# 2NR

#### Overview: Society, currently governed by notions of state power in a borderline-militaristic-stance sees people as ‘good’ and ‘other’, the good being the population that fits under certain standards and other heteronormative binaries. These binaries make it clear to the queer that they are unwanted in society and that the state is actively working to get rid of them, as the only way that the state gets legitimacy is saving the “pure” “good” society from the “dirty” “other”. Sadly, the only way to end this cycle of oppression is to actively resist the state – not just reject it, but resist it in riot. We must work to reject the debilitation and slow death that is imposed onto queer bodies. Thus the alternative is to refuse the police state radically (around the world ofc) and deconstruct the oppression that is upon us and upon the queer bodies of our world.

## Alt Explanation

#### The institutions and noms the aff takes as generating safety and health only generate death for queer folk. So instead of embracing law and saving civil society, we need to dismantle them. That's what it means to throw bricks at the police.

#### Embrace a different way of looking at civil society.

#### Instead of assuming you should secure the health and safety of society you should recognize it's built on queer suffering and reject attempts to imagine it as something worth saving or preserving. Instead embrace a mindset that wants to undermine it.

#### This solves the impact of the K because it recognizes the violence against queer bodies and seeks to end the systems which are built upon queer death and queer overkill. Therefore, it is the best mindset for the

#### 1-The Kouri-Towe card discusses how futuristic language is inherently harmful to queer people as the conditions that most queer people live in are already postapocalyptic and the narratives that the affirmative reinforces with its language just further the state of the queer people without changing anything while adding more and more psychological pressure onto queer people since they are the reason the future the affirmative so loves is going to be spoiled.

#### 2-The impact to this is the Shipley 13 card, where we reproduce psychological harms against queer people through an ongoing discussion about how nuclear families, heteronormative families, are needed in order to give value to life after life after life to survive not one but multiple apocalypses by the day, and day by day are posed as the enemy of futurity. This never -ending cycle will continue to impose upon queer people and it justifies the ongoing violence and erasure that the government imposes upon the queer. This not only leads to the marginazliation of queer people, but it also ensures that the day where they are demarginazlied will never come

#### 3- The future of a society which focuses mainly on trying to prevent extinction in every single way possible is a future that erases the perspective of those who are others according to society – those that do not conform to heteronormative standards or settler standards are those that will never have a decision in government or never have a voice since their ability to participate in the present is precluded by their supposed destroying of the future. The language will cause society to be ridden with hatred and ridden with disgust at the other no matter what that other idenitifes as (ie, fem, ? racially different? Etc) The affirmative will become a society ridden with heteronormative values

#### 4- Historically. The best societal decisions have been made when people work together or can see eye-to -eye, under the aff, the destruction brought about and psychological damage brought about by the use of this Kritik will render our society to be in chaos due to the bitterness of being left out – the Stonewall riots will turn into something big such as a coup to overthrow the government or re-hierarch the government entirely. The affirmative precludes oru ability to have a society in the first place. Furthermore, the link turns aff because as the aff is trying its best to save itself from genocide, the queer people are already undergoing genocide

#### 5- The link turns the perm because it shows how the perm is just a self-serving attempt to try to include queer people into a structure, a language, that fails them and that marginalizes them further. Without changing the structure or language or society in the first place, the affirmative merely re-entrenches its power over the queer people, and this links back into the Puar’ 17 impact card which talks about debilitation being wielded over the people under a cover of humanitarianism.

#### 6- The alternative, allows the community to reevaluate the norms that they have lived by for so long and also to disrupt the violent subjectivity that the community has imposed upon queer people. Through doing this, by way of the attention gained through the queer suicide bomber, we can effectively reconcile the opposites and lead to a restructuring of the way that we view society – and a gradual erasure of the futuristic and apocalyptic rhetoric endorsed by the affirmative.

#### - This time, we critique their use of extinction impacts. Their discussion about how the apocalypse is the most important thing that we have to solve for in society since it precludes all other impacts is a fiction of uniqueness which erases the history and even the current suffering of people who are othered all around the world. Extinction impacts can only be constructed upon by ignoring the world-ending violence of white supremacy — whether that be the violence of heternormativity or settler colonialism that continues to threaten people today.

**Examples: their Grego 15 card talks about extinction and so does Deudney 20, Torres 18 is also really bad for them to read since it directly talks about extinction of the universe, and Al – Rodhan 18 also discusses colony wars on a mass scale, Brown 17 also talks about extinction**

#### 2-The impact to this is the Shipley 13 card, where we reproduce psychological harms against queer people through an ongoing discussion about how nuclear families, heteronormative families, are needed in order to give value to life after life after life to survive not one but multiple apocalypses by the day, and day by day are posed as the enemy of futurity. This never -ending cycle will continue to impose upon queer people and it justifies the ongoing violence and erasure that the government imposes upon the queer. This not only leads to the marginazliation of queer people, but it also ensures that the day where they are demarginazlied will never come. Giving extinction impacts the foremost slot in our minds continues to reiterate the importance of our government in its decisions that it makes for the people. However, this is not good. Our Puar’17 card (the second one), discusses how this leads to debilitation and slow death through bio political control that is exerted over the people by the state. By putting extinction impacts at the forefront and also claiming that it has done stuff for queer people, the government continues to power itself and it continues to cause queer people to become disoriented with society and continued to be othered.

#### 3- The affirmative is an example of a system that does not want to let control flee from the hands of the government. This means that the affirmative justifies and even promotes the endless othering of queer people. The impact affects the affirmative since the debilitation and slow death that we see makes it such that only the ‘normative’ perspective lives on, and that the perspective of those who have been violated the most disappear.

#### 4- This turns case since the perspective of queers matter to and if they. Are erased then it is likely that maybe society cannot make some of the decisions that would actually save their life in the future — but we need to try to save queer people first from being subject to debilitation and slow death

#### 5- The link ensures that a permutation is implausible — there is no way that you can endorse the affirmative which has blatant extinction bad impacts while at the same time endorsing the survival of the life of queer people and saving queer people from being othered— the link turns the permutation since the permutation just feeds back into the Puar’17 card — that the government will do anything to try and keep their control over those who are othered

#### 6- The alternative, a self-sacrifice, allows the community to reevaluate the norms that they have lived by for so long and also to disrupt the violent subjectivity that the community has imposed upon queer people. Through doing this, by way of the attention gained through the queer suicide bomber, we can effectively reconcile the opposites and lead to a restructuring of the way that we view society – and a gradual erasure of the futuristic and apocalyptic rhetoric endorsed by the affirmative.

# 1NC

## 1

#### 1] Interpretation – Reduce means to cancel.

Black’s Law 90 Black’s Law Dictionary 2ND ED. “Reduce” <https://dictionary.thelaw.com/reduce/> //Elmer

In Scotch law. **To rescind or annul**.

#### That means the Aff has to annul IP protections in their entirety, they can’t just modify it.

#### 2] Violation – They “delay enforcement” which is a modification, not a complete annulment

#### 3] Standards –

#### a] Neg Ground – Core Neg Generics like Innovation and Biotech Heg are predicated on scope of effect – minor modifications in how long a patent lasts for or what it effects allows the 1AR to minimize our links to zero which destroys being Neg on a Topic w/ very little Generic Ground.

#### b] Limits – Allowing Affs to make patent modifications explodes Aff ground by three-fold because for all four intellectual property protections for every medicine MULTIPLIED by different time modifications, different scope modifications which makes predictable preparation and in-depth clash impossible.

#### 4] TVA – eliminate the enforcement of all cannabis patents – solves their offense.

#### 5] Paradigm Issues –

#### a] Topicality is Drop the Debater – it’s a fundamental baseline for debate-ability.

#### b] Use Competing Interps – 1] Topicality is a yes/no question, you can’t be reasonably topical and 2] Reasonability invites arbitrary judge intervention and a race to the bottom of questionable argumentation.

#### c] No RVI’s - 1] Forces the 1NC to go all-in on Theory which kills substance education, 2] Encourages Baiting since the 1AC will purposely be abusive, and 3] Illogical – you shouldn’t win for not being abusive.

