### Framework

#### Subjectivity is the basis of ethics because asking what we ought to do begs the question of what constitutes the subject in the first place

#### The subject is fundamentally unstable: every aspect is in constant flux due to things like time. Personal evolution proves this - I’m not the same person I was 5 years ago. Furthermore, subjects are always experiencing relation, which itself changes. For example, your relationship to your parents shifts based on your ages.

#### Affect, the ability to experience and to be experienced, is the only constitutive feature: I am experiencing my Word doc, my opponent, just as much as you are experiencing me. There is no way to escape affection.

#### Thinking is only a feature of me and doesn’t determine the subject. Subjectivity is fluid—the only intrinsic feature of the subject is that everything is changing, thus stable subjecthood fails.

#### There are two kinds of affect, active and reactive— Active affect allows us to extend and compose our own boundaries whereas reactive affect only indicates our body’s ability to be affected. Embracing active affect is key to breaking free from the pervasive state mindset and instead creating spaces for resistance and radical change so that we can reform the state

#### Active affect is able to organize to undermine static structures, whereas reactive affect becomes coopted and utilized by the state to ceaselessly destroy and form strict confines for identity and being — the aff is a form of negative state action where we reduce the powers of conventionally oppressive institutions.

Robinson 10 [Andre; Ceasefire; “Why Deleuze (still) matters: States, war-machines and radical transformation”; https://ceasefiremagazine.co.uk/in-theory-deleuze-war-machine/; political theorist; LCA-BP]

So what, in Deleuzian theory, is the alternative to the state? Deleuze and Guattari argue for a type of assemblage (social group or cluster of relations) which they refer to as the ‘war-machine’, though with the proviso that certain kinds of ‘war-machines’ can also be captured and used by states. This should not be considered a militarist theory, and the term ‘war-machine’ is in many respects misleading. It is used because Deleuze and Guattari derive their theory from Pierre Clastres’ theory of the role of ritualised (often non-lethal) warfare among indigenous groups. Paul Patton has suggested that the war-machine would be better called a metamorphosis-machine, others have used the term ‘difference engine’, a machine of differentiation, and there is a lot of overlap with the idea of autonomous groups or movements in how the war-machine is theorised. We should also remember that ‘machine’ in Deleuze and Guattari simply refers to a combination of forces or elements; it does not have overtones of instrumentalism or of mindless mechanisms – a social group, an ecosystem, a knight on horseback are all ‘machines’. The term ‘war-machine’ has the unfortunate connotations of brutal military machinery and of uncontrollable militarist apparatuses such as NATO, which operate with a machine-like rigidity and inhumanity (c.f. the phrase ‘military-industrial complex’). For Deleuze and Guattari, these kinds of statist war-machines are also war-machines of a sort, because they descend from a historical process through which states ‘captured’ or incorporated autonomous social movements (particularly those of nomadic indigenous societies) and made them part of the state so as to contain their subversive power. Early states learned to capture war-machines because they were previously vulnerable to being destroyed by the war-machines of nomadic stateless societies, having no similar means of response. Hence, armies are a kind of hybrid social form, containing some of the power of autonomous war-machines but contained in such a way as to harness it to state instrumentalism and inhumanity. Captured in this way, war-machines lose their affirmative force, becoming simply machines of purposeless destruction – having lost the purpose of deterritorialisation (see below), they take on the purpose of pure war as a goal in itself. Deleuze and Guattari argue that state-captured war-machines are regaining their autonomy in a dangerous way, tending to replace limited war in the service of a state’s goals with a drive to total war. This drive is expressed for instance in the ‘war on terror’ as permanent state of emergency. There was a recent controversy about Israeli strategists adopting Deleuzian ideas, which reflects the continuities between state war-machines and autonomous war-machines, but depends on a selective conceptual misreading in which the drive to total war denounced by Deleuze and Guattari is explicitly valorised. The Israeli army is a captured war-machine in the worst possible sense, pursuing the destruction of others’ existential territories in order to accumulate destructive power for a state. For Deleuze and Guattari, it is not the Israeli army but the Palestinian resistance which is a war-machine in the full sense. The autonomous war-machine, as opposed to the state-captured war-machine, is a form of social assemblage directed against the state, and against the coalescence of sovereignty. The way such machines undermine the state is by exercising diffuse power to break down concentrated power, and through the replacement of ‘striated’ (regulated, marked) space with ‘smooth’ space (although the war-machine is the ‘constituent element of smooth space’, I shall save discussion of smooth space for some other time). In Clastres’ account of Amazonian societies, on which Deleuze and Guattari’s theory is based, this is done by means of each band defending its own autonomy, and reacting to any potential accumulation of power by other bands. One could similarly think of how neighbourhood gangs resist subordination by rival gangs, or how autonomous social movements resist concentrations of political power. Autonomous social movements, such as the European squatters’ movement, the Zapatistas, and networks of protest against summits, are the principal example Deleuze and Guattari have in mind of war-machines in the global North, though they also use the concept in relation to Southern guerrilla and popular movements such as the Palestinian intifada and the Vietnamese resistance to American occupation, and also in relation to everyday practices of indigenous groups resisting state control. One could also argue that the ‘war-machine’ is implicit in practices of everyday resistance of the kind studies by James Scott. Marginal groups, termed ‘minorities’ in Deleuzian theory, often coalesce as war-machines because the state-form is inappropriate for them.

