suggests the limited ‘radical’ potential of the tactic of ‘visibility’ (Berlant and Freeman 1993: 215).

Whatever its potential, in the discourse of hegemonic liberal Israeli and Western queer activisms, visibility is narrowly understood as the right to 'come out of the closet' as a respectable queer citizen, rather than a strategy for challenging the repressive discourses and practices through which the respectable queer citizen is constructed.

If Israeli gay activism, in its conceptualization of the state as the compassionate protector of injured queers, supplies the language of victimization, the added utility of the *queer Palestinian* victim in the discourses of Israeli nationalism makes explicit a narrative that otherwise might remain implicit: queer Palestinians are acceptable, and *visible*, only insofar as they mute or renounce their Palestinianness; and the most effective strategy for achieving that goal is to confirm the racist narrative of gay-friendly Israel/homophobic Palestine by becoming the queer Palestinian victim who flees the repressiveness of 'Arab culture' for the oasis of freedom and modernity that is Israel – or dies. While Shaul Ganon's work with Palestinians is potentially threatening insofar as it violates the Zionist erasure of Palestinians generally, it is conceivable – and tolerable – in the liberal queer Israeli worldview precisely because it confirms (Israeli) perceptions of the collective other by representing queer Palestinians as helpless victims of Palestinian homophobia in need of the benevolence and protection of the Israeli state.

The culture of the closet

Having worked for 15 years providing social services and seeking political asylum for homeless queer Palestinian sex workers and drug dealers in Tel Aviv, Ganon has emerged – with a little help from Yossi Klein Halevi and his friends at the *New Republic* – as the local 'expert' on queer Palestinians. Although Ganon is forthright about the racism Palestinians face in Israel, the bulk of his knowledge production is devoted to locating the *cause* of their suffering in a sometimes quaint but generally repressive 'Arab culture'. As most racist ideologies go, Ganon's analysis of Palestinian homophobia is largely an articulation of the other's *lack* of what presumably constitutes the privileged self. Because the queer Israeli Jewish self is constituted chiefly through the personal/collective journey out of the 'closet' and into 'visibility', the closet emerges as the *sine qua non* of the queer Palestinian.

In hegemonic Israeli constructions of queerness, 'coming out of the closet' represents the formative rite of passage into proper self-realization. As Mike Hamel explained, queer 'emancipation' comes about through 'visibility', which is an 'extremely important' element of the overall mission of HaAguda, whose 'mantra right now [is] that we are an integral part of the Israeli society . . . part of this weave that makes Israeli society . . . [We want] to start seeing more and more public figures . . . being out, showing themselves as part of whatever life, if it's in the academy, if it's in the military, in any place.' Visibility, for Hamel and HaAguda, is both a tactic and a goal, the means and the end of gay activism: 'the real [gay] emancipation is to become an everyday part of the whole', to establish queers as normal, productive members of the nation. Sa'ar Netanel, a prominent

queer activist, the former owner of Jerusalem's only gay bar and the first openly gay member of the Jerusalem City Council, echoed that sentiment and explained that, while 'one of the things the gay community in Israel is fighting [for] is visibility', queer Palestinians, 'even Israeli-Palestinians . . . don't really have visibility. For them it's more difficult to come out' (Netanel 2008).

The question whether queer Palestinians *need* or *want* to 'come out' and attain 'visibility' is rarely asked and the possibility that the normalizing project of visibility, becoming an acceptable part of the 'weave that makes Israeli society' is difficult for Palestinians because they are forever locked out of that 'weave' is even less conceivable. Such an admission would, in fact, turn the liberal gay activist project on its head, for it would expose 'the logic of the closet' and the call to 'come out' not just – as Raz Yosef, a prominent queer Israeli academic, argues – as a mechanism that 'allows for [a normalized] homosexuality to be included in national discourse . . . [and] reproduces and perpetuates oppressive heteronormative practices' but one that reproduces and perpetuates oppressive *racist* practices that are equally fundamental to the constitution of the nation (2005: 286). Because, as I have argued, the only acceptable 'out' (read 'visible') queer Palestinian is the *victim*, the only logical explanation for why 'there are no [other] "out" Palestinians', a constant refrain in my interviews with queer Israeli activists and non-activists alike, is the repressiveness of the racialized collective Palestinian/Arab other.

If one symptom of the pathology that characterizes Palestinian culture – aside from the imagined pogroms against queer Palestinians – is their inability to 'come out of the closet', Shaul Ganon articulated a sophisticated analysis of its aetiology: a dangerous combination of Islamic fundamentalism and a tribalistic emphasis on the 'honour' of the family, both subsumed under the rubric of an all-encompassing 'Arab culture'. According to Ganon, Islam is a profoundly homophobic religion, in which 'sex between men is not allowed. The punishment is death. God thinks this way himself.' Given this trenchant Islamic homophobia, queer Palestinians, whom Ganon seems to assume are all Muslims, are in an impossible dilemma, because secularism 'doesn't exist [in Arab culture]. A Jew or anyone [else], you can ask him . . . if he's religious or doesn't believe in anything . . . [but] there is no such thing in the Arab culture. It's whether you are less religious or more religious.'

Arab 'culture', in this formulation, is a static force that absolutely determines the character of Palestinians *and* an analytic panacea for understanding why they act the way they do. It is constituted, above all, by religion, and it is the antithesis of secular 'Western culture'. As Sa'ar Netanel put it, for 'Palestinians, their Islamic way of looking at homosexuality is different from how Western culture looks at [it]'. Islam, however, is not the only culprit in the Arab cultural crime against queer Palestinians. Ganon expressed an admiration for the 'rich' Arab culture, which 'has wonderful things . . . that our people, we, coming from the West could learn from', such as the code of respect and hospitality for strangers. But, in addition to the stifling influence of religious sentiment, those charming elements of Arab

culture are overshadowed by a tribalistic emphasis on 'the honour of the family', which contrasts markedly with Western culture's respect for the individual and creates an insurmountable barrier to self-realization for queer Palestinians, who cannot 'come out' for fear of 'shaming' the family.

While the tyranny of the family and community assume pre-eminence in narratives of queer Palestinian suffering, the omnipotence of culture in determining the character of Arabs extends beyond (heterosexual) families and communities – and their refusal to allow queer Palestinians to come out – and beyond the apparently repressive religion of Islam to queer Palestinians *themselves*. Ganan explained that even those queer Palestinian victims who flee to Israel and repudiate their Arabness and/or their Muslimness ultimately cannot escape it. While most normal queers reject religion in favour of Western secularism, 'you cannot disconnect an Arab guy from his religion'. As evidence, Ganan recounted a story about an Israeli Jewish friend who was dating a Palestinian man. When the two were 'having sex . . . every time the muezzin' performed the call to prayer, the Palestinian said to his boyfriend, "'Don't touch me now". And he was unable to explain why. It was, in his words, "It's bigger than me". And with another story, about another Israeli Jewish friend dating a Palestinian, Ganan demonstrated that queer Palestinians are incapable of ridding themselves not only of religious sentiment but the Arab cultural emphasis on family honour. Ganan's friend and his partner have dated for 18 years and the Palestinian partner's family knows about the relationship, but whenever they come to visit, the couple is forced to arrange the apartment as if they are roommates. The family even, Ganan explained, allows their son to bring his boyfriend to weddings and other events, but this is apparently an insufficient display of support because they insist, '[Don't] kiss, don't hug, don't show it in public. Don't let people talk . . . And he's giving them money, supporting them . . . but it doesn't matter. It's culture.'

Ironically, although Ganan stressed the impossibility for queer Palestinians of transcending the oppressive elements of their culture, he noted a troubling impulse among many to shed its quainter elements. After finally making it to gay Tel Aviv, they stop speaking Arabic, start dressing differently and try to pass as Israeli/Jewish. 'They see how other people dress, so they lower their jeans and they buy big belts and some of them [even wear the] Star of David . . . They try to walk the walk and talk the talk of the Jewish people.' But identity is, for Ganan, not something to be played with: Jews are Jews, Arabs are Arabs, and eventually, with his help, 'they come to understand that . . . they are Arabs. Nothing will change that.' In an effort to (re)educate queer Palestinians about their identities, HaAguda even hosts a regular support group where 'we try to teach them back. People like Khalil Gibran, like Emile Habibi. All kinds of texts and songs. Sometimes we show a movie in Arabic. And they connect back. They say, "Oh yes, I remember . . . my mother used to sing this song".' Motivated, perhaps, by a need to guard against the destabilizing potential inherent in the strategies with which queer Palestinians navigate the terms of identity in Israel–Palestine, Ganan and his colleagues *remind* them who they really are and where they do – and do not – *belong*.

While Ganon and many other queer Israelis speak in uniformly negative terms about the ‘homophobic’ elements of Palestinian/Arab culture – ostensibly anti-gay religious mores and ideas about family and honour – there is one other ‘cultural’ obstacle to the development of a properly *gay* consciousness among queer Palestinians: a wild Arab sexuality in which hypersexual Arab men fuck anyone and anything, for pleasure and pleasure alone (not, that is to say, like proper gays, for love or higher ideals). Like many other racialized populations, Arabs and Palestinians become for Israeli Jews – and especially for queers – ‘a psychic screen on which to project fantasies of illicit sexuality and unbridled excess’ (Boone 1995: 89). According to Ganon, because of the segregation of the sexes in Arab societies and the importance of female virginity:

[W]hat’s left is to have sex with animals, for instance, like sheep. There are all kinds of people in the villages that do that. Or between themselves [men]. And it doesn’t mean anything, if you let someone suck your dick . . . as an active, if you do it with Jewish people, with a Jewish woman or whomever, it’s okay. It doesn’t mean anything. They don’t consider themselves as bisexual . . . Many Palestinians say, ‘As long as I can fuck a woman, that [sex with men or other non-women] is fine with me. You know, a Jewish guy can suck my dick. That doesn’t say anything.’

(Ganon 2008)

To be sure, this hypersexualization of the active (penetrative) Arab man sometimes transforms him from a dangerous racial other into a *fetishized* dangerous racial other, but what is worth noting here is the way in which the perceived Arab sexual ethos is viewed as a hindrance to the proper development, among Palestinian men who have sex with men, into *self-consciously gay* men. Sa’ar Netanel explained, in much less colourful terms, that in ‘the Islamic way, homosexual [acts] are not connected to if you are gay . . . [to penetrate] old people, the young, or tourists’ does not make an Arab man ‘gay’. But Shaul Ganon, always vigilant in his mission to protect and educate queer Palestinians, assured me that, although it is hard ‘work . . . to persuade’ a Palestinian that he’s ‘gay’, because he ‘will have a really difficult time to see himself as a gay man’, with ‘enough time in Israel, outside of his village’, the transformation might eventually happen. Ganon takes it on himself, it would seem, not only to fix the broken *national/cultural* identities of queer Palestinians, but to fix their broken *sexual* identities, which – ironically, precisely because of their Arabness – resist such fixing.

The gay Israeli and the Arab world

In his now (in)famous critique of the ‘Gay International and the Arab World’, Joseph Massad aptly deconstructs the orientalist tendencies of queer Western scholars, activists, journalists and artists who take an interest in the sexuality of Arabs (2002, 2007). Like the ‘Gay International’, Ganon and his colleagues have

identified a population of (potential) gays and lesbians, whom they work ‘to “help” liberate . . . from the oppression under which they allegedly live by transforming them from practitioners of same-sex contact into subjects who identify as “homosexual” and “gay”’ (Massad 2007: 162). But what Massad does not appreciate – or at least does not explicitly consider – is the actual significance of those representations for Western (and Israeli) queers, who are, after all, the primary producers and consumers of such representations. As I have suggested, representations of queer Arabs and Palestinians – and international and Israeli activist projects directed at them – are conceivable because they employ the terms of a conciliatory politics of visibility that positions the state as the guarantor of equality, rather than the source of inequality, and desirable because they provide moral and philosophical justification for the violence of the state, which increasingly depends on the imagined threat to the nation posed by the Muslim/Arab/Palestinian terrorist. The queer Arab/Palestinian, in this sense, is little more than a narrative device for conjuring up the image of his oppressor, the all-purpose enemy of the liberal state and its liberal queers: the dangerous, illiberal Arab (terrorist).

In addition, however, to providing a mechanism with which normalized queers can insert themselves into nationalist politics by allying with the violence of the state, representations of queer others (especially the queer Muslim/Arab/Palestinian other) stand as a foil against which a properly liberal, properly national queer subjectivity is articulated. Building on Lisa Duggan’s groundbreaking analysis of homonormativity – a gay and lesbian ‘politics that does not contest dominant heteronormative assumptions and institutions but upholds and sustains them’ with the promise of ‘a privatized, depoliticized gay culture anchored in domesticity and consumption’ (Duggan 2002: 179) – Jasbir Puar has eloquently shown how, in the US, the liberal queer ‘consumer-citizen’ is constituted as a subject, not just through consumption practices, advances in ‘civil rights’, and an allegiance to heteronormative sexual and kinship norms, but also through an ‘exceptional form of . . . national sexuality . . . a rhetoric of sexual modernization that is simultaneously able to castigate the other as homophobic and perverse, and construct the imperialist center as “tolerant” but sexually, racially, and gendered normal’ (Puar 2006: 122). As Puar also suggests, the queer liberal subject – and its biopolitical incorporation into the *life* of the nation – depends on the abjection of racialized, non-national queers. Their suffering and *death* circulate as an indication of the ‘intolerance’ of the nation’s other (and a confirmation of the ‘tolerance’ that *gives life* to the queer liberal) *and* as a means of constituting a definitionally necessary antithesis to the queer self, the *inadequately queer* other, victim and representative of an illiberal ‘culture’ defined by religious sentiment and collective attachments, a culture that limits the capacity of its queers to properly self-realize as secular, liberal subjects of the biopolitical state.

Whatever their actual motivations – and I do not mean to suggest that their motivations are anything other than benign – Shaul Ganon’s advocacy on behalf of queer Palestinians, HaAguda’s Palestinian Rescue Project and the countless Western and Israeli appeals to the plight of queer Palestinians are all functions of

a deeper structural equation of (queer) Israeli life and (queer) Palestinian death: the suffering of queer Palestinians is self-evident to queer Israelis; their suffering is interpreted as an effect of an essentialized Palestinian/Arab culture; and the queer Palestinian engendered by this suffering – and the intolerant culture that creates it – has less to do with the reality of queer Palestinian experiences than with those of queer Israelis, who articulate, *in opposition to the queer Palestinian*, a ‘normal’ queer self, embraced by the liberal state as a secular, rational, individualistic subject, unencumbered by ‘cultural’ loyalties to family and religion. In her now classic critique of Western feminist representations of ‘third-world women’, Chandra Mohanty argues that such images ‘are predicated on (and hence obviously bring into sharper focus) assumptions about western women as secular, liberated, and having control over their own lives. This is not to suggest that western women *are* secular and liberated and have control over their own lives’ or that queer Israelis *are* secular and liberated and have control over their own lives, only that images of queer Palestinians, like images of ‘third-world women’, refer to ‘a *discursive* self-presentation, not necessarily to material reality’ (Mohanty 1988: 81–82).

You never know who they really are: queer Palestinians as threats

In the official discourse of the state – and especially in public relations materials directed at international audiences – Israel is a haven of liberal tolerance that has, in the words of openly gay former US congressman, outspoken liberal, and proud defender of Israel, Barney Frank, ‘established itself as a place of refuge for gay Palestinians to escape oppression under Palestinian rule’ (Frank 2006: 16). Such statements would suggest that Israel therefore grants political asylum to queer Palestinians from the West Bank and Gaza (or at least tolerates their presence). In fact, however, queer Palestinians are regarded by the Israeli state not as queers but as Palestinians; like all Palestinians, they are ineligible for asylum, and those without proper documentation are subject to detainment, deportation, and other forms of violence reserved for Palestinians. Similarly, in the official discourse of queer liberal Israelis (and Westerners), queer Palestinians are uniformly represented as *victims*, who are welcomed with outstretched arms into the Israeli ‘gay community’ and its spaces, oases of diversity and tolerance, from community centres in which ‘Israelis and Palestinians, Jews, Muslims, and Christians . . . come together to create change’ (Cahill 2006: 7) to bars in which ‘Arabs, Jews, Christians, Israelis, visitors, women, men, trans people and the rest of the entire spectrum of sexuality . . . [dance, sing, and flirt] freely and openly’ (Siklos 2004: n.p.). But just as a wide gulf separates what the state – and what Barney Frank – *says* about queer Palestinians and what it *does*, in practice, queer Palestinians are regarded by most queer Israelis much like the state regards them: not as victims but as threats.

Even as a proper victim of Palestinian homophobia, the queer Palestinian is an ambivalent figure, onto which queer Israelis project all sorts of fears and anxieties;

and while that ambivalence is usually kept in check in the careful speech of public figures, it does sometimes surface. Shaul Ganon, for example, explained that, in addition to Arab/Islamic 'culture', the suffering of queer Palestinians results from widespread Palestinian perceptions of gays and lesbians as potential collaborators with Israel. The absurdity of that proposition is abundantly clear to Ganon. 'These boys', he has explained to others, 'are nice, sweet boys . . . [who] don't even care about the political situation; they just want to be loved' (Crouse 2003: 25). At the same time, however, Ganon informed me – as he often assures his Western/Israeli audiences – that a number of queer Palestinians in his care *have* cooperated with Israeli police to expose Palestinian terrorist plots.⁴ It is not clear, in the queer liberal Israeli worldview, whether queer Palestinians are political or apolitical, whether they are with 'us' or with 'them'. They may be victims, invited to renounce the terror of everything Palestinian/Arab/Muslim in favour of the freedom and democracy of gay-friendly Israel or they may themselves be terrorists.

Gay Israeli director Eytan Fox's international hit *HaBuah* (*The Bubble*) makes explicit this confusion about the allegiances of queer Palestinians (2006). The violence of the state is not, in Fox's film, avoided: Ashraf, the gay Palestinian character, meets his soon-to-be lover, an Israeli soldier, during a violent encounter at a checkpoint. But in a tragic series of events, Ashraf's Palestinian family – chief among them his hypermasculine, Hamas-affiliated brother-in-law, appropriately named Jihad – discover his queerness and demand that Ashraf conform to the requirements of normality, respect the honour of his family and marry his cousin. The film concludes with a poignant allegory of the conflict: Ashraf's sister, the innocent Palestinian woman, is *mistakenly* killed by a group of Israeli soldiers *responding to a terrorist attack* in Tel Aviv. Ashraf – also, like his sister, an indirect victim of Jihad, the generic Palestinian terrorist – is presented with a choice between (queer) life and (Palestinian) death, a choice between fleeing to Tel Aviv and living happily ever after with his Israeli lover (but, in the process, forsaking his Palestinian family) or avenging the death of his sister by becoming a martyr. Frustrating the narrative of queer Palestinian suffering and the teleology it prescribes, Ashraf chooses death, strapping on a bomb and trekking to Tel Aviv, where he explodes, killing himself *and* his Israeli lover.

To be sure, the film is amenable to alternative readings (in particular, as a critique of the naïveté and inadequacy of queer liberalism), but it is most powerful in – and, I would argue, its enormous popularity among queer Israelis had everything to do with – its use of the queer Palestinian as a device for expressing queer Israeli anxieties about the fragility of a subjectivity allied with the violence of the state, a violence simultaneously condemned as excessive and counter-productive and praised (or at least justified) as a legitimate response to the threat of Palestinian terrorism ('Jihad'). As a suffering queer, appealed to by the paternalism of the liberal state *and* a recalcitrant Palestinian, targeted by its violence, Ashraf, the queer Palestinian, embodies the contradictions of Israeli sovereignty. In a tragic ending – tragic for Ashraf and, more importantly, tragic for the queer liberal Israeli – those contradictions collide as he exposes the porosity

and constructedness of the borders – between *queerness*, *Israeliness* and their others – to threaten the integrity of the queer/national body.

One Israeli man expressed the danger of this ambivalence about queer Palestinians to me in an appropriately vague story, which he heard from a friend of a friend, about a queer Israeli man who had dated a Palestinian. Yehuda informed me that, while he'd never met a real queer Palestinian before, he had heard about one. The queer Palestinian and his Israeli partner 'were together for more than a year', Yehuda explained, 'and then [the queer Palestinian] just disappeared one day' (personal communication). Eventually, the police found his dismembered body in a dumpster. Until that moment, he had passed as Israeli – speaking perfect Hebrew, taking a Jewish name, and inventing a personal history – and only in his death did his queer Israeli lover discover the *truth*. 'You have to be careful with them', Yehuda warned me. 'You never know who they really are.'

That the queer Palestinian was murdered in an act of homophobic Palestinian violence was self-evident (and unremarkable) to Yehuda. What was significant and meaningful about the story, rather, was that it expressed the threat posed by the queer Palestinian, even in death, to the presumed inviolability of identity constructs *and* the ability – and right – to *know* oneself and one's others. Yehuda's fears about the uncertain loyalties of queer Palestinians and their dangerous ability to *pass* as something else similarly undergird much of the activism of Shaul Ganon. While most representations of queer Palestinians work to prop up a queer liberal subject, by way of opposition to the inadequately queer Palestinian, Ganon and his colleagues at HaAguda work to protect that subject by keeping queer Palestinians in their place. The significance of that project, *HaBuah* suggests, may be nothing less than to safeguard against the very dissolution of the queer subject, whose bodily and psychic integrity, the film hints, is already fragile.

Visions of the other: colonialism and the making of the queer self

Black skin splits under the racist gaze, displaced into signs of bestiality, genitalia, grotesquerie, which reveal the phobic myth of the undifferentiated whole white body.

(Bhabha 1994: 131)

In his wildly influential article, 'Necropolitics', Achille Mbembe utilizes the concept of 'necropower' to understand the multiplicity of discourses and practices that exist alongside disciplinary and biopolitical forms of power that invest in the creation of regulable subjects and populations – the management of life – to ensure the 'maximum destruction of persons [identified as threats to "the people"] and the creation of death-worlds, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of living dead' (Mbembe 2003: 40). Mbembe further argues that 'late-modern

colonial occupation differs in many ways from early modern occupation, particularly in its combining of the disciplinary, the biopolitical, and the necropolitical' and, significantly, that 'the most accomplished form of necropower is the contemporary colonial occupation of Palestine' (Mbembe 2003: 27).

Late-modern colonialism, for all its historical disjunctures from – and refinements of – earlier forms, remains similarly dependent on 'enduring hierarchies of subjects and knowledges: the colonizer and the colonized, the Occidental and the Oriental, the civilized and the primitive, the scientific and the superstitious, the developed and the underdeveloped . . . dichotomies [which reduce] complex differences and interactions to the binary (self/other) logic of colonial power' (Prakash 1995: 3). Within this binaristic logic, racist representations of the 'Other' take on enormous discursive weight as a means of constituting the (colonial) 'self' and legitimating its authority over the other (Spivak 1988). Homi Bhabha understands the production of such knowledges through the framework of the 'stereotype', which is 'not a simplification because it is a false representation of a given reality . . . [but] a simplification because it is an arrested, fixated form of representation that, in denying the play of difference (which the negation through the Other permits), constitutes a problem for the representation of the subject in significations of psychic and social relations' (Bhabha 1994: 107). For Bhabha, the stereotype – and colonial discourse generally – is defined above all by its ambivalence. The stability and coherence of the colonial self is affirmed through the negation of the other, even as the other comes to embody anxieties about the stability and coherence of that self; 'Otherness' becomes 'at once an object of desire and derision, an articulation of difference contained within the fantasy of origin and identity' (1994: 96), with the 'native' object of the colonial project represented as both 'progressively reformable' ('innocent as a child . . . mystical, primitive, simple-minded') and hopelessly unreformable ('embodiment of rampant sexuality . . . the most worldly and accomplished liar, and manipulator of social forces') (2004: 118).