#### D] T link turns 1ar theory – the only reason we had to be abusive is because they were in the first place

## 2

#### First, prefer constitutivism over anything else. Claims can only apply to us due to our status as agents. Katsafanas ‘14

[Katsafanas, P. (2018). Constitutivism about Practical Reasons. Oxford Handbooks Online. doi:10.1093/oxfordhb/9780199657889.013.17]kitkat

A focal point in recent work on practical reason is the idea that we might ground normative claims in facts about the nature of agency. According to constitutivism, **certain normative claims apply to us merely in virtue of the fact that we are agents.** Proponents of this view argue that there are features of action that both constitute events as actions and yield normative standards of assessment for action. For example, David Velleman has argued that all actions share the common, higher-order aim of self-understanding. The presence of this aim both distinguishes genuine actions from mere events and yields a standard of assessment for action: we have reason to perform those actions that yield self understanding. The attractions of constitutivism are considerable. By anchoring normativity in necessary features of agency, **constitutivism provides a way of justifying universal normative claims without positing irreducible normative truths or grounding norms merely in subjective, variable elements of human psychology.** Constitutivists therefore hope to sidestep a series of traditional objections to ethical theories. In addition, constitutivism provides a relatively straightforward explanation of why and how normative claims have their grip on us.

#### Second, all actions taken by an agent are not only in line with reason but also with affect, in response to actions generated by their status as a member of the community with shared roles. This falls in line with the ethical community and mutual recognition. Wood ‘91

[Wood, Allen, 1991, in the introduction to: Hegel, Georg Wilhelm Fredrich. Hegel: Elements of the Philosophy of Right. Edited by Allen W. Wood. Translated by H. B. Nisbet, Cambridge University Press, 1991.]kitkat

Hegel's name for a rational system of social institutions is 'ethical life' (Siltlichkeit) (PR § § 144-145). Corresponding to 'objective' ethical life (the system of rational institutions) is a 'subjective' ethical life, an individual character which disposes the individual to do what the institutions require (PR §§ 146-148). **The ethical disposition is Hegel's answer to the Kantian separation of duty from inclination, and more generally to the moralistic psychology which supposes that unless we are moved by impartial reason to follow moral principles adopted from a universalistic standpoint**, **we will inevitably adopt the utterly selfish policy of maximizing our own interests**. On the contrary, Hegel is convinced that the most potent, as well as the most admirable, human dispositions follow neither of these two patterns. A rational society is one where the demands of social life do not frustrate the needs of individuals, where duty fulfils individuality rather than suppressing it. In such a society rational individuals can promote their self-interest to a satisfactory degree without having to maximize it, and they need not make great sacrifices in order to give priority to right and duty or to show concern for the good of others. **Because our social life is in harmony with our individuality, the duties of ethical life do not limit our freedom but actualize it**. When we become conscious of this, we come to be ‘with ourselves' in our ethical duties. Such duties, Hegel insists, do not restrict us, but liberate us (PR § 149). We might put the point by saying that for Hegel I am free when I 'identify' myself with the institutions of my community, feeling myself to be a part of them, and feeling them to be a part of me. But Hegel would deny that such feelings constitute freedom unless they are a 'certainty based on truth’ (p R § 268). That is, the institutions of the community must truly harmonize the state's universal or collective interest with the true, objective good of individuals; and individuals must be C01lsciOllS of this harmony. Of course there is no freedom at all in a society whose members 'identify themselves with it only because they are victims of illusion, deception, or ideology. II

#### Third, the only way to resolve the evil or harms that maybe presented in society is the ethical community as the ethical community is the only way in which we can recognize and respect the actions and agency of other agents. The ethical community allows us to invalidate evils that affect society. Gobsch ‘14

[Wolfram Gobsch, "The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love to Overcome It," Philosophical Topics, Vol. 42, No. (2014), p. 177-200.  Gobsch is research assistant at the Chair for Practical Philosophy at Universität Leibzig, studied Philosophy and Logic & Philosophy of Science in Leipzig, St Andrews and Basel, ssistant and senior assistant at the Chair for Theoretical Philosophy at the University of Basel, research stay at the University of Chicago.]rctkitkat

Because the highest good is the complete end of the activity of pure reason, the unconditioned, it is necessarily possible.20 The unity of the highest good is the unity thought in the concept of a human being. It is the unity of reason, as of itself practical, with sensibility. It is the unity of pure reason and free choice, of moral law and maxim, through pure reason alone, unconditioned by anything else. Therefore, the idea of this unity, the idea of the highest good, is none other than the idea of ethical life, the idea of a reality in which the internality that is thought in the idea of the moral law as the principle from consciousness of which alone human beings act, if all goes well, and the relationality that is thought in the idea of the power of free choice in its dependence on sensible matter coincide with necessity, and that is: through pure reason. The idea of the highest good is the idea of ethical life: it is the idea of the actuality of a community constituted by the practical law as not only the principle from consciousness of which alone its constituents act, if all goes well, but in and only in so acting from which alone they are related to one another as persons. To identify the idea of ethical life with the idea of the highest good is to conceive of pure reason as the sole ground of the satisfaction of all the conditions of its actuality, or as Hegel puts it, referring to freedom and self-consciousness, the hallmarks of rational activity: Ethical life is the concept of freedom which has become the existing world and the nature of self-consciousness.21 One of the conditions of the actuality of the idea of ethical life is the very multiplicity of the human beings who constitute an ethical community. Satisfaction of this condition, too, must eventually come to be conceived—not as a brute fact, but—as the work of nothing but pure reason. And this is to say, among other things, that the actuality of an ethical community cannot be explained within the scope of methodological individualism. Ethical life, that is, cannot be explained as the result of a contract, for example.22 This reflects back on the content of the idea of ethical life. To act from one’s consciousness of nothing but the moral law is to act autonomously, it is to give this law to oneself: it is to act in such a way as to therein also constitute and preserve oneself as a being who is acting from nothing but one’s consciousness of this law. So for me to be related to you as one person to another in my acting from such respect for the moral law is for me to give the law to both of us and to therein receive it from you who is equally giving it to both of us. So as members of our ethical community, each of us acts in such a way as to constitute and preserve herself and therein the other as a person who acts from nothing but her consciousness of the moral law. In this sense, an act from respect for the moral law, conceived as the principle of an ethical community, is a joint or general act of the will. So in ethical life, the willing itself is relational.23 In our ethical community, that is, my willing is our willing, only from my perspective, oriented toward you; and your willing is our willing, only from your perspective, oriented toward me.24 And because our willing is our acting from nothing but our consciousness of the moral law, I am, in my willing, conscious of myself as related to you in this manner, and you are, in your willing, conscious of yourself as related to me in this manner: we share the same—relational—self-consciousness. In ethical life, the willing itself is relational in its very internality, in its very character as self-consciousness.25 In ethical life, we are conscious of one another as one at heart: as one in the consciousness of the principle from which we act; we are practically conscious of one another’s hearts. Through this consciousness we constitute a sense of “we” in which “validity for every human being (universitas vel omnitudo distributiva), i.e. communality of insight” and “universal union (omnitudo collectiva)”26 coincide with necessity. This implies that for me to act merely in accordance with the moral law, conceived as the principle of our ethical community, but not from my consciousness of it alone, is to break this law and to therein wrong you. But if I do act from nothing but my consciousness of the moral law, thus conceived, I am moved by reason and, therein, by you. That is to say that ethical life is the activity of unconditionally approving of one another’s individuality in such a way as to therein constitute and preserve one another as engaged in this very activity, and that is: love. It is the rational love we know as אהב) ahābā), ἀγάπη, caritas, and solidarity.27

#### Thus the standard is consistency with abiding by ethical life and maximizing freedom through such.

#### Prefer the standard:

#### A] Any statements that claim to follow a certain standard must be seen as valid by others within the community which proves the need for an ethical community. Therefore all standards devolve to the ethical community.

#### B] The ethical community resolves the multiple frameworks debate as we know what is violent but we cannot know what is justified violence or not in a certain case so we would have to default to one perspective but the ethical community allows us to consider every single perspective that a community holds.

#### C] FWs revolving around reason and individuality requires the ethical community and devolves -- take the example of Kantianism – our wood card explains how the ethical community is necessary in this case.

#### D] The main goals of the WTO align with the discussion of freedom and rule of law and certainty. National Action Plans nd

[National Action Plans on Business and Human Rights, "Trade," https://globalnaps.org/issue/trade/]kitkat

The **former Director-General of** the World Trade Organization (**WTO**), Pascal **Lamy**, **stated** in 2010 **that** trade rules, including **WTO rules**, are **based on** the same values as human rights: ‘**individual freedom and responsibility**, non-discrimination, **rule of law,** and welfare through peaceful cooperation among Moi front page imageindividuals’. The influential WTO scholar Ernst-Ulrich Petersmann has also stated that the WTO regime promotes freedom (in removing restrictions on trade), non-discrimination (in the form of Most Favored Nation (MFN) and national treatment), the rule of law (in committing WTO Members to transparent obligations and an enforceable rules-based international trading system), and economic efficiency leading to enhanced welfare.