#### Ethics must be a constant interrogation of static norms. This creation of new lines of flight redefines current concepts of normativity to that of deterritorialization. Thus, the standard is to vote for the debater who best promotes the conditions for fluid subjectivity.

Smith 03 [Daniel W. Smith (2003) Deleuze and the liberal tradition: normativity, freedom and judgement, Economy and Society, 32:2, 299-324]

Deleuze would no doubt have followed the same approach in his analysis of normativity had he addressed the issue directly. Foucault himself spoke of the power of what he called the process of normalization, which creates us, as subjects, in terms of existing force relations and existing ‘norms’. For Foucault, normalization is not merely an abstract principle of adjudication but an already actualized (and always actualized) power relation. Foucault’s question then became: is it possible to escape, or at least resist, this power of normalization? In Deleuze’s terminology, the same question would be stated in the following terms: within a given social assemblage or ‘territoriality’, where can one find the ‘line of flight’, or the movement of relative deterritorialization, by means of 51Q 08smith (ds) Page 307 Thursday, April 17, 2003 8:45 PM 308 Economy and Society which one can escape from or transform the existing norm (or territoriality)? From this viewpoint, neither Foucault nor Deleuze avoid the issue of normativity, they simply analyze it in terms of an immanent process. The error of transcendence would be to posit normative criteria as abstract universals, even if these are defined in intersubjective or communicative terms. From the viewpoint of immanence, by contrast, it is the process itself that must account for both the production of the norm as well as its possible destruction or alteration. In a given assemblage, one will indeed find normative criteria that govern, for instance, the application of the power of the State, but one will also find the means for the critique and modification of those norms, their deterritorialization. A truly ‘normative’ principle must not only provide norms for condemning abuses of power, but also a means for condemning norms that have themselves become abuses of power (e.g. the norms that governed the treatment of women, slaves, minorities, etc.). An immanent process, in other words, must, at one and the same time, function as a principle of critique as well as a principle of creation (the ‘genetic’ method). ‘The conditions of a true critique and a true creation are one and the same’ (Deleuze 1994: 139). The one cannot and ‘must’ not exist without the other If deterritorialization functions as a norm for Patton, then, it is a somewhat paradoxical norm. Within any assemblage, what is normative is deterritorialization, that is, the creation of ‘lines of flight’ (Deleuze) or ‘resistance’ (Foucault) that allow one to break free from a given norm, or to transform the norm. What ‘must’ always remain normative is the ability to critique and transform existing norms, that is, to create something new (the category of the new should be understood here in the broad sense, including not only social change, but also artistic creation, conceptual innovation and so on.) One cannot have pre-existing norms or criteria for the new; otherwise it would not be new, but already foreseen. This is the basis on which Patton argues that Deleuze’s conception of power is explicitly normative: ‘What a given assemblage is capable of doing or becoming’, he writes, ‘is determined by the lines of flight or deterritorialization which it can sustain’ (Patton 2000: 106). (One might note here that the concept of ‘nomadic war-machines’, which was introduced in A Thousand Plateaus, is Deleuze and Guattari’s attempt to address the question of a social formation that would itself be constructed along such movements or lines of flight. Patton suggests that such assemblages should in fact be called ‘metamorphosis’ machines (2000: 110), since they have only an external relation to war and a historically contingent relation to nomads; this is a suggestion that will no doubt be taken up by others. Metamorphosis machines would be the conditions of actualization of absolute deterritorialization and the means by which relative deterritorialization occurs: ‘They bring connections to bear against the great conjunction of the apparatuses of capture or domination.’ . . . A metamorphosis machine would then be one that . . . engenders the production of something altogether different. (Patton 2000: 110) 51Q 08smith (ds) Page 308 Thursday, April 17, 2003 8:45 PM Daniel W. Smith: Deleuze and the liberal tradition 309 Patton is therefore using the concept ‘normativity’ in a quite different manner than Fraser or Habermas. They would say that deterritorialization is not normative, and cannot be, since it eludes any universal criteria and indeed allows for their modification. Patton in effect responds by saying: for that very reason, it is deterritorialization that should be seen as a normative concept, even if that entails a new concept of what normativity is. At one point in Difference and Repetition, Deleuze writes that ‘one can conserve the word essence, if one wishes, but only on the condition of saying that essence is precisely the accident or the event’ (1994: 191). Patton seems to be saying something similar: one can conserve the word normativity, if one wishes, but only on the condition of saying that the normative is the new or the deterritorialized. Patton’s own trajectory is thus beginning to come into focus: rather than simply dropping or ignoring the concept of normativity, he instead proposes to create a new concept of normativity by critiquing components of the old one, and linking it up with a quite different set of related concepts. In this manner, he is effecting a transformation of the liberal concept, while still attempting to situate his own work fully within the liberal tradition.