With the increasing salience of 'national security' discourses in Israel, representations of the dangerous Arab/Palestinian have significantly overshadowed earlier representations, equally central to Zionist philosophy, of 'Arabs as Oriental supermen, "primitive" natives who possess [traits] . . . like courage, pride, constancy, passion, a strong sense of self, and love for the land' (Peleg 2005: 75–76). As 'sensual, powerful and physical', Arabs for many early Zionist writers and artists were 'the paradigm of rootedness and connection with nature, the absolute opposite of the stereotypical frail, ethereal diaspora Jew' (Zalmona 1991). In recent decades, however, the liberal state, for whom Palestinians once were a problem to be solved, has shed all pretences of paternalism – at least where Palestinians are concerned – in favour of the 'creation of a permanent state of emergency' that aims not to incorporate but to eliminate 'entire categories of citizens [and non-citizens] who . . . cannot be integrated into the political system' (Agamben 2005: 2). As a result, 'the Arab [has been] transformed into a menace to the Israeli's very existence, a shadow projected from the innermost

depths of the Israeli psyche and preventing the Israeli protagonist from extricating himself . . . from his imprisonment in a state of siege' (Ben-Ezer 1999: 11).

As the state of Israel cautiously incorporates its queers into the life of the nation, its racial others are consigned to a space outside the nation, where death is the rule. And as queer Israelis work to cement their national recognition and consolidate a queer Israeli subject, a uniquely colonial knowledge about queer Palestinians emerges, ambivalent and contradictory, but organized around the overarching themes of suffering and death. Queer victims and queer threats – potential queers who might be reformed but, because of their racial/cultural essence and improper sexuality, never really can be; unreliable queers who manipulate the categories and boundaries that organize the world – queer Palestinians are 'deemed to be both the cause and the effect of the system', both the cause and effect of their suffering (Bhabha 1994: 118). As a subject of the colonial state, the queer Israeli comes to know himself through – and against – the queer Palestinian Other: norms of politics and identification are constituted in opposition to the assumed irrationalism, collectivism and religiosity of queer Palestinians. In a perverse economy of images marked by the obsessive production and consumption of mutilated queer others, queer Palestinian suffering accrues value as a tool for realizing the 'myth of the undifferentiated whole white[/queer] body' (Bhabha 1994: 131). It is, however, a kind of *unrealized gain*, never cashed in because, in an eerie modification of an old Israeli legal fiction used to erase Palestinians, the present absentee (see, e.g. Slyomovics 1998: 106), the *presence* of queer Palestinian suffering as the leitmotif in the fantasy of queer Israeli life exposes the profound and irredeemable *absence* at its core: a very queer expression, indeed, of the nature of sovereignty – and the cost of belonging – under late-modern colonialism.

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Notes

- 1 All quotes attributed to Ganon are from a recorded interview conducted on 13 December 2008 (Ganon 2008). Although Ganon's voice is, of course, only one of many, in this chapter, I rely heavily on his, not to suggest that it is representative of the voices of *all* queer Israelis (activists or otherwise), but because it is representative of a particularly powerful *discourse* about queer Palestinians. Furthermore, Ganon, more so than perhaps anyone else, has played a major role in the production and dissemination of knowledge about queer Palestinians, and for that reason alone, his efforts merit sustained attention.
- 2 So, for example, without naming Tayseer or citing the *New Republic* article, an American lesbian activist and journalist writes: 'One 21 year old Palestinian gay man was caught having sex with another man by his brother. . . . He was hung by his arms from the ceiling. He was forced to stand in sewage-filled water up to his neck, his head covered by a sack filled with feces . . . and forced . . . to sit on a Coke bottle' (Post 2009: n.p.).
- 3 Civil marriages, i.e. marriages conducted outside a religious institution, may not legally be conducted *in* Israel, but such marriages, when conducted abroad, are recognized by the state. Although same-sex Israeli couples are granted many of the same rights and benefits as married heterosexual couples, and although limited adoption rights have been granted to unmarried same-sex couples in recent years, the right to adopt children has traditionally been limited to legally married couples (Ben-Ari 2006).
- 4 'Gonen [*sic*] tells of a Palestinian runaway in Tel Aviv who helped catch a terrorist. The gay runaway grew suspicious overhearing an illegal Palestinian laborer speak. The man's accent was Gazan, but he claimed to be from the West Bank. The runaway reported the laborer to the authorities via an Israeli friend, and police who arrested the laborer discovered he was a terrorist figure' (Baron 2003: n.p.).

Trans feminine value, racialized others and the limits of necropolitics

Aren Z. Aizura

In November 2007 Salvador Kamatoy was found dead behind a mega mall in Sharjah, one of the United Arab Emirates. Also known as Sally, Kamatoy was from the Philippines. She had arrived in Sharjah three weeks earlier and found a job in a hair salon. The coroner allegedly found no cause of death; but the Philippine Embassy informed Kamatoy's family that her head had been beaten in. According to a co-worker, interviewed in the *Khaleej Times*, Kamatoy was 'new to the area but happy'. 'He had lunch with me and told me that he is going to an internet cafe to send an email to his family, but he didn't return', the co-worker continued (Abdullah 2007: 1).

Kamatoy was one of the main protagonists in the Israeli documentary *Bubot Niyar* (*Paper Dolls*, 2006, dir. Tomer Heymann). Screened to acclaim internationally, *Bubot Niyar* follows the adventures of a Tel Aviv-based drag troupe called the Paper Dolls. The film depicts the Paper Dolls as queer immigrant citizens finding 'love and acceptance' in the global metropolis, looking after elderly clients as care-workers in the daytime and performing as drag divas at night. Sally is a key character in *Bubot Niyar*; she flirts both with the camera and with the director, Heymann, who cannot quite grasp the complexity of Sally's self-identity as 'like a woman'. The film ends as a crackdown on undocumented migrants and the reigniting of tension in the Occupied Territories causes the Paper Dolls to either be deported or seek work elsewhere. Although *Bubot Niyar* won an award at the Berlin International Film Festival in 2006, the protagonists (including Kamatoy) were unable to obtain visas to attend the premiere. By 2007 at the time of Kamatoy's death, the media spotlight had shifted elsewhere. Her death remains unremarked on the promotional website for *Bubot Niyar*.

Kamatoy's killer was never found. But we might look elsewhere to discover the liability for her death: the institutional processes of deliberate neglect and disposability that Mbembe and others have called the hallmarks of necropolitics. Impossible to retroactively include in a film that continues to circulate, Kamatoy's death might remind us of the structural exclusions that dehumanize and diminish gender non-conforming bodies. In *Precarious Life*, Judith Butler contends that the erasure of (certain) queer bodies from public discourse dehumanizes them: these bodies, she writes, are ungrievable (Butler 2006: 36). Much recent work on queer

death focuses on the compounding violence of this ungrievability, and the necessity of reasserting the humanity of those who die in the form of discursive recognition: the question of how to mourn properly and of how to adequately represent the dead. To write of queer or trans necropolitics marks a moment in which intersectional analyses reveal (yet again, for a new generation of thinkers and activists) how the state's institutions appear to eagerly consign queer and trans populations to disposability (Gan 2013; Haritaworn and Snorton 2013). Yet as Haritaworn and Snorton and others point out, the most vulnerable gender non-conforming bodies subject to institutional abandonment almost always occupy a position as racialized other to the nation or to whiteness: whether as migrants with precarious access to social and administrative citizenship status; as people of colour trapped in the institutional enclosures of anti-blackness; as inhabitants of the structurally adjusted global south; or as the colonized subjects of multiple imperial and colonial states or wars globally, or multiple racial otherings.

Like many other trans deaths, Kamatoy's death might be usefully theorized as ungrievable, and consequently as a cogent example of necropolitics. Yet as her star presence as Sally in *Bubot Niyar* shows, invocations of invisibility and dehumanization don't quite tell the whole story. While this project takes representations of trans death as an entry-point, biopolitics has formed a crucial backdrop in transgender studies for interrogating how violence towards trans and gender non-conforming people appears inevitable (Spade 2001; Beauchamp 2009). Gender non-conforming subjects who are racialized as 'non-white' or 'non-Western' now hold strategic value as the mascots for the newly homo-friendly liberal democracies of the global north, repositories of future rights and future privileges.¹ The colonial resonances of this desire to save infect both radical trans political sentiments and liberal humanist projects advocating for legal protections of trans people in Europe, North America, and other 'global north' outposts.² The politics of saving (and/or telling stories about) non-Western gender non-conforming racialized 'others' heavily weigh on documentary film as a genre. Most crucially, documentary films' circulation in international film festivals raises the question of the value of gender non-conforming racial others, both within regimes of representation and in transnational labour economies. This chapter reads *Bubot Niyar*, the documentary, *Les travestis pleurent aussi* and one 'fictionommentary', *The Amazing Truth About Queen Raquela*, to illustrate the importance of labour value to gender non-conforming necro- and biopolitics. My analysis proceeds from a scene in *Bubot Niyar* in which a taxi driver expresses violent disgust towards the absent Paper Dolls. I read this scene as an entry point into the economic and racializing relations that structure representations of racialized trans femininity. Arguing that the economic transaction imagined in fantasies of violence towards 'ladyboys' illustrates how the stereotype of the trans sex worker structures phobia towards trans femininity itself, I turn to Svati Shah's work on sex work, monstrosity and risk to show how often expressions of trans misogyny code trans femininity as only existing within, or for a sexual economy, resulting in the hypersexualization of trans women. This allows us to understand transphobia as imbricated in transnational circuits of reproductive labour and biopolitical control: the same gender variant bodies on which violence is visited also circulate as valuable

within global capital. This chapter's contribution to the body of queer necropolitics scholarship is to argue that we cannot theorize a trans necropolitics without exploring the mobility of gender variant bodies and the circuits of capital they/we exploit and are exploited by. It is consciousness of this contradiction, I conclude, that offers a horizon of political possibility.

The language I use in this chapter reflects the incommensurability and insufficiency of Anglophone trans theory's identity-based vocabularies in writing across transnational sites, especially in a project that attempts to remain alert to the racial specificity of the multiple violences visited on gender variant bodies. The categories 'transgender', 'trans women' and 'trans women of colour' circulate and mean differently in multiple geographical locations. One might designate the subjects of *Bubot Niyar*, *Les travestis pleurent aussi* and *The Amazing Truth About Queen Raquela* all as trans women of colour. However, the term 'trans women of colour' circulates in a particular Euro-American context, as does the term 'trans woman'. This project's argument depends on a critique of the abstraction of trans femininity and reducible to sex work as reproductive labour. I want to remain alert to the power of different modes of abstraction performed in the name of naming here: to name Sally, Giorgio, Jan, Mia and Raquela as 'trans women of colour' would interpolate the gendered self-making they practice as reducible to both the vocabulary of 'of colour' and the hermeneutic of 'trans' and 'woman' (even if in doing so it anticipated their affinity with trans/queer of colour political communities).³ Straining at the limits of this political vocabulary but unable to relinquish it entirely, I deploy the term 'trans femininity' to designate the visual and intersubjective gendering and embodied practices that are imagined in the processes of abstraction and instrumentalization I critique.

Documentary film has become a signal form for the production and circulation of knowledge and affective imaginaries about gender non-conforming people both in the United States and in the global south. Jennie Livingston's 1990 documentary *Paris Is Burning* set the tone for gender and sexuality studies to engage with documentary. Like the films presented here, *Paris Is Burning* mobilized the conventions of ethnographic realism (Nichols 1994: 73), which work to exoticize documentary subjects as outsiders while simultaneously rendering them recognizable for a 'mainstream' audience. *Paris Is Burning* became the centre of a debate within queer studies about whether its black and Latino protagonists were 'authentically' transgressive or reproduced the terms of white heteronormative capitalism by expressing the desire to pass as women, to be housewives, or to consume luxury goods (Sullivan 2003: 94–97). Here my intention is not to assess documentary film protagonists' political suitability as 'transgender' or 'queer' subjects, but to interrogate the terms of representation under which they appear as vulnerable 'Third World' victims, positioning the act of watching as an exercise in gaining familiarity and sympathy. Particularly in transgender 'outsider' films, such generic conventions cast the protagonists as subjects whose vulnerability to violence and displacement make them candidates for increased protection. This protection inevitably takes the form of a homonationalist desire to save LGBT people from the global south from the putative 'barbarism' of their own cultural

backgrounds (Puar 2007: 15–16). As will become evident, the directors of the films I read in this chapter occupy an ambivalent relationship to homonationalism, and the version of ‘saving’ that erupts depends on different biopolitical models of inclusion, whether under the guise of human rights or economic ‘retraining’.

In order to understand these different biopolitical models, it is necessary to critically locate necropolitics in relation to value. To theorize Sally’s death as a reflection of the non-value of her life, I argue, risks bracketing the capitalist relations of production that differentiate the value of particular bodies and render them ‘grievable’, killable or otherwise. If it is crucial to the account of Salvador Kamatoy’s murder that her head was bashed in, then it is quite as crucial that she was near a shopping mall in Sharjah – in search of a more sizeable income than was possible in the Philippines, and was deemed sufficiently valuable enough in the transnational labour market that she could obtain a visa to work in the UAE. In a concise appraisal of necropolitics, the political theorist Randy Martin notes that to consolidate politics only around the figure of death ‘narrow[s] the whole range of social contestations over forms of life’ (2007: 141). To understand why, we need a more solid theorization of the contradictions between liberal states that govern according to the militarized logic of the exception and neoliberal global capitalism – which continually and flexibly finds ways to extract surplus value even from bodies the nation-state itself wants to exclude and, in turn, affects the racialization matrices of states themselves.⁴ Interrogating Mbembe’s reading of Marx, Martin argues that while capital inevitably regards some part of the population as redundant, the relation between valueless life and valued life is constantly shifting with the market: ‘what is excluded is always poised to return in the form of some further productivity’ (2007: 141).

In a similar vein, Pheng Cheah reads philosophies of exclusion, such as necropolitics or ungrievable life, as insufficient, because they inevitably neglect the biopolitical structures of human capital production that constitute neoliberal subjectivation (Cheah 2011: 298). Writing about feminized domestic workers in Singapore, Cheah cites the incentive to become a migrant worker in order to enhance skills and thereby increase one’s earning capacity (2011: 305). Such self-investment is part of the logic of post-Fordism, wherein precarity reigns supreme – although precarity always reigned supreme for those outside the global north. While, in this instance, Cheah relies far too heavily on informants involved in the institutional infrastructure that offer a rosy picture of workers enjoying their increased capacity, skills and proficiency in English as the result of semi-indentured labour for little pay, his focus on desire and motivation is instructive. What drives the desire to immigrate as a foreign reproductive worker (as it does the desire to participate in the global economy *within* the global south – in tourist economies or networked economies such as Internet porn or call centre work), Cheah argues elsewhere, is the ‘crafting of their interests as subjects of needs by biopower’ (2007: 98).

Kamatoy’s status as a reproductive worker – a *parlorista*, a carer of old people – begs us to reconsider the labour value of racialized gender non-conforming

bodies.⁵ Many accounts of reproductive labour tend to assume reproductive workers are always non-trans women (Federici 2010). A more nuanced analysis of the feminization of transnational labour migration takes the devaluation of 'foreign domestic workers' and the concomitant maintaining of racialized and gender hierarchies, as central to economic development globally (Cheah 2007). For trans women of colour to be subjectivated as foreign domestic workers – which is also to be equated with particular forms of reproductive work – legitimizes a range of institutional and individual violences. Thus, considering value and racialization alongside necropolitics illuminates our understanding of transphobic hate speech and violence, but also the modes of subjectivation that stage exclusion from the social as merely another way to *include* bodies in the structural grind of capital. This chapter challenges queer engagements with necropolitics to account for the relentless *inclusion* of trans bodies in the social factory, an inclusion as exhausting as it is energizing, as cruel as it is optimistic. To illustrate the centrality of modes of production to imaginaries of gender variant necropolitics, I turn to a scene in *Bubot Niyar* in which affective expressions of disgust reveal complex webs between transphobic violence, economies of racialization and value.

Affective instrumentalization

The trailer released to promote *Bubot Niyar* optimistically glosses the Paper Doll troupe's time in Israel as 'outsiders finding love and acceptance in a different world'. The film itself counters that optimism through an episode that counterposes the ambivalent yet seemingly sincere 'acceptance' of the director, Heymann, with the unreconstructed contempt of 'other' Israelis in relation to whom Heymann looks benign. Two members of the Paper Dolls drag troupe, Jan and Giorgio, in a taxi with Tomer Heymann and a camera operator at night. The taxi driver, a Mizrahi Jew, asks where Jan and Giorgio are from and says that he once lived in the Philippines. Seconds later, Jan and Giorgio exit the cab. As they walk out of the frame, Heymann still sitting the backseat, the taxi driver begins to expostulate. 'Two disgusting creatures. I don't know what to call them. They disgust me as men and as fake sleazy women, I can't even describe it. Honestly.'

The camera operator turns the camera on Heymann, who is sitting in the back. 'Why does it disgust you?' he asks. As they drive through the Tel Aviv streets, the driver unleashes a tirade I quote in full here:

Why? Because a woman should look like a woman, not those animals, those disgustingly stinky Filipinos. Let me tell you what goes on in the Philippines. The Philippines is a very poor country. For a dollar and a half, you can have two Filipinas for the night, you don't know if you're taking a ladyboy or . . . Until you check where they put the toilet paper. They hide their dick so deep inside their ass, that you can't tell a thing. You think you're with a total babe, and she is a babe! Then suddenly you get the cock, you beat her

up, you throw her out of the room, and everyone makes fun of you for a week. I don't like them, they steal . . . They're disgusting. Homosexuality is natural for them. That place is the devil's cradle, the origin of all evil.

At various points as the taxi driver speaks, the film cuts to images of Heymann the back seat of the car, silent and impassive, perhaps disgusted. An Israeli taxi driver calls Filipina drag queens names while a gay Israeli filmmaker stands by, saying nothing. In a previous draft of this essay, I argued that the taxi driver views the Filipinas through what I named a white managerial gaze, drawing on Ghassan Hage's work – transposable, I thought, from an Australian to an Israeli *habitus* (Hage 2000: 131). What I initially and inadequately named as 'hate speech' refers the viewer to other moments in *Bubot Niyar* at which sentiments erupt: a drag queen at a mainstream Tel Aviv nightclub for whom the Paper Doll troupe are 'amateurs from the Central bus station' and Heymann's own ambivalent characterization of 'it' as strange or repulsive in a conversation with Sally towards the beginning of the film, revealing them to be part of the same racist imaginary. The taxi driver, I argued, conflates Filipino ethnicity with non-normative gender presentation as similarly 'dirty', part of the same problem, to which the only appropriate response is vicious physical violence – both to restore his masculine self-image, and to maintain the border that places him in a position of white managerial power in relation to ethnic others in general.

But, as two readers pointed out, the taxi driver in this episode is not white; he is a Mizrahi Jew, and this radically shifts the locus of the reading.⁶ Mizrahim, or Arab Jews, occupy a precarious position within Israeli Zionist culture: marginalized by the Ashkenazi elite but yet still considered biopolitically superior to other ethnic 'minorities'. Mizrahi masculinity is particularly maligned: according to the scholar Raf Yosef, Mizrahi men are the focus of an Ashkenazi colonial fantasy fixing them as hypermasculine, savage and violently homophobic. Queer Israeli cinema in particular has deployed the stereotype of the sexist, homophobic Mizrahi male; Yosef argues that such representations function as the repositories of repressed fantasies of Ashkenazi masculinity, working to define normative, civilized Ashkenazi gay identity in opposition to Mizrahi masculinity (2004: 86; also see Seidel-Arpaci 2011: 206).

The visceral quality of the taxi driver's speech might point us in the direction of affects, rather than gazes, perhaps towards Sara Ahmed's work on disgust. For Ahmed, disgust is intimate and involves the feeling of recoiling from something threatening and close, referencing 'an intimate contact on the surface of the skin' (2004: 88).⁷ Transferable or 'sticky' in a manner that constitutes particular objects socially as inferior to the speaker, disgust publicly assumes the existence of a community of the disgusted. In doing so, it calls that community into being and thus both constitutes and maintains the borders between the reviled object and those who feel disgusted (Ahmed 2004: 94–95; Probyn 2000: 131).

Disgust saturates this brief scene in *Bubot Niyar*. The taxi driver is disgusted by Jan and Giorgio; Heymann looks disgusted by the taxi driver. The taxi driver

is transported to a fantasy in which he beats up the ‘total babe’ in disgust. Viewers might feel disgusted at the taxi driver’s words. In this semiotic web of repulsion, the viewer’s disgust aligns her with Heymann, the director, which works to suture Heymann into a position as the ‘good’ subject in relation to the ‘uncivilized’ working-class ethnic other. The politics of space and territory are key here: the central bus station, where the Paper Dolls perform and live, is historically a Mizrahi neighbourhood (the taxi driver himself might live nearby). In this light, we could read the taxi driver’s words of disgust as a foil for the film’s own repressed preoccupation with the strangeness of its subjects. Indeed, *Bubot Niyar* depicts Heymann as having renovated away his feelings of disgust or shame towards the Paper Dolls by the end of the film, a move that sutures in the attitudes of ‘mainstream’ viewers assumed to view the Paper Dolls through Heymann’s eyes and who also might feel differently towards the Paper Dolls by the end.

The taxi driver’s free association not only marks the Paper Dolls as objects of intense disgust, but likens them to ‘ladyboys’. This stereotype is familiar as a hallmark of the dominant cultural imaginary about trans women, particularly brown trans women or those recognized as such. It also draws on an orientalist cultural imaginary that pervades South East Asia, in which Thai and Filipina feminine bodies in general are naturalized as particularly adept at, or – in its more contemptuous formation, as ‘only fit for’ – prostitution and other forms of care work (Haritaworn 2011: 215). Stories like the taxi driver’s abound in global tourist discourse about South East Asia, casting trans feminine individuals as not only sexually available, but deceptive and criminal.⁸ This affective disposition not only constitutes tourist masculinity as ‘innocent’, but also interpolates trans feminine bodies into an economic relation, in which they are understood as being available for hire – compounding the stickiness of the disgust that attaches to trans femininity. Such an affective relation is dependent on an epistemological understanding of trans femininity as instrumentalized; as only of value within the transnational market for reproductive labour. In a North American cultural imaginary too, trans feminine bodies are constantly represented as prostitutes: the stereotypical ‘transsexual prostitute’ is a stock character in television shows and films, easily dismissable as tragic or deviant (Serano 2009: 261).

The stakes of this misrecognition become more evident if we think about political and theoretical responses to it. Liberal trans politics might read the conflation of trans women and sex workers as a mistake one must shrug off to get at the ‘real roots’ of transphobia. This argument aligns itself with a discourse of respectability cleaving trans people deemed to be the deserving recipients of transgender rights – the gainfully employed or upwardly mobile, either white or assimilating folks of colour – from those who are not: sex workers, drug users, undocumented migrants, racial others, the trans *Lumpenproletariat*. An alternative theory is that the conflation of trans women and sex workers reflects transmisogyny: Serano regards the trans sex worker stereotype as evidence of social beliefs that trans women crave fetishization and live as women *in order* to be sexualized,

underlining how the blame for sexualization (and sexual violence) is located with trans women themselves (2009: 262).

