## 1

#### Interpretation: the resolution should define the division of affirmative and negative ground. To clarify, the affirmative must defend a world where a just government recognizes an unconditional right to strike for workers.

#### Government is defined as a group of people who make decision for a country

Merriam Webster (<https://www.merriam-webster.com/dictionary/government)//ww> pbj

the group of people who control and make decisions for a country, state, etc.

#### Unconditional means not conditional or limited

#### Merriam Webster (<https://www.merriam-webster.com/dictionary/unconditional)//ww> pbj

not conditional or limited

#### Strike is defined as to stop work to force an employer to comply with demands

Merriam Webster (<https://www.merriam-webster.com/dictionary/strike)//ww> pbj

to stop work in order to force an employer to comply with demands

Standards:

#### [1] procedural fairness – their interpretation eviscerates predictable limits – all negative strategy is premised off a stable reading of the resolution. The lack of a stable mechanism lets them radically re-contextualize their aff and erase neg ground via perms. Including their advocacy authorizes any methodology or orientation tangentially related to the topic, which renders research burdens untenable. That outweighs and precedes their offense – debate is a game that we’ve all chosen to participate in and requires effective negation. It makes no sense to skew a competitive activity in favor of one side. The frame for evaluating offense is that debate is a game and we’re all here to win – that means procedural questions come first.

#### [2] Movement Building -

#### [a] Debate over a controversial point of action creates argumentative stasis – that’s key to avoid a devolution of debate into competing truth claims which eviscerates the decision-making potential of debate

**Steinberg & Freeley, 13**

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**Debate is a means of settling differences,** **so there must be a** difference of opinion or a **conflict of interest** before there can be a debate. **If everyone is in agreement** on a tact or value or policy, **there is no need for debate**: **the matter can be settled by unanimous consent**. Thus, for example, **it would be pointless to attempt to debate "Resolved: That two plus two equals four,"** because there is simply no controversy about this statement. (**Controversy is an essential prerequisite** of debate. **Where there is no clash of ideas**, proposals, interests, or expressed positions on issues, **there is no debate**. In addition, **debate cannot produce effective decisions** **without clear identification of a question or questions to be answered**. For example, **general argument may occur about the broad topic of illegal immigration**. **How many** illegal immigrants **are in the United States?** What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? **Do they take job**s from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? **Is it the responsibility of employers to discourage illegal immigration** by not hiring undocumented workers? Should they have the opportunity- to gain citizenship? Docs illegal immigration pose a security threat to our country? **Do illegal immigrants do work that American workers are unwilling to do?** Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? I low are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? **Should we build a wall on the Mexican border**, establish a national identification can!, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? **Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this "debate" is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question** **and identification of a line demarcating sides in the controversy**. To be discussed and resolved effectively, **controversies must be stated clearly**. **Vague understanding** **results in unfocused deliberation and poor decisions**, frustration, and emotional distress, as **evidenced by the failure of the United States Congress to make progress on the immigration debate during the summer of 2007**.**Someone disturbed by the problem of the growing underclass of poorly educated, socially disenfranchised youths might observe, "Public schools are doing a terrible job!** They are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do something about this" or. worse. "It's too complicated a problem to deal with." **Groups of concerned citizens worried about the state of public education could join together to express their frustrations**, anger, disillusionment, and emotions regarding the schools, **but without a focus for their discussions**, **they could easily agree about the sorry state of education without finding points of clarity or potential solutions.** **A gripe session would follow**. **But if a precise question is posed**—such as "What can be done to improve public education?"—**then a more profitable area of discussion is opened up** **simply by placing a focus on the search for a concrete solution step**. **One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies.** The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities" and "Resolved: That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. **They provide specific policies to be investigated and aid discussants in identifying points of difference.To have a productive debate, which facilitates effective decision making** **by** directing and **placing limits on the decision** to be made, **the basis for argument should be clearly defined**. **If we merely talk about "homelessness" or "abortion" or "crime'\* or "global warming" we are likely to have an interesting discussion but not to establish profitable basis for argument**. For example, **the statement "Resolved: That the pen is mightier than the sword" is debatable, yet fails to provide much basis for clear argumentation**. If we take this statement to mean that the written word is more effective than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose.

**Although we now have a general subject**, we have not yet stated a problem. **It is still too broad**, too loosely worded to promote well-organized argument. **What sort of writing are we concerned with**—poems, novels, government documents, website development, advertising, or what? **What does "effectiveness" mean** in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be. "Would a mutual defense treaty or a visit by our fleet be more effective in assuring Liurania of our support in a certain crisis?" **The basis for argument could be phrased in a debate proposition** such as "Resolved: That the United States should enter into a mutual defense treatv with Laurania." Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. **This is not to say that debates should completely avoid creative interpretation** of the controversy by advocates, **or** **that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.**

#### [b] Debate is imperfect, but only our interpretation can harness legal education to understand the law’s strategic reversibility paired with intellectual survival skills that help us navigate and contest violent structures. This is the most plausible internal link from debate to meaningful social and political agitation for social justice.