#### Thus I affirm: Resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines. I’ll defend the resolution as a general principle and PICS don’t negate because general principles tolerate exceptions. I’ll spec whatever you want me to in cx as long as it doesn’t force me to abandon my maximum.

## Offense

#### 1] Property protections are a manifestation of the creeping shadow in our comfortable lawscape. Every object has a distinct and undeniable patent, trademark or copyright symbol, each serving as a daunting reminder of the ever-present state and commodifying our affect

[P-M 13] Philippopoulos-Mihalopoulos 13 [Andreas Philippopoulos-Mihalopoulos, Atmospheres of law: Senses, affects, lawscapes, Emotion, Space and Society, Volume 7, 2013, Pages 35-44, ISSN 1755-4586, https://doi.org/10.1016/j.emospa.2012.03.001. <https://www.sciencedirect.com/science/article/pii/S1755458612000266> (Andreas Philippopoulos-Mihalopoulos, LLB, LLM, PhD, is a Professor of Law & Theory at the University of Westminster, and founder and Director of The Westminster Law & Theory Lab.)] SHS KS \*brackets used for grammatical clarity

Let me therefore allow a little bit of law, and specifically intellectual property law, to emerge. Think of your initial welcome to the lawscape: the music, the smell, the taste, the textures. Think of how cosy you felt. Think of your affects — you wanted to have a Coke, you had a Coke; you wanted to stay in the room, you stayed in the room. Think of the atmosphere, comfortable, safe, energising. No law, just smooth space, reassuringly urban, tasteful yet with a hint of home-baking. At the same time, you realise that there is a bit of law around to protect you: you close the door behind you, this is your private space, the law protects that. You were offered the Coke, you did not steal it; you legitimately bought your iPad (ok, from Hong Kong but who knows this). The atmosphere is assembled by a safe, small measure of law, there to protect you and to make you feel immune in your enclosed sphere. But look again. Or rather, smell, listen, touch again. The red and yellow colour combination is a registered trademark of KODAK (Vaver, 2005). The smell of roses comes from the rubber used for the floor of the room — the Sumitomo Rubbers’s successful application for trademark.1 The first notes of Für Elise by Beethoven have been registered as a trademark by a Dutch company. The iPad touch screen is part of patented technology for which Apple has been in dispute with Samsung over the past few years (see also Parisi, 2008 on touch technologies).2 Finally, the Coke, well!, the Coke is obviously one of the best examples of a fully protected product in terms of taste, appearance, logo, bottle — the whole lot. And the bonus of sorts in the room: if you were to approach the darts, you would see that they emanate a distinct smell of dark beer. Even this combination is successfully registered by Unicorn Products, 3 a company who obviously thought that its target audience would be able to identify with it, and wanted to secure that no one else would use it. These are just some examples. As Vaver (2005: 897) points out, “over time there has been constant pressure from industry – note, not consumers – to widen the subject matter of protection to include as trademark virtually any perceptible feature in the sensory world that can be used to attract custom.” There are myriads of other laws that categorise, determine and restrict urban space, such as planning law (Valverde, 2011), property law (Blomley, 2004), environmental law (PhilippopoulosMihalopoulos, 2007) and health and safety regulations (and the mythology that feeds back, Almond, 2009). I chose to introduce the issue of atmospheres on the basis of intellectual property law because of [is] the fact that sensory control is direct and unmediated to the body, yet it manages to diffuse and dissimulate itself. This it does in two ways: first, by targeting the environment rather than the body (Sloterdijk, 2009), and precisely through this diffusing manoeuvre managing to have the greatest impact on the body; and second, by dissimulating itself as desire, that is as personal preference that ‘demands’ Kodak, Coke, Apple, or beer-scented darts. In some cases, the proffered hyperreality is superimposed on a more basic desire for, say, natural smells or tastes. This sensory desire, as Emily Grabham has convincingly demonstrated (in her case, touch), “embeds itself into the normative fabric of the law, creating and maintaining expectations around what is proper, decent and safe” (Grabham, 2009: 350). This means that the legal sensorium becomes “detached from specific moments and mobilised within legal processes” (2009: 350), indeed becomes fetishised by the law only to be snuggly reattached, I would argue, to the materiality of the situation in hand, claiming echoes of universality. But this is the paradox: the more universal the law, the more diffused it is. The more diffused it is, the more anomic a space appears. The room is just a room. The legal affect is found in this excess of law, in law’s ubiquitous presence that tends to hide under rose-smelling rubber surfaces. The atmosphere of the lawscape is perfectly engineered to appear as a city that is guided by preference, choice, opportunity, freedom. Scratch the surface and you feel the law pushing all these preferences into corridors of affective movement, atmospherics of legal passion that are material through and through yet appear reassuringly distant and abstract.

#### 2] Intellectual property regimes biologically regulate affective expression and force the subject into binary, mechanical, categories.

Wolodzko 18 – Agnieszka Anna, Bodies within affect. : on practicing contaminating matters through bioart, 2018, <https://scholarlypublications.universiteitleiden.nl/handle/1887/66889>