#### E] Freedom is most important human right, even over life. Imagine a life without freedom, that life would be terrible to live, ie it would be not worth living. That’s why the life of a bacteria is fundamentally different from the life of a human.

#### This negates:

#### The concept of patents and intellectual property positively reinforce the ethical community and freedom. Schroeder ‘06

[Jeanne L. Schroeder, Unnatural Rights: Hegel and Intellectual Property, 60 U. Miami L. Rev. 453 (2006); Available at: https://repository.law.miami.edu/umlr/vol60/iss4/3] kitkat

To recapitulate, in Hegelian jurisprudence there are no natural rights of any kind, let alone a natural right of property. First **occupation cannot serve as a justification for any specific property claim, because claims of first occupation are civil wrongs. Nevertheless, Hegel argues that a good society must adopt some form of abstract right because abstract right serves a function in the actualization of freedom in the world by helping to create that aspect of personality that I am calling legal subjectivity.** **Specific property rights can only be established and justified through a positive law that institutes a regime of abstract right.** We have seen that Hegel argued that it is appropriate to analyze intellectual property as a form of "true" property within the regime of abstract right. Indeed, Hegelian analysis solves some of the classic problems of intellectual property doctrine. The question then becomes, does Hegelian logic suggest that society should adopt an intellectual property regime? Some legal commentators have assumed that because property plays a role in the creation of personality, we should have a special solicitude towards the protection of intellectual property on the ground that artistic creations are uniquely personal. 5 ' This position, at first blush, seems to be buttressed by the fact that copyright is one of the only specific categories of property that Hegel discusses in the Philosophy of Right. Some analysts go further and suggest that the logical implication of Hegel's personality theory-albeit one that Hegel himself may not have recognized-is that society should adopt specific rules protective of intellectual property, similar to the Continental notion of moral right. This is a misinterpretation of Hegel and represents a romantic notion of personality and artistic creation that he completely rejects. To put this more strongly, this interpretation inverts Hegel's point. Hegel discussed copyright not because it is unique, but precisely to rebut arguments as to its uniqueness. From the perspective of abstract right, intellectual property is completely banal. As Natanel notes, 51 earlier Continental philosophers such as Kant and Fichte argued that copyright could not correctly be analyzed as property because of its unique content. In this context, it seems clear that the primary reason Hegel discusses copyright in the Philosophy of Right is to challenge this position. To Hegel, **from the formal viewpoint of abstract right, an artistic creation is an object that must be distinguished from the capacity to create art. Creations are external to personality, in the same sense as conventional objects of property, such as goods**. Creations should be considered means to the creator's ends, and are, therefore, properly exploited through possession, enjoyment, and alienation. The alienation of intellectual property is permissible because it is not essential to personality itself. Once again, Hegel is even more radical than he appears at first. His point is not just the simplistic one of showing how copyrights are similar to other objects in form, despite their content. **His implicit point is rather to argue that copyrights are a perfect exemplar of property because of their radical externalized banality.** Intellectual property is the most abstract and externalized of objects. The very aspect of intellectual property that most troubles conventional property scholarsintangibility-is what made it most property-like to Hegel. Like a modem Hohfeldian lawyer, Hegel emphasized that property is a purely legal relationship between and among legal subjects with respect to objects, and that this relationship is distinct from the empirical relations that natural people have with physical things. We can now explain why Hegel insists that creations, and the right to copy creations, are external to the subject. The objects of intellectual property have no separate, natural, empirical existence. They "exist" contingently and only insofar as not only their creator, but also other subjects, recognize them as such. In another context, Lacan coined the term "extimacy" '52 which beautifully captures Hegel's idea of externality. Although at one level, we have such a close emotional tie to our creations that they seem internal or intimate to ourselves, in fact, they only exist as creations at the moment that we communicate them to another. I might have an idea for a painting or, more prosaically, a law review article, but it does not come into existence as such until I express it in a way that is intersubjectively recognizable by others. That is, the idea of the painting is not a painting until it is painted, and the idea of an article is not an article until it is written. Even contemporary "conceptual art" that is not intended ever to be manifested in a physical form does not exist as art until the artist communicates (whether orally, in writing, or otherwise) the concept to at least one other subject. Consequently, that which seems intimate, in fact, only comes into being the moment when it is externalized-in Lacan's terms, when it becomes extimate. As an extimate (externalized) object, intellectual property can serve as the means to the owner's ends. The romantic image of copyright as unique and in need of especial protection leads to the very un-Hegelian view that copyright is not a full form of property. The romantic assumes that because artistic creations are so closely related to the creator's personality (i.e., they are intimate), society should protect rights of possession-such as the moral right that gives an artist some control over the integrity of his creation even after it is sold-at the expense of powers of alienation. But this approach treats the creation not purely as a means, but partially as an end-an extension of the artist herself. By definition, if the art is an end it cannot serve as an object and cannot rightfully be subjected to the regime of property. The logic of property is only consummated in the creation of the common will through mutual alienation in a contract that momentarily and retroactively appears as the righting of the wrong of first appropriation. Consequently, for an object to be fully an object of property it must be at least theoretically fully alienable, and any object that is not fully alienable can only be an object of a partial property regime.

#### International Property Protections are important for mutual recognition within the society. Hughes ‘88

[Hughes, J. (1988). The Philosophy of Intellectual Property . 77 Georgetown L.J. 287, 330-350 (1988)

The Bridge. [https://cyber.harvard.edu/bridge/Philosophy/88hugh3.htm.]kitkat](https://cyber.harvard.edu/bridge/Philosophy/88hugh3.htm.%5dkitkat)

**Not only does Hegel's personality theory pose no inherent objection to this kind of alienation of intellectual property, it also provides affirmative justifications**. Hegel focuses on one such justification -- **concern for the economic well-being of the intellectual property creator.** n243 At first blush, this economic rationale seems far removed from the concerns of personality theory, n244 yet it can be recast into the framework of the personality theory. From the Hegelian perspective, payments from intellectual property users to the property creator are acts of recognition. These **payments acknowledge the individual's claim over the property, and it is through such acknowledgement that an individual is recognized by others as a person. n245 "Recognition" involves more than lip service. If I say "this forest is your property" and then proceed to flagrantly trespass, cut your timber, and hunt your deer, I have not recognized your property rights**. Similarly, verbal recognition of an intellectual property claim is not equal to the recognition implicit in a payment. Purchasers of a copyrighted work or licensees of a patent form a circle of people recognizing the creator as a person. Furthermore, this generation of income complements the personality theory in as much as income facilitates further expression. When royalties from an invention allow the inventor to buy a grand piano he has always wanted, the transaction helps maximize personality. But this argument tends to be too broad. First, much income is used for basic necessities, leading to the vacuous position that life-sustenance is "personally maximizing" because it allows the personality to continue. Second, this approach could justify property rights for after-the-fact development of personality interests without requiring [\*350] such interests in the property at the time the property rights are granted. The personality theory provides a better, more direct justification for the alienation of intellectual property, especially copies. The **alienation of copies is perhaps the most rational way to gain exposure for one's ideas**. This is a non-economic, and perhaps higher, form of the idea of recognition: [in] respect, honor, and admiration. Even for starving artists recognition of this sort may be far more valuable than economic rewards. Two conditions appear essential, however, to this justification of alienation: first, the creator of the work must receive public identification, and, second, the work must receive protection against any changes unintended or unapproved by the creator.VARA Hegel's prohibition of "complete" alienation of intellectual property appears to result from his recognition of the necessity for these two conditions. While he would permit alienation of copies, and even the rights to further reproduction, n246 he disapproves alienation of "those goods, or rather substantive characteristics, which constitute . . . private personality and the universal essence of . . . self-consciousness." n247 Such alienation necessarily occurs if the recognition of the connection between a creator and his expression is destroyed or distorted. When the first condition is violated, this recognition is destroyed; when the second condition is violated, it is distorted.

## 3

#### The intertwined regimes of power that construct society define themselves in opposition to the queer Other that directly threatens the “good” National population. Binaries that paint the Other as the virus infiltrating the healthy population that must be located and “cured” mark queer bodies for violence and death.

Spade 2011 - Dean Spade is a lawyer, writer, trans activist, and Associate Professor of Law at Seattle University School of Law. In 2002, he founded the Sylvia Rivera Law Project, a non-profit law collective in New York City that provides free legal services to transgender, intersex and gender non-conforming people who are low-income and/or people of color (“Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law,” South End Press) hrmb.