Archer 18 (Deborah N., Associate Professor of Clinical Law @ NYU School of Law, “POLITICAL LAWYERING FOR THE 21ST CENTURY,” draft, pp. 1-43) \*Edited\*

Many law students are overwhelmed by injustice. When faced with the reality of systemic inequities, even the most committed students may surrender to hopelessness, despair, and inaction. This is not because they have stopped caring about injustice, but because they cannot envision a path from injustice to justice. Many do not have the tools to navigate systemic injustice or respond to interwoven legal and social ills. This article contends that although clinical legal education provides an excellent opportunity to offer students the skills, experience, perspective, and confidence to grapple with today’s complex social justice issues, it has not sufficiently responded to the changing educational needs of our students by teaching law students how to most effectively utilize litigation alongside other tools of systemic reform advocacy. How can clinical education prepare law students to navigate issues of systemic discrimination and injustice? Clinical teaching’s signature pedagogical vehicle involves students providing direct representation of individual clients in straightforward, manageable cases in which students focus on discrete legal issues, take full ownership of the case, and see it through from beginning to end.1 These cases train students to be creative problem solvers for individual clients. However, this model does not effectively prepare students to address and combat structural or chronic inequality. The individualized model also provides relatively limited opportunities for students to address the intellectual and skills-based challenges of lawyering on a larger scale.2 Complex cases allow students to explore the complicated relationship between justice, law, and politics.3 They introduce students to many of the skills needed to integrate rebellious or political lawyering into their practice, including working with others to brainstorm, design, and execute an advocacy strategy; helping to build and participate in a coalition; engaging in integrated advocacy; and analyzing the outside forces that help shape outcomes, including organizational capacity, challenges of enforcement, and potential political backlash.4 There is a longstanding and ongoing debate within the clinical legal education community about the relative merits of small, individual cases versus larger impact advocacy matters.5 The parameters of this debate, coupled with an influential body of clinical scholarship criticizing impact litigation and the lawyers who bring it,6 have led the clinical teaching community to overreact to these critiques by moving farther away from impact advocacy and strategic litigation rather than working to reconcile the legitimate concerns with the critical importance of impact advocacy as a tool for both systemic social change and legal education. Law schools also face internal and external pressures that affect their willingness to engage students in strategic litigation. The result is that important benefits of impact advocacy and strategic litigation have gotten lost or minimized. Twenty years ago, social justice advocates rallied around political lawyering as a tool for more effective advocacy on behalf of marginalized communities.7 Political lawyering employs a systemic reform lens in case selection, advocacy strategy, and lawyering process, with a focus on legal work done in service to both individual and collective goals.8 While litigation is central to political lawyering, political lawyers recognize that litigation, interdisciplinary collaboration, policy reform, and community organization must to proceed together. Litigation is just one piece of a complex advocacy puzzle. However, clinical law professors have never fully grappled with how to employ this model.9 Law professors today seeking to train the next generation of social justice advocates should expose students to the transformational potential of integrated advocacy—strategic litigation, community organizing, direct action, media strategies, and interdisciplinary collaboration proceeding together—in the fight for social change. Political lawyering can serve as a model. The NAACP strategy of building comprehensive advocacy campaigns to challenge racial and economic injustice helped to launch the political lawyering movement in the last century.10 But political lawyering in the 21st century needs to do more. It needs to re-embrace and update the concept of integrated advocacy to help lawyers leverage a broad range of tools and perspectives to generate effective approaches to issues of injustice, both nascent and chronic. Charles Hamilton Houston, the architect of the strategy to challenge the racialized policy of “separate but equal,” whose life work challenged racial injustice in novel ways, famously explained that “a lawyer’s either a social engineer or he’s a parasite on society,” defining social engineer as a “highly skilled, perceptive, sensitive lawyer who understood the Constitution of the United States and knew how to explore its uses in the solving of problems of local communities and in bettering the conditions of the underprivileged citizens.”11 Law schools should set as an ambition teaching students to push boundaries in diagnosing and tackling the most pressing problems facing society. The Article proceeds in three parts. Part I discusses political lawyering and explores its potential to serve as a framework to teach students the legal and extra-legal advocacy skills necessary to tackle the complex challenges of systemic injustice and inequity. Part I also discusses the institutional barriers that limit the ability and willingness of legal educators to exploit the pedagogical potential of a political lawyering framework, including the idea that litigation is often harmful to the cause of justice because it puts the lawyer ahead of the community being served. Part I then examines whether the choice that clinical legal education makes to teach through small, single-issue cases rather than through more complex vehicles offers students sufficient opportunities to develop the array of skills needed for integrated advocacy. Part II describes the ways that clinical legal education can reframe political lawyering as political justice lawyering, both to adapt to the current environment—complicated by the current partisan political climate—and the contemporary challenges of social justice advocacy. It also explores pedagogic strategies that clinical legal educators can employ to train effective 21st century social justice lawyers. Finally, Part III presents a case study from my own teaching to elucidate the opportunities and challenges inherent in this approach to clinical teaching. I. POLITICAL LAWYERING AS A FRAMEWORK FOR LEGAL EDUCATION “Social vision is