The particular discrepancy between the practice of affect and its control, between discovering the relations of transformation and managing these relations in order to achieve particular formations, is present in the practices of biotechnology. Take, for instance, the patenting of the human genome, which touches the very intimate and existential realm of what it means to have and be a body. Donna Dickenson reports that, according to common law, once a part of your body is separated from you, it is legally treated as waste and as not belonging to anybody [lat. res nullius].22 Dickenson believes that this disposable attitude to body parts that have been detached from the body is due to the traditional distinction between a person and raw matter. Unlike a body part, persons cannot be owned as this would undermine the notion of human dignity.23 However, as Dickenson states, recent biotechnological practices undermine the boundaries between what can be considered as a person and what is just a raw body part, which results making the body a much more fluid and hybrid phenomenon. The scale and implications of the hybridity and relationality of the body as a result of biotechnological practices can be seen, for instance, within the phenomenon of human genome patenting and genetic testing, the most lucrative applications of biotechnological innovations.24 Till 2013, it was common practice to patent the human genome once it had been isolated from the body. Even though genes are not an invention as such, their isolation from a body was considered an innovative practice and thus subject to patenting laws.25 This resulted in an enormous biomarket, where, in the 1980s-1990s, till 2005, over twenty per cent of the human genome was patented in the US.26 A patent is “a legal right granted to inventors by national governments to exclude others from making, using or selling their invention in a given country,”27 and so, in this context, its function presupposes that parts of our own body are legally owned by companies and institutions.28 Most importantly, gene patents are usually applied to all methods of their detection. This means that every test and tool involved in the management of a particular sequence are covered by patent laws. The patent thus reaches a very broad research area, and this may have consequences for future innovation and medical care. Since the main role of patents in the biotechnology that has induced genetic testing was to allow for private investment in research and development, biotechnology has transformed from a common good into a commodification and exploitation of the body. Arguably, things have changed once the US Supreme Court banned the patenting of “natural” genes in the case of the Myriad Genetics Inc., the company that discovered the sequence and location of BRCA1 and BRCA1 – a gene mutation that increases the risk of ovarian and breast cancer: “A naturally occurring DNA segment is a product of nature and not patent eligible merely because it has been isolated, but cDNA is patent eligible because it is not naturally occurring.”29 However, things become more ambiguous when we look not only at the differences, but also at the similarities between DNA and its copy, cDNA (complementary DNA). cDNA is “a type of a man-made DNA composition, which is made in a lab with an enzyme that creates DNA from RNA template.”30 Not naturally occurring, and structurally and functionally different from DNA, cDNA thus complies with the patent law. Nevertheless, some critics argue that, despite its structural and functional difference, which allows for the further research, the copy (cDNA) still holds exactly the same information as the original (DNA).31 Moreover, because cDNA is not distinct from the methods it is extracted with, there is no specification of how much intervention is actually needed in order for the gene to be legally patented, since mere simple separation from the body is no longer a boundary.32 Despite the lack of boundaries and clear definitions of what a body’s natural state is and what its manipulated state is, Myriad, (like other companies involved in human gene patenting), practices what is now called personalized medicine. Bodies are practiced as autonomous and fixed identities, independent from collective relations.33 As Dickenson argues, personalized medicine deliberately positions itself against we medicine, emphasising individual responsibility and care, rather than a collective and relational understanding of the way our bodies are. We witnessed the power of individual choice when the American actress Angelina Jolie announced that she had undergone a double mastectomy due to the presence of the BRCA gene in her body. This was in 2013, just before the Supreme Court decision in the Myriad case and the actress’s experience provoked a public debate about the necessity of testing for the cancer gene. However, the media conveniently failed to mention the patent that applied to the BRCA gene, and just how expensive the test to detect it was (in 2013, the test cost between US$3,000 and US$4,000).34 Moreover, the decision to undergo the mastectomy – which for the average woman does not end with a full breast reconstruction as it did in Jolie’s case – was portrayed as being a woman’s – a mother’s – individual choice. The discussion of the elective surgery largely ignored any discussion of the financial, political or social situation of women, or of the industry involved in performing these tests. Importantly, in order for the testing to be accurate and certain, a large database of the variation of this mutation is needed. You need “we medicine in order to perform a successful me medicine.”35 In other words, to be accurate, any medicine depends on a range of relational practices and multiple bodies from various social, political and biological states. Any distinction, therefore, between “me” and “we” medicine is an artificial one. Medical practice has exposed how “me” medicine has already been “we” medicine. The tangible danger, however, is that these relational practices become veiled by the abstract categories of individuality and autonomy. In other words, while