Neither of these theses, however, incorporates the racializing moves that identify trans women *of colour* as the designees and the targets of this discourse. Analyses that invoke a more intersectional perspective – particularly in the social sciences, and particularly those that do not issue from trans of colour critique itself – tend to run aground by assuming that transphobia, sex worker phobia, and racism are discrete, abstract categories that only intersect in the space of overlap, embodied in the ‘trans sex worker of colour’ and that the identity categories these terms index (trans woman; person of colour; sex worker) match up with the bodies of those who are materially vulnerable to violence. What we might name ‘intersectionality lite’ discourse poses vulnerability and identity as a Venn diagram, wherein trans woman, sex worker, and person of colour are identities – or communities – that coincide in the body of an individual. In this schematic, if one ‘intersects’ both the categories of trans woman and sex worker, one is subject to ‘double the risk’ for violence; being a person of colour adds another overlapping circle to the Venn diagram, ‘tripling’ the risk. Cyndee Clay, the director of Helping Prostitutes Survive, a harm reduction organization for sex workers in Washington, DC, states, ‘Violence against transgender women and violence against sex workers in our country is epidemic . . . Both communities are seen as outlaws, gender or otherwise . . . If a woman is both transgender and a sex worker, she is doubly at risk for violence’ (Ditmore 2010: xxv). No matter how usefully this reading draws on the comprehension that racial violence is central to transmisogyny, its political potential lies in the assumption that identity categories map faithfully onto bodies.

Trans of colour critique in various manifestations has more capacious strategies for illuminating the instrumentalization of trans femininity. Pauline Park writes, ‘such oppressions are not merely additive in nature. . . . rather, these oppressions are interactive and mutually reinforcing’ (Mock 2012; Park 2012: 1). An analysis that additionally incorporates institutional and structural violence into this nexus points out that the trans sex worker stereotype does a particular kind of work of legitimating violence and coextensively, institutional regulation and criminalization. As an INCITE fact sheet on sex work notes:

[T]ransgender women of color are often perceived by police through racialized and gendered stereotypes framing us as highly sexualized and sexually available. Law enforcement officers’ internalization and perpetuation of these stereotypes . . . results in police profiling women of color, and particularly transgender women of color, as sex workers, and selective targeting of women of color for harassment, detention, and arrest.

(INCITE n.d.: 1)

This stereotyping functions not only to reduce trans women to sexual objects for the patriarchal gaze but also to reduce them to the level of exchange value.

In such a specular economy, trans women are understood as only worth the specialized sexual labour they are universally imagined to perform. Such an instrumentalization of gender non-conforming bodies takes place in a transnational context wherein many gender non-conforming people, particularly those living in the global south, find that sex work is the most lucrative employment. It rests on a capitalist economy requiring the devaluation of trans women of colour in the US, *kathoeys* sex workers in Thailand, Filipina *bakla* in the Philippines and elsewhere, Ecuadoran, Brazilian and Mexican *travestis* all over the world – and the assumption of their universal equivalence in order to supply cheap labour for low pay, and in order to be found, the fantasy of equivalence intact, on hundreds of websites advertising ‘shemales’. The taxi driver’s dollar and a half is as central to the imagined encounter with the ‘ladyboy’ as the beating.

But what makes us able to compare this moment, in a Tel Aviv taxi, with other iterations of violence towards brown trans bodies? Here we founder in the incommensurability of this or that expression of disgust; this or that (or another) stereotypical image of trans femininity. The stakes of reading across transnational borders and multiple vocabularies become most visible precisely in my abstraction of the thick relations of the cinematic moment in *Bubot Niyar* to an instance of a broader ‘epistemological order’. *Bubot Niyar* does not understand Jan and Giorgio, or Sally, as trans women, or trans women of colour (and it could be argued that they might not understand themselves so). Yet, in the global imaginary in which I am writing this chapter and in which Sally’s death might be mourned at a Transgender Day of Remembrance vigil, their bodies are available to theorize as trans women of colour, or as trans feminine at the very least. But this move founders in its inability to attend to the specificities of location: the sounds of the cab’s engine; the specificities of migration flows; the specificities of Ashkenazi–Mizrahi relations and how both might be collapsed into the category ‘Israeli’ from the vantage point of an office on the east coast of the United States in which I write this.

Trans necropolitics appears here at the nexus of a reproductive economy framing the epistemological and semiotic order in which trans femininity becomes legible. If this image of the ‘ladyboy’ – or the trans sex worker of colour – haunts representations of trans feminine bodies in general, it is instructive to look at the ways in which biopolitics addresses sex workers and transgender sex workers, as subjects: HIV prevention epidemiology and transnational anti-prostitution organizing, both of which constitute assemblages of diverse policing bodies, all levels of government, aid organizations, the United Nations, and a host of other large and small bodies. In short, to theorize trans necropolitics adequately, we need a necropolitical – or biopolitical – account of sex work. In theorizing such, I draw on two scenes from *Les travestis pleurent aussi*.

Silicone and biopolitical risk

The documentary *Les travestis pleurent aussi* reveals the interplay between a management of life in the form of risk and a form of social abandonment that belies

the French republican vision of *liberté, égalité, fraternité*. In *Les travestis pleurent aussi*, undocumented Ecuadorian trans sex workers negotiate doing street-based sex work in the Bois de Boulogne. Mia, or Mujeron, does street-based sex work in the Clichy district of Paris, to where they migrated from Ecuador. The initial footage of Mia shows them applying drag makeup in their tiny apartment, preparing for a night's work. Mia is Afro-Ecuadorian, undocumented, with a boxer's physique: they trained as a boxer in Ecuador as a teenager.⁹ 'I dress as a woman only when I go to work', they say, brushing on sea foam coloured eye-shadow. 'I am very different from the other travestis. I keep my identity to myself, I only show it when I have to work.' Mia's voice continues over footage of them standing on the street, waiting for clients:

When I first arrived, I had trouble. A travesti made me pay for a spot to work. He told me I had to respect him because he had been in Paris longer. He wanted 200 euros a night. On top of that I had to pay for the hotel. I couldn't afford to give him the money. I have a husband to support, and that husband is my mother. My lover is my mother. My boyfriend is my mother. My mother didn't know what I was doing.

For Mia and their non-trans sister Issy, who joins her from Ecuador and also works the street, the Bois de Boulogne and Clichy are living and work spaces striated by mobile territorial boundaries and multiple hazards: immigration raids, police harassment and potential violence from johns or others. The sex workers resist these hazards creatively. Issy keeps a branch in her makeshift tent in the Bois to defend herself; Mia instructs new girls how much to charge for a blow job in order to maintain standard rates. They all inject each other with silicone to enhance their figures. Silicone injection, however, presents another hazard. Romina, the other main protagonist in *Les travestis pleurent aussi*, is *mestiza* Ecuadorian and gave up medical school to live as a woman. We meet Romina when Mia and some other friends visit her in hospital. She is recovering from an infection. 'After I had the silicone injected, I felt really sick', Romina says from her hospital bed. 'I got an infection. They couldn't take the silicone out, it was stuck between the muscle and the skin . . . [my] body rejected the silicone, so we tried to put it back in.' Far from regretting her decision to inject silicone, Romina regrets the waste. 'It was good quality silicone!', she says. 'The little that was left over was used for Betty's forehead and cheeks!' This sparks the *travestis* in the room to begin talking over each other in Spanish, at which point a white nurse enters and sideeyes them all. They stop talking. 'Bonjour. Have you finished your meal?', she asks Romina pointedly, as if Romina's sociality itself were evidence of her general culpability.

For Mia and Romina, sex work is a form of reproductive labour, premised on the *travestis* sending remittances home to families who are dependent on the money but are ignorant or disapproving of its source. Socially marginalized by their undocumented status, their gender variance and further by the work they do, Mia and Romina are at constant risk of deportation or eviction. Rather than offering

narrative closure in the form of a 'hopeful' ending, *Les travestis pleurent aussi*'s rhythm is repetitive and cyclical in a manner that emphasizes the quotidian character of the multiple violences the protagonists contend with. The film attempts to avoid the inevitable homonationalist narrative of finding greater freedom to 'be who you are' in the West, in the process skewering the vision of a Europe defined by multicultural tolerance. However, by dint of its cinematic form – showing Mia, Romina, and Issy's life to others who are assumed to be outside the world they inhabit, ideologically structured to produce indignation in the spectator at the *travestis*' helplessness – *Les travestis pleurent aussi* simultaneously reproduces the terms of a liberal humanist ethnographic gaze that displaces Mia, Romina, and Issy's agency onto spectators, who are incited to 'do something'.¹⁰

Within the terms of the film, Mia and Romina are depicted as being invested in the neoliberal project of managing risk. Simultaneously – as the hospital scene shows – the film implies they may be vectors of risk themselves. What are the relations between risk, making die, letting die and making live that govern the biopolitics of sex work? Writing on HIV prevention and human trafficking discourse in India, Svati Shah points out that governments ascribe epidemiological 'risk' to sex workers, who are: 'written into the discourse on AIDS as vectors of HIV transmission and as inherently risky subjects . . . The familiar terrain of risk is framed by the broader rubric of fear and the social and political marginality it produces' (Shah 2010, 142–143).

That is, sex workers are both produced as vectors of HIV contamination and seen as the repository of risk, which then displaces risk 'reduction' measures from other individuals and populations to sex workers. The representation and regulation of sex work are structured by understanding individual sex workers as monstrous and prostitution itself as a monstrosity – 'fear sustains the motion of the sex worker monster, a "beast who is all body and no soul"' (Shah 2010: 143). Regulation measures aimed at reducing risk to the 'normal population' are, in themselves, normativizing.

Shah's analysis could be extrapolated to other locations and historical moments in which the criminalization of sex work has been inextricably linked to the desire to 'save' sex workers from themselves. It also recalls my earlier point about the conflation of trans women and sex workers. Reading the hate directed at trans women as an extension of, and analogical to, this fear of sex workers reinforces an analysis of hatred and violence directed towards trans women as imbricated in transnational circuits of reproductive labour and biopolitical control. The representation of sex workers as slaves and victims is key here. Drawing on Mbembe's (2003) characterization of the slave as an 'instrument of labour', who is 'kept alive but in a state of injury', Shah argues that that sex workers' representation as modern slaves casts them as the living dead: '(infectious) zombie-like monsters needing to be rescued back into non-sex worker "alive-in-life" humanity'. Those pruriently labelled 'sex slaves' thus must be rescued and simultaneously normalized through anti-trafficking initiatives.

For Shah, the necropolitics of sex work takes place at the same time, paradoxically, as the same bodies are being brought 'back to life' through the mechanics of rescue: biopolitically constituted as a population to be managed and whose lives require fostering. While this gives us a useful analogy to think through the biopolitics of transphobic violence, premised on equivalence of exchange and management of risky populations, the rescue narrative does not seem to apply to *actual* trans sex workers. Transgender sex workers are neither the ideal victim subject of sex-trafficking rescue narratives nor deemed as worthy of rescue.¹¹ In relation to transgender sex workers, however, an assemblage of necropolitical and biopolitical processes also work simultaneously and in contradiction. Risk operates on an axis with the capacity to criminalize, move along, eject, and arrest. The assumption of sex work operates as a convenient method of criminalizing trans women: for example in San Francisco, Washington, DC, and numerous other cities, being visibly trans and carrying condoms is a legal pretext for arrest (Hodgson 2012; Human Rights Watch 2012). In this example, trans women are framed as risky or deviant individuals whose disappearance from the street makes life safe for others.

The other biopolitical discourses in which trans women sex workers appear – mainly HIV prevention scholarship – represent trans sex workers as a high-risk category. According to one article, transgender sex workers are more likely than other sex workers to engage in 'risky' sexual practices (multiple partners or unprotected sex) and to engage in high-risk injection practices through injecting silicone or hormones and recreational drug use (Herbst *et al.* 2008: 2). Epidemiological discourse on such 'high-risk practices' risks ignoring the structural factors contributing to their riskiness: ubiquitous lack of access to low-cost healthcare, condoms and clean needles, particularly in the United States; waves of gentrification in New York, Berlin, London, San Francisco and elsewhere that have resulted in police action to 'clean up' the streets; and widespread homelessness or precarious living situations. (With the arrival of new prevention strategies such as 'Test and Treat', which advocate preventative treatment in the case of exposure to seroconversion (pre-exposure prophylaxis) or immediately beginning ART protocols after seroconversion, funding may decrease for community support models that fund housing assistance, healthcare, food, counselling and other services (Tania and Nova 2011). Under austerity measures in the US and countries in the European Union, many of these programmes already risk being cut.) By displacing risk onto the individual, circumstance is cast as a question of rational choice: in making the 'irrational choice' to continue sex work, grey market hormone treatment, body modification, etc., trans sex workers can be represented as wilfully engineering their own deaths. Witness the police response to the gruesome murder of Jorge Steven Lopez Mercado in Puerto Rico in 2009: 'These types of people, when they enter this lifestyle and go out into the streets know that this could happen' (Piepzna-Samarasinha 2009: 1).

Transnational optimism

A 'fictionumentary' – a fictional film drawn from life, but made to appear as a documentary – *The Amazing Truth About Queen Raquela* is about Filipina trans woman, Raquela Dios (played by herself) who is recruited for a camgirl website owned by a New York business man, Michael (played by Stefan C. Schaefer). The plot centres on Raquela's hope to meet a European or American man online who will fulfil her dreams of taking her to Paris. When Raquela finds success as a camgirl, the website owner takes an interest in her and offers her a short vacation with him in the city of her dreams, Paris. As shots of Raquela working the camera in her Cebu City home alternate with shots of Michael on the subway and in his back garden in Brooklyn, Michael speaks the following voiceover:

[Raquela] has the potential to do extremely well and really set herself up, and set her family up if she chooses to stay the course, and do the, you know, change her life. And she's, so far, she's sticking to the program . . . I'm impressed. She's smart. She's clean. She has a good sense of humor, which is important. She knows how to be sexy. These are all things that are attractive to people, and she knows how to . . . She was on the streets, and she's been able to reassess, sit back and look at her life, and fortunately she wants to straighten out her life, so we're gonna help her.

Michael's monologue folds a corporate evaluation of Raquela as a worker – sexy, smart, a good sense of humour – into a neoliberal logic of upward mobility. The rubric of self-investment and self-improvement Michael draws on sound like the most stereotypical rationalizations of 'humane' capitalism. The effect of this monologue is to highlight Michael's ambivalent status as part entrepreneurial wolf preying on the lambs of the Third World for profit, and part 'ethical' employer assisting those lucky enough to be discovered as talent. This ambivalence shortly becomes central to the plot. Becoming the fairy godmother and Prince Charming in Raquela's dream of a rich Westerner falling in love with her and bringing her to Europe, Michael arranges for Raquela to get a visa and plane ticket and meets her in Paris. Predictably, Michael turns out to be a fussy control freak. They fight, he leaves and Raquela returns to Cebu City. Like the dreams of other queer subjects in the postcolony, Raquela's dream of the global metropolis of Paris turns out to be chimerical.

This narrative arc instates a dynamic of what Lauren Berlant calls cruel optimism, the persistence of an attachment to a dream of the good life that will never materialize (2011: 1). The film stages the viewer as conscious of – spectating the progression of – such cruel optimism without letting its protagonist in on the joke. Even if unaware of the fantasy of Europe she invests so much time in, however, Raquela is scripted as perfectly conscious of the capacity for 'self-improvement' that working for an Internet porn company affords her. Crucially, this is an opportunity for upward mobility that capitalizes on, rather than

condemns, her gender variance. An early scene in *Queen Raquela* features Raquela being interviewed for nursing school (in male drag): the interviewer asks her a number of questions, then tells her to get married and have children (the implication is that the school will not admit her unless she presents as more gender normative). But unlike this heteronormative model of class mobility, which would require Raquela to be gendered as male, in Internet porn Raquela's gender-non-conforming body *is* her value. Indeed, the crossover between the fictional film and reality confirms this: Raquela Dios the actor is now building a career from starring in the fictionalized account of her life.

It is worth returning to Randy Martin's critique of exclusion as a basis for politics in relation to capital here: that 'what is excluded is always poised to return in the form of some further productivity' (2007: 141). A situation in which it might be more lucrative to do camgirl work as a trans feminine performer than to present gender normatively and go to college shows precisely why a queer necropolitics without an analysis of capital is insufficient. To understand queer or gender variant life in an Agambenian mode as emblematic of bare life (or even 'near life', following Stanley (2011)) is to overlook the extent to which queer and gender variant bodies, too, are the excluded surplus poised to return in the form of some further productivity. We only need recall Cheah's work on transnational reproductive labour to understand that it is particularly migrant labour that is reincorporated via precisely the kinds of biopolitical management the character of Michael espouses in *Queen Raquela*: assistance aimed at disciplining workers into a new kind of work ethic based on the hope or fantasy that their dreams will come true. That is, rather than excluding the disadvantaged or rendering migrant reproductive workers ungrievable, capital incorporates their needs, desires, into its fabric.

The processes of capitalization, skill enhancement and job security remain tenuous here, however. The stratification of immigration regulations between undocumented migrant, temporary worker and citizen largely prevents foreign domestic workers from being permanently absorbed into the labour market. Even more importantly, reproductive workers (especially sex workers) must contend with a biopolitical matrix in which they are both subjects to be 'saved' and the targets of criminalization in order to reduce 'risk'. The fantasy of surmounting the odds and 'meeting a nice European guy' or finding the perfect, long-term job in an overseas market sustains hope, but is ultimately only for an exceptional few.

Do the characters of Raquela, Mia, Romina and Sally really form attachments to the process through which they are told they can succeed in the international division of reproductive labour? Do they imagine themselves to be 'capacity building' like good neoliberal subjects? Do they really desire inclusion in the social matrix that can only include them on the basis of a commodifiable corporeal difference? It would be a critical error to claim here that the affective attachments or decision-making logics of the protagonists in *Queen Raquela*, *Les travestis pleurent aussi* and *Bubot Niyar* can be transparent. Throughout this chapter, I have suggested that to think about trans subjectivity – and particularly racialized trans subjectivity

– in terms of exclusion and nothingness alone would mean risking sight of the biopolitical and economic contradictions that link the sexual and economic value of ‘ladyboys’ or ‘trans women of colour’ with their instrumentalization as universally equivalent and their concomitant disavowal, criminalization, subjection to violence, and with the biopolitical discourses through which they become subjects of transgender rights, sex worker rights or otherwise.

The ambivalent politics of the ‘they’ I cite so many times in the preceding paragraph direct me to the most important point, which is that this writing – the production of knowledge in queer studies and transgender studies – is equally implicated. I cannot write ‘we’ – I cannot talk here of my instrumentalization as a white, middle-class, trans man who has performed the role of the ‘exception’ economically despite slim beginnings. My writing this chapter is clear evidence of the discursive conditions under which trans women of colour never seem to be in control of their own representation. (All the films I have written about in this chapter were made by non-trans men, not trans people.) There is, in any case, no we. As speedily as the ‘trans person’ stripped of racial, gendered and sexual specificity became the universalized subject of transgender academic production, culture and politics, the cracks in its edifice split open and disgorged a multiplicity of voices clamouring to distance ourselves from one another.

It is tempting to end this chapter on a more upbeat note. One could mobilize visions of agency in the face of death: a move to acknowledge the fierceness or fabulousness of a variety of visible queens, from Sylvia Rivera to CeCe McDonald to Miss Major; a citation of the numbers of trans women of colour in the US and elsewhere who are instrumental in creating and sustaining trans and gender-non-conforming cultures of resistance. While it is important to acknowledge all these things, taking refuge in a narrative of empowered agency as antidote concedes an understanding of individual action naturalized as sovereign intention. Practical sovereignty, to lift a phrase from Lauren Berlant, consists also in the ‘vague and gestural’: the desire not to be a subject, not to manifest intention, not to always fight back, ‘build community’ or ‘think positive’.¹² Nevertheless, there is a distinction between being exhaustively excluded from the state’s biopolitical fostering, as necropolitics might have us imagine, and the vague, gestural or otherwise non-sovereign coping mechanisms I am talking about here. What motivates this chapter is the desire not to consign the most vulnerable trans and gender-non-conforming subjects to bare life or near life, but as Fred Moten, citing Fanon, spoke of in a talk in Baltimore in 2011, to be conscious of how the spaces of non-being are ‘already zones of alternative being, where people have already figured out ways to live – struggling to preserve the forms of life that we have made under duress, almost as it were impossibly, and that we continue to make every day’ (Moten 2011). This is not an optimistic point but a realist call to honour the zones of alternative trans being emerging under the duress of impossibility and to remain open to not knowing what they look like in advance.

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Notes

- 1 Butler's formation of 'ungrievability' also neglects the mourning for trans or queer of colour dead within and beyond trans/queer of colour communities. The important question appears to be, 'ungrievable for whom?'
- 2 Colonial feminist and LGBT rescue projects have been critiqued soundly by a number of authors, including Mohanty (1991), Haritaworn, Tauqir and Erdem (2008) and Puar (2007).
- 3 This is not to say that other diasporic subjects elsewhere to the global north do not understand themselves as trans women of colour; only to defer from claiming a universal that might conceal differences within/across categories.
- 4 This might also be read as a critique of racial capitalism as theorized in Cedric Robinson's *Black Marxism: The Making of the Black Radical Tradition* (Robinson 1983) or more recently, Jodi Melamed's *Represent and Destroy: Rationalizing Violence in the New Racial Capitalism* (Melamed 2011).
- 5 The term *parlorista* is a reference to Kamatoy's status in relation to the Philippines-specific figure of the lower class *bakla* who works in a beauty salon. (See Benedicto 2008: 318.) I refer to the Paper Dolls as reproductive workers here following Manalansan (2007). Reproductive labour here indexes work that involves 'caring' or emotional relation that reproduces the day-to-day functioning of an individual and thus of capitalism. On care work as reproductive labour, see Parreñas (2001: 37–38).
- 6 Adi Kuntsman, personal communication, 28 August 2012; Sima Shakhshari, personal communication, 25 August 2012.
- 7 The following reading of disgust is indebted to Adi Kuntsman's reading of disgust in relation to Russian LGBT communities in Israel (2008).

- 8 Such stories undoubtedly draw on a colonial discourse that understands Asianness as both always already sexually perverse and Asian masculinity as effeminate, representations that work to construct European gender norms as both 'normal' and racially superior in comparison. (See Fung 1998: 116–117.)
- 9 Given that male and female pronouns are used interchangeably for Mia/Angel in both films, here I use gender-neutral pronouns to refer to them.
- 10 For this line of thinking I am indebted to an essay published anonymously on the documentary *No Way Home* (Anonymous 2012).
- 11 Rhacel Salazar Parreñas notes that transgender women rarely appear in trafficking discourse, but that the transgender Filipina hostesses she worked with in Japan did not seem to be under threat of forced prostitution. (See Parreñas 2011: 19; also Weitzer 2005: 946).
- 12 Here I draw on Lauren Berlant's argument against regarding individual sovereignty as a mirror image of national or state sovereignty in *Cruel Optimism* (2011: 98). In the preceding pages, Berlant just as incisively demolishes the notion that state sovereignty itself is always intentional, coherent, or monolithic. (See Berlant 2011: 96–99.)