This way of understanding the dispersion of power helps us realize that power is not simply about certain individuals being targeted for death or exclusion by a ruler, but instead about the creation of norms that distribute vulnerability and security. When we think about power this way, we undertake a different kind of examination of conditions that concern us, asking different questions. Mitchell Dean describes how this kind of analysis attends to the routines of bureaucracy; the technologies of notation, recording, compiling, presenting and transporting of information, the theories, programmes, knowledge and expertise that compose a field to be governed and invest it with purposes and objectives; the ways of seeing and representing embedded in practices of government; and the different agencies with various capacities that the practices of government require, elicit, form and reform. To examine regimes of government is to conduct analysis in the plural: there is already a plurality of regimes of practices in a given territory, each composed from a multiplicity of in principle unlimited and heterogeneous elements bound together by a variety of relations and capable of polymorphous connections with one another. Regimes of practices can be identified whenever there exists a relatively stable field of correlation of visibilities, mentalities, technologies and agencies, such that they constitute a kind of taken- for- granted point of reference for any form of problematization.6 This kind of analysis can be seen in the work of those using “industrial complex” terms to describe and resist the forces of militarization and criminal punishment that pervade US society. It can also be seen in the work that is being done for disability justice.

Critical disability studies and the disability rights and disability justice movements have shown us how regimes of knowledge and practices in every area of life establish norms of “healthy” bodies and minds, and consign those who are perceived to fall outside those norms to abandonment and imprisonment.7 Policies and practices rooted in eugenics have attempted (and continue to attempt) to eliminate the existence of people who fall outside those norms. Native scholars and activists have shown how white European cultural norms determine everything from what property is to what gender and family structure should look like, and how every instance of the imposition of these norms has been used in the ser vice of the genocide of indigenous people. In these locations and many others, we can see how the circulation of norms creates an idea that undergirds conditions of violence, exploitation, and poverty that social movements have resisted— the idea that the national population (*constructed* as those who meet racial, gender, sexual, ability, national origin, and other norms) must be protected from those “ others” (those outside of such norms) who are portrayed again and again in new iterations at various historical moments as “threats” or “drains.” This operation of norms is central to producing the idea of the national body as ever- threatened and to justifying the exclusion of certain populations from programs that distribute wealth and life chances (white schools, Social Security benefits, land and housing distribution programs) and the targeting of these same populations for imprisonment and violence (including criminal punishment, immigration enforcement, racist drug laws, sterilization, and medical experimentation). Even though norms are incorporated into various spaces and institutions inconsistently and applied arbitrarily, they still achieve the overall purpose of producing security for some populations and vulnerability for others. Many social movements have produced analyses of how various groups are harmed by the promotion of a national identity centered in norms about race, bodies, health, gender, and reproduction. These constructs often operate in the background and are presumed as “neutral” features of various administrative systems. The existence and operation of such administrative norms is therefore less visible than those moments when people are fired or killed or excluded explicitly because of their race or body type or gender, yet they sometimes produce more significant harm because they structure the entire context of life. I am going to return again and again in the chapters that follow to key examples, such as the dismantling of welfare programs and the expansion of criminal and immigration enforcement, that are central to contemporary politics and help illustrate how life chances are distributed through racialized- gendered systems of meaning and control, often in the form of programs that attest to be race- and gender- neutral and merely administrative.

#### Furthermore, the assumptions of the west that through the spread and accessibility of medicine that it “SOLVES FOR DEATH” is one that ignores the situation of those otherized: they may not want to talk about why they got the disease, or the homosexual lives they lead and the “corrective r\*pe” that they had to go through. The West through doing this will further conflate sexual activity with sexual identity and consigns those who are homosexual to be diseased. Spurlin ‘18

[Spurlin, William J. “Queer Theory and Biomedical Practice: The Biomedicalization of Sexuality/The Cultural Politics of Biomedicine.” The Journal of medical humanities vol. 40,1 (2019): 7-20. doi:10.1007/s10912-018-9526-0]kitkat

The biomedicalization of homosexuality under National Socialism was by no means a momentary aberration as nationalist discourses in much of the postcolonial world today read homosexuality as a colonial import and as a form of western decadence that is foreign to indigenous cultural traditions. **Western biomedicine has played a role historically as a tool of imperial power.** Frantz Fanon, an early postcolonial theorist originally from Martinique who studied medicine and psychiatry in France, and served a medical residency in Algeria and became involved in Algeria’s struggle for independence, noted that medical knowledge was one of the most insidious tools of colonial conquest and contributed to the dehumanizing logic of colonial rule (1963, 296). Similarly speaking of the French colonial conquest of Algeria, Richard Keller notes in Colonial Madness that physicians, surgeons, and pharmacists saw diagnosis and treatment as a contest over civilization alongside health and disease (2007, 11). In terms of sexuality, this meant that European physicians in the late nineteenth and early twentieth centuries read Africa in particular as “a space of savage violence and lurid sexuality” (1). Largely as a result of the effects of the so-called civilizing mission of colonialism, and the remnants of homophobic laws that often have their origins in colonial administration, **HIV/AIDS sufferers in many postcolonial societies today bear the stigma of sexual deviance and moral laxity**, and **these markings have been shaped by a history of imperialism, outdated western psychiatric opinion on the etiology of homosexuality, and causal links between homosexuality and HIV/AIDS constructed by western biomedicine in the early history of the pandemic.** Yet the effects of the biomedical justification of colonial rule continue in the contemporary surveillance and tracking of HIV/AIDS by global health institutions such as the World Health Organization (WHO) and UNAIDS. As Cindy Patton has argued, the term “African AIDS,” used early in the pandemic, mobilized racist ideologies of unchecked, unbridled sexuality amongst indigenous Africans and amongst blacks in general.8 The rhetorical strategies of medical thought-styles in representations of HIV/AIDS globally, Patton notes, have been deeply layered with social ideologies around race, class, and sexuality, and have the power “to structure the terms through which bodies become visible as the locations of disease, of an epidemic” (2002, 26). Another problem with the effects of imperialism was the initial reluctance of many African nations to admit to a presence of homosexuality within their borders and even higher rates of HIV infection than were originally assumed or predicted. This was tied to **deep-seated historical anxieties** about discursive appropriations of African sexuality by the West in decadent terms, a legacy of colonialism which remains, as with the term “African AIDS,” in discourses surrounding the global surveillance and tracking of HIV/AIDS. At the same time, the reading of homosexuality as un-African by some strands of African cultural nationalism produced a significant gap for those at risk for HIV who escaped the categories of the West, given that some indigenous African men practiced anal sex with other men but did not identify as gay and lived heterosexual lives publicly, which was compounded by the fact that the WHO saw HIV transmission in Africa largely in heterosexual terms in the early days of the pandemic. **AIDS educators were not initially sensitive to the fact that anal sex has different meanings and values in different cultural systems that needed to be addressed in helping those men,** who engaged in the practice of anal sex with other men as partners, recognize that safer sex applied to them as well, even if they resisted taking on a gay identity as it is understood in the West. The adoption of the descriptive phrase “men who have sex with men,” or MSM, by the WHO’s Global Programme on AIDS provided a thinly veiled screen, or closet, at the time, not of mere secrecy but of a “safe” identity that was more legibly heterosexual but later, it was realized, no less at risk for HIV transmission or infection. The **problem with western understandings of homosexuality, initially imposed by global health organizations on indigenous men who have sex with men, was not so much the conflation of anal sex with homosexuality but the conflation of sexual practice with sexual identity**, which places Foucault’s proposition of a shift in homosexuality in the nineteenth century from a temporary aberration to an emergent identic category (1980, 42-43) even more firmly in the West. More important, such imperialist thinking missed significant forms of HIV transmission not immediately apparent to western thinking, which was based on the confluence of sexual practice with sexual identity and resulted in subsequent gaps and delays in education and prevention programs in large parts of sub-Sahara Africa early in the pandemic. **Additionally, placid assumptions in the West that the availability of anti-retroviral (ARV) medication no longer signifies eventual death for those who are HIV-positive fail to recognize that this is precisely what it does signify for the many indigenous Africans in sub-Sahara Africa dying from AIDS-related illnesses each day.** South Africa has the highest prevalence of HIV/AIDS in the world, estimated by the South African government’s statistical report of 2015 to be at about 6.19 million of its total population of 54.96 million with the highest impact of HIV/AIDS falling on indigenous African women (Statistics South Africa 2015). A report on violence against women and HIV/AIDS by the UNAIDS Coalition on Women and AIDS and the WHO points to the everyday realities of gender inequality and intimate partner violence in South Africa. It is difficult for women, particularly younger women, to negotiate condom use with intimate male partners. High rates of gender-based violence and rape often serve as barriers to women seeking HIV testing, anti-retroviral treatment, and access to services which could prevent mother to child transmission (UNAIDS Global Coalition on Women and AIDS and WHO 2005). Alarming numbers of indigenous African women who identify as lesbian experience “corrective rape” as a cure for their so-called aberrant desires, placing them at risk for HIV/AIDS as well. **Another issue pointing to the high prevalence of HIV/AIDS in South Africa is that in the late 1990s and in the early part of the last decade, some global health officials argued that those living in poverty were not literate enough to follow the prescribed regimen of treatment for taking ARV medication; this racist argument, in turn, was appropriated by western pharmaceutical companies as a rationale for not lowering the cost of the drugs so that they would be affordable to poorer South Africans, arguing that a failure to take the drugs responsibly could lead to drug-resistant strains of HIV.** The Treatment Action Campaign (TAC) in South Africa has been the most vocal and visible lobby fighting for the rights of HIV-positive people for equal access to treatment; in the late 1990s, TAC willfully ignored international trade agreements pertaining to the production, import, and use of less costly generic versions of patented ARV drugs for the treatment of HIV infection. More recently, TAC has put pressure on UNAIDS not to overstate the likelihood of ending HIV/AIDS given the deleterious effects this could have on donorship for global HIV/AIDS funding and the politics of sexual healthcare in the developing world. The French nongovernmental human rights organization, Médecins Sans Frontières/Doctors without Borders, has worked in some of the most impoverished townships in South Africa providing ARV and TB medication to those living with HIVAIDS who are facing the challenges of poverty, marginalization, and stigma. Their work defies earlier biomedical discourses on HIV/AIDS in Africa purporting that poor Africans were too uneducated to take the medications responsibly. Given South Africa’s history of disobedience, struggle, and resistance to oppressive regimes, this work calls attention to the production and distribution of power which certainly is imbricated with biomedical thinking around ARV access and pricing in the developing world. In conclusion**, if sexual desire can become a mechanism for various forms of social manipulation, how does western biomedicine continue to play a significant political role in the cultural management of gender and sexual norms? How might the relationship between the clinical and cultural spheres be better engaged in biomedical knowledge and practice**, especially around the topic of sexual health, given biomedicine’s historic failure to recognize the influence of homophobia and transphobia in, and their reproduction through, the diagnostic histories of homosexuality and GIDC, and the racial, gender, class, and sexual ideologies that constructed early readings of the HIV/AIDS pandemic in the West and in the postcolonial world? While the identification of risk groups is key for understanding patterns of disease transmission, especially in the case of HIV/AIDS in the context of sexual health, and is essential to helping people to avoid becoming ill, what social and cultural ideologies are operating in epidemiological discourses about specific risk groups and their behavior? **Where will this theorization occur?**