we are already living within affect, and are already practicing affect’s contaminations and its multiple relations and implications for various spheres of living bodies, we have never really changed our logic with regard to affect. In the case of Myriad, while, in principle, researchers, share their genome database in order to provide an exchange of information for the common good and to promote innovation and accurate medical care, fear of competition led the company to stop contributing to the data already in 2004. It has also stopped publicising new information about variations. As a major performer of tests for the BRCA gene, Myriad has thus significantly restricted research on breast cancer. The company’s self-interest, clothed in a policy of personalized medicine has stopped the flow of data and, therefore, causing less accurate medical care.36 What is worse, after the US Supreme Court decision of 15 April 2013, Myriad filed a number of lawsuits against laboratories that had started to offer the BRCA test more cheaply.37 What we learn from the BRCA case, is that by failing to change the logic of thinking about the bodies and as a result of its perpetuation of the belief in the autonomy of bodies, despite their obvious dependence on bodies’ relationality, the gene patenting industry has created even stronger hierarchies among bodies. The industry’s policies have enacted a strong belief in determinism, ascribed to DNA within the practices of biotechnological, economic and political application. The idea of the autonomous body is stronger than the actual matters of practice and relations that construct the body. Such practice of the body has preserved the nature/culture divide in a bizarrely paradoxical way. The US Supreme Court’s decision perpetuates a belief in the exclusion of nature from any economic-political spheres. As long as something does not occur in “nature”, it can be patented. However, as shown in the case of Myriad, the copy (cDNA) of DNA that is to be patented holds exactly the same information as the original (DNA). The border between what occurs naturally and culturally, what is original and what is a copy, is thus blurred. Without the “original” DNA there would be no cDNA in the first place. Moreover, what is considered as artificial and therefore ready for manipulation and commodification, materially influences and transforms what we consider to be “natural”. The promise of cure and treatment that has justified the privatization and monopolization of research, ultimately influences our own bodies and lives. Patented genes sequences do not regard a particular body, but “the body”. Patents have a universal function, which, in turn, incorporates all our bodies under its law. Once you have a breast cancer, part of you, what you think of as the “natural” you, belongs, in practice, to the corporation. The artificial divide between the “state of nature” and man-made practice does not respond to our bodies, which are an entanglement of living matter and practices. Furthermore, the Myriad case is also a striking example because it shows the consequences of our lack of understanding that biotechnology has a real material impact on our social and political life. Here, the idea of personhood and human dignity cannot do justice to the scale of novelty and unpredictability of the biotechnological world. Biobanks, which are the modern equivalent of surveillance and property, have resulted in: commodified cell lines, such as those in the Henrietta Lacks legal case,38 promises of regenerative medicine via new methods that transform a cell from an adult body into any other type of a cell, and CRISPR genome editing, which makes the idea of designer babies not just futuristic speculation, but a scientific possibly.39 Indeed, these new biotechnological inventions have undermined any doubt about the influence that biotechnology already has in shaping our lives. These phenomena are not just the concern of bioethical committees and economic policies, they directly touch the multiple political, social and cultural realms of our existence. Ingeborg Reichle called the unprecedented power inherent to the use of biotechnology “bottom-up eugenics”, which is not based directly on a socio-cultural idea and narration, but rather the market and profit.40 As Robert Zwijnenberg argues, biotechnology inevitably correlates with such problems as, for instance, human enhancement, posing not only ethical and legal problems, but forcing more philosophically and culturally varied questions and attitudes, i.e. “who and what do we want to be as humans, and who and what do we want to become?”41 Biotechnological innovations that allow us to manipulate our bodies construct economicsocial realities that do not respond to disciplinary divisions. Economic and political demands are strongly entangled with scientific findings, technologies and their agencies, which, in turn, inevitably influence social and cultural, individual and the population’s practices, as well as our lives and bodies. However, as the Myriad case shows, once these multiple entanglements are applied according to the traditional beliefs in autonomy, individuation and personalization, which do not respond to the relational nature of phenomena, we enter into the realm of utopian beliefs in purity and clear-cut boundaries between species and disciplines. For instance, transhumanists’ desire for designer babies and perfect humans,42 fuelled by an unquestioning use of technology, is just one among many examples of using relationality not as an ontological way of being, but as a means for strengthening the fixed ideas about our bodies. We already live and practice affect, that is why, if we do not think and act according to its dynamic nature, we create even sharper dualisms, polarizations and hierarchies. It is therefore time to map these material and relational ways of understanding. It is time to map bodies within affect, in order to meet the challenges of the biotechnological future. The question is, how to do that? How can we relationally practice the relational nature of our bodies? In other words, how do we make matters of affect matter?