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Part III

Incarceration

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Queer investments in punitiveness

Sexual citizenship, social movements and the expanding carceral state*

Sarah Lamble

Introduction

Sexual and gender-non-conforming people have long been punished for transgressing social norms. Yet in recent years, lesbian, gay, bisexual and transgender (LGBT) people have begun to invest in the punishment of others. Whether supporting hate crime legislation, calling for more police in gentrified ‘gay neighbourhoods’ or participating in police, prison and military recruitment campaigns, LGBT organizations that formerly fought against criminalization are becoming increasingly complicit with state projects of policing, imprisonment and punishment (Agathangelou, Bassichis and Spira 2008; Spade 2011; Valverde and Cirak 2003). Given the popular support for hate crime legislation in North America and Europe, many LGBT communities now partly measure their citizenship status on whether the state is willing to imprison other people on their behalf (Spade and Willse 2000). As the more race- and class-privileged members of LGBT communities are ushered into new forms of neoliberal citizenship – where buying power, respectability and nationalism are the price of welcome – ‘lesbian and gay rights’ discourse has marked a striking shift away from previous critiques of the carceral state and towards a growing desire for punitive politics.¹

Describing these shifts as *queer investments in punishment*, this chapter explores the changing relationship between queer politics, sexual citizenship and the carceral state within ‘western liberal democracies’. Focusing on examples from the US and British contexts, this chapter considers how the neoliberal carceral state has shifted from being a key *target* of queer protest, to instead becoming a celebrated *guardian* of a narrowly defined sexual citizenship.² Arguing that this process constitutes more than just another story of queer assimilation and co-optation, I suggest this shift reflects a deeper reconfiguration of sexual politics, where citizenship norms and practices are increasingly infused with a chillingly punitive and deathly logic.

Queer investments in punishment

In their incisive article ‘Intimate Investments: Homonormativity, Global Lockdown and the Seductions of Empire’, Agathangelou, Bassichis and Spira call attention

to the ways in which queer subjects have been seduced into 'affective economies' of punishment and empire. Describing 'affective economies' as 'the circulation and mobilization of feelings of desire, pleasure, fear, and repulsion, utilized to seduce all of us into the fold of the state', Agathangelou *et al.* document the ways that social anxieties about crime, migration and economic insecurity are used to support practices of state violence such as war, occupation, imprisonment and border controls (2008: 122; see also Moran 2004). State violence is offered as a solution to such anxieties on the false promise that such practices will offer security and safety to those who embrace them. In other words, imprisonment, militarization and border controls are offered as antidotes to the precarities and insecurities of the contemporary neoliberal political order, by protecting against the dangerous others who threaten those who benefit from that order. These affective economies thus play on and exacerbate distinctions between proper citizens who are deemed worthy of security and protection, and dangerous non-citizens who must be civilized, disciplined or otherwise controlled.

Building from this analysis, I use the term 'queer investments in punishment' to describe the material processes that accompany such affective economies, by literally channelling social, political and economic resources towards state practices of punishment, incarceration and violence. Such investments work to both normalize punitive practices and naturalize the neoliberal carceral state³ as a legitimate response to social harm and injustice. Punishment here includes retribution in the conventional sense (e.g. practices that equate justice with 'getting even' through the infliction of pain and suffering on designated 'perpetrators'), but also forms of socially sanctioned deprivation that are framed under less formally brutal rhetorics but nonetheless entail similarly punitive effects. Recent changes in welfare policy in the UK, Canada and US, for example, which apply sanctions to welfare recipients who 'fail' to comply with increasingly onerous rules, regulations and obligations, constitute clear forms of social, economic and criminal punishment (Barker and Lamble 2009; Chunn and Gavigan 2004). Such sanctions rely on categories of deserving and undeserving to determine which social benefits – previously understood as basic entitlements and now transformed into earned privileges – will be afforded or denied to whom.

Punitive practices include those that take place on an international level – such as the growth in multinational prison industries and the use of retributive military strikes in the 'global war on terror' – but also those taking place on more local and personal scales. The latter encompasses daily social habits and interpersonal behaviours that normalize punitive relationships towards children, friends, neighbours and co-workers. Using emotional punishment as leverage in an argument with a lover, for example, arguably stems from, and feeds into, broader social norms that retribution is a legitimate means of dealing with conflict. Although enacted on a micro scale, these practices arguably resonate with the broader 'affective economies of punishment and empire' charted by Agathangelou and colleagues.

Queer investments in punishment are practices that not only symbolically feed punitive logics, but also provide material resources to sustain social and institutional structures of punishment. To ‘invest’ in something is to give it resources or power in order that it might be sustained, strengthened or expanded – usually with the aim of generating a direct benefit to the investor. Investment signals both the process of resource mobilization, and the embedding of subjects within that process. Consider, for example, the ways in which ordinary people put small amounts of money in a savings account to generate interest. Most people are not fully aware of (and may be prevented from finding out) precisely what their invested money supports. But the more money one puts in over time, the more one becomes invested in what comes out. As such, it is not that LGBT politics are simply becoming co-opted by larger punitive forces, but that certain political stakes and subjectivities – namely sexual citizenship claims – increasingly ride on these punitive rationalities and practices.

The language of investment also highlights parallels between social investments in punishment and financial investments in carceral capitalism (Gilmore 1998). The formal punishment sector, namely the industries and institutions that produce prisons, policing, military and surveillance, is a multi-billion dollar global industry, which has expanded dramatically in recent decades and shows little sign of abating. For example, US state spending on ‘corrections’ including prisons, probation and parole, has nearly quadrupled in the past 20 years (Henrichson and Delany 2012: 2). In England and Wales, prison expenditure between 2003–4 and 2008–9 increased almost 40 per cent in real terms, from £2.52 billion to £3.98 billion a year, and incarceration rates continue to grow despite attempts to cut Ministry of Justice spending (Prison Reform Trust 2012: 6).⁴

The concept of investment recognizes both the institutional structures of punishment (i.e. frameworks that facilitate, enable and normalize punitive practices), and the role of individuals and groups in upholding, maintaining and strengthening such institutions. To call attention to both dimensions is to identify the systemic underpinnings of the carceral state (and its roots in colonialism and empire),⁵ without falling prey to the kind of structural determinism that denies individual and collective agency.

Organizational strategies that invest in punitive state institutions are increasingly commonplace within LGBT politics. To give a particularly chilling example: in 2009 US President Barack Obama signed into law the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.⁶ The Act – which expanded older hate crime legislation based on race and ethnicity to include crimes motivated by a victim’s actual or perceived gender, sexual orientation, gender identity or disability – was the result of a massive lobbying effort by LGBT organizations and activists. Despite its title, the Act is not prevention oriented, but prosecution driven; the Act dramatically extends federal powers to prosecute hate-motivated incidents by providing additional resources for investigating and prosecuting hate-motivated crimes and enabling harsher sanctions for individuals convicted of

such crimes.⁷ Indeed, at one point in the process of fighting for the bill, activists found themselves in the unsavoury position of supporting legislation, which, thanks to a Republican amendment, included the death penalty among its available sanctions.⁸

While several LGBT groups issued statements opposing the death penalty amendment, few acknowledged that this amendment was, in fact, merely an extension of the punitive values that underpin hate crime legislation. While routinely framed as ‘progressive’ legislation, hate crime laws grow out of, and feed, the same punitive logics that sustain the death penalty. Indeed, most of the arguments used by groups to oppose the death penalty (namely its racist application, lack of deterrent effect, and its perpetuation of violence) also apply to hate crime legislation and to criminal justice systems more broadly. Consider, for example, the statement released by the executive director of the US National Gay and Lesbian Task Force:

The death penalty is profoundly unjust and inhumane. It is not a deterrent, nor will it reduce the number or severity of hate crimes. Conversely, capital punishment is state-sponsored brutality that perpetuates violence rather than ending it. The death penalty is also disproportionately applied to poor people and people of color, and in no manner does it improve a criminal justice system that is deeply plagued with inequities and discrimination against marginalized groups. For these reasons, it is critical the death penalty amendment be stripped from . . . the bill. It is long past time to send a clear and unequivocal message that hate violence against lesbian, gay, bisexual and transgender people will no longer be tolerated – but it must be done in a way that saves lives, not ends them.

(National Gay and Lesbian Task Force 2009)

While the statement openly acknowledges the racial and class inequities embedded in the US criminal justice system at large, its disavowal of those injustices extends only as far as the death penalty. Yet, one could substitute the words ‘hate crime legislation’ or ‘criminal justice system’ for ‘death penalty’ in the passage just cited and the arguments would still hold. In a system in which 2.3 million people are behind bars (one in every 100 adults), 70 per cent of those imprisoned are people of colour (including one in nine black men between the ages of 20 and 34) and systemic class and racial bias is widespread and well documented, the fundamentally violent and racist character of the system is undeniable (Alexander 2010; Davis 2003; Pew Center on the States 2008). There is also a troubling irony in a statement that calls for the ‘saving of lives’ via the increased use of imprisonment. While capital punishment is certainly not equivalent to imprisonment, the implication that a life-sentence is a more ‘humane’ alternative to death ought to be questioned.⁹ Imprisonment itself instantiates the conditions of social, political and civil death, and also includes – particularly when considering the

health conditions within prison and the premature death rates of prisoner and ex-prisoner populations – biological death.

Although the death penalty amendment was subsequently removed from the final legislation, by advocating for punishment-based hate crime laws, LGBT groups nevertheless helped to legitimize imprisonment and channel further resources into locking people up – despite a lack of evidence that such measures reduce hate-motivated violence.¹⁰ It is also significant that the Shepard-Byrd Hate Crimes Act was passed as an amendment to the 2010 National Defense Authorization Act, a package of reforms that provided \$680 billion (US) to the US military budget, including \$130 billion for ongoing military operations in Afghanistan and Iraq (Hedges 2009). That the Hate Crimes Act could be passed in the name of anti-violence work, while simultaneously facilitating the single largest appropriation of funds to the US Department of Defense in American history, was a stunning achievement. As Chandan Reddy (2011) so powerfully describes, the passage of the Act signalled an exemplary instance of ‘freedom with violence’; a moment in which the breath-taking contradictions of political freedoms that are contingent on violence are both laid bare *and* rendered normal, compatible and commonsensical.

It is striking that many LGBT activists see no contradiction between older movement goals of *de-criminalizing* same-gender sex acts, and current goals of *expanding criminalization* through hate crime legislation. In fact, it has become commonplace for international LGBT groups to support a dual-pronged legislative strategy of campaigning for the global decriminalization of homosexuality (often in ways that invoke older discourses of civilizational projects),¹¹ while simultaneously advocating for expanded criminalization via hate crime legislation.¹² Indeed, many gay and lesbian organizations treat the attainment and enforcement of hate crime legislation as a key component of sexual citizenship rights and a symbol of equality.¹³ While the capacity to hold a dual-pronged political strategy that calls for the decriminalization of some people and the criminalization of others may not seem contradictory to those advocating such policies, their congruence only becomes possible when the violent, racist nature of the carceral state is denied and disavowed. In other words, pro-criminalization policies can only be sustained on the myth that the criminal justice system punishes those who deserve it, and that imprisonment is about safety, justice and protection for all, and not about warehousing, caging and punishing particular targeted populations. This myth about the function of the prison system, is of course, widely held and politically reinforced, so the fact that LGBT groups have embraced this myth is perhaps not surprising. Given, however, that LGBT activists have historically challenged both the punitive logic of the criminal state and the construction of ‘deviant’, ‘abnormal’ and ‘criminal’ subjects, the shift towards pro-criminalization strategies raises key questions about how and why these changes are occurring and what values underpin current LGBT organizing strategies.

This move towards punitive politics is arguably not an isolated strand of strategizing, but is evident in the policy priorities and campaigns of many

contemporary LGBT groups. Most of the well-resourced and well-publicized LGBT groups in Britain, for example, including Stonewall, the Scottish Transgender Alliance, ILGA Europe, GALOP and Press for Change, have taken up campaigns explicitly endorsing hate crime legislation and law enforcement strategies. Although these projects are motivated by legitimate concerns about safety, harassment and violence, they nonetheless invest considerable resources into state regimes of punishment – despite a lack of evidence that criminalization actually reduces violence (Aharonson 2010).

Rainbow Hamlets, for example, a forum for LGBT people in the London Borough of Tower Hamlets has been particularly vocal in its pro-criminalization agenda, regularly advocating for strong punishments against those charged with homophobic speech. In the spring of 2011, for example, a moral panic emerged in response to a series of anti-gay posters that appeared in East London. The posters, which proclaimed the area to be a ‘gay free zone’ and included decontextualized quotes from the Qur’an, was widely taken up in the media as evidence to support racist stereotypes that associate homophobia with Islam and Muslims (Green 2011).¹⁴ Although local Muslim groups, including the British Association of Muslims and the East London Mosque and the gay Muslim group Imaan, publicly condemned the posters (Dangerfield 2011), the gay media downplayed the work of local Muslim organizers in addressing homophobia and instead spun a narrative of homophobic Muslims (Green 2011). When an 18-year-old Asian Muslim was subsequently charged and given a fine of £100, Rainbow Hamlets issued a press statement calling for greater penalties. The co-chair was quoted as saying:

This news also confirms the result of our own review of current hate crime legislation, that it offers varying levels of protection to individuals depending on the nature of the offence committed against them. If the stickers had instead discriminated on the basis of race or religion, the defendant could have been charged with aggravated public order act offences under the Crime and Disorder Act 1998. Such offences are imprisonable. We reject strongly the resultant presumption that hate crime targeted at LGBT people should be perceived as less significant than religious or racial alternates or indeed that when LGBT people experience hate crime they are less deserving of a framework which offers a robust response. This is a matter on which we will be pressing Parliament for change in the near future.

(See also Rainbow Hamlets 2011b)

The implication of this statement is that justice would be better served had the young man been given a jail sentence.¹⁵ Underpinning this claim is an assumption that the full citizenship status of LGBT people – a proper recognition of one’s right to be free from identity-based harassment and abuse – is best measured by the state’s willingness to imprison those who threaten that status. Here questions of social justice are collapsed into the false promise of imprisonment, which

mistakenly conflates state-inflicted retribution with community accountability and collective justice.

The Rainbow Hamlets statement also trades on another problematic tactic, commonly used among white LGBT activists, where sexuality is compared to race as a means of claiming victim status. In this case, the statement implicitly denies both the existence and experience of queer people of colour (who might experience racism and homophobia in inseparable ways) and also pits queer politics (rendered white) against anti-racist politics (rendered straight). This form of comparison contributes to what Razack and Fellows call ‘competing marginalities’ – claims that rest on proof that one group is not only most oppressed but also most innocent (Razack and Fellows 1998). The press release thus plays into sentiments that are well rehearsed within white-dominated LGBT spaces, that racism is taken more seriously by the state than homophobia.¹⁶

Less than a year later, when another young Asian Muslim was charged with criminal damage for writing graffiti containing racist and homophobic references on an East End housing estate, Rainbow Hamlets responded again. In this case, the 23-year-old was sentenced to eight weeks in prison. Issuing another press release, the co-chair of Rainbow Hamlets was quoted as saying:

We welcome this conviction. In particular we are pleased that the Court recognized that these were offences motivated by hatred of LGBT people and reflected that in its sentence. This sends a clear message: Homophobic crime in Tower Hamlets will not be tolerated.

(Rainbow Hamlets 2012)

The co-chair’s comments were echoed by the Deputy Mayor of Tower Hamlets and by the Chief Executive of the housing estate who said:

The successful prosecution in this case is an excellent example of how Eastend Homes works in partnership with other agencies such as the police and the council to rid the estate of this unacceptable type of behaviour.

(Rainbow Hamlets 2012)

While the public condemnation of the graffiti acts is understandable, these statements measure justice in terms of a prison sentence, and inaccurately conflate retribution with deterrence and prevention. The idea that a prison sentence will ‘rid the estate of this unacceptable type of behaviour’ is naïve at best. Such perspectives work to frame homophobia as a problem that primarily resides in individuals (rather than in broader social institutions, norms and practices), and one that can be adequately addressed by simply removing that individual from the community through what Garland (2001) describes as ‘punitive segregation’. Little consideration is given to the future effects of a prison sentence on this young person or whether a prison sentence will have any bearing on future expressions of homophobia. The fact that prisons are institutions in which heterosexual norms

are institutionally and socially reinforced (often through sexual and gender-based harassment and violence) and where dominant masculinities are often championed as means of survival, a prison sentence is unlikely to reduce, and may in fact exacerbate, homophobic sentiments (Sim 1994).

Moreover, the statements just examined function to disaggregate the individual ‘perpetrator’ from larger patterns of racialized punishment. In a context in which Muslims are increasingly singled out, targeted and profiled by police and courts, Rainbow Hamlets’ celebration of a young Muslim man’s prison sentence is revealing. Muslims are among the fastest growing prison populations in the UK, having been subject to increasing criminalization and surveillance in the wake of post-9/11 ‘anti-terrorism’ legislation and rising Islamophobia. According to a report by the Prison Inspectorate, the number of Muslims in prison in England and Wales has increased from 2,513 (5 per cent of the prison population) in 1994 to 10,300 in 2010 (12 per cent of the prison population). Contrary to popular belief that associates Islam and terrorism, fewer than 1 per cent of Muslim prisoners are being held for terror-related offences (HM Chief Inspector of Prisons (UK) 2010: 4, 9). Yet when isolated from these larger sentencing patterns, the broader racial implications of the individual cases are obscured. Disproportionate attention is paid to some acts of homophobia (namely those carried out by subjects who are religiously or racially marked as other, as well as those who fit within the framework of ‘stranger danger’) whereas others acts are invizibilized (Moran 2004). Rainbow Hamlet’s 2011 annual report indicates that the vast majority of their organizational efforts were devoted to addressing ‘religious-based’ homophobic hatred – strategies that focused almost exclusively on the East London Mosque and Muslim population of Tower Hamlets (Rainbow Hamlets 2011a).

LGBT involvement in community policing projects provides another example of queer investments in punishment. Despite a long and ongoing history of police violence against sexually and gender-non-conforming people, many LGBT organizations no longer treat the police as agents of repression and instead approach them as community protectorates. Indeed, LGBT groups are increasingly eager to sit on police liaison boards, collaborate with police projects, accept sponsorships from police and participate in gay police recruitment projects. While these partnerships are often fraught with tensions and complexities (see for example, Moran 2007), on the whole, they are viewed as a signs of progress. The celebratory approach to such partnerships is particularly visible in the annual gay pride marches and events that take place in major cities across the US, UK and elsewhere, where police, prison and military recruitment drives now feature prominently within mainstream festivities.

Yet these new partnerships with policing and military branches of the state come not only from ‘mainstream’ organizations, but also from those who have been critical of police in the past. For example, a British organization established in the 1980s to address police brutality against gays and lesbians, has now dramatically changed its mandate. GALOP, which originally stood for Gay London Police Monitoring Group was originally founded to ‘expose the systematic harassment

of the gay and lesbian communities by the police but also to educate the communities about their rights' (GALOP 2012). It now describes itself as 'London's leading hate crime charity' and focuses primarily on monitoring and recording hate crime and providing support to LGBT people who experience hate crime, harassment, domestic abuse and sexual violence (GALOP 2012). Largely excluding state violence from its definition of hate crime, the organization's focus has shifted from one where the state is understood as a perpetrator of violence, to one where the state is deemed the protector against violence. So while GALOP still maintains formal independence from the police, its monitoring work seeks largely to improve police responses to hate crime, rather than question the broader effects of policing itself.

Similarly, in 2009 the transgender rights organization, Press for Change, was awarded funding from the UK Home Office to deliver training to the Crown Prosecution Service on transphobic hate crime. According to the job posting: 'This training comprises an introduction to trans people, issues trans people face regarding the criminal justice agencies and guidance on successfully prosecuting transphobic hate crime' (Press for Change 2009). At the time of the project, Press for Change was financially sponsored by the South Yorkshire Police and the Lancashire Constabulary, with the respective police logos appearing prominently on its website.

The motivation to engage in these 'partnerships' is understandable; LGBT groups seek to reduce discrimination through education, dialogue and policy development with police. No doubt this strategy has been successful on some levels as there has been a reduction in the targeting of *some* LGBT people by police, namely those deemed respectable sexual citizens (Moran 2012). Yet such community-police partnerships have tended to focus on formal targeting of LGBT people (such as arrests for sexual acts in public places and inadequate police responses to anti-gay violence) and often neglect systemic forms of homophobic violence that are linked to socioeconomic, racial and mental health status (such as violence and criminalization associated with homelessness, unemployment, street-level sex work, drug trade and addiction). So although white, middle-class and professional LGBT people may now be less likely to endure police harassment than 20 years ago, this reduction in policing of some communities has occurred alongside a massive increase in the targeted policing of others, particularly those from poor, racialized and migrant communities.

Underlying LGBT involvement in such policing partnerships is also an assumption that LGBT groups can train homophobia and transphobia out of police or eliminate homophobic discrimination by hiring more LGBT prison guards, and immigration officials. Such perspectives assume that discrimination is simply a 'flaw' in the system, rather than intrinsic to the system itself. Prisons are designed to insulate society from those who fall outside the 'proper' functioning of the formal political economic order, as well as those who threaten the status quo or are marked as socially deviant. As such, prisons have long functioned as repositories for the most marginalized, abandoned and stigmatized populations of

society. So even if the police stop targeting (some) LGBT people, they will – by virtue of the nature of the system itself – continue to target others. In this sense, the capacity to view police as protectors of sexual citizenship rather than as enforcers of the economic, political and racial hierarchies is contingent on a privileged social position. For young black youth in poorer boroughs who are regularly stopped and searched by police – whose peers have been shot, killed and brutalized by state authorities – the idea that the police are benevolent protectors is a white middle-class fantasy (Bridges 2012: 3–4; Burnett 2012: 96–97; Miller 2010: 968).

These selective fantasies of a regulatory state that protects LGBT people play out in other ways. For example, in January 2011, the UK lesbian, gay and bisexual charity Stonewall published its annual top 100 ‘LGBT-friendly’ places to work in, and named the UK Home Office – the government branch responsible for immigration, policing and security services – as its top employer. In its press release accompanied by a promotional video, Stonewall quoted Home Secretary Theresa May as saying: ‘I’m delighted the Home Office is being celebrated as an employer which supports the diversity of its staff. This Government will continue to do all it can to tackle discrimination and help make this country a more tolerant and fair place for everybody’ (Stonewall 2011). The irony of May’s comments was not lost on immigration activists from London No Borders, who issued a statement condemning the award. As spokesperson Rosie Young commented:

While the signatories believe that workplaces in the UK should see greater equality and that discrimination of LGBT people should be tackled, the Home Office receiving this award for best employer for LGB people has left us with a bitter taste. Whilst those safe in offices were able to freely express their sexuality, those asylum seekers that had sought the same freedom in the UK were at the mercy of callous bureaucrats working for the very same employer.

(London No Borders 2011)

Indeed, the award served to rebrand the Home Office, not as the government branch responsible for overseeing brutal immigration prisons, violent deportations, racist stop-and-search practices and anti-terrorism policing, but as a progressive government agency embracing tolerance and diversity. In the 2012 awards, the National Offender Management Service – the government branch encompassing the prison and probation services – also made the top 100 list, as did the Scottish Prison Service, the Royal Air Force, Royal Navy, the Crown Prosecution Service, the Department of Work and Pensions and 11 police forces across the country. By disaggregating (narrowly defined)¹⁷ workplace equality measures from the nature of the work being carried about by these agencies, Stonewall’s top employers project effectively exacerbates division between those LGBT persons who have obtained full sexual citizenship (i.e. via respectable employment, a British passport or leave to remain), and those who bear the brunt of the state’s violent prison, policing and immigration policies.