#### There is a promotion of reproductive futurism to escape our insecurity in the face of nuclear threat, under a duty to a state. This nuclear risk threatens the ability for life and longevity in the status quo. Shipley ‘13

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When Jonathan Schell's The Fate of the Earth first appeared in 1982, its most talked-about passage was a graphic description of what would happen if a twenty-megaton bomb were detonated over the center of Manhattan. The ensuing account of how-a full-scale nuclear change would likely extinguish humankind along with the majority of earth's species, leaving a "republic of insects and grass," completed the **book's infernal vision**. Largely owing to this vivid thought-experiment, Schell's book helped reenergize the anti-nuclear movement in the U.S., and its cautionary portrait of a dead, irradiated planet was absorbed into mass-culture such that, read now, it chastens but does not stun. But there is a still-astonishing moment in The Fate of the Earth. This occurs in a section called "The Second Death," where Schell adopts "the view of our children and grandchildren, and of all the future generations of mankind, stretching ahead of us in time." A **nuclear extinction event, he argues, would wipe out not only the living but all of the unborn as well;** this "second death" would be the death of a longitudinal, progenerative human future, the death of the supersession of generations and thus, as he puts it, **"the death of death."**2 That we live in the shadow of the death of death, says Schell, is nowhere more apparent than in our growing ambivalence toward—and here is the surprise—marriage, an institution that consecrates a personal relationship by connecting it to the biological continuity of the species. "[By] swearing their love in public," he writes, "the lovers also let it be known that their union will be a fit one for bringing children into the world." In a world overshadowed by extinction, the biological future that endows love with social meaning begins to dematerialize, and love becomes, in response, "an ever more solitary affair: impersonal, detached, pornographic. It means something that we call both pornography and nuclear destruction 'obscene.'" Although Schell is not explicit about what forms of sexual detachment he laments here, "**The Second Death" clearly implies that any sex decoupled from biological continuity and seeking refuge in licentious, solitary, distant, or momentary enjoyment—any sex that deviates from a reproductive notion of the future—is a symptom of our nuclear extinction syndrome.** Thus when Schell, oddly quoting Auden, says that the peril of extinction thwarts "Eros, builder of cities," he doesn't need to invoke "sodomy, destroyer of cities" for a link between queerness and extinction to be forged.' By installing a reproductive futurism at the heart of his admonitory project, Schell implicitly stigmatizes as futureless anyone who stands beyond reproductivism's pale: not just the homosexual but also the unmarried, the divorced, the impotent, the childless, the masturbator, the hedonist, the celibate

#### Debilitation and slow death are forms of control that emerge in order to avoid the spectacle of casualties; these biopolitical controls are wielded through social institutions, access to basic needs and medical care, and entrapment in cycles of oppression. As long as the state maintains its current power, militarily and economically, there can be no true change, just the endless shifting of other forms of control to maintain the same violent dynamics the current social empire necessitates. Puar ‘17

Jasbir Puar 2017 (The Right To Maim, Duke University Press pg x-xiv)