part of the operating ethos of self-conscious law practice. The fact that most law practice is not done self-consciously is simply a function of the degree to which most law practice serves the status quo. Self-conscious practice appears to be less important, and is always less destabilizing, when it serves what is, rather than what ought to be.” - Gary Bellow12 In 1996, the Harvard Civil Rights-Civil Liberties Law Review published a symposium on “political lawyering”: a model of social justice advocacy that integrates legal advocacy and political mobilization by linking courtroom advocacy to community education, mobilization, and organizing.13 The symposium, honoring Gary Bellow, a leading political lawyer of the time and one of the architects of clinical legal education, explored the potential for political lawyering to respond to the social justice challenges of the moment.14 At the time of the symposium, progressive scholars and activists believed that America was in a period of retrenchment on civil rights and were in search of sources of hope.15 In the face of waning public support for the poor and disenfranchised, both financially and philosophically, one of the biggest dangers social justice advocates faced was despair about the possibility of progress.16 Bellow contended that the nation’s ideological reconfiguration created a potentially debilitating doubt among lawyer-activists who, faced with declining avenues for change, had “embraced a far too constricted definition of both the possible and desirable in law-oriented interventions than is, in fact, dictated by the rightward turn of national and local politics.”17 With victory harder to achieve, he insisted that lawyers who embraced and reimagined political lawyering would advance the fight for equality more effectively. The purpose of political lawyering is not to advance a particular partisan agenda: It is to represent disenfranchised communities against the forces of oppression.18 While difficult to define precisely, political lawyers take a politicized and value-oriented approach to legal work done in service to both individual and collective goals,19 embracing “politics” in the classical sense as a concern “with what it means to be human; what is the best life for a human being; and . . . the ways in which we can order our living together so that good human lives will emerge.”20 Practically, political lawyers use a systemic reform lens in decisions about case selection, advocacy strategy, and the lawyering process. Political lawyers think about the relationship between law, politics, and justice21 and use the law to animate fundamental change in society, to alter the allocation of power and opportunity, and to enable those individuals and communities with little power to claim and enjoy their rights.22 Political lawyers also take advantage of opportunities to influence the perceptions and behaviors of those in power.23 Finally, political lawyers empower individuals and communities by providing them with competent legal advocacy,24 but do not confine themselves to one mode of advocacy in their quest for structural change. Instead, political lawyers use integrated advocacy strategies, including litigation, legislative advocacy, public education, media, and social science research, assessing the efficacy and impact of each tool in service to a long-term visions of equality and solidarity.25 A. A ROLE FOR POLITICAL LAWYERING IN CLINICAL LEGAL EDUCATION In his essay, Gary Bellow described several examples of his experience as a political lawyer.26 He reflected that: Certainly, if one focuses on the strategies employed in these examples, few uniformities emerge. In some of the efforts, we sought rule changes or injunctive relief against a particular practice on behalf of an identified class. In other situations, we pursued aggregate results by filing large numbers of individual cases. Some strategies are carried out in the courts. At other times we ignored litigation entirely in favor of bureaucratic maneuvering and community and union organizing. Even when pursuing litigation, we often placed far greater emphasis on mobilizing and educating clients, or strengthening the entities and organizations that represented them, than on judicial outcomes. And always, we employed the lawsuit, whether pushed to conclusion or not, as a vehicle for gathering information, positioning adversaries, asserting bargaining leverage, and adding to the continuing process of definition and designation that occurs in any conflict.27 The parallels between the challenges social justice lawyers faced in the 1980s and 1990s and those that law students committed to social justice 28 face today are evident. As discussed earlier, law students’ own despair about the enormity of the fight for justice can compromise their ability to recognize and tackle chronic injustice. Like the earlier generation of political lawyers Bellow described, many law students today find it difficult to believe in the possibility of change let alone its likelihood. Inexperience challenging systemic legal problems exacerbates their skepticism. They recognize that the advocacy tools they have learned are insufficient to solve today’s problems, which fuels their sense of doubt. To help expand their understanding of what may be possible, law students, particularly those interested in continuing the fight for racial justice, should be taught to understand and embrace the goals, strategies, and tools of political lawyering—re-imagined for current times. Clinical professors need not adopt political lawyering wholesale as the only or primary approach to teaching lawyering skills and legal advocacy. Indeed, one of the challenges social justice advocates face is unnecessarily limiting the understanding of what it means to be a good lawyer. Rather, clinical professors should explore political lawyering as one framework they can use to help struggling law students find direction and inspiration, as well as to create a sense of connection to the work of the social justice lawyers who preceded them. As Gary Bellow wrote: Doubt and defeatism, the sense of overly pessimistic assessments of action possibilities, are recurrent experiences in oppositional politics, whomever the political actors may be. They require hard-headed assessments of what works and why; a willingness to relinquish strategies and goals born of different possibilities and particularities. . . . Doubt and defeatism produce powerful spirals that can only be broken by acts of will and leaps of faith.29 To be an effective political lawyer, an advocate must have a “profound willingness and ability to learn about and respond to the complexity of real human beings in ever-shifting legal, economic, and social worlds.”30 So, while political lawyering is certainly grounded in effective legal advocacy, it demands more than conventional