Necropolitics of imprisonment

Each of these examples involves the direct or indirect mobilization of discursive, financial or labour-related resources towards state practices of imprisonment and punishment. Given the ongoing colonial legacies of the carceral state, the disproportionate number of people of colour in prison and racial character of expanding prison populations, these queer investments in punishment are, by their very nature, investments in state racism and violence. In this way, such investments are symptomatic of what Jasbir Puar, drawing from Achilles Mbembe's work, describes as queer necropolitics. Necropolitics can be understood as technologies of power that (re)produce social relations of living and dying, such that some populations are ushered into the worlds of life and vitality, while others are funnelled into what Mbembe calls death worlds – worlds of slow living death and dead living (Mbembe 2003). Death here includes literal physical death, but also social, political and civil death – the social relations of death, decay and dying that emerge from prolonged exposure to violence, neglect, deprivation and suffering. Offering a corrective to Michel Foucault's work on biopolitics,¹⁸ Mbembe puts forward 'the notion of necropolitics and necropower to account for the various ways in which, in our contemporary world, weapons are deployed in the interest of the maximum destruction of person and the creation of *death-worlds*, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of *living dead*' (2003: 40). In other words, while biopolitical powers work to manage, order and foster life for citizens worthy of protection, such powers work in tandem with necropolitical powers that produce death for those destined to abandonment, violence and neglect. Taking up this concept within contemporary queer politics, Puar thus draws attention to the ways in which the folding into life of some queers is predicated on the folding out of life of others (Puar 2007: 36).

While Mbembe's analysis focuses primarily on situations of military occupation, colonialism and war, the modern prison arguably constitutes another key instantiation of necropower. For the prison is also a site that produces the conditions of living death; it is a place where bodies are subject to regimes of slow death and dying. Not only are deprivation, abuse and neglect regular features of incarceration itself, but the monotonous regime of caged life – the experience of 'doing time' – involves the slow wearing away of human vitality and the reduction of human experience to a bleak existence (Scruton and McQuilloch 2009; Taylor 2000). The prison serves as a site of mass warehousing of bodies in conditions that often resemble the death worlds that Mbembe describes. While the modern prison was designed as an institution that aimed in part to train prisoners as productive workers, obedient citizens and docile subjects – a strategy that used disciplinary power in the broader service of biopolitical power (Foucault 1978/1995) – contemporary prisons are little more than mass warehouses for poor, racialized and otherwise disenfranchized populations (Gilmore 2007). Particularly as prison populations continue to grow to unprecedented levels, many states are abandoning even the pretence of rehabilitation, by dramatically reducing the hours

that prisoners spend out of their cells, slashing funding for educational and other programmes and leaving prisoners to increasingly spend their days in monotonous isolation.

These conditions, coupled with overcrowding, lack of adequate medical care and disconnection from family and friends, mean that prisoners have increased risks of self-harm, psychological abuse, trauma and suicide, both during imprisonment and post-release (Collins 2008; Taylor 2000). The stigma of a prison record also means that employment and housing are difficult to secure post-release, such that the consequences of imprisonment extend well beyond the duration of one's sentence. In this way, the prison thus plays a significant role in altering the 'distribution of life chances' or what Ruth Wilson Gilmore describes as 'group differentiated vulnerability to premature death' (2007: 247).

To argue that the prison is an institution of necropolitical power and that prisoners are resigned to slow death, is not to deny the resilience and agency of those who survive prison on a daily basis. It is instead to underscore how the conditions of captivity govern life in ways that are akin to slow and prolonged death, thus severely restricting the possibilities for resistance and survival. Ironically, and perhaps most devastatingly, it is through the act of potentially reclaiming death that prisoners exercise a desperate form of agency. As Mbembe argues, in the realms of the living dead, death offers a brutal moment of power. 'For death is precisely that from and over which I have power. But it is also that space where freedom and negation operate' (Mbembe 2003: 39). Hence it should be no surprise that the hunger strike – the exercise of threat of the living to authorize their own death – persists as a last resort of collective power in prison. As the recent prisoner hunger strikes in California, Italy, England, Palestine and elsewhere have demonstrated – alongside other less visible forms of collective organizing inside – there is persistent resilience among prisoners to resist and survive the brutal conditions of their captivity.

Arguably, what makes the prison an example of necropolitics and not just an instance of ruthless state brutality is that the imposition of death and suffering on some populations is explicitly legitimized and authorized in the name of fostering and protecting the life of others. In other words, the enhancement and protection of life for some is predicated on the violent sequestering of others. There are parallels here to what Nikolas Rose (2000) describes as *circuits of security* and *circuits of insecurity* – contemporary forms of governance that work by moving some subjects into modes of security and others into abandonment – as well as to what Judith Butler (2004) describes as the politics of 'precarious life' or what Elizabeth Povinelli (2011) refers to as 'economies of abandonment'. Necropolitics, however, draws more explicit attention to the deathly logic of these modes of governance, foregrounding the exercise of sovereign power to authorize and legitimate the politics of death and killing in the name of vitality and living.

Conclusion: towards a queer politics of disinvestment and decarceration

Examining these queer investments in punishment and necropolitics, we can identify several recurring patterns. First, these trends suggest the emergence and expansion of a specifically *queer penalty*. Although punishment is widely endorsed and socially sustained, it appears that LGBT organizations increasingly engage in citizenship claims that are explicitly bound up with punitive norms and values. The popularity of LGBT campaigns for the passage and enforcement of hate crime legislation, with the specific aim of increasing carceral penalties for those convicted, sutures claims of queer safety and freedom to state practices of caging.

Second, these trends reconfigure the neoliberal carceral state as the guardian of sexual citizenship rather than the perpetrator of violence. As Haritaworn argues:

[T]he redefinition of crime, security, and integration as sexual problems lends an intimate touch to the hard arm of the state. The move of LGBT activism into the penal state enables the police to reinvent themselves as protector, patron, and sponsor of minorities at the very moment that their targeting of racialized populations and areas is reaching new levels.

(Haritaworn 2010: 83)

In an era of neoliberalism, where faith in the welfare state has been almost abandoned, it is striking how much faith is placed in the carceral state's capacity to dole out justice, particularly when the state itself has begun to acknowledge the limits of this capacity (Garland 2001). In this context, queer investments in punishment become mechanisms through which the state enlists LGBT subjects as responsibilized partners in the 'co-production of security' (Garland 2001: 124) and acquires consent and support for one of its most systemically violent institutions. Whereas law and order politics once belonged more firmly in a right-wing conservative agenda, policing and punishment in these contexts have been transformed into 'symbols of social inclusion and care for sexual diversity' (Haritaworn 2010).

Third, these processes go hand in hand with the perpetual (re)invention of a dangerous Other, who is easily recognized through older tropes of criminality: the 'homophobic Muslim', the 'working-class yob' or the 'backwards immigrant' (Haritaworn 2010). State recognition of the respectable, enlightened and worthy sexual citizen is thus produced through the reproduction of a dangerous Other who offers a scapegoat for the insecurities and vulnerabilities produced by the contemporary political economic order. The production of these dual figures works to entrench the dividing line between those who are marked for life and vitality and those who are marked for abandonment and death.

In this way, LGBT investments in punishment can be seen to occur at multiple levels, through (a) *discursive investments* in the myths of the neoliberal carceral state

(by endorsing rhetoric which equates community safety and violence prevention with state punishment and securitization politics); (b) *affective investments* in the racialized and classed politics of fear and danger (by invoking discourses of 'dangerous others' who threaten LGBT claims to citizenship and security); (c) *labour investments* in the neoliberal carceral state (by literally taking on the work of the carceral state through partnerships that provide training, develop criminal justice policy and undertake state-based criminal justice work) and; (d) *financial investments* in the expanding carceral state (by channelling community resources into practices of state punishment and by supporting policies that increase state spending on prisons and policing).

These punitive trends are not restricted to LGBT organizations, but are occurring more broadly within leftist and 'progressive' politics (Aharonson 2010). Feminists who advocate for the criminalization of sex work and trafficking, for example, have increasingly become engaged in what Elizabeth Bernstein (2010) describes as 'carceral feminism'. Similarly, feminist anti-violence goals increasingly operate in tandem with 'law-and-order' politics and are used to justify increased imprisonment, policing and immigration controls (Bumiller 2008; Critical Resistance and INCITE! Women of Color Against Violence 2006). The issue is not simply that activist agendas have been co-opted by pro-criminalization agendas, but rather that social movements are redefining their politics in ways that actively infuse traditional recognition claims with punitive logics.

These trends raise larger questions about why 'progressive' movements have turned to policing and incarceration as means for achieving movement goals, and why 'law-and-order' agendas that were previously associated with repressive politics have been reconfigured as signs of sexual justice. Do these trends stem from broader moves away from a politics of 'liberation' towards more rights- and recognition-focused strategies or have these movements always contained the seeds of punitive politics (Hanhardt 2008; Kunzel 2008; Spade 2009)? Are these trends symptomatic of broader changes in governance which reflect 'cultures of control' (Garland 2001) and 'governing through crime' (Simon 2007) or are they specific to particular elements of LGBT and feminist organizing? In what ways do these changes reflect movement desires to organize around achievable goals, combined with the state's willingness to work more cooperatively with particular 'minority' constituencies (Moran 2007)? Exploring the specific reasons for these changes is beyond the scope of this chapter and warrants further empirical investigation; however, it seems clear that simple explanations of co-optation, false consciousness or social conservatism are insufficient to fully account for the complex and contradictory terrain of punitive sexual politics.

In concluding, it is important to note that punitive social movement trends are neither universal nor inevitable. A growing number of grassroots feminist, queer, anti-racist and anti-prison community groups are developing alternative models of violence prevention, community accountability and collective healing that do not rely on police or prisons (see for example Chen, Dulani and Piepzna-

Samarasinha 2008; Critical Resistance 2008; Generation Five 2007; Kim 2011; Law 2011; Smith 2009). Particularly in racialized, migrant, indigenous and impoverished communities that are over-policed, over-incarcerated and regularly subjected to state brutality, reliance on police and prisons is increasingly seen as non-viable, dangerous, and ineffective; alternatives are deemed a vital necessity. Such communities are developing strategies that move away from punitive state practices and instead build community-based safety protocols, which prioritize victim safety, emphasize perpetrator accountability and attend to broader social factors that contribute to violence. While none of these strategies on their own is sufficient to tackle institutional and systemic forms of violence, they do offer space for new possibilities that refuse to enact one form of violence in the name of combating another. As such, these strategies warrant further consideration as practices that move away from queer investments in the carceral state and move towards a queer politics of punitive disinvestment and decarceration.

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Notes

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- 1 This shift is particularly striking when juxtaposed against the demands of early 'gay liberation' movements. Decriminalization of same-gender sex acts, for example, marked a key demand of the homosexual groups that emerged in Europe at the end of the 1800s and has remained a priority in recent decades. Likewise, resistance to policing and punishment formed a prominent feature of the gay liberation movements of North America and Europe during the 1960s, 70s and early 1980s (Blasius and Phelan 1997; Kunzel 2008). While punitive trends have previously co-existed alongside decriminalization campaigns (see for example, Hanhardt 2008), pro-criminalization strategies have gained prominence in recent years (Aharonson 2010).
- 2 While the literature on 'sexual citizenship' is too vast to summarize here, I generally use the term to describe forms of national belonging that recognize legal, social and kinship rights of LGBT subjects, particularly through demands for relationship recognition, adoption rights, sexual expression, protection from violence and military service. This article builds on previous critique of sexual citizenship by scholars such as Bell and Binnie (2000), Richardson (2000) and Cossman (2007).
- 3 I use 'carceral state' to refer to the institutional branches and multi-scalar practices of the state that fulfill policing-, discipline- and punishment-related functions. This term is not meant to suggest that that state is, or operates in, a singular, unified or monolithic form, but identifies practices within government with are deployed around specifically punitive and carceral-focused aims. The prefix 'neoliberal' denotes the reconfiguration of the nation-state under neoliberal capitalism, signalling both the expanded embrace of market driven economic and social policy, and its goal of producing autonomous, entrepreneurial, self-governing subjects (Brown 2005; Garland 2001).
- 4 Despite announcements in 2010 that the UK Ministry of Justice would face cutbacks of £1.9 billion over four years, the 'capacity plan' for building new prison places has remained virtually untouched, and the net result has been expansion of the prison estate.

Much of the short-term 'savings' have also been made through outsourcing of services, which has benefited the for-profit prison sector (UK House of Commons Justice Committee 2012).

- 5 See Agozino (2003), Christianson (2000) and Ross (1998).
- 6 The title of the act references two brutal deaths both occurring in 1998: Mathew Shepard, who was tortured, tied to a fence and left to die in Laramie, Wyoming, because he was perceived to be gay; and James Byrd Jr., an African American disabled man who was tortured and killed by white supremacists in Jasper, Texas.
- 7 See *Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act 2009*. Online: www.intelligence.senate.gov/pdfs/military_act_2009.pdf
- 8 Introduced by a Republican Senator, the death penalty amendment was included in the version of the bill passed by the US Senate on 23 July 2009. The death penalty amendment was subsequently removed in October 2009 when the House and Senate versions of the bill were amalgamated, and was therefore excluded from the final legislation that was signed into law by President Obama on 28 October 2009.
- 9 While some anti-death penalty activists argue for life sentences as a substitute for the death penalty, many groups are challenging this approach as well, arguing that alternatives to prison can better prevent, repair and facilitate accountability for harm. (See, for example, Davis 2003: 106.)
- 10 Despite popular rhetoric, there is little empirical evidence to suggest that hate crime laws are effective crime preventative measures. This is partly because such legislation relies on the logic of deterrence, which presumes that acts of violence are governed by rational, calculated decisions where individuals are fully aware of, and expect to face, the consequences of their actions. Although tougher sentences can carry some deterrent effect in certain situations, they are often counteracted by other factors and depend on the nature of the specific offence in question. On the whole, sentence severity has little or no bearing on crime prevention (Doob and Webster, 2003). For broader critiques of hate crime legislation, see Spade and Willse (2000), Smith (2007) and Moran (2004).
- 11 See, for example, critiques by Haritaworn *et al.* (2008) and Long (2009), as well as Shakhari and Ritchie in this volume.
- 12 Perhaps the most glaring example of this dual strategy is a recent campaign launched by the International Planned Parenthood Federation (IPPF), titled 'Criminalize Hate, Not HIV'. The campaign specifically argues for the decriminalization of HIV transmission, on the basis that such laws are harmful and counter-productive, so the use of pro-criminalization rhetoric with respect to 'hate' is surprising. See www.ippf.org/our-work/programmes/criminalize-hate-not-hiv.
- 13 See, for example, the campaign strategies of ILGA-Europe (www.ilga-europe.org/), Egale Canada (www.egale.ca/), Stonewall (UK) (www.stonewall.org.uk/) and the Human Rights Campaign (USA) (www.hrc.org/).
- 14 As part of the response, a group emerged calling for an 'East End Gay Pride' march in the Tower Hamlets Borough of London. The group's website featured Union Jack flags and a poster depicting an image of a shirtless, muscular white man with a shaved head and an aggressive snarl on his face, in a stylized form evocative of fascist aesthetics. The march was eventually discredited and cancelled when it was exposed that key members of the organizing committee had links with the English Defence League, a far-right anti-Muslim nationalist group. The English Defence League had been trying unsuccessfully to march in the borough of Tower Hamlets for years, as the area is known for its high Muslim population. The organizers' links to the English Defence League were revealed by Imaan, a queer Muslim organization based in the UK, as well as by other local queer anti-racist groups (Imaan 2011; Safra Project 2011).
- 15 Several months later, the young man was sentenced to prison for 14 months for possessing al-Qaida materials. He was also charged with spray-painting burqas on

advertisements featuring scantily clad women. Whereas this same tactic has been celebrated as art in other contexts (see, for example, Chrisafis, 2010), in this case it garnered an additional month's prison sentence (Gray 2012).

- 16 See, for example, Stonewall's *Serves You Right* report, which argues that there has never been a gay equivalent to the Macpherson Inquiry, and suggests that racial issues in policing have been addressed in a way that gay issues have not (Hunt and Dick 2008: 11).
- 17 The survey considers no factors of equality other than sexuality, performing the classic disaggregation of sexuality from other vectors of power/identity. Nowhere in the 2011 report are questions of race, ethnicity, class or ability mentioned. The annual reports are available online: www.stonewall.org.uk/at_work/4763.asp.
- 18 In his 1976 lectures at the Collège de France, Foucault describes a shift in sovereign powers of the state from the right to take life or let live, to the power to 'make' live and 'let' die (Foucault 1978/2009: 241). This technology of power, described as biopower, operates primarily through the management, ordering and fostering of life rather than through a sovereign power over the right to kill. But as Mbembe argues, the administering of life is often contingent on, and supplemented by, new forms of sovereign power that are deployed in the creation and administration of mass death and destruction.

‘Walking while transgender’¹

Necropolitical regulations of trans feminine bodies of colour in the nation’s capital

Elijah Adiv Edelman

In this chapter, I consider how necropolitical geospatial policies regulate, in both expulsion and discard, trans feminine bodies² of colour on the streets of Washington, DC. These policies, such as the prostitution free zone (PFZ), serve to illuminate how exclusionary practices reflect gendered, sexualized, raced and embodied elements of neoliberal citizenship demands. Specifically, the geo-social function of the PFZ reveals how necropolitical ideologies articulate with space and homo(necro)nationalism, wherein the visibility of trans (feminine) bodies of colour in economically viable space is articulated as a threat to safety and the presence of criminality.

Regulating ‘bad’ bodies, regulating ‘bad’ space: prelude to a muggy summer evening

Around 11 pm, the HIPS van (‘Helping Individual Prostitutes’ – or ‘People’, depending who you ask – ‘Survive’) rolls up in front of the house. Janis is in the ‘hot seat’ tonight. She rolls down her window, beckons out to me and, armed with an apple and caffeinated gum, I slide into the back seat, taking care not to knock over the precariously situated pitchers of lemonade at my feet.

I’m tired, even with the two cups of coffee sloshing in my stomach. The past several weeks – months even – have been hard. Between the recent murder of Lashai Mclean, the shootings of trans women along Eastern Avenue and this week’s vicious attack on three young trans women of colour by a drunk, off-duty police officer,³ a lot of those who are among HIPS’ clients, volunteers or allies are tired. Many trans activists are angry. And many of those working the streets are terrified. But, perhaps most frustrating of all, the media, the mayor and the majority of local ‘LGBT’ groups in the city seem unaware, or at least not too concerned with, how quotidian this level of violence has become for many of the young black and Latina trans women we will see tonight. The violence is not new; rather, through the right confluence of events, and the shocking behaviour of an off-duty member of the Metropolitan Police Department, these recent events have captured some local attention.

As the van cuts through the humid summer air, Susan, the team leader and driver for the evening, yells names over the pounding music, introducing me to April, a newly minted volunteer on only her second night out on the van. We make conversation as we attempt to organize and decipher the contents of the bathtub-size bin of condoms, lube, and paper bags that sits between us, illuminated only by the occasional brush of light from the street lamps cruising by. Yes, we have enough of the Tuxedos but we're out of the Loves. Shit, we're out of Magnums and – as Janis yells back – with the budget cuts we need to limit the Magnums to request only and, even then, only a few. OK, we'll push the Orange and Grays and try to get rid of some of these damn city dispensed – but free – off-brands that crowd the bin.

We pull up to the HIPS office around 11:30 pm, collect the bins from the van, and after unlocking the rusting iron gate shielding the convenience store-style door underneath, we shuffle our heavy loads down the hallway and down two flights of stairs to another padlocked unmarked door. 'Why's it always smell like weed down here?', Janis wonders out loud as she juggles the box of syringes and tips with a jug of lemonade in the other arm. I wonder the same thing. HIPS' strip mall location, across the street from what little remains of DC's public housing, shares its walls with a discount furniture store and a boarded-up office. This location is a new one for them, a departure from their previous home: a dilapidated and cramped office on the other side of the city. That office, poorly ventilated, fan filled in the summer and sweater demanding in the winter, was located in the heart of Adams Morgan. Adams Morgan, a thoroughly gentrified neighbourhood in the northwestern quadrant of the city, is a beloved and popular drinking destination point for many of the city's up-and-coming young politicians. Masses of white 20-somethings swarm the narrow sidewalks along 19th Street Friday and Saturday nights, escaping their university-based enclaves for an evening out. Come last call, the taxi cabs clog the road, all awaiting their turn to whisk the drunk back to their college campuses, often only moments after their evening libations have found their way from the stomach to the crowded concrete gutter below. As the neighbourhood grew in popularity eventually HIPS could no longer afford the rapidly rising rents for the office and was displaced to this comparatively spacious and cheap unit in the northeastern quadrant of the city. Yet, as HIPS' staff quickly discovered, many of HIPS' clients, though living only a short distance away, don't feel safe coming to this new location, known for gun- and street-based violence.

We pack the van tight with prophylactics, candy, works and related supplies along with enough lubricant to cram the Washington monument into the Pentagon. We're running late; it's almost 1 am and we have a lot of folks to see tonight before the streets quiet down and Janis turns the van back towards the office at 5 am. We settle into our seats and begin our journey around the district with the hope that when sunlight eventually illuminates the dim streets, there will be no frantic early morning emails circulating about another body found. In these moments, moving through the interstitial time between dark and light, I can't help

but silently wonder what compels so many to ignore the deaths at our doorsteps: our own communal failure to uphold one of the most fundamental of sanctified US and international human rights: the right to live.

The penultimate other: projects in erasure

In many ways, the route HIPS takes around DC to provide condoms, syringe exchange and HIV testing to those working, or just hanging out, on the streets provides a spatial template for how gender and racialized ideologies regulating who belongs where, and why, articulate with state-sanctioned violence. The route HIPS takes is determined by where potential clients, and others who may benefit from their services, can be accessed. HIPS' clients, and their target populations, include street-based sex workers, many of who are also young trans women of colour. Significantly, these women report, both anecdotally and in official capacities (Alliance for a Safe & Diverse DC 2008) an extraordinarily high incidence of violence, from those they encounter on the street to those charged with protecting the public, such as the police. Disturbingly, this violence is ignored or erased in media reports, at the governmental level, and, perhaps most disconcerting among most local and national 'LGBT' rights organizations. My concern here is to unpack how this category of a queer necropolitical other, in this context the disposable brown trans feminine body, is constructed and articulated within the cityscapes of and political practices within Washington, DC, the symbolic belly of the beast of US nationalism and pride.

As context, it is known that between 2000 and 2011, 11 trans feminine persons of colour (primarily black, all but one younger than 25 years old) were murdered. Out of this group, only two of these murders have been solved. This 'homicide clearance rate' of less than 20 per cent is roughly one-quarter of the general homicide clearance rate in DC, which is reported to be nearly 80 per cent (MPD 2010: 18). Additionally, of the numerous reports of violence that HIPS receives with unrelenting regulatory, very few are 'cleared', taken seriously, or managed appropriately by police. As a result, fewer and fewer instances of violence and assault are reported to MPD out of, at best, frustration and, at worst, fear of additional violence at the hands of the police themselves (Alliance for a Safe & Diverse DC 2008).

As I explore in this chapter, this disregard – the complicit exceptionality of violence and death of trans feminine bodies of colour – reflects not only a form of queer necropolitics but also a form of what I term *necronationalism* that dually relies on hetero- and homonationalistic discourses of viable life. Necronationalism, built on necropolitics, focuses on the ways in which the erasure and death of the bad (queer) citizen-worker body carves out the ideological and physical space for the good (queer) citizen-worker body to emerge. As this relates to mainstream LGBT disinterest in this kind of queer suffering, we can highlight the necronationalistic projects of homonationalistic queer regulatory ideologies through the formation of a homonecronationalism. Specifically, I build here on Duggan's

notion of homonormativity (Duggan 2003) and Puar's discussion of homonationalism and queer necropolitics (Puar 2007) to highlight the queer regulatory formations that further nation-state sanctioned violence on the queer bodies of those ostensibly within the borders of the LGBT 'community'.