The might of Israel’s military—one of the most powerful in the world— is built upon the claim of an unchanging ontological vulnerability and precarity, driven by history, geopolitics, and geography. Alongside the “right to kill,” I noted a complementary logic long present in Israeli tactical calculations of settler colonial rule—that of creating injury and maintaining Palestinian populations as perpetually debilitated, and yet alive, in order to control them. The Israeli Defense Forces (idf) have shown a demonstrable pattern over decades of sparing life, of shooting to maim rather than to kill. This is ostensibly a humanitarian practice, leaving many civilians “permanently disabled” in an occupied territory of destroyed hospitals, rationed medical supplies, and scarce resources. This pattern appeared again during Operation Protective Edge; the number of civilian casualties was reported daily and justified through the logic of collateral damage, while the number of injuries was rarely commented upon and never included in reflections of the daily toll of the siege. Shooting to maim in order not to kill might appear as minor relief given the proclivity to shoot to kill. Why indeed were so many unarmed black victims of police brutality riddled with scores of bullets? But oscillations between the right to kill and the right to maim are hardly haphazard or arbitrary. The purportedly humanitarian practice of sparing death by shooting to maim has its biopolitical stakes not through the right to life, or even letting live, but rather through the logic of “will not let die.” Both are part of the deliberate debilitation of a population—whether through the sovereign right to kill or its covert attendant, the right to maim—and are key elements in the racializing biopolitical logic of security. Both are mobilized to make power visible on the body. Slated for death or slated for debilitation—both are forms of the racialization of individuals and populations that liberal (disability) rights frameworks, advocating for social accommodation, access, acceptance, pride, and empowerment, are unable to account for, much less disrupt. Fast-forward to the summer of 2016. July 10, 2016, was the fourth day of Black Lives Matter protests going on in New York City, as well as in many other locations across the United States. During the previous week, Hands Up, Don’t Shoot! xi the police shootings of Philando Castile in St. Paul, Minnesota, and Alton Sterling in Baton Rouge, Louisiana, had galvanized protests all around the country. The shooting and killing of five police officers during a Black Lives Matter rally in Dallas had only amplified the lines of battle between civilians and law enforcement. The June 12 shooting in an Orlando queer club magnified a homonationalist discourse that posits Muslim homophobes as the primary danger to queer liberals of all colors, resulting in increased policing of lgbtq pride events during the summer. Bombings by isis in the previous month had targeted Nice, Istanbul, and Dhaka. Protesters started gathering at Standing Rock to fight the Dakota Access Pipeline. There were more shootings of black bodies to come. On this particular day, the main Black Lives Matter protest in New York City was happening in Times Square. Not far from this location, the Second Annual Disability Pride parade, marketed as a festival and celebration, was marching on Broadway from Union Square to Madison Square Park. International in scope, the parade included veterans and actors involved in the development of the United Nations Convention on the Rights of Persons with Disabilities. I was in a part of Manhattan equidistant from both activities, one being an action and the other being an event. The relationship between the two confounded me. I recalled that on June 24, Black Lives Matter withdrew from the San Francisco Pride Parade, citing fear of increased police presence in the parade post-Orlando. On July 3, Black Lives Matter, selected as the Toronto Pride Parade’s Honored Group, brought the parade to a complete halt in order to demand a series of conditions, including banning police from marching in the parade. I was struck by the discord between an increasingly visible disability empowerment discourse in human rights platforms, cultural productions, and public discourse, and the divestment of Black Lives Matter from narratives of pride, with dominant messaging at Black Lives Matter actions including: “Hands up, don’t shoot!” and “I can’t breathe!” I remained in the middle, perplexed. This is not an either/or situation, but neither is it resolved by the commonsense logic of both/and. Disability empowerment and pride are part of rights discourses even as expressions of maiming, debilitation, and disabling are central to economies and vocabularies of violence and exploitation. What kinds of biopolitical fissures produce a spectacle of disability empowerment and pride mere blocks from a movement protesting the targeted debilitation of an entire racialized population, contesting the production of disability that is central to state securitization practices? The New York City branch of the Peoples Power Assemblies (ppa), a part of the Movement for Black Lives, organizes a presence yearly at the Disability Pride March. Participants carry Black Disabled Lives Matter banners, signs that say “Stop the War on Black America” and “Support the Black Lives Matter Movement,” and placards noting that more than 50 percent of police shootings of black bodies involve individuals with disabilities. It is a direct action rather than a pride celebration, one demanding attention to both targeting of the disabled and targeting to disable, with distinctly dif­ferent terms from empowerment and pride rhetorics. As ppa member Colin Ashley put it, “Those on the sidelines either get it automatically and really cheer, or seem completely mystified as to why we would be in the march. We feel it is necessary to go in order to disrupt the normative messaging.”1 For its part, Black Lives Matter has been clear that people with disabilities are both survivors of injustice and also part of their assembly. Alicia Garcia writes that “Black Lives Matter affirms the lives of Black queer and trans folks, disabled folks, Black-undocumented folks, folks with records, women, and all Black lives along the gender spectrum. It centers those that have been marginalized within Black liberation movements. It is a tactic to (re)build fig. pref.1. Peoples Power Assemblies providing powerful counternarratives at the NYC Disability Pride March, July 10, 2016. the Black liberation movement.”2 And yet, the Movement for Black Lives received important feedback, specifically from the Harriet Tubman Collective, “A Collective of Black Deaf & Black Disabled organizers, community builders, activists, dreamers, lovers striving for radical inclusion and collective liberation,” about the absence of any acknowledgment of or discussion about the impact of disability in black communities in their six-point platform released in August 2016. 3 The intervention from the Harriet Tubman Collective not only highlights ableist frameworks of resistance; it also raises questions about how, in this time of political upheaval and dissent, meetings, protests, and actions could become more accessible to people with varying debilities, capacities, and disabilities. Today the solidarity pathways between Black Lives Matter and Free Palestine are rhizomatic and bountiful.4 Pro-Palestinian antiwar activists will join ppa next year, protesting both the targeting of disabled Palestinians by the idf and the targeting to debilitate, part of a biopolitics not of disability alone but a biopolitics of debilitation. I contend that the term “debilitation” is distinct from the term “disablement” because it foregrounds the slow wearing down of populations instead of the event of becoming disabled. While the latter concept creates and hinges on a narrative of before and after for individuals who will eventually be identified as disabled, the former comprehends those bodies that are sustained in a perpetual state of debilitation precisely through foreclosing the social, cultural, and political translation to disability. It is this tension, the tension between targeting the disabled and targeting to debilitate, the tension between being and becoming, this is the understated alliance that I push in this project. The first presumes a legitimate identification with disability that is manifest through state, market, and institutional recognition, if not subjective position: I call myself disabled. But this cannot be the end of the story, because what counts as a disability is already overdetermined by “white fragility” on one side and the racialization of bodies that are expected to endure pain, suffering, and injury on the other.5 As such, the latter is an understanding of biopolitical risk: to extrapolate a bit from Claudia Rankine’s prose: “I am in death’s position.”6 And to expand: I am in debility’s position. The biopolitics of debilitation is not intended to advocate a facile democratization of disability, as if to rehash the familiar cant that tells us we will all be disabled if we live long enough. In fact, depending on where we live, what resources we have, what traumas we have endured, what color our skin is, what access we have to clean water, air, and decent food, what type of health care we have, what kind of work we do . . . we will not all be disabled. Some of us will simply not live long enough, embedded in a distribution of risk already factored into the calculus of debilitation. Death’s position. Others, at risk because of seeming risky, may encounter disability in ways that compound the debilitating effects of biopolitics.

#### The violence of the community and the government culminates in overkill which uniquely outweighs extinction under any utilitarian framework since it doesn’t only end the pleasure and happiness in life, it erases the previous value of life. Stanley ‘11

[Stanley, E. (2011). Near Life, Queer Death. Social Text, 29(2), 1–19. doi:10.1215/01642472-1259461 ]kitkat

Overkill is a term used to indicate such excessive violence that it pushes a body beyond death. Overkill is often determined by the postmortem removal of body parts, as with the partial decapitation in the case of Lauryn Paige and the dissection of Rashawn Brazell. The **temporality of violence, the biological time when the heart stops pushing and pulling blood, yet the killing is not finished, suggests the aim is not simply the end of a specific life, but the ending of all queer life.** This is the time of queer death, when the utility of violence gives way to the pleasure in the other’s mortality. If queers, along with others, approximate nothing, then the task of ending, of killing, that which is nothing must go beyond normative times of life and death. In other words, **if Lauryn was dead after the first few stab wounds to the throat, then what do the remaining fifty wounds signify**? **The legal theory that is offered to nullify the practice of overkill often functions under the name of the trans- or gay-panic defense**. Both of these defense strategies argue that the murderer became so enraged after the “discovery” of either genitalia or someone’s sexuality they were **forced to protect themselves from the threat of queerness**. Estanislao Martinez of Fresno, California, used the trans-panic defense and received a four-year prison sentence after admittedly stabbing J. Robles, a Latina transwoman, at least twenty times with a pair of scissors. Importantly, this defense is often used, as in the cases of Robles and Paige, after the murderer has engaged in some kind of sex with the victim. The logic of the trans-panic defense as an explanation for overkill, in its gory semiotics, offers us a way of understanding queers as the nothing of Mbembe’s query. Overkill names the technologies necessary to do away with **that which is already gone**. Queers then are the specters of life whose threat is so unimaginable that one is “forced,” not simply to murder, but to push them backward out of time, out of History, and into that which comes before. 27 In thinking the overkill of Paige and Brazell, I return to Mbembe’s query, “But **what does it mean to do violence to what is nothing?”**28 This question in its elegant brutality repeats with each case I offer. By resituating this question in the positive, the “something” that is more often than not translated as the human is made to appear. Of interest here, the category of the human assumes generality, yet can only be activated through the specificity of historical and politically located intersection. To this end, the human, the “something” of this query, within the context of the liberal democracy, names rights-bearing subjects, or those who can stand as subjects before the law. **The human, then, makes the nothing not only possible but necessary.** Following this logic, the work of death, of the death that is already nothing, not quite human, binds the categorical (mis)recognition of humanity. The human, then, resides in the space of life and under the domain of rights, whereas the queer inhabits the place of compromised personhood and the zone of death. **As perpetual and axiomatic threat to the human, the queer is the negated double of the subject of liberal democracy.** Understanding the nothing as the unavoidable shadow of the human serves to counter the arguments that suggest overkill and antiqueer violence at large are a pathological break and that the severe nature of these killings signals something extreme. In contrast, overkill is precisely not outside of, but is that which constitutes liberal democracy as such. **Overkill then is the proper expression to the riddle of the queer nothingness.** Put another way, the spectacular material-semiotics of overkill should not be read as (only) individual pathology; these vicious acts must indict the very social worlds of which they are ambassadors. **Overkill is what it means**, what it must mean, **to do violence to what is nothing**.

#### The collective resistance of the Stonewall riots is a spirit we need to recapture – embrace the mindset and radically refuse the police state is the only way to prevent the continuation of state violence towards the queer Other and the death of the revolutionary spirit

**Stanley 11** Stanley, E. A., & Smith, N. (2011). Captive genders: Trans embodiment and the prison industrial complex. Oakland, CA: AK Press.