legal skills. The political lawyer values deep personal involvement as a necessary component in addressing and tackling legal issues. That personal engagement can take many forms, but, at a minimum, involves countless conversations, collaborative brainstorming, comparing shared experiences, and adding empathy and commonality to enhance the legal analysis and political judgment.31 It also requires lawyers to advocate with a clear vision of what justice looks like because effective political lawyering “reache[s] not only across large numbers of people, but from the present into some altered version of the future.”32 Learning to combine savvy legal analysis with broad engagement, a deeper understanding of the complexity of the problems faced by impacted communities, and envisioning an altered and more just future can help lead to real solutions and overcome passivity and ~~paralysis~~.33 The Civil Rights Movement, with its blended advocacy strategies, pulling a variety of levers to enable immediate or systemic change, offers one example of political lawyering. Visionary leaders helped give voice to the frustrations and demands of the community, while other leaders acted as tacticians to devise, plan, and coordinate the strategy.34 There were sustained and strategic protests to draw public attention to injustices, demand change, and apply political pressure. The strategic use of litigation led gradually to the establishment of the building blocks for systemic change. Finally, civil rights lawyers worked to enshrine litigation victories in legislation.35 While the goal of political lawyering is to empower and advance the rights of disadvantaged communities, the lawyers who engage in it also reap significant benefits. One scholar effectively articulated some of these benefits utilizing religious terms, asserting that political lawyering can provide hope and direction to advocates by providing a “faith”—“a story, an account of a rational hope that provides people with an image and principles for realizing the sort of lives they ought to live.”36 Political lawyering can also provide what Christians refer to as a “gospel”—a story that explains and inspires.37 The faith and gospel of political lawyering can help lead law students who are overwhelmed by injustice to a place of deeper understanding and more effective advocacy. But law students must learn how to understand, articulate, and deploy that faith and gospel in service of others. B. INSTITUTIONAL CONSTRAINTS ON POLITICAL LAWYERING Complex social justice problems offer robust opportunities to teach students about the law and lawyering, and legal clinics serve as an important vehicle to bring that set of issues and experiences into the classroom.38 As law schools reevaluate the nature and function of legal education in light of market forces,39 they should also give attention to the role of justice in the curriculum and the potential for law school clinics to be centers for incubation of new and evolving models of lawyering. By embracing political lawyering and encouraging engagement on complex and novel social justice issues, clinical legal education can operate as a “generator of new visions for legal practice” on behalf of poor and marginalized communities.40 Of course, that choice is not without hurdles or concern. 1. Ideological, Financial, and Pedagogical Pressures When clinical and experiential learning programs have moved away from an access to justice model—with a focus on the immediate challenges facing individual clients—to a broader social justice model focused on systemic reform and community empowerment, they have often encountered criticism from inside and outside of the legal academy.41 First, critics have raised concerns that integrated advocacy in support of systemic reform may elevate the profile of faculty and law schools but detract from an appropriate focus on the educational goals of individual students.42 Others have identified the potential for violating the separation between pedagogy and partisan politics.43 And still other critics have identified a risk that faculty will impose their personal political perspectives on their students.44 As discussed in more detail below, integrated advocacy strategies can, in fact, serve as valuable clinical teaching tools that promote broader student learning and support important pedagogical goals. By contrast, exclusive reliance on individual representation offers limited opportunities to teach essential lawyering skills, including the skills critical to identifying and challenging systemic injustice.45 Every clinical program makes a political decision in deciding which cases to take or not to take, as each decision has political implications.46 Accepting cases in criminal justice, immigration, environmental justice, and international human rights, for example, involves political choices, regardless of whether the issues are addressed through individual representation or systemic reform efforts.47 Clinics will continue to represent individual clients who are the victims of poverty, discrimination, and disenfranchisement. These cases do not suddenly become inappropriate teaching tools because the lawyer aggregates those claims and utilizes complementary strategies to seek systemic, community-wide redress. Lawyers must be free to use all available means to challenge the marginalization of their clients, including strategic litigation, legislative advocacy, and other advocacy strategies designed to achieve systemic reform. If law schools intend to fulfill their promise to prepare law students to tackle urgent and pressing challenges, then they must teach students to identify and address interlocking legal and social problems. Still, while law schools have educational ambitions, they also face financial demands that might affect their educational choices. In fact, those financial realities may motivate schools to avoid disputes that expose them to financial risk and to a potential loss of good will that a clinic’s involvement in controversial cases might occasion.48 While that institutional concern certainly has merit, it is not unique to political lawyering on behalf of clients. Whenever a law school chooses to represent clients, there is the potential for someone to take issue with the school’s choice of side or client. Similarly, law schools may experience external pressures from government, private entities, donors, and alumni to prevent the use of law school resources to challenge powerful corporate or government interests.49 These critiques evoke the successful challenge to Legal Services Corporations engaging in class action litigation on behalf of their clients50 and the long history of efforts to limit the means through which clinics can represent their clients.51 History is replete with examples of external attacks on law schools’ clinical efforts. From the 1968 