While a queer necropolitics already implicitly refers to the role of the nation-state in the power to let live and let die, I utilize homonecronationalism to highlight how the technology of letting live and letting die functions to *serve and promote* homonationalist projects in the reproduction of viable queer citizens (e.g. those fulfilling the requirements of homonormative ideological reproductivity) from those otherwise considered included within LGBT rights paradigms. These regulatory ideologies, or rules, work as self-fulfilling ideals. Indeed, the rule, in creating the exception and 'maintaining itself in relation to the exception, first constitutes itself as a rule' (Agamben 1998: 18). That is, in the creation of states and spaces of 'exception' – wherein the death of a citizen is acceptable – the exception acts to concretize the borders of this acceptability. In this context, queer necropolitics, as referring to the relationships between sexualities, violence and new modalities for population control, provides the tool to not only unpack how queer(ed) bodies are allowed to die but, in a homonecronationalist sense, how these queer deaths serve homonationalist agendas which valorize whiteness, domesticity and a privatized, depoliticized gay culture invested in consumption (Duggan 2002). Puar extends the discussion of 'mechanics of queerness as a regulatory frame of biopolitics' as including 'erecting celebratory queer liberal subjects folded into life (queerness as subject) against the sexually pathological and deviant populations targeted for death (queerness as population)' (Puar 2007: 24). In this context, the 'terrorist' comes from within in the form of trans feminine persons of colour – always-already-criminalized as economic deviants – as a threat to homonormative desires in nationhood.

I explore the production of (homo)necronationalism by first addressing how the deregulation of capital, as the life force of the US nation-state, shapes the landscapes of the city through gentrification projects. Capital, as forms of monetary, ideological or cultural modalities of power, has the capacity to both create and destroy value of space, and the bodies within it. I then turn to how these capital processes impact somatically anchored bodies, which are organized as biopolitically worthy or necropolitically disposable via nation-state intervention. Next I consider how neoliberally informed spatial policies of exclusion, such as the prostitution free zone (henceforth, PFZ) exemplify how the policymakers, and developers, in DC displace and criminalize always-already suspect bodies. In particular, these policies function to target trans women of colour, who, as I explore in this chapter, come to symbolize the antithesis of nation-state sanctioned embodiment. I then discuss how trans community members and activists living in DC have discussed the role of the PFZ in their lives. Building on this, I turn to how DC officials have responded to the mounting violence against trans feminine bodies of colour in DC. In short, this chapter considers how inter-relationships between local, national and transnational ideologies of citizenship,

sexuality/gender, embodiment, race and space coalesce around structures and tools of displacement and erasure. I consider here how, and why, these tools are deployed in the name of preserving safety and security, yet function to erase, both metaphorically and literally, visible trans feminine bodies of colour from the Washington, DC cityscapes.

To be clear, the murders and hypercriminalization of trans women of colour in DC do *not* simply indicate an intolerant public or urban-localized trans phobias; this violence, and the reaction of those in power, are directly linked to racialized and gendered systems of disregard and disposability borne out of centuries of enslavement, genocide and oppression of American Indians, blacks and coloured 'Others', as well as women, queers and gendered 'Others'.⁴ Instead, just as 'driving while black' refers directly to the systemic practice of racial profiling in policing practices, 'walking while transgender', in the context of its original iteration⁵ and within the context of this chapter, refers specifically to the 'crime' trans women of colour 'commit' of visibility.

Capital, geography and bodies: gentrification, necropolitics and necrocapitalism

Spatially and geographically defined, the 'city', and how bodies come to be regulated by its terrain, is a powerful site of ideological work. In thinking about the particular spaces in which the regulation of bodies at work and place can be visualized, the 'inner city' becomes a 'soft spot for the implementation of neoliberal ideals' (Hackworth 2007: 13). Gentrification, in addition to the destruction of public services, including affordable housing, clinics and community meeting space in deference to corporate development, 'can be seen as the material and symbolic knife-edge of neoliberal urbanism representing the erosion of the physical and symbolic embodiment of neoliberal urbanism's putative other – the Keynesian activist state' (Hackworth 2007: 98). This is particularly true within the cityscapes, wherein the combination of limited space, fluctuating economies and shifting cash flows literally transform the physical landscapes into nearly unrecognizable forms of redevelopment.

The cityscape provides a productive ground in which to visualize processes of neoliberalism, nationalisms and bio/necropolitics. In the context of transgender, transsexual or gender-non-conforming bodies and practices, particular forms of gender transgression operate as a threat to sex/gender normativity. For those bodies that fail to be capially productive (e.g. engaging in the formal economy) along with failing to be ideologically productive, displacement and erasure are inevitable.

We can begin to understand the ways in which bodies are utilized by systems of power through notions of biopower and, as a flipside, necropolitics. Most simply, biopower highlights the ways in which human bodies come to be regarded, manipulated and regulated by sovereign powers in a quest for ideological and capital productivity. Biopower is 'a constitutive form of power that takes as its

object human life' (Foucault 1977: 212). Biopolitically, neoliberalistic modes of governance capitalize on the 'capacity and potential of individuals and the population as living resources' (Ong 2006: 6). In other words, the potential for the productivity of the body hinges on the cooperation and investment on the part of the subject insofar as it is *permitted* to engage in projects of productivity.

In many ways, we can conceptualize the violence of gentrification as a way in which necropolitics articulates with space. As opposed to biopolitics, which concerns itself with how bodies can be made productive, necropolitics explores the exceptionality of death among bodies identified as disposable. Indeed, 'the ultimate expression of sovereignty resides, to a large degree, in the power and the capacity to dictate who may live and who must die' (Mbembe 2003: 11). It is the power to let live and the power to let die. It is through these 'biopolitical breaks' that 'enable the power to kill' (Osuri 2009: 35). Thus taxonomies of race, sexualized and gendered difference, created through biopolitical technologies, serve to demarcate that which is valuable from that which is not (e.g. the good citizen versus the bad citizen). It is within these zones of exceptionality that the *homo sacer*, Agamben's formulation of the body that may be killed with impunity but not in sacrifice (Agamben 1998), is designed. Those bodies marked as ideologically suspect through biopolitical evaluation occupy a state wherein value can only be found within death – occupying a subjectivity that promises neither death nor life.

Gentrification carves out literal geographic spaces of exceptionality, wherein the management of sovereignty and sovereign bodies does not sit within the nation-state but rather is co-managed by the nation-state and capital investors. It is this relationship between the nation-state and the land developers that creates these 'death worlds' where destruction, erasure and death become acceptable. The way necropolitics articulates with bodies in space in gentrifying spaces represents the expression of 'necrocapitalism' (Banerjee 2008). Gentrification, as a kind of necrocapitalistic reformation of space, renders bodies that stand in the way of capital productivity as pathological and malignant tumours in an otherwise healthy expansion of capially productive landscapes. Specifically, the necrocapitalist 'practices of organizational accumulation that involve violence, dispossession, and death' provide the logic that buttresses the destruction of public housing and low-income neighbourhoods, as well as the bodies that once occupied those spaces (Banerjee 2008: 1543). As I explore in this chapter, it is through unpacking the collusions between the government and private industry in the elimination of unproductive (e.g. immigrant, brown and queer) bodies that illuminates the queer *homo sacer* of the DC urban landscape.

The 'prostitution free zone': sex work, exceptionality and death

Prostitution free zones (PFZs), and other spaces of hyperpolicing, function to keep particular bodies out through police and policy based regulation. Specifically,

PFZs, deployed globally, serve to regulate particular classed, raced and gendered bodies. Zones of exclusion, zero-tolerance zones and other similar geospatial policies are not and have not been limited to Washington, DC. Rather, exclusionary spaces have historically served a broader societal role to delineate and segregate those bodies deemed sick, pathological, undesirable and, in some cases, disposable. Proponents of PFZs may consider them as a kind of ‘policy of choice’ wherein the geospatial representation of the sovereignty of the nation-state, in this case the Metropolitan Police Department, works to criminalize those engaged in illegal activities which they are believed to have a ‘choice’ to commit. Theoretically, PFZs have also been situated as a spatial formation of sex work (Hubbard, Matthews and Scoular 2008: 137), a zone of exclusion (of some activities and/or bodies over others; Scharff 2005: 324) and as a way in which to dislocate the ideologically and capitally unproductive *homo sacer* sex worker body (Sanchez 2004: 862). PFZs are unlike other spatial regulations of sex work, such as ‘the Magdalene asylum, the state-registered brothel and the red-light district’ (Hubbard *et al.* 2008: 137), which work to keep particular bodies and practices within their bounds. Instead, PFZs work to keep *out* those bodies and practices deemed suspect.

Within Washington, DC, the first laws governing sex work were passed in 1910 and 1914 (Alliance for a Safe & Diverse DC 2008: 7), with laws governing solicitation dating to 1935. The first PFZ was put into effect on Friday 8 September 2006 as a way in which to protect the ‘health and safety’ of residents, according to Charles H. Ramsey, Chief of the Metropolitan Police under Mayor Anthony Williams. To be clear, sex work, solicitation and other sex work-related practices were already illegal under DC’s general law; the PFZ would stand as a necropolitical spatial and temporal hyper-enforcement of these laws. Immediately following the first implementation of a PFZ in DC, the MPD released the following statement on its website:⁶

001 ‘While some people may
 002 still want to characterize prostitution as
 003 a “victimless crime,”
 004 nothing could be further from the truth
 005 for those residents who must endure
 006 the presence of prostitutes
 007 and their paraphernalia
 008 in our neighborhoods,’ Chief Ramsey said.
 009 ‘Our city has made great progress
 010 over the last several years in reducing prostitution –
 011 in particular, the presence of brazen street walkers in many of
 012 our communities.
 013 But we know we must do even more to combat this very serious problem.

014 The new Prostitution Free Zone law
015 will give our officers one more tool
016 for moving prostitutes and their johns
017 off the corner and out of our neighborhoods.'

(Ramsey's PFZ Statement, MPD 2006)

As evidenced in this text, Ramsey constructs a very clear binary between that which is 'us' and that which is 'them'. Ramsey situates 'us' as those 'residents who must endure' (1:005–006) and 'them', as the prostitutes (1:007). He continually reproduces this imagined binary, wherein neighbourhoods (1:009, 1:017), communities (1:012), officers (1:015) belong to 'us', the good landowning citizen, protected by the nation-state's soldiers: the officers and the chief of police himself. Ramsey clearly structures 'them', the ideological other here, as the 'brazen' prostitute', who pollutes with disregard the neighbourhood with their mere presence (1:006), ambiguous paraphernalia (1:007) and their 'johns' (1:016). He situates these prostitute bodies as dangerous, dirty and a threat to safety of the public; within this paradigm, sex workers are placeless entities, embodying illegality, always corrupting the moral landscapes of the good and incapable of community and residence. In short, their bodies exemplify that which the nation-state deplors: that which not only should, but must, be destroyed. Disturbingly, Ramsey engages here in a kind of 'population management and socio-spatial control with discourses of community, risk and security' as a means to subdue the potential to render the 'prostitute' a citizen (Sanchez 2004: 871). That is, these bodies are not deserving of nation-state protection, home and place but are, instead, situated as foreign, reviled and dangerous.

According to the MPD, PFZs are deployed in areas either experiencing high rates of arrests for solicitation and prostitution-related offenses *or* in response to complaints from local residents (MPD 2010). To be clear, these areas do not necessarily constitute the areas of greatest sex work within the city; rather, they constitute spaces of liminality and contested use, nearly always situated along gentrifying borderlands. In addition to more 'stereotypical' acts of prostitution, such as approaching cars and offering sex in return for money, the following all constitute legitimate grounds for arrest and forced removal, according to the MPD policy, as:

Information from a reliable source indicating that a person being observed routinely engages in or is currently engaging in prostitution or prostitution-related offenses within the Prostitution Free Zone . . . Knowledge by an officer that the person is a known participant in prostitution or prostitution-related offenses.

According to this policy, if one has ever been convicted or has been 'known' to engage in 'prostitution or prostitution-related offenses' their presence within

the confines of an active PFZ constitutes grounds for removal and arrest. That is, these bodies are marked, *permanently*, as deviant, pathological and inherently criminal.

In many ways PFZs sit at the intersection of the 'juridico-political and the biopolitical' (Mitchell 2006: 102). The exclusion of 'undesirables' from the urban terrain 'must be seen as part of a broader process by which the law includes, weighs and assesses all urban denizens' (Carr, Brown and Herbert 2009: 1962). That is, deviant bodies come to serve as necropolitical anchoring points, indexing that which is morally suspect and intrinsically disposable. This kind of 'exclusionary regime' emphasize 'the undeserving and the unreformable nature of deviants' (Beckett and Western 2001: 44). That is, similar to the cordoning off of prisoners and other 'enemies of the state', zones of exclusion work to physically and socio-politically cut off bodies spatially from the general public. Thus, if we situate one of the basic rights of 'citizenship' as the 'right to access and use specific kinds of space', zones of exclusion thus operate to delineate between those who qualify as potential citizens, and those who do not (Hubbard 2001: 54).

Additionally, PFZs in DC operate in line with what is expected of a 'post-justice city' in which urban policies are emerging 'based on social and racial containment, the purification of public spaces, the subsidization of elite consumption, the privatization of social reproduction, the normalization of economic insecurity and pre-emptive crime control' (Peck 2004: 225). This kind of spatial governmentality, wherein the nation-state's policies work to 'manipulate the spatial order of a region or community' works to materialize this neoliberal ethos (Sanchez 2004: 262). Thus, PFZs do not actually attend to the crux of the 'crime' or 'criminal' but rather merely shift the practices to a different space not deemed as valuable as that within a PFZ and, in this case, this implicitly refers to racial and gendered practices.

Maps, PFZs and certain trans deaths: ideological links in projects of exceptionality

The particular ways different trans conceptualizations of space coalesce around PFZs provides a powerfully clear image for how classed, racialized and (cis)sexualist policies and powers impact trans communities in DC. In early 2007 members of the DC Trans Coalition, including myself, began interviewing trans community members about their experiences as a 'trans' identifying person living in the District. This research provided the data for the initial phase of a DC-specific trans 'needs assessment' conducted by community members in DC (DCTC 2011). As an element of this research, we utilized 'map making' as a conduit to discuss lived experience with space and place (a technique explored within gay map making in Leap 2005: 238; see also Leap 2009: 205). In this context, community-produced maps of a city allow for conceptualizations of space and place to be visualized in new and innovative ways (Bhagat and Mogel 2007: 6; Geltmaker 1997: 234). Moreover, it is through a 'subversion' of normative

maps that the streets and spaces of the city are rendered dynamic spaces of lived experience (Perkins 2003: 345; Pinder 1996: 405; see also, in a specifically 'queer' sense, Halberstam 2005).

At the close of this initial phase, we had collected a total of 108 maps and narratives from trans-identifying people living in DC, wherein, significantly, 55 per cent of all participants referred to the 'strolls' as areas they consider trans space (DCTC 2011: 2). Strolls, or areas identified by community members or police as areas in which sex workers gather to find clients, were the topic of greatest representation within the entire first phase.⁷ Importantly, these areas were not discussed as *simply* spaces in which one works but rather were overwhelmingly situated as places in which one goes to *find community*.

Alexis, a black trans woman in her mid-30s and also a DC native, was one of the participants of this project who discussed her relationship to the strolls in DC. She spoke with sadness about all the places in the city she used to go but that she could not go to anymore. She produced a map of DC that represents a ghost image of that which once was (Figure 8.1).

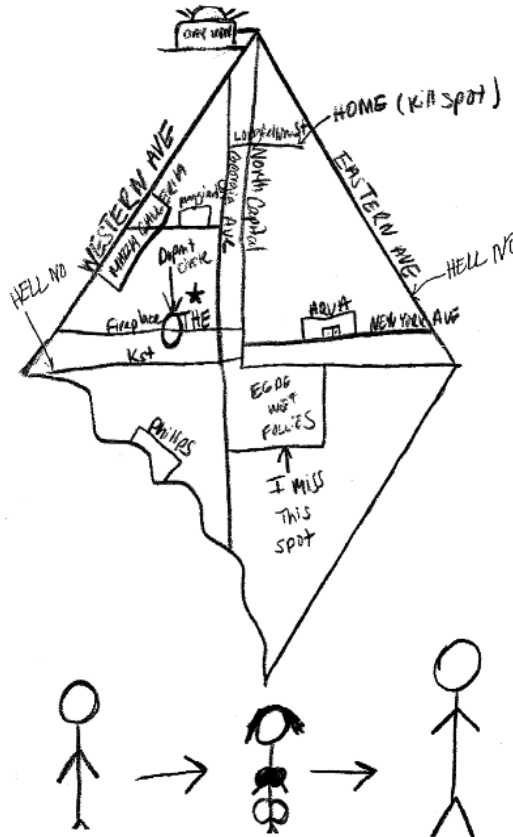


Figure 8.1 Alexis' map

At first glance, her map follows a traditional map of DC, taking care to identify major roads framing the off-centre diamond shape of the city. But, with deeper inspection, her maps represent a particular series of streets and places that she intermittently labels with an emphatic ‘Hell No’. She lists out bars and clubs, some existing and others torn down to make way for a baseball stadium (discussed in rich detail in Leap 2009). She also marks out THE, or Transgender Health Empowerment, an organization working to provide support and services to trans women seeking to get out of sex work. The streets she includes on her map are areas project participants identified as places they could meet and hang out with other trans women of colour. For Alexis, as someone with a criminal record related to sex work, and as someone who has struggled with substance reliance issues, these streets are laden with a particular kind of danger. Alexis faces the possibility of incarceration were she to engage with her community in the wrong place, at the wrong time.

We see a similar kind of battle taking place in Danielle’s map in Figure 8.2.

A black trans woman in her mid-20s, Danielle depicts the city as one where THE is featured prominently in the middle of the map, with the title caption of ‘This place has helped me a great deal’. Near the bottom of the map, she features her church, another beacon of support. In her map, THE is a central figure that overshadows the presence of K St and Eastern Ave, both known sex worker strolls. That is, through this juxtaposition, she situates THE as operating to displace the

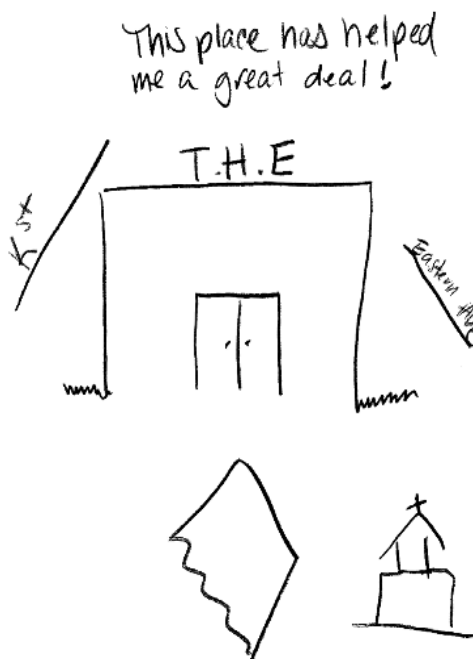


Figure 8.2 Danielle’s map

importance, and danger, these streets may serve in her life. The support, and community, THE can provide serves to supplant that which many others in this project have found on those streets. THE is the 'good' space and the strolls on K St and Eastern Ave, where Lashai Mclean was murdered and two other trans women shot, occupy spaces to be avoided.

The mayor's response: project empowerment and trans citizenship

Following several particularly violent months for young trans women of colour (along the strolls and otherwise) the Mayor's Office responded to growing public outcry and offered up a solution: they would hold an employment training class for trans community members. As evidenced in this proposed solution to address violence against trans women, bodies can presumably shift from necropolitical disposability to biopolitical worth, but only through playing the role of the good neoliberal citizen. Yet, the limits of this shift and how one might authenticate one's ability to be productive as a trans subject (Irving 2008) highlight how a 'recourse to normativity' erases or prevents any salient political or social difference (Aizura 2006: 302). For trans women of colour, access to this neoliberal productivity may prove impossible.

While no statistics exist for trans employment rates in DC, the only nationwide study conducted about trans communities reveals that unemployment and underemployment are profound issues for many trans community members nationally. The first nation-wide report of its kind, conducted by the National Center for Transgender Equality and the National Gay and Lesbian Task Force in 2009, reported grim findings as to the general livelihoods of the general trans population. Respondents experienced twice the rate of unemployment compared to the general population with 97 per cent reporting harassment or mistreatment on the job due to their transgender status. Moreover, according to this study, 15 per cent of trans respondents reported living on \$10,000 a year or less, twice as high as the general population. Finally, 19 per cent have been or are homeless; 11 per cent have faced an eviction; and 26 per cent have been forced to find temporary space (NGLTF 2009). Other studies across the US report similar findings, with trans women of colour often facing the greatest degree of homelessness, un/underemployment and police abuse and discrimination (Clements-Nolle, Marx, Guzman and Katz 2001: 915; Davis and Wertz 2010: 467; Wilson *et al.* 2009: 902). To be certain, these statistics are a stark reminder that many trans community members do not have the same kind of access to employment others along the LGB spectrum may enjoy. Moreover, trans persons of colour, particularly those identifying within a feminine spectrum, may turn to street-based work in order to survive. As a result, many are more likely to experience victimization, whether from the general population or from police.

In September 2011, the Mayor's Office began holding weekly meetings between the Mayor, Vincent Gray, his Liaison to the LGBT community, Jeffrey

Richardson, and the Chief of Police, Cathy Lanier, with trans activists and community members. As an immediate way to address joblessness and unemployment, Gray's office offered to hold a trans-specific 'Project Empowerment' programme, an employment training and placement programme.

Project Empowerment is a pre-existing 5 million dollar work-training programme offered by the Department of Employment Services (DOES) to find viable work for those facing institutional barriers. As detailed on the DOES website, Project Empowerment is:

[A] welfare-to-work program [that] begins with orientation and pre-employment assessment at which time barriers to employment are diagnosed, and an individually tailored employability plan is devised for each participant ... these components are tied together through a continuous regimen of case management and job coaching, which provides support for the participant and employer.

(DOES 2011)

Importantly, like many government-initiated programmes, Project Empowerment requires several key standards be met for one to qualify for the programme. As hinted in the DOES description, one cannot be currently participating in any publicly subsidized programmes, including foods stamps or disability. Participants are paid DC's hourly minimum wage (\$8.25 per hour) for their participation in the daily course (to be paid only when one *completes* the course). Following a month-long series of classes guiding students on how to dress properly and act professionally, participants are then placed with local partner agencies (such as the DC Metro system) for employment and are continued to be paid at minimum wage. Following several months of this initial placement, the partner agency is then invited to hire the participant officially, but not required to do so.

This programme provides a very clear structure for how the capitally (and ideologically) unproductive, in this case victimized trans women (predominantly of colour), are to be recuperated by the nation-state. The demands of this programme outline how one is to access productive citizenship. Rather than regard citizenship as a simple 'rights and duties' model, I employ here a definition of citizenship that demands 'the performance and contestation of the behavior, ideas, and images of the proper citizen' (Manalansan 2003: 14). Indeed, one is not simply born into citizenship; one must actively cultivate and reproduce ideologies sanctioned by the nation-state.