Bright lights shattered the dark anonymity of the dance floor. The flicker warned of the danger of the coming raid. Well experienced, people stopped dancing, changed clothing, removed or applied makeup, and got ready. The police entered, began examining everyone’s IDs, and lined up the trans/gender-non-conforming folks to be “checked” by an officer in the restroom to ensure that they were wearing the legally mandated three pieces of “gender appropriate clothing.” Simultaneously the cops started roughing up people, dragging them out front to the awaiting paddy wagon. In other words, it was a regular June night out on the town for trans and queer folks in 1969 New York City. As the legend goes, that night the cops did not receive their payoff or they wanted to remind the patrons of their precarious existence. In the shadows of New York nightlife, [at] the **Stonewall** Inn, like most other “**gay bars**,” was owned and run by the mafia, which tended to have the connections within local government and the vice squad to know who to bribe in order to keep the bar raids at a minimum and the cash flowing. As the first few captured queers were forced into the paddy wagon, people hanging around outside the bar began throwing pocket change at the arresting **officers**; then the bottles started flying and then the **bricks**. With the majority of the patrons now outside the bar, a **crowd of angry trans/queer folks had gathered and forced the police to retreat** back **into the Stonewall**. **As their collective fury grew, a** few people uprooted a parking meter and used it as a battering ram in hopes of knocking down the bar’s door and escalating the physical confrontation with the cops. A tactical team was called to rescue the vice squad now barricaded inside the Stonewall. They eventually arrived, and the street battle raged for two more nights**. In a** blast of **radical collectivity**, trans/gender-non-conforming folks, queers of color, butches, drag queens, hair-fairies, homeless street youth, sex workers, and others **took up arms and fought back against** the **generations of oppression** that they were forced to survive.[1] Forty years later, on a similarly muggy June night in 2009, history repeated itself. At the Rainbow Lounge, a newly opened gay bar in Fort Worth, Texas, the police staged a raid, verbally harassing patrons, calling them “faggots” and beating a number of customers. One patron was slammed against the floor, sending him to the hospital with brain injuries, while seven others were arrested. These instances of brutal force and the administrative surveillance that trans and queer folks face today are not significantly less prevalent nor less traumatic than those experienced by the Stonewall riot[s] ers of 1969, however the way [of] s this violence is currently underst[anding violence] ood is quite different.[from the Rainbow Lounge] While community vigils and public forums were held in the wake of the Rainbow Lounge raid, the immediate response was ***not to fight back***, ***nor has there been*** much attempt to understand the raid in the broader context of the systematic violence trans and queer people face under the relentless force of the prison industrial complex (PIC).[2] Captive Genders is in part an attempt to think about the historical and political ideologies that continually naturalize the abusive force of the police with such power as to make them appear ordinary. This is not to argue that the types of resistance present at the Stonewall riots were commonplace during that time, nor to suggest that trans and queer folks do not fight back today; nonetheless one of our aims is to chart the multiple ways that trans and queer folks are subjugated by the police, along with the multiple ways that we have and that **we continue to resist in the face of these overwhelming structures**.[3] I start **with the Stonewall riot** not because it **was** **the** first, most important, or last instance of **radical refusal of the police state.** Indeed, the riots at San Francisco’s Compton’s Cafeteria in 1966 and at Los Angeles’s Cooper’s Doughnuts in 1959 remind us that the history of resistance is as long as the history of oppression. However, what is unique about the Stonewall uprising is that, within the United States context, it is made to symbolize the “birth of the gay rights movement.” Furthermore, dominant lesbian, gay, bisexual, and transgender (LGBT) political organizations like the Human Rights Campaign (HRC) and the National Gay and Lesbian Task Force (NGLTF) attempt to build an arc of progress starting with the oppression of the Stonewall moment and ending in the current time of “*equality*” evidenced by campaigns for gay marriage, hate crimes legislation, and gays in the military. Captive Genders works to undo this narrative of progress, assimilation, and police cooperation by building an analysis that highlights the **historical and contemporary antagonisms between trans/queer folks and the police state**.[4] This collection argues that **prison abolition must be one of the centers of trans and queer liberation struggles**. Starting with abolition we open questions often disappeared by both mainstream LGBT and anti-prison movements. Among these many silences are the radical trans/queer arguments against the proliferation of hate crimes enhancements. Mainstream LGBT organizations, in collaboration with the state, have been working hard to make us believe that hate crimes enhancements are a necessary and useful way to make trans and queer people safer. Hate crimes enhancements are used to add time to a person’s sentence if the offense is deemed to target a group of people. However, hate crimes enhancements ignore the roots of harm, do not act as deterrents, and reproduce the force of the PIC, which produces more, not less harm. Not surprisingly, in October 2009, when President Obama signed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act into law, extending existing hate crimes enhancements to include “gender and sexuality,” there was no mention by the LGBT mainstream of the historical and contemporary ways that the legal system itself works to deaden trans and queer lives. As antidote, this collection works to understand how gender, sexuality, race, ability, class, nationality, and other markers of difference are constricted, often to the point of liquidation, in the name of a normative carceral state. Among the most volatile points of contact between state violence and one’s body is the domain of gender. An understanding of these connections has produced much important activism and research that explores how non-trans women are uniquely harmed through disproportionate prison sentences, sexual assault while in custody, and nonexistent medical care, coupled with other forms of violence. This work was and continues to be a necessary intervention in the ways that prison studies and activism have historically imagined the prisoner as always male and have until recently rarely attended to the ways that gendered difference produces carceral differences. Similarly, queer studies and political organizing, along with the growing body of work that might be called trans studies— while attending to the work of gender, sexuality, and more recently to race and nationality—has (with important exceptions) had little to say about the force of imprisonment or about trans/queer prisoners. Productively, we see this as both an absence and an opening for those of us working in trans/queer studies to attend—in a way that centers the experiences of those most directly impacted—to the ways that the prison must emerge as one of the major sites of trans/queer scholarship and political organizing.[5] In moments of frustration, excitement, isolation, and solidarity, Captive Genders grew out of this friction as a rogue text, a necessarily unstable collection of voices, stories, analysis, and plans for action. What these pieces all have in common is that they suggest that gender, ability, and sexuality as written through race, class, and nationality must figure into any and all accounts of incarceration, even when they seem to be nonexistent. Indeed, the **oftentimes ghosted ways that gender and heteronormativity function most forcefully are in their presumed absence.** In collaboration and sometimes in contestation, this project offers vital ways of understanding not only the specific experience of trans and queer prisoners, but also more broadly the ways that regimes of normative sexuality and gender are organizing structures of the prison industrial complex. To be clear, Captive Genders is not offered as a definitive collection. Our hope is that it will work as a space where conversations and connections can multiply with the aim of making abolition flourish.

## Case

#### If their FW were true, it would make resolving impacts impossible since everything would then carry infinite risk since there’s some small small fraction of a chance it leads to extinction – if the neg links are plausible then not affirming might lead to extinction as well by the butterfly effect.

This keeps pushing moral decisions back and back—since there is always an infinite risk of extinction we will be paralyzed and never make moral decisions.

#### [1] Each type of pleasure is qualitatively different, so we can’t quantify and compare pleasures which answers calulations.

#### [2] Any action is permissible since util doesn’t condemn actions, but end states – there’s always a possibility an action can be justified

#### [3] Desirability is circular - you define morality based off what is desirable, yet you only know what’s is desirable off of what is moral. Reject circular fwks since they’re logically invalid which means we can therefore justify anything

#### [4] There is no bright line to where consequences end. Ends will always trigger more ends.

#### [5] States don’t know what citizens “interests” really are. Citizens have different pleasures based on their own experiences. They can never know the worth of the policy values. This would also require constant reconfirmation that the aff alone can’t do since the system would fail when people’s values changed.

[6] Inductive reasoning fails since you justify induction based on what happened in the past because you know inductive reasoning worked before so its circular

#### Patents are a left-wing boogeyman and not the main cause

Tabarrok 21

Alex Tabarrok (Bartley J. Madden Chair in Economics at the Mercatus Center and am a professor of economics at George Mason University). “Patents are Not the Problem!” Marginal Revolution. 6 May 2021. JDN. https://marginalrevolution.com/marginalrevolution/2021/05/ip-is-not-the-constraint.html

What can we do to increase supply? Sorry, there is no quick and cheap solution. We must spend. Trump’s Operation Warp Speed spent on the order of $15 billion. If we want more, we need to spend more and on similar scale. The **Biden administration paid $269 million to Merck to retool its factories to make the J&J vaccine**. That was a good start. We could also offer Pfizer and Moderna say $100 a dose to produce in excess of their current production and maybe with those resources there is more they could do. South Africa and India and every other country in the world should offer the same (India hasn’t even approved the Pfizer vaccine and they are complaining about IP!??) We should ease up on the DPA and invest more in the supply chain–let’s get CureVac and the Serum Institute what they need. We should work like hell to find a substitute for Chilean tree bark. See my piece in Science co-authored with Michael Kremer et. al. for more ideas. (Note also that these ideas are better at dealing with current supply constraints and they also increase the incentive to produce future vaccines, unlike shortsighted patent abrogation.) **Bottom line is that producing more takes real resources not waving magic patent wands.** You may have gathered that I am angry. I am indeed angry that the people in power think they can solve real problems on the cheap and at someone else’s expense. This is not serious. I am also angry that they are sending the wrong message about business, profits and capitalism. So let me end on positive note. Like the Apollo program and Dunkirk, the creation of the mRNA vaccines by Pfizer and Moderna should be lauded with Nobel prizes and major movies. Churchill called the rescue at Dunkirk a “miracle of deliverance,” well the miracle of Moderna will rescue many more. Not only was a vaccine designed in under a year, an entirely new production process was set up to produce billions of doses to rescue the world. The creation of the mRNA vaccines was a triumph of science, logistics, and management and it was done at a speed that I had thought possible only for past generations. I am grateful that greatness is still within our civilization’s grasp.