attack by state legislators on the clinical program at the University of Mississippi School of Law over its involvement in a school desegregation suit,52 to the early 1980s threats to limit the activities of the University of Connecticut’s criminal defense clinic after the clinic successfully challenged a provision of the state’s death penalty statute,53 to the 2017 decision of the University of North Carolina Board of Governors to defund the law school’s Center for Civil Rights’ work to challenge systemic and racialized barriers to equality, law schools have experienced public scrutiny and scorn for their client and case selection decisions. A clinical faculty member’s case selection decisions should not be without limits or guidelines. For example, limited resources and specific pedagogical objectives will necessarily dictate which cases will be considered appropriate. However, making case selection decisions on the basis of pedagogical choices differs fundamentally from decisions based on ideological pressure from outside forces. The latter raises fundamental questions of academic freedom and other professional responsibilities.54 Clinical faculty members must maintain some independence to choose cases and clients that meet that clinic’s educational and public service goals.55 2. The Anti-Litigation Bias Political lawyers have long embraced litigation’s potential to achieve “radical extensions of democracy, equality, and racial justice” in addition to structural and cultural change.56 Law reform and structural change are important aspects of political lawyering.57 Accordingly, impact litigation on behalf of marginalized people and communities has long been an important tool for political lawyers.58 Indeed, the NAACP’s fight against racial segregation and inequality in the 1940s and 1950s represents an early example of political lawyering that strategically deployed litigation as part of a comprehensive effort to resist oppression and advance equality.59 Political lawyering never embraced an exaggerated belief that litigation should be the centerpiece of the fight for equality.60 Instead, like the advocates at the heart of the NAACP’s desegregation strategy, political lawyers “recognized that litigation, interdisciplinary collaboration, and community organization had to proceed together.”61 In the late 1990s and early 2000s, political and cultural shifts affected the strategies many political lawyers employed. New federal restrictions on the use of impact litigation and legislative advocacy by legal services lawyers were a cause of significant concern.62 Where impact litigation remained a possibility, many political lawyers worried that litigation offered a dangerous path. Although federal courts, in particular, had proved supportive in the fight for racial justice in the 1960s, progressive lawyers in later years worried that a more conservative judiciary was just as likely, if not more inclined, to set back progressive movements.63 This concern proved correct, particularly in the area of racial justice. Decades of conservative appointments to the federal bench64 led to a series of legal setbacks65 that effectively limited the federal courts as a venue for the redress of illegal discrimination.66 Many advocates also believed that while progressive lawyers were toiling away in the courtroom and achieving only minor success, conservative advocacy groups had mastered the more efficacious strategy of building powerful grassroots constituencies.67 As courts increased their hostility to civil rights and racial justice, making victory and progress more difficult, political lawyers turned away from litigation and began focusing on alternative methods to fight for social change.68 While the labels have changed, the fundamental purpose of the work remained the same. Political lawyering gave way to rebellious lawyering, community lawyering, and movement lawyering.69 These models of advocacy embrace different visions of advocacy that may vary in the emphasis placed on the law’s comparative advantage relative to other strategic methodologies and tools.70 But, they all acknowledge the bond that joins client, community, and lawyer together in a common enterprise: empowering those without power and fighting for justice and equality. The de-emphasis on strategic litigation brought real benefits. It encouraged lawyers to work as members of a team, and challenged lawyers to ensure that those marginalized by injustice played a central role both as the focus of the advocacy and as participants in the advocacy, a positive turn regardless of the motivation.71 This evolution came at a cost. What began as a tactical de-emphasis on litigation evolved into a philosophical bias against litigation as a social justice advocacy tool.72 Initially, social justice lawyers turned away from impact litigation because they feared that an increasingly conservative judiciary would use these cases as an opportunity to further roll back prior gains. However, with time, the reluctance to pursue litigation became less a reaction to circumstance and more a matter of principle. Some writers argued that litigation is a tool through which lawyers usurp the authority of already marginalized clients by setting their priorities for them.73 And, they claimed that litigation disempowers communities because of the unbalanced power dynamics between social justice lawyers and marginalized clients.74 An example is the dialogue around rebellious lawyering, one of the most prominent models for social change advocacy. Gerald López conceptualized rebellious lawyering as an advocacy model that would empower poor clients through grassroots, community-based advocacy that was facilitated by lawyers.75 Rebellious lawyering emphasizes concepts of community organization, mobilization, and “deprofessionalization.”76 It calls on lawyers to reflect on critical elements of the attorney-client relationship that may further oppress members of marginalized communities.77 Through rebellious lawyering, Professor López advances the belief that although lawyers should help solve problems facing the poor, lawyers are not the preeminent problem solvers in that relationship and should defer to clients and communities.78 Gerald López prefers that lawyers focus on “teaching self-help and lay lawyering” to empower communities to help themselves.79 Professor López espoused his positive vision of rebellious lawyering as an alternative to what he calls regnant lawyering.80 Professor López asserts that regnant lawyers are convinced that they need to be the primary and active leaders in their representation of poor people. Regnant lawyers find community education and empowerment to be of only marginal importance.81 The result is that the regnant lawyer dominates the attorney-client relationship, giving little voice to the needs or concerns of the client. Finally, Professor