In short, the Mayor's solution to curb violence against trans feminine bodies of colour functioned to create a binary wherein some are granted the opportunity to claim biopolitical worth at the cost of divorcing themselves from a community that is to be left at the necropolitical wayside. This form of 'reclamation' while superficially rendering these subjects of potential worth, instead functions as a form of 'differential exclusion' (building on Sanchez 2004).⁸ That is, rather than 'including' these subjects within a typography of biopolitical worth, as 'differential

inclusion' would function, differential exclusion 'focuses on those groups whose labor is disacknowledged entirely, and who are consequently organized relative to categories of criminality and to their exclusion as subjects of labor and biopower' (Sanchez 2004: 861). In this context, Project Empowerment always-already situates certain subjects as unproductive and, as Project Empowerment graduates can attest to, the failure to secure gainful employment following the end of the programme then stands to reiterate the failure of the subject to become biopolitically worthy.

Project Empowerment, as a singular solution, fails to address the structural violences that promote the ongoing victimization of trans feminine bodies in the streets. Significantly, Gray did not offer to reconsider how the PFZs force women into working more isolated and dangerous areas or how DC's own policies are facilitating the wrongful criminalization and death of trans women in the streets. Instead, his administration offered up a way the women could redeem themselves, as potential citizen-worker bodies, further implicating the violence against trans feminine bodies as earned, if not deserved.

Productive death: necronationalism and trans feminine bodies of colour

The ways in which DC officials have managed the violence against visible trans feminine bodies of colour within DC landscapes represents a form of what I discussed as necronationalism. As an extension, the ways LGBT groups have ignored this violence – deaths within their own community – reflect homonecronationalistic work. Importantly, homonormativity reproduces the heteronormative 'ideology of American individualistic liberalism' rather than attempting to 'queer' notions of the 'good citizen' (Seidman 2001: 323). Those bodies failing to engage in a homo 'recourse to normality' (Aizura 2006:3 02) are thus denied access to queer citizenship.

While the issues raised by participants in their narratives and maps in this project ranged across a wide array of topics and issues, rarely, if ever, did participants express concern over the topics most national LGBT civil rights groups focus on: the right to serve in the military, getting married to their loved one, adopting children, or even the impact of hate crimes legislation – all political mainstays for the US' largest national LGBT rights organizations (the Human Rights Campaign, HRC 2011, Gay and Lesbian Alliance Against Defamation, as indexed through the repeated use of 'equality', GLAAD 2012, the National Gay and Lesbian Task Force, as reflected by topics of publications and research, NGLTF 2012; and Parents, Families and Friends of Lesbians And Gays, as issues that relatives and allies of LGBT people should be concerned with, PFLAG 2012). Contrasted to these issues, the spatial depictions collected in this project, and the discussions that emerged around them, focused on issues of employment, access to health and legal resources, violence and trans coalitional support and empowerment. Additionally, at the local level, groups and organizations that are intended to support LGBT persons were criticized for their lack of trans specificity or support. When set in

conjunction with the silence from groups such as HRC, GLAAD and PFLAG after any of the murders of trans women in DC from 2010 to 2011, this reflects a larger structural lapse of meaningful and productive inclusion of the ‘T’ in LGBT for all trans subjects and perhaps, more importantly, how homonationalism functions in conjunction with necropolitics to support the exceptionality of death for those ‘T’s not ‘worth’ caring for. The refusal of the nation-state, or many queer publics, to acknowledge and attend to the relentless pain inflicted on these bodies and minds reflects an engagement with nationalistic ideologies that find these bodies to be ideologically and capitally unproductive. The continued revitalization of this violence, set alongside lukewarm governmental concern, serves to continually resituate trans feminine bodies of colour as not only criminal bodies, but as acceptably disposable bodies *and* subjects.

Epilogue: the ‘living dead’ and the dead living

One of the participants of a needs assessment project I helped conduct is now dead. She⁹ was murdered. Early one morning, still blowing the hot mist rising from the glossy black surface of my morning coffee, I came across this fact. In that terrible moment, my own vitality thrust out against her death, my heart pounded and an arid desert spread through my mouth. I gripped my searing hot mug in my hands, letting the heat sting my skin while I stared back at the images and words staring at me. As the member of the group responsible for maintaining the confidential records of who participated in the project I was, in that moment, the only one who knew how specific elements of her private life story bled into the public narrative of her death story. I was overwhelmed. I desperately wanted to share this now bridged narrative of two disjointed stories: how her life articulated with her death in truly painful ways. But, who was I to decide how, and why, confidentiality might be broken? Who was I to decide what elements of her life should be linked to her death? What are we to do with the death stories of those who had only consensually offered their life stories? Had she died so that others might live? I spent several days struggling to determine how my own ethics articulate and contradict, as an anthropologist, an activist, and as a white, gender normative appearing male, enabled with all the power and privilege afforded to the segment of the trans community of which I am a member.

I raised these questions during a meeting with local trans community members and activists involved with the needs assessment project. Instead of finding clarity in that room I was reminded of how high the stakes really are, and how the death of a friend, a niece, a daughter or a complete stranger is both an opportunity to loudly mobilize and the time for respectful silence. As the conversation began, suggestions were delicately offered: ‘What if we just don’t connect their map to their death? Would that be enough anonymity?’ ‘As long as we didn’t use their actual name, it should be okay, right?’ But as each voice added to the growing din of ethical and moral confusion, the sense of where the grey area began and ended was increasingly smudged. ‘What if we ask her family what they want?’, one person

added, only to be swiftly cut short with a stern and hurt, 'Her family hated her.' The voices grew louder, at times choking over the words, tears began to flow and some sought comfort in the shoulders near them. There was no clear answer. There was no distinct right and no distinct wrong. Her death had been her death and her life had been her life. Our choices to make either productive in her absence stem out of our own desires: she can neither consent nor deny our desires to render vitality out of that which is no more. Instead, we are left with the macabre paradox of how to manage death with so much life at stake. At the close of that meeting, Carla, a Latina trans woman and a veteran and pioneer of trans activism in DC for the past 30 years left us with these words of wisdom: 'We wouldn't be where we are today if we hadn't been using the bodies of the dead to get us here.'

Indeed, violence, precarity and death are, to activists like Carla and to many of the clients of HIPS and other direct service agencies in DC, a reality of daily life. Necropolitics, for Carla, and perhaps even for the academics engaging with it, transforms death into productive entry points for engaging with structural violence and systemic inequity. Yet, rather than utilize the death of some trans subjects to represent trans loss through imperialist projects of reclamation (as discussed in Lamble 2008) or as the opportunity to simply mourn the loss of life, activists like Carla have identified how to structure dying and death into platforms of change for the living. Even within the barren death worlds and inside a seeming wasteland of corpses, fissures can be wrenched open through which vitality, and life, emerge.

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Notes

- 1 DC-based trans and sex worker activist Darby Hickey discusses the use of this phrase as borne out of the 'almost constant profiling of transgender and transsexual women (particularly women of color) as sex workers by police' (Hickey 2008).
- 2 Throughout this chapter, I intentionally refer to the body of the subject, rather than the subject, in contexts where I want to highlight the situated reduction of subjectivity to flesh. That is, in contexts where the subject is denied subjectivity, such as in the criminalization and hyper-embodiment of trans feminine persons of colour, I make reference to this body within the text. My appreciation to Morgan Bassichis for noting this distinction.
- 3 In this 26 August 2011 event, off-duty police officer Kenneth Furr solicited sex from the trans women of colour, whom he eventually shot at in the car. After refusing his solicitations, they were threatened with a gun by Furr, leading to a series of events wherein they, accompanied by several friends, were trapped in a car with Furr who shot directly at them while he stood atop the hood of the car. Ultimately, Kenneth Furr was found guilty in October 2012 of only two of the eight charges filed against him – assault with a dangerous weapon and solicitation of prostitution – and would serve only a suspended sentence of 14 months, the time he spent awaiting trial, of a three-year and 30-day prison sentence. At the time of writing, February 2013, Furr, while only facing a three-year probation for his attacks, has indicated he is appealing the conviction (Riley 2013).
- 4 As exemplified in Bassichis and Spade, in this volume.
- 5 As recounted by Darby Hickey in her discussion of the phrase, personal communication. My appreciation to Jin Haritaworn for stressing the implicit racialization of this phrase.
- 6 I have reformatted the original print of this statement to allow a more focused reading on ideological frames.
- 7 As context, 19 per cent of participants were male identifying, FTM or identified within a trans masculine spectrum. 80 per cent of participants were female identifying, MTF or identified within a trans feminine spectrum. 81 per cent of participants self-identified as people of colour, while 19 per cent identified as white. Among those that identified as people of colour, 31 per cent of participants identified as Latina/o and 50 per cent identified as African American or black. The reported ages of participants ranged between 18 to 83, with a mean reporting age of mid-30s. All demographic information was provided by participants during the data collection process. Not all individuals included the most popular demographic features within their self-identification.
- 8 My gratitude to Silvia Posocco for identifying the utility of differential exclusion in this context.
- 9 To be clear, this is not to claim, or deny, this was a trans feminine-identifying person.

Queer politics and anti-blackness

Morgan Bassichis and Dean Spade



Figure 9.1 Poster from a protest following the passage of California's Proposition 8 same-sex marriage ban

Photo by Lydia Marcus

In his article 'People-of-Color-Blindness: Notes on the Afterlife of Slavery', Jared Sexton writes:

Every attempt to defend the rights and liberties of the latest victims of state repression will fail to make substantial gains insofar 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 anti-black civil society and further capitulation to the magnification of state power.

(Sexton 2010: 31–56)

Countering the popular fantasy that the 13th amendment marked the end of slavery's reign, Sexton, along with Saidiya Hartman, Frank Wilderson, and others, have articulated what Hartman calls 'the continuities of slavery and freedom' (Hartman 1997: 13) – the ways in which the legal, social, political and emotional structures of slavery have been re-inscribed throughout an allegedly post-slavery society (and its global neoliberal dominion), highlighting how anti-blackness constitutes the condition of possibility for the United States itself. Within this predicament, Sexton argues, social movements of non-black people invariably are compromised by seeking redress from a political system hell-bent and built on the destruction of black life.

The poster in Figure 9.1 – from a protest following the passage of California's Proposition 8 same-sex marriage ban, which we will come back to throughout this chapter – illustrates one way in which this contradiction plays out within LGBT politics.¹ Notice two things: first, that the poster lists simply 'African-American' in its to-do list – instead of, perhaps, 'African American Rights' – and second, that there is a check mark beside it, signalling its completion. What was perhaps an oversight by its author points to the widespread notion that black people having rights is both redundant (already done) and oxymoronic (impossible). In effect, black people are the paradigmatically progressed population and at the same time incapable of advancing on the path of progress. Gay rights (which apparently have no overlap with either women's rights or 'African Americans'), on the other hand, are both possible and unfinished. And so the proclamation resounds: 'Gay is the New Black!'²

Wilderson invites us to understand anti-blackness as the precondition for this contradiction:

[C]oalitions and social movements – even radical social movements such as the prison abolition movement, bound up in the solicitation of hegemony so as to fortify and extend the interlocutory life of civil society – ultimately accommodate only the satiable demands and finite antagonisms of civil society's junior partners (i.e. immigrants, white women, and the working class),

but foreclose on the insatiable demands and endless antagonisms of the prison slave and the prison slave-in-waiting.

(Wilderson 2007: 23)

The 'supplemental anti-blackness' of the United States' 'junior partners' – those whose grievances might be redressed, however incompletely, by 'rights', to which we might add non-black LGBTQ people – functions hand in hand with the systematic state and para-state violence targeted at black people. The tactics of 'crowding out' black claims (like we see in the poster) and the tactics of actively terrorizing black people are two wings of the same endeavour. Because 'blackness' and 'criminality' are wedded in the US lexicon, as Saidiya Hartman argues in her book *Scenes of Subjection* (Hartman 1997), any claims to *not* being a criminal – or on the flipside, to *being* a citizen – must literally be made on the backs of black people. When rights-seeking constituencies claim they are 'not criminals', they articulate their bid for inclusion through an implicit assertion that they are 'not black'. Even if the articulation is made on behalf of a group that supposedly does not exclude black members, as Sexton and Wilderson argue, such an assertion enters a system of meaning that necessarily signifies the group as non-black and appeals for a chance to participate in anti-blackness.

How might we bring these analyses to bear in our critiques of the ascendancy of neoliberal LGBT political and cultural practices? A growing number of critical thinkers such as Lisa Duggan and Jasbir Puar have worked to theorize 'homonormativity' and 'homonationalism' in the United States in an effort to disarticulate LGBT political claims from the absorptive thrall of late capital (Agathangelou, Bassichis and Spira 2008; Duggan 2004; Puar 2007). Simultaneously, we are witnessing the proliferation and expansion of visionary racial and economic justice-focused LGBT activist formations challenging the status quo of state violence and structural adjustment, both in terms of what issues and constituencies are centred within LGBT political work as well as the ways in which the process of organizing and movement building replicates racial norms and domination.³ These critiques and organizing efforts offer a vital intervention into the frightening alignment of gayness (and increasingly transgenderness) with capital. They also invite us to continue exploring the ways in which non-black LGBT political claims are produced by and reproduce anti-blackness as a foundational structure of US Americanness. This exploration helps us to situate contemporary LGBT anti-black racism – evidenced in, for example, the blaming of black voters for the passage of Proposition 8, the prioritization of sentence-enhancing hate crimes laws as a solution to anti-LGBT hate violence or the failure of the largest LGBT organizations to oppose the rapid expansion of the prison police state – as a *logical extension* of the constitutive and enduring antagonisms of slavery and its mobilization of racial-sexual norms and terror.

In the vein of critics such as Cathy Cohen and M. Jacqui Alexander (Alexander 2005; Cohen 1997: 437–465) who have persuasively theorized the ways in which both the white gay and lesbian rights framework and many strands of more

progressive queer politics participate in white supremacy's tactics of pitting 'good gays' (white, middle class, gender normative, able bodied) against 'bad queers' (black, brown, poor, and disabled, which necessarily mean gender non-normative), we want to understand how the basic assumptions, tactics, and epistemologies underlying contemporary queer political claims often unwittingly reproduce and are productive of the fundamental structures of anti-blackness, settler colonialism, and permanent war undergirding the United States itself. In this chapter, we explore the implications of Sexton's critique of anti-blackness within the domain of contemporary gay and lesbian rights politics within the US, as two white activist-scholars invested in advancing and centring anti-racism within queer and trans political work. Our work here is enabled in particular by Andy Smith's foundational essay, 'Heteropatriarchy and the Three Pillars of White Supremacy: Rethinking Women of Color Organizing' (Smith: 2006) in which she suggests that white supremacy is not singular, but operates in differentiated ways to target different populations. She describes three pillars of white supremacy – the Orientalism/war pillar, the slavery/capitalism pillar and the genocide/colonialism pillar – arguing that white supremacy enacts different technologies of violence and produces different narratives and mythologies in each of these pillars. Her work encourages scholars and activists to analyse the specificity of particular forms of racism, and acknowledge that people targeted in one pillar can also be made complicit with another through promises of inclusion and recognition. In his article 'People of Color Blindness', Sexton (2010) argues that the failure to look at the specificity of anti-black racism in the United States, and the willingness of many movements and intellectuals to do two things – to analogize other struggles to anti-black racism generally and emancipation from slavery specifically, and to speak generally about 'racism' without attention to the specificities of anti-blackness – is anti-black. While there is a great deal to be said about how contemporary lesbian and gay rights advocacy participates in all three pillars Smith describes, as well as about how settler colonialism is indeed foundational along with slavery in the fabric of US Americanness, in this chapter we want to look at the specific ways that particular US anti-black logics, methods and institutional arrangements are mobilized by some recent campaigns and events that illustrate Sexton's concerns about how movements that fail to contest anti-blackness participate in it. We look specifically at the focus on reproduction, legal redress, and analogy within gay and lesbian politics as three key sites that illustrate these investments. Critiques of anti-blackness, ultimately, are necessary to elucidate white supremacy's 'queer' junior partnerships, the 'contradictions of coalitions between workers and slaves' (Wilderson 2007: 33), the ghostly 'continuities of slavery and freedom' (Hartman 1997: 13), and the ways in which the unspeakable violences at the core of the US refuse to be subdued by the latest proclamation of their completion or replacement.

Reproduction

Saidiya Hartman has argued that the transatlantic slave trade constructed a notion of blackness that is fundamentally *fungible* and *criminal*, making blackness permanently available for the 'full enjoyment' of white people and making black people always already guilty in the eyes of the law, incapable of being violated (Hartman 1997). The civil and social death of black people forms the basis on which white life and citizenship become knowable, their compass and their shadow. Whiteness must be constantly yoked to the future and victimhood while blackness must be yoked to death and pathology. The story of endangered white futurity and dangerous black negativity – the sexual politics that motors anti-blackness – can be found on every channel. Lauren Berlant has explored how the celebrated figure of the feminized white child at risk of racialized violence in the post-Reagan years has been mobilized to justify claims to state protection and citizenship (Berlant 1997). Joy James has written about how the widely accepted justification for lynching as the sexual threat posed by black men to white women and their progeny (as well as the erasure of sexual violence against black women) has been recalibrated in the contemporary demonization and 'high-tech lynching' of black men in high-profile legal cases in which white women have been raped (James 1996). These are just a few of limitless versions of this same narrative.

Cue the gay remix! Gay and lesbian claims to imperilled domesticity, privacy, and kinship (popular in earlier homophile organizing but renewed with a fervour since the 1990s) illustrate the capaciousness of white supremacy to mutate these key 'founding' figures – now it is the wounded white gay citizen who requires state inclusion and protection to ensure his successful reproduction. These claims, remember, come amidst and in the wake of ongoing efforts from the right wing to cathect gayness to pathology, murder and non-reproductivity (Bersani 1987: 197–222; Delany 1994; Sontag 1989) – qualities usually reserved for blackness – with the emergence of HIV/AIDS. A few illustrations of the powerful mobilization of white futurity within contemporary gay and lesbian politics are useful. First, we point to the widely popular 'It Gets Better' project, started by author Dan Savage and his husband Terry Miller in response to a series of publicized suicides of queer youth, encouraging teens that life does indeed improve. Thousands of people responded to their initial video by making their own videos sharing this message of future improvement, and eventually over 22,000 videos were collected on the 'It Gets Better' website, including ones created by gay and lesbian police officers and the president of the US himself (Savage 2013). A book of essays from the project was released in 2011. In the original video, Savage and his husband, two white non-trans gay men, describe their high school years where they faced bullying for being gay. They then describe how their lives got better after high school because their natal families came to accept and include them, they met each other and adopted a child. Savage shares a memory of walking around Paris with their child and Miller talks about their love of and accomplishments at snowboarding as a family. The two earnestly address an audience of

12–17-year-old viewers, urging them that their lives will get better after high school. Speaking about bullies and bigots, Savage states ‘Once I got out of high school, they couldn’t touch me anymore.’

The project illustrates how a form of gayness implicitly linked to whiteness and upward mobility stakes its claim to the future. After all, for whom will it get better? And what kind of better does it get? When we consider this directive that life gets better against the backdrop of the systemic imprisonment, police murder and state abandonment of black people at every age, we can see how it is white suffering that this campaign aims to make legible as worthy of protection. Black suffering, as Jared Sexton has articulated in his analysis of Hurricane Katrina (Sexton 2006), is unspectacular, banal, self-induced, a cause for, if anything, shame or fascination, not redress. Savage’s assertion that his departure from high school protected him from the reach of homophobic violence is certainly indicative of a white-owning class trajectory of matriculation. What guarantees can be given to those who will remain in the grasp of foster care systems, homeless shelters, psychiatric facilities, jails, prisons, and immigration detention centres, regardless of their age? Savage’s story generalizes a particular narrative in which white queers can ‘escape’ homophobia by moving to gay enclaves in urban areas, a trajectory out of reach for so many queer and trans people who will remain targets of policing and immigration enforcement, even and perhaps especially in white gay neighbourhoods where they are read as dangerous outsiders (Hanhardt 2008).

The fantasy of life ‘getting better’ imagines ‘violence’ as individual acts that ‘bad’ people do to ‘good’ people who need protection and retribution from state protectors (law enforcement, policymakers, administrators), rather than situating bodily terror as an everyday aspect of a larger regime of structural racialized and gendered violence congealed within practices of criminalization, immigration enforcement, poverty, and medicalization targeted at black people at the *population* level – from before birth until after death – and most frequently exercised by government employees. It is not a leap to see, then, how this cultural politics of naturalizing the premature death of black people produces a benevolent thrall for white gays and lesbians to adopt black children. White gay and lesbian politics must remain silent on anti-black racism, must position itself as anything *but* black, to keep its place in line for the future.

A second example of white gay and lesbian politics staking its claim to the future on the backs on black people can be seen in the prominent discourse that blamed black voters for the passage of Proposition 8 in California (L.A. Now; 2008 McCullom 2008). US white gay and lesbian advocates regularly used the language of being ‘second class citizens’ (Farrow 2005),⁴ invoking the metaphor of US racial apartheid under Jim Crow laws to demand equality and decrying the fact that in some jurisdictions same-sex relationships are recognized as civil unions or domestic partnerships rather than being called marriage. In fact, the case that led to Prop 8 was entirely about this linguistic issue because California’s domestic partnership law already granted the material benefits of marriage within the state to

same-sex couples prior to the case.⁵ Dan Savage was one of the noteworthy commentators who illustrated the popular anti-black sentiment much underlying Proposition 8 protest, writing on 5 November 2008: 'I'm done pretending that the handful of racist gay white men out there – and they're out there, and I think they're scum – are a bigger problem for African Americans, gay and straight, than the huge numbers of homophobic African Americans are for gay Americans, whatever their color' (DiMassa and Garrison 2008; Vick and Sundrin 2008).

There are a number of ways in which anti-blackness operates in this widely circulated discourse. First, the depiction of black homophobia as disproportionate to white homophobia is a common trope, part of an articulation of blackness as adverse to sexual modernity, and whiteness as predisposed towards it. This notion produces blackness as 'straight' and gayness as white and increasingly non-black, erases the existence of black queers, and affirms the exceptionalism of whiteness against the 'backwardness' of blackness.

Second, the articulation of this blame with regard to same sex-marriage advocacy buries the fact that marriage itself is anti-black, functioning to reproduce the intergenerational transmission of white wealth, and consistently operating in US law and politics as a method of policing and controlling black people (Farrow 2005). After denying the recognition of family ties to black people during the period of explicit governmental recognition of chattel slavery, in the period immediately after formal legal emancipation the Freedman's Bureau put significant effort into encouraging marriage for the newly free as a 'civilizing element' (Farmer-Kaiser 2010) for a population that whites feared and sought to contain and control. Marriage was seen as key to turning former slaves into wage workers through the enforcement of patriarchal family formation norms (Farmer-Kaiser 2010). The enforcement of those norms, and the depiction of black families as pathologically non-marital and female-headed continued – the infamous Moynihan Report is an oft-cited example of this argument – justifying anti-black, anti-poor policy interventions through this logic (Moynihan 1965). Anti-illegitimacy laws that prevented children born out of wedlock from accessing certain benefits and privileges have been used in the US to specifically target black people for exclusion, especially in the post-*Brown* period when more explicitly race-based legislation became less available (Mayeri 2011).⁶ These anti-black ideas about the value of marriage have also been prevalent in the period of the dismantling of poverty alleviation programmes in the US since the Reagan era, where drastic and harmful policy changes have been justified by the mobilization of sensationalist images of black unwed mothers receiving public benefits. Poverty has been effectively blamed on the failure to marry and 'marriage promotion' programmes have been funded to target people on public benefits with the racialized idea that marriage, as a moral activity, will alleviate poverty and dependency on public aid.⁷ Given the long history of marriage as a form of social control targeted at black people and used to produce the demonization of black people that rationalizes various schemes of criminalization and abandonment, the depiction of same-sex marriage by white gay and lesbian rights politics as a question of 'equality' alongside the accusation

that it was black voters who prevented white gay and lesbian people from achieving marriage rights in California are simply the most recent installments in a much longer trajectory of anti-black American marriage politics.