#### Waiving patents can’t resolve drug access issues

Garde 21

Damian Garde (national biotech reporter for STAT), Helen Branswell (senior writer at STAT covering infectious diseases and global health; former CDC Knight Fellow and Nieman Global Health Fellow at Harvard; recipient of the 2020 George Polk Award for coverage of the Covid pandemic), and Matthew Herper (senior writer at STAT covering medicine). “Waiver of patent rights on Covid-19 vaccines, in near term, may be more symbolic than substantive.” Stat News. 6 May 2021. JDN. <https://www.statnews.com/2021/05/06/waiver-of-patent-rights-on-covid-19-vaccines-in-near-term-may-be-more-symbolic-than-substantive/>

In October, **Moderna vowed not to enforce its Covid-19-related patents for the duration of the pandemic, opening the door for manufacturers that might want to copy its vaccine. But to date, it’s unclear whether anyone has, despite the vaccine’s demonstrated efficacy and the worldwide demand for doses.** That underscores the drug industry’s case that patents are just one facet of the complex process of producing vaccines. “There are currently no generic vaccines primarily because there are hundreds of process steps involved in the manufacturing of vaccines, and thousands of check points for testing to assure the quality and consistency of manufacturing. One may transfer the IP, but the transfer of skills is not that simple,” said Norman Baylor, who formerly headed the Food and Drug Administration’s Office of Vaccines Research and Review, and who is now president of Biologics Consulting. While there are factories around the world that can reliably produce generic Lipitor, vaccines like the ones from Pfizer and Moderna — using messenger RNA technology — require skilled expertise that even existing manufacturers are having trouble sourcing. “In such a setting, imagining that someone will have staff who can create a new site or refurbish or reconfigure an existing site to make mRNA [vaccine] is highly, highly unlikely,” Yadav said. There are already huge constraints on some of the raw materials and equipment used to make vaccines. Pfizer, for instance, had to appeal to the Biden administration to use the Defense Production Act to help it cut the line for in-demand materials necessary for manufacturing. Rajeev Venkayya, head of Takeda Vaccines — which is not producing its own Covid vaccine but is helping to make vaccine for Novavax — said supply shortages are impacting not just Covid vaccine production but the manufacture of other vaccines and biological products as well. “**This is an industry-wide … looming crisis that will not at all be solved by more tech transfers,” Venkayya said**. He suggested many of the people advocating for this move are viewing the issue through the prism of drug development, where lifting intellectual property restrictions can lead to an influx of successful generic manufacturing. “I think in this area there is an unrecognized gap in understanding of the complexities of vaccine manufacturing by many of the ‘experts’ that are discussing it,” said Venkayya, who stressed that while he believes they have good intentions, “nearly all of the people who are providing views on the value of removing patent protections have zero experience in vaccine development and manufacturing.” As Michelle McMurry-Heath, CEO of the trade group BIO, put it in a statement, “handing needy countries a recipe book without the ingredients, safeguards, and sizable workforce needed will not help people waiting for the vaccine.”

#### Unpatented medicine cause counterfeits—

Lynbecker 16 [(Kristina M. L. Acri née, an Associate Professor of Economics at Colorado College in Colorado Springs, where she is also the Associate Chair of the Department of Economics and Business and the Gerald L. Schlessman Professor of Economics. Dr. Lybecker’s research analyzes the difficulties of strengthening intellectual property rights protection in developing countries, specifically special problems facing the pharmaceutical industry.) “Counterfeit Medicines and the Role of IP in Patient Safety,” IPWatchDog, 7/27/16. <https://www.ipwatchdog.com/2016/06/27/counterfeit-medicines-ip-patient-safety/id=70397/>] RR

The threat of counterfeit goods took center stage on June 15th in a hearing convened by Senate Finance Committee Chairman Orrin Hatch (R-Utah). Focusing on trade opportunities and challenges for American businesses in the digital age, Senator Hatch stated:

“The Organization for Economic Co-Operation and Development (OECD) recently released a study that shows that counterfeit products accounted for up to 2.5 percent of world trade, or $461 billion, in 2013. This is a dramatic increase from a 2008 estimate that showed that fake products accounted for less than half that amount. Counterfeits are a worldwide problem, but the OECD estimates that the United States is the hardest hit, followed by Italy and France. Of the estimated $461 billion in counterfeit trade in 2013, goods with registered intellectual property rights in the U.S. represented 20 percent, or $92 billion, of the OECD estimate.”[1]

As the author of the chapter on illicit trade in counterfeit medicines within the OECD report, I worry that global policymakers may be working against each other when it comes to battling counterfeit drugs, especially in the context of intellectual property rights. While the Senate Hearing and the OECD report highlight the importance of strong IP protection in combating the growing threat of counterfeit goods, their efforts coincide with an initiative by the UN Secretary-General that has the potential to greatly worsen the problems of counterfeit pharmaceuticals. UN Secretary General Ban Ki Moon’s High Level Panel on Access to Medicines proposes “to review and assess proposals and recommend solutions for remedying the policy incoherence between the justifiable rights of inventors, international human rights law, trade rules and public health in the context of health technologies.”[2] The High Level Panel is a thinly veiled attempt to undermine the intellectual property rights architecture that incentivizes pharmaceutical innovation and protects patients from counterfeit medicines.

While patents and other forms of intellectual property rights are widely recognized as fostering pharmaceutical innovation, they also serve to inhibit counterfeiting. The World Health Organization has determined that counterfeiting is facilitated where “there is weak drug regulatory control and enforcement; there is a scarcity and/or erratic supply of basic medicines; there are extended, relatively unregulated markets and distribution chains, both in developing and developed country systems; price differentials create an incentive for drug diversion within and between established channels; there is lack of effective intellectual property protection; due regard is not paid to quality assurance”.[3]

[Kristina]

According to INTERPOL estimates, approximately 30 percent of drugs sold worldwide are counterfeit.[4] However, as is the case with many other counterfeit trade statistics, the origins of this figure are somewhat uncertain, as is the methodology used to make the calculation. Perhaps the most widely-cited statistic originates from the World Health Organization, which estimates that 10 percent of the global market for pharmaceuticals is comprised of counterfeits and reports place the share in some developing countries as high as 50-70%.[5]

While difficult to measure, estimates do exist on the extent of the market for counterfeit drugs and the harm done to human health. As noted in my chapter in the OECD report,

“INTERPOL estimates that more than one million people die each year from counterfeit drugs.[6] While counterfeit drugs seem to primarily originate in Asia, Asian patients are also significantly victimized by the problem. A 2005 study published in PLoS Medicine estimate that 192,000 people are killed in China each year by counterfeit medicines.[7] According to work done by the International Policy Network, an estimated 700,000 deaths from malaria and tuberculosis are attributable to fake drugs. [8] The World Health Organization presents a much more modest number noting that malaria claims one million lives annually and as many as 200,000 may be attributed to counterfeit medicines which would be avoidable if the medicines available were effective, of good quality and used correctly.[9] Even this number is double that presented by academic researchers Amir Attaran and Roger Bate who claim that each year more than of 100,000 people around the world may die from substandard and counterfeit medications.[10]” [11]

Given the devastating impact of counterfeit medicines on patients and the importance of intellectual property protection in combating pharmaceutical counterfeiting, it is troubling that the UN High Level Panel seems poised to prevent a series of recommendations that will undermine public health under the guise of enhancing access. Without the assurance of quality medicines, access is meaningless. Moreover, while falsely presenting intellectual property rights as the primary obstacle to global health care, the High Level Panel downplays a host of other factors that prevent developing country patients from getting the drugs they need: inadequate medical infrastructure, insufficient political will, a shortage of clinical trials in nations where neglected diseases are endemic, poverty, and insufficient market incentives.