López also believes that regnant lawyers have little practical understanding of legal, political, and social structures.82 Rebellious lawyering raised important questions about the role litigation should play in social justice movements. Gerald Lopez was certainly skeptical that “legal technicians” could make a meaningful contribution83 and questioned whether lawyers turned to litigation because it was best for the client or because the lawyer wanted to play “hero.”84 All political lawyers should ask themselves these questions when considering impact litigation as part of integrated advocacy on behalf of marginalized communities.85 But, over time, commentators began to equate regnant lawyering with impact litigation.86 Some social justice advocates argued that impact litigation perpetuated racism because white lawyers used it as a tool to impose their views on communities of color.87 Others advanced images of litigators as outsiders who used poor communities as guinea pigs in their social justice experiments, warning that “practicing law in the community is not a tourist adventure and, therefore, we must eschew the routine of the autonomous, interloping advocate who dreams up cases in the home office and then tests them on the community.”88 Litigation, and systemic reform litigation in particular, became synonymous with regnant lawyering: an “enemy” of social justice and not a tool fit for people committed to fighting for enduring social change. Derrick Bell advanced one of the most prominent and influential critiques of litigation.89 Although he acknowledged the success of the first decade of school desegregation litigation, Professor Bell questioned the lack of lawyer accountability to marginalized communities. According to Professor Bell, NAACP lawyers continued to employ an advocacy strategy that focused on structural school desegregation, even while many members of the Black community preferred a strategy that would have focused on building quality, though segregated, neighborhood schools.90 He cautioned that social justice advocates failed to acknowledge growing conflicts between what they believed were the long-range goals for their clients and the client’s evolving interests and needs.91 In the end, many members of the impacted community were left feeling marginalized. Professor Bell also suggested that “civil rights lawyers, like their more candid poverty law colleagues, are making decisions, setting priorities, and undertaking responsibilities that should be determined by their clients and shaped by the community.”92 Certainly, many lawyers who use litigation as a tool for social change are regnant and paternalistic, but these qualities are not inherent in litigators working with marginalized communities.93 Social justice advocates should have a healthy skepticism about the ability of the law, standing alone, to achieve lasting social change.94 They should always engage in advocacy that moves the client from the margins to the center.95 But, advocates should also resist pressure to narrow the definition of what it means to be a great lawyer. The discussion of social justice advocacy far too often collapses the framework not only of political lawyering, but all advocacy on behalf of poor and marginalized individuals and communities, into one that largely rejects the important role that strategic litigation has played and can continue to play in the fight for social justice. The ubiquity of the anti-litigation narrative encourages progressive law students—and many clinical law professors—to dismiss litigation and its potential for challenging bias and discrimination. Many progressive law students are afraid to become the professionals they envisioned they would be.96 They do not want to become the discrimination tourist derided in the literature. In response to the critique of social justice litigation, there is a growing body of scholarship supporting the conclusion that litigation is a key strategy for protecting and expanding the rights of marginalized communities.97 This body of scholarship acknowledges that litigation has played a critical role in the struggle for justice and equality, and that it continues to be “an imperfect but indispensable strategy of social change.”98 Finally, these scholars examine social justice litigation in the context of the tradeoffs of different forms of activism, evaluating its potential in relation to available alternatives and revealing a new understanding of the link between law and social justice reform.99 The demonization of strategic litigation that persists in many progressive lawyering circles not only contributes to student ~~paralysis~~, it gives them a false sense of what it means to engage in systemic reform litigation on behalf of clients and the community. Many prominent critiques of impact litigation neither provide an accurate depiction of the potential of that litigation, nor educate students on how to apply principles of political lawyering to that litigation. Indeed, while Derrick Bell prominently critiqued the role of strategic litigation in social justice movements, he also believed that litigation can be an important means of calling attention to perceived injustice; more important, . . . litigation presents opportunities for improving the weak economic and political position which renders the black community vulnerable to the specific injustices the litigation is intended to correct. Litigation can and should serve lawyer and client, as a community-organizing tool, an educational forum, a means of obtaining data, a method of exercising political leverage, and a rallying point for public support.100 Law students should be taught that lawyers who engage in systemic reform litigation, just like any other lawyer, can and should work with and on behalf of those victimized by discrimination. Indeed, despite the one- dimensional picture often painted for law students, not all progressive lawyers believe that “self-help” should be the focus of lawyering on behalf of poor or marginalized communities.101 Moreover, despite the image of the “interloping advocate who dreams up cases in the home office and then tests them on the community,” not all progressive lawyers believe that it is inappropriate for lawyers to independently analyze social justice issues and develop ideas about ways to use the law to bring society closer to justice. Indeed, “it is artificially constricting to conceive of lawyers as exclusively or primarily problem-solvers. [Lawyers] are not only social mechanics who wait in [their] shops for people to come to [them] with problems to be fixed. [Lawyers] should sometimes create problems. [Lawyers] should sometimes deliver problems by translating people’s anger and hurt and insistence on justice into political as well as legal action.”102 Many great advocacy ideas bubble up from the community, but equally