Third, the widespread call to 'build coalitions' between (non-black) gay people and (straight) black people in the wake of Proposition 8's passage performed what Wilderson calls a 'crowding out' of black political claims. The assessment that the strategic error in the anti-Proposition 8 campaign was a lack of black voter education and mobilization misunderstands the relationship between non-black gay and lesbian politics and black politics. Dominant gay and lesbian politics over the past three decades have either explicitly or tacitly supported nearly every site of black abjection and abandonment – namely, privatization, militarization, and criminalization. In particular, gay and lesbian politics' unwillingness to oppose policing and prison expansion has been a key faultline demonstrating its dissonance with the demands of black politics. When black people's lives and deaths are centred in analysing barriers to reproduction, the centrality of marriage quickly dissipates to reveal civil society itself – including but not limited to police, prisons, courts, schools, social services, foster care, child protective services, public benefits and more – as sites of what Dylan Rodriguez describes as the mass-based immobilization and routinized terror of black people, determining the life chances of current and future black generations (Rodriguez 2006). From this view we can understand that it is not merely a coincidence that gay and lesbian rights politics has, in many ways, championed the existence (including the reform) of the US prison regime. We can see this only most explicitly in two decades of hate crimes legislation lobbying, police training, increased police presence in 'gayborhoods' (Hanhardt 2008: 61–85), and enmeshment with criminal legal victim advocacy frameworks, as well as the silent support for endless prison construction, law enforcement–immigration collaboration, and police militarization.

The prison regime – the decentralized complex of institutions and practices that permeates all of civil society and works to liquidate black life – is a key way that slavery has been re-inscribed after its purported 'abolition'. How non-black social movements relate to this regime, then, is an important illustration of the 'contradictions of coalitions between workers and slaves' (Wilderson 2007), the diverging demands, claims, and strategies among those meant to work and those meant to die. Most non-black social movements and particularly white social movements have invariably bolstered, normalized and extended this regime, either explicitly or by challenging only its 'excesses' instead of its fundamental existence.

We have attempted to illustrate how the cultural politics defending white gay and lesbian reproduction is enabled by the ongoing exclusion of black people from the future. From this place, we want to move to think about how attempts to be recognized by law extend these fundamental antagonisms.

Law

Any account of the anti-black framework of the gay and lesbian rights project must identify the centrality of claims to what critical race theorists call 'formal legal equality' as a key technology of its anti-blackness. Gay and lesbian rights politics, which is the most legible contemporary anti-homophobic and anti-transphobic resistance, centres on and limits itself to recognition and inclusion claims to be achieved through legislation and litigation that knock down formal barriers to 'equal citizenship' in neoliberal terms. This means access to military service, decriminalization of sodomy (but not anything else that is criminalized), the ability to register a marriage of two same-sex partners, and the listing of sexual orientation in hate crimes and anti-discrimination laws. In official terms, these legal 'fixes' are said to guarantee freedom, liberation and equality. In plain terms, they promise to make sure white gay and lesbian people can pass on their stolen wealth as they choose when they die, call the police to defend it, endorse invading armies to expand it, and protect it from taxation. White gays and lesbians seek to more fully redeem the promises of white privilege – to overcome the hurdles they face when attempting to fully enjoy the spoils of colonialism and white supremacy that can be hard to reach because of how they are constructed through heteropatriarchy. The legal reforms they seek refine (rather than eradicate) the heteropatriarchal racial and colonial enforcement of gender and sexuality norms, slightly adjusting the lines of who is inside and outside the state-sanctioned forms and can reap their numerous material benefits. These reforms utterly fail to contest the arrangements of anti-blackness, thereby endorsing, legitimizing and expanding it in the name of 'equality'.

The unabashed thrust of gay and lesbian politics to achieve equality under the law continues despite long-standing critiques of the limitations of such legal equality projects by women of colour feminism, critical race theory, critical disability studies and indigenous scholars and activists. Table 9.1 illustrates the ways in which the rhetorical arguments mobilized by gay and lesbian rights discourse rely on and extend foundational racial narratives justifying black premature death.

Legal equality arguments require those making them both to articulate existing legal structures as generally fair and neutral *but for* the exclusion focused on and to portray the excluded group as a population that deserves inclusion. This work constructs desirable and undesirable populations, those deserving a chance at life and reproduction and those whose exile, imprisonment or death is acceptable or even important for the survival of the nation. Mobilization of images of white gay and lesbian families as 'hard working' invokes the anti-black logics of 'cultures of dependency', distinguishing the constituents of gay and lesbian rights politics as *not* public benefits recipients. Claims that gay and lesbian people are crime victims assert that constituents of this politics are on the 'right' side of the white innocence/black criminality divide. The articulation of white gay and lesbian populations as 'gay Americans' suggests a patriotic citizenship that suggests membership in racial national norms that consistently operate at the expense of black life. The central

Table 9.1 Foundational racial narratives justifying black premature death

<i>Rhetorical arguments advocating (white) gay and lesbian legal equality</i>	<i>Foundational and default racial narratives mobilized by the state and civil society to describe black people</i>
Hard-working and property-owning targets of discrimination deserving employment and wealth protections (Steinberger 2009)	Lazy and dependent drains on civil society incapable of assimilating into productive workers
Good, non-abusive, well-resourced parents deserving legal protection (Gates, Lee Badgett, Macomber and Chambers 2007) ^a	Neglectful, abusive, culturally regressive parents deserving punitive policing and forced removal of children
Crime victims deserving state protection offered by police, prisons, courts, child welfare, immigration enforcement, psychiatric systems ^b	Crime perpetrators deserving state containment and slow/immediate death from police, prisons, courts, child welfare, immigration enforcement, psychiatric systems
Vulnerable students needing the protection of school administrators	Delinquent and dangerous pre-criminals needing the policing of school administrators and/or law enforcement

a 'Same-sex couples raising adopted children are older, more educated, and have more economic resources than other adoptive parents' (Gates, Badgett, Macomber and Chambers 2007: i).

b In recent years, many writers have examined the problematic engagement of lesbian and gay rights politics with victims' rights frames and hate crime statutes specifically, centring the criminalization of queer and trans people of colour as a key concern. (See, e.g. Bassichis (2007); Coolman, Glover and Gotsch (2005); Lee (2004); Mogul, Ritchie and Whitlock (2011); Whitlock (2001).)

role of formal legal equality in the gay and lesbian rights framework requires, of course, these investments and belongings because the legal system itself, as so many movements and theorists have shown, establishes and maintains racialized-gendered property statuses (Chin 2002: 1–63; Gomez 2007; Harris 1996; Ngai 2004; Omi and Winant 1986; Smith 2006). Declarations that the state is racially neutral and, in the cases of hate crimes laws and anti-discrimination laws, a benevolent protector *against* racism, function to expand and instantiate the apparatuses of punishment, containment, and exploitation structuring black life and death. Uncritically seeking inclusion in such frameworks – trying to get the 'equality' that has purportedly been granted 'already' to black people by such laws – invests gay and lesbian rights politics in the anti-black national narrative that racism has been resolved by law and that law reform is the way to resolve the complaints of marginalized or excluded populations.

Critical race theorists have helped identify the inadequacy of the discrimination principle that is central to the failing of 'formal legal equality' to deliver material relief from racism. The discrimination principle conceptualizes racial harm as

individual manifestations of bias in activities like hiring, firing, leasing, selling or serving (Freeman 1996). This approach to understanding and addressing racism relies on at least two harmful assumptions. The first is that race consciousness (on the part of both people of colour and white people), not intergenerational structures of white supremacy, is the problem that the law must eliminate (leaving 'colour-blindness' in its place, contributing to the dismantling of programmes seeking to address racial disparity such as affirmative action).⁸ In the absence of explicit, intentional exclusion, courts rarely find a violation of discrimination law. Most black people who have been denied a job, apartment, or access to public accommodation cannot produce evidence of intent required, not to mention that most people for whom such losses might produce the worst consequences cannot afford an attorney (Legal Services Corporation 2007). The second faulty assumption underlying the discrimination principle is that the law itself can remedy the most significant conditions of white supremacy. The broad conditions of extreme racial disparity in access to housing, employment, education, food and healthcare, and severe disproportionality in criminal punishment, environmental damage and immigration enforcement, are cast as natural and inevitable by the discrimination principle. When racist harm is framed as a problem of aberrant individuals who discriminate and when intention must be proved to find a violation of the law, the background conditions of white supremacy are implicitly declared neutral. In the US, this has been accompanied by a robust discourse that blames black people for their poverty and criminalization, a logical leap required when colourblindness has been declared and racism has been defined so narrowly as to exclude it from being blameworthy in the most widespread conditions of maldistribution.

Critical race theorists have supplied the concept of 'preservation through transformation' to describe the neat trick that civil rights law performed in this dynamic (Harris 2007: 1539–1582; Siegel 1997: 1111–1148). In the face of significant resistance to conditions of subjection, law reform tends to provide just enough transformation to stabilize and preserve status quo conditions. In the case of widespread black rebellion against white supremacy in the US, civil rights law and colourblind constitutionalism have operated as formal reforms that masked a perpetuation of the status quo of violence against and exploitation of black people. Explicit exclusionary policies and practices became officially forbidden, yet the distribution of life chances remained the same or worsened with the growing racialized concentration of wealth in the US, the dismantling of social welfare, and the explosion of criminalization that has developed in the same period as the new logic of race neutrality has declared fairness and justice achieved. Lesbian and gay rights politics' reproduction of the mythology of anti-discrimination law and the non-stop invocation of 'equal rights' frameworks by lesbian and gay rights politics marks an investment in the legal structures of anti-blackness that have emerged in the wake of *Brown*. The emergence of the demand for LGBT inclusive hate crime laws and the accomplishment of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act as a highly lauded federal legislative 'win' for lesbian and

gay rights offers a particularly blatant site of the anti-blackness central to lesbian and gay rights – literally an investment in the expansion of criminalization as a core claim and desire of this purported ‘freedom’.⁹ In the context of the foundational nature of slavery in US political formation, it is perhaps not surprising to see a political formation of white ‘gay and lesbian Americans’ articulate a demand for freedom that is contingent on the literal caging of black people.

The fantasy that formal legal equality is all that is needed to eliminate homophobia and transphobia is harmful not only because it participates in the anti-black US progress narrative that civil rights law reforms resolved anti-blackness in the US (thus any remaining suffering or disparity is solely an issue of ‘personal responsibility’),¹⁰ but also because it constructs an agenda that is harmful to black queer and trans people and other queer and trans people experiencing violent systems mobilized by anti-blackness. Formal marriage rights will not help poor people, people whose kids will be stolen by a racially targeted child welfare system regardless of whether or not they can get married, people who do not have immigration status or health benefits to share with a spouse if they had one, people who have no property to pass on to their partners, or people who have no need to be shielded from estate tax. In fact, the current wave of same-sex marriage advocacy emerges at the same time as another pro-marriage trend, the push by the right wing to reverse feminist wins that had made marriage easier to get out of and the Bush-era development of marriage promotion programmes (continued by Obama) targeted at women on welfare (Adams and Coltrane 2007: 17–34; Alternatives to Marriage Project 2007; Coltrane and Adams 2003: 363–372; Feld, Rosier and Manning 2002: 173–183; Pear and Kirkpatrick 2007; Rector and Pardue 2004). The explicitly anti-black focus of the attacks on welfare and the mobilization of racialized–gendered images to do this go hand in hand with the pro-marriage gay rights frame that similarly invests in notions of ‘personal responsibility’, and racialized–gendered family formation norm enforcement. The articulation of a desire for legal inclusion in the explicitly anti-black, anti-poor governance regime of marriage, and the centralization of marriage rights as the most resourced equality claim of gay and lesbian rights politics, affirms its alliance with anti-blackness.

It is easy to imagine other queer political interventions that would take a different approach to concerns about parental rights, child custody and other family law problems. Such approaches centre the experiences of queers facing the worst violence of family law, those whose problems will not be resolved by same-sex marriage – parents in prison, parents facing deportation, parents with disabilities, youth in foster care and juvenile punishment systems, parents whose children have been removed because of ‘neglect’ due to their poverty. The choice of seeking marriage rights, like the choice to pursue hate crime laws rather than decriminalization, the choice to pursue the Uniting American Families Act¹¹ rather than opposing immigration enforcement and the war on terror, the choice to pursue military service rather than demilitarization, is a choice to pursue a place for white gay and lesbian people in constitutively anti-black legal structures.

Analogy

The centrality of legal equality claims to gay and lesbian rights politics and the specific investment of them in accessing and expanding key institutions of anti-blackness is often accomplished through the deployment of a 'like black' civil rights analogy. Sexton observes that this analogy is a key technology of anti-blackness in non-black social movements. He describes the 'peculiar, long standing and cross-racial phenomenon' where a range of struggles allegorize themselves to revolts against slavery, meanwhile the suffering of black people during slavery and its afterlife is something perpetually figured as already known and addressed, not needing to be further discussed, and of course, mainly historical (Sexton 2006: 42).¹² Sexton writes:

The metaphoric transfer that dismisses the legitimacy of black struggles against racial slavery (and . . . its 'functional surrogates') while it appropriates black suffering as the template for nonblack grievances remains one of the defining features of contemporary political culture.

(Sexton 2006: 42)

White gay and lesbian rights advocates and the lawyers who lead their charge consistently analogize the gay and lesbian rights struggle to the black civil rights movement. Examples abound. *Lawrence v Texas*, the Supreme Court decision finding sodomy statutes unconstitutional, was lauded as 'our *Brown v Board of Education*' (Graff 2003). Same-sex marriage advocates consistently analogize their struggle to *Loving v Virginia*, the 1967 case in which the Supreme Court declared anti-miscegenation laws unconstitutional (American Foundation for Equal Rights (n.d.); Capehart 2011; Farrow 2005; Klarman 2005: 485–86; Pascoe 2004; Rosenfeld 2007). More broadly, the articulation of the fight for same-sex marriage or gay and lesbian rights generally as a 'frontier' of civil rights (Beavers 2000: 31–33; Colvin 2011; Marquez 2008; Seltzer 2011; Tolbert and Smith 2006), or sometimes 'the final frontier of the civil rights movement' (Marco n.d.; May-Chang 2008). This analogy, of course, heavily relies on the idea that the civil rights movement successfully freed black people and made them equal, thus gay and lesbian rights can be framed as the 'new frontier' since the others have been accomplished. Recall that decisive check mark next to 'African American' on the poster we invoked earlier: the trope maintains that 'other' populations (especially black people) have been freed by legal equality and now it is time to complete the project of American freedom by granting legal equality to (apparently non-black) lesbian and gay people. The triumphant and well-circulated claim that 'Gay is the New Black' performs dual labour: first, it disappears the unspectacular and enduring conditions of black suffering that persist in the neoliberal era. Second, it appropriates the apparently satisfied struggle of black people. Remember that it does not say 'Gay = Black', but that 'Gay is the *New Black*'—its suffering exhausted, passé, black is no longer 'black enough'. Black, not needing to be black anymore, has now

objectively *passed on* its reference point to gay, which is not black, and which apparently needs it more.

What does it mean, then, for queer politics to reckon with the ‘insatiable’ demands of black liberation? Wilderson articulates black liberation as ‘a politics of refusal and a refusal to affirm, a “program of complete disorder”’ (2007: 32). Today’s gay and lesbian rights politics is a critical illustration of the ways in which slavery’s afterlife is maintained and recuperated, as well as a painful demonstration of Sexton’s assertion that any resistance politics that ‘forfeits or sidelines the fate of blacks’ invests in anti-blackness and becomes a site of its expansion. It is inside this predicament that we struggle to advance, already compromised, the unfinished project of abolition.

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Notes

- 1 We thank Prof. Russell Robinson for drawing our attention to this poster in his presentation at the 2011 Association of American Law Scholars annual meeting.
- 2 The gay magazine, *The Advocate*, appeared with a black cover with white text reading 'Gay is the New Black?: The Last Great Civil Rights Struggle' on its November 2008 issue, just after the election cycle that brought Barack Obama to the White House and saw the passage of Proposition 8, rescinding the legalization of same-sex marriage, in California.
- 3 FIERCE! and the Audre Lorde Project in New York City and Southerners on New Ground (SONG) in the south are three of many examples of LGBT political efforts that have emerged over the last decade that centralize racial and economic justice issues over legal equality ones and community organizing strategies over legal reform-focused ones.
- 4 Kenyon Farrow discusses the use of this term by 'countless well-groomed, well-fed white gays and lesbians on TV' as part of his analysis of the analogy often made in white lesbian and gay rights advocacy between its own efforts and black suffering and resistance (Farrow 2005: n.p.).
- 5 The judicial decisions in the litigation challenging Proposition 8 provide an insight into the ways that same-sex marriage advocacy has been a source of rejuvenation for the institution of marriage itself, long challenged by feminist and anti-racist movements as a site of harmful racialized-gendered norm enforcement, control and maldistribution. The decisions in *Perry v Brown*, in which first a district court and then the 9th Circuit Court of Appeals struck down Prop 8, are lengthy arguments about the importance of marriage to society and human dignity. Both decisions find that although Prop 8 only denies same-sex couples the title 'marriage' since the material benefits of marriage are available under California's domestic partnership statute, the denial of 'marriage' status is unacceptable. To do so, the judges spill a great deal of ink arguing for the symbolic significance of marriage. Judge Reinhardt invokes many unsubstantial romantic clichés about marriage, mostly the ones about its relationship to human dignity and its recognition of enduring bonds of mutual care. The mystique of marriage, long critiqued by feminists and queers naming violence inside the family and resisting rigid gender roles and compulsory heterosexuality, is central to his reasoning, as he discusses the excitement of witnessing public marriage proposals 'whether on bended knee in a restaurant or in text splashed across a stadium Jumbotron'. He writes, 'The name "marriage" signifies the unique recognition that society gives to harmonious, loyal, enduring, and intimate relationships . . . We do not celebrate when two people merge their bank accounts; we celebrate when a couple marries . . . It is the principal manner in which the State attaches respect and dignity to the highest form of committed relationship and to the individuals who have entered into it.' *Perry v Brown*, 671 F.3d at 1078 (9th Cir. 2012). This embrace of the romantic mystique of marriage, and dismissal of the material realities of marriage as a racialized-gendered system of distribution of healthcare, immigration status, wealth and other arrangements of survival, is accompanied by a romanticized notion of legal marriage as a system that has been reformed to be fair, and now requires an additional reform – inclusion for same-sex couples – to serve its true role of affirming human dignity and supporting loving and caring relationships. Judge Walker writes, 'Race and gender restrictions shaped marriage during eras of race and gender inequality, but such restrictions were never part of the historical core of the institution of marriage.'
- 6 Mayeri writes:

Although illegitimacy penalties were centuries-old and firmly rooted in religious and civil traditions, in the post-*Brown* period many efforts to punish non-marital childbirth

were thinly veiled attacks on the civil rights movement and on racial desegregation. Ostensibly race-neutral illegitimacy penalties adopted in the 1960s purposefully targeted African Americans, often in ways that reinforced both racial segregation and poverty . . . In cases like *Levy v. Louisiana*, the first Supreme Court case to invalidate an illegitimacy-based classification on constitutional grounds, plaintiffs argued that illegitimacy penalties had the purpose and effect of discriminating on the basis of race, and therefore violated equal protection. They had powerful statistical evidence of what we would now call disparate impact on African Americans—often upwards of 75–90 percent of the families affected by illegitimacy penalties were black.

(Mayeri 2011: 3–4)

- 7 See, e.g. Sparks 2003 ; Rector and Pardue 2004; Neubeck and Cazenave 2001; New York Times 1976. The ‘Findings’ section of the 1996 Personal Responsibility and Work Opportunity Act, the legislation signed by President Clinton in his efforts to ‘end welfare as we know it’, exemplify the logic that poverty is a result of the failure of poor people to marry. The text reads:

The Congress makes the following findings:

- (1) Marriage is the foundation of a successful society.
 - (2) Marriage is an essential institution of a successful society which promotes the interests of children.
 - (3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the well-being of children.
 - (4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.
 - (5) The number of individuals receiving aid to families with dependent children (in this section referred to as “AFDC”) has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present. . . .
 - (c) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.
 - (6) The increase of out-of-wedlock pregnancies and births is well documented. Public Law 104-193, 10 Stat. 2105, 1996.
- 8 American critical race theorists have extensively critiqued how the legal prohibition of racial apartheid in the US was undertaken through a regime of ‘colourblindness’ that attacks explicitly race-conscious policymaking in the US. As a result, programmes designed to remedy the long-term and continuous exclusion of people of colour from education systems and particular areas of employment have been struck down by courts for improperly taking race into account. These legal decisions establish a fiction that contemporary conditions in the US (such as the extensive racial segregation in public schools) are race neutral, so that taking race into account to remedy them violates the laws prohibiting race discrimination (Crooms 1999; Freeman 1996; Gotanda 1996; Harris 1996; Peller 1996).
 - 9 The 2009 controversies around the addition of the death penalty to the federal hate crime statute brought these themes closer to greater articulation in national queer politics. The National Coalition of Anti-Violence Projects released a statement critiquing the addition of the death penalty clause specifically, while other groups, such as the Audre Lorde Project, the American Friends Service Committee, Community

United Against Violence, and the Sylvia Rivera Law Project critiqued the hate crime law strategy itself. The controversy brought attention to the alliance with criminal punishment expansion that hate crime laws advance (Sylvia Rivera Law Project 2009; Sylvia Rivera Law Project, FIERCE, Queers for Economic Justice, Peter Cicchino Youth Project, and the Audre Lorde Project 2009; Waggoner-Kloek and Stapel 2009).

- 10 This phrase, 'personal responsibility' has been a watchword of neoliberal economic policy and criminalization in the US. The notion of individual responsibility, and the idea that people who are poor are poor because they are irresponsible, operates as code language to invoke images of black immorality, laziness, and criminality and to justify austerity and criminalization as responses to poverty. See, e.g. the Personal Responsibility and Work Opportunity Act described earlier.
- 11 The Uniting American Families Act (H.R. 1024/S. 424) would allow a US citizen or permanent resident to sponsor their same-sex partner for immigration to the US. The advocacy organization Immigration Equality, in its literature promoting the legislation, writes:

U.S. immigration law is based on the principle of 'family unification'. Accordingly, it allows Americans to reunite with their parents, children, and spouses by sponsoring these family members for immigration. However, gay and lesbian Americans cannot sponsor their foreign born partners for immigration, no matter how long they have been together or how committed their relationship is. According to the 2000 U.S. Census, over 36,000 couples are affected by this discrimination; and 46% of them are raising children . . . With no ability to sponsor their partners, Americans are being forced abroad: taking their tax base, their talent, and enterprise to one of more than 20 countries that offer immigration benefits for same-sex partners.

(Immigration Equality n.d.)

The images contained in this description of gay and lesbian Americans with immigrant partners who pay taxes and are talented and enterprising invokes the implicit whiteness and wealth of these figures to articulate the American immigration enforcement system as effectively pro-family while in need of a slight tinkering to include a few forgotten deserving families. What might such framings mean for those targeted by a racially selective immigration enforcement system that is increasingly tied to criminal punishment technologies in ways that ensure disproportionate enforcement on black populations? As the deservingness/undeservingness divide in immigration politics increasingly hinges on the perceived criminality of immigrants, how might such framings increase harm to black people who are perpetually cast as criminals? How narrow a concern about immigrants does this advocacy suggest, in its limitation to immigrants who are partnered with enterprising gay and lesbian Americans?

- 12 See also Sexton 2006.

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