valid ideas can come from advocates who have been working with and for those communities (or are members of the community themselves). Progressive advocates must be prepared to provide legal assistance to clients even when those clients do not wish to be active participants in the advocacy. That is embracing the core meaning of client-centered lawyering. Rather than being taught to avoid litigation at all costs, progressive law students need to learn how they can partner with victims of discrimination and be accountable to those victims in the context of litigation. They need to learn the skills of collaborative leadership in law.103 Advocates should also be careful about advancing a one-size-fits-all model of advocacy,104 lumping everything together under the “social justice advocacy” moniker or work on behalf of the “poor and disadvantaged” and assuming that one advocacy approach will work to solve all problems. Sometimes using “social justice” to refer to all of the work being done on behalf of poor and marginalized communities is the right thing to do—it unifies all of those who are fighting injustice on varying fronts. But, it can be harmful when discussing what advocacy tools will be most effective. Given the many forms that discrimination takes and the many communities subject to discrimination, law professors should caution students to be suspicious about broad generalizations about what clients always need or do not need, and what lawyers always should or should not do. There is no universal theory about how to represent disadvantaged or marginalized people. What works in the fight for economic justice may not be the best strategy to achieving racial justice.105 And what may be appropriate to help one victim of racial discrimination may not work for another. There is room for all types of advocates and advocacy.106 All advocates can be a part of the circle of human concern.107 3. The Preferred Model: Individual Representation Representing individual clients in small, manageable cases where students retain primary control has long been the preferred vehicle for teaching students to effectively address their clients’ legal problems.108 But many clinical programs focused on representing individual clients are not providing opportunities for students to learn how to utilize the law effectively to challenge systemic discrimination. In addition to teaching foundational lawyering skills like client interviewing, counseling, and fact investigation, clinics should also provide opportunities to teach complex and multi- dimensional lawyering skills.109 As this Section demonstrates, the clinical community’s disproportionate focus on micro-lawyering skills may be hampering the ability of students to focus on the political and social functions of the law and the structural dimensions of the problems facing client communities.110 The founding goals of clinical legal education were to provide law students the opportunity to learn the skills necessary to practice law and provide quality legal services to the poor.111 These origins closely shaped the development of clinical pedagogy and its current emphasis on individual representation.112 Small cases allow law students to have the primary relationship with the client, manage the case from beginning to end, and analyze relatively straightforward legal issues—all core principles of clinical pedagogy.113 The reliance on small cases also provides students with the invaluable opportunity to reflect deeply on the choices advocates make in creating and maintaining lawyer-client relationships.114 In the early years of the clinical legal education movement, most clinical law professors came from legal services organizations and brought with them a preference for the individual client representation that dominated legal services practice.115 Clinical professors embody their learning objectives in their case selection116 and must prioritize some lawyering skills over others because there are limits to what can be learned in a single clinical course.117 In focusing on small cases, early clinicians understandably prioritized the skills they knew to be critical to their own work on behalf of poor individuals. Today, clinical professors come to teaching from a broader array of professional backgrounds, and unsurprisingly want to bring their experiences into the classroom. They should be encouraged to make clinic design choices and set educational goals for their students based on the skills and knowledge they know to be necessary for success in their own practice areas. To many, the approaches clinical professors adopted at the beginning of the clinical legal education movement are not the answers to the questions and challenges our students face today. An exclusive reliance on small cases, though they are extremely valuable teaching tools, fails many students because small cases offer limited opportunities to teach a broad array of lawyering skills, including the skills critical to challenging systemic injustice.118 Of course, small cases have value—for the client and student both. But, in the new normal, they are often not enough to carry the weight of change. “Social justice work is rarely easy, clean, or pretty.”119 It can be downright messy and clinics should not shield students from its messiness. Working on larger, more complex cases exposes students to more of the skills necessary to fight for structural change.120 They can learn to exercise intellectual autonomy and to integrate conceptual thinking in their advocacy.121 They teach students how to achieve client objectives while also advancing broader social justice goals. Finally, in complex cases where litigation is a viable option, students are exposed to fundamental questions such as what claims to assert, where to file, who to represent, and who to sue. Students cannot be practice ready without some exposure to these skills. Some clinical legal educators have questioned the traditional model of clinical education, arguing instead for engaging in work with a broader social justice impact.122 One basis for this argument, for example, is that “case- centered clinics are primarily accountable to students and law school administrators, rather than clients, and fail to serve political collectives.”123 In this conception, clinics prioritize student interests over community interests by accepting only those cases over which students will have full responsibility and reject more complex cases where the students’ limited skills would make that impossible. This is done even when the communities’ interests—and thus the cause of social justice—would be better served by the more complex cases.124 While this critique is framed in terms of benefits to students versus losses to social justice, there is indeed a loss to students as well. Clinical legal educators who are teaching the next generation of social and racial justice advocates should help students understand the current legal framework for equality, and develop the ability to utilize that framework creatively on behalf of their clients. But, students also have to learn to transcend and reimagine current institutional frames, to conceptualize avenues for relief, create new narratives, and pull together the building blocks of a new legal framework to establish rights that did not exist before. Indeed, many of the challenges facing America today require reimagining justice from the ground up. Future social justice advocates must have social vision—“vision-making work is fundamental to the activist strategies political lawyering inevitably embodies.”125 Charles Hamilton Houston not only taught his law students to conceive that separate can never be equal, he taught them how to develop a legal theory in support of that idea and then to develop an integrated advocacy strategy, including complex litigation, to give that theory legal effect. “The process of linking strategy to political vision always requires adaptation and a detailed understanding of particular contexts for its effectiveness.”126 Moreover, as students move from theory to legal reality, they have to understand the skills required to genuinely engage the community. Indeed, “it is no simple matter to reconcile commitment to both clients and a larger social vision or to navigate the boundary between the insider and outsider communities in which political lawyers work.”127 There are, of course, trade-offs involved in engaging clinical students in impact advocacy, both for the student and the teacher.128 Many clinical faculty have expressed concerns that systemic reform work and complex vocacy matters require too high a cost to core pedagogical goals.129 There is a sense that “big cases” may achieve important social justice goals, but use student tuition to finance political goals without attendant benefits to the students’ education.130 According to this line of critique, if the fundamental goal of clinical legal education is the education of students, clinical education needs to continue to focus on small cases that allow for complete student ownership, with a student seeing the case through from beginning to end.131 Many clinicians believe that complete student ownership from beginning to end is critical to an effective clinical experience, and that this level of student ownership is not possible in big cases.132 The problem with this argument is that giving clinic students sole control of a case from beginning to end is not the only way to maximize student learning. Close collaboration with clinical educators, fellow students, clients, and other collaborators offers rich opportunities for student learning. Working with those collaborators to evaluate a complex problem, consider whether a litigation strategy is appropriate, and implementing that strategy, is precisely the kind of experience students will need to master in political lawyering practice. If clinical programs want to ensure that social justice students develop the skills and values necessary to be responsible and effective lawyers before they graduate, students should have the opportunity to be exposed to advocacy models beyond individual client representation. Otherwise, clinics are missing an opportunity to teach students to embrace and engage in social justice work broadly. II. REFRAMING POLITICAL LAWYERING FOR THE 21ST CENTURY Modern social problems present new challenges for political lawyers. As such, political lawyers must evaluate the tools an earlier generation of political lawyers used to determine how to employ them in light of changed conditions. Social justice advocates have destabilized the dominant understanding of lawyering.133 Modern political lawyering must continue that process of destabilization, exploring alternatives to the way lawyers marshal social and economic capital, make strategic decisions, and transgress current structures and constraints.134 Political lawyering advocates should also question attempts to constrict the understanding of what lawyering tools can be employed in service to communities and in furtherance of justice. A. Expanding the Advocacy Perspective At the core of Derrick Bell’s critique of the latter stages of the campaign to desegregate public education is the divergence he saw between the interests of NAACP lawyers and those of certain segments of the Black community that evolved after the launch of the school desegregation campaign.135 In many ways, this divergence was the result of a failure to communicate. To effectively engage in the integrated advocacy central to political lawyering, those engaged in individual representation, strategic litigation, legislative advocacy, community organizing, public education, direct action, and other forms of advocacy must remain in constant conversation. They must also use their work to facilitate a constant dialogue between the community, courts, government agencies, and legislatures at the local, state, and national levels. As part of this ongoing conversation, political justice lawyers must endeavor to expand the perspectives of the public, judges, politicians, and government administrators beyond dated conceptions of justice. Powerful narratives can break through opposition and resistance, shaping the way society views equality and justice. In Goldberg v. Kelly,136 advocates disrupted the stock story of greedy welfare recipients trying to take advantage of a fair and responsive bureaucracy by telling “human stories” that introduced the Court “to the day-to-day realities of the lives of poor people—struggling to provide a bare minimum of basic necessities for themselves and their children, while confronting an inefficient, unpredictable, and often hostile welfare bureaucracy.”137 Today’s political justice lawyers must focus on changing legal rules, but also inspiring political action, educating the public, publicizing injustice, and shaping public debate. Developing the ability to craft legal and factual narratives that are not only respectful and true to the client’s or communities’ experiences and demands for justice, but that can also persuade and influence others in a variety of contexts, is a critically important skill.138 Political justice lawyering must also account for the changing economic dynamics within otherwise marginalized communities. Growing income inequality within communities of color mirrors the growing wealth gap within American society as a whole.139 Not only may the experience of race or gender discrimination, for example, differ for people of varying wealth, the advocacy strategies needed to engage those communities may be different as well, depending on the structural barriers to engagement created or exacerbated by economic inequality. Political justice lawyers must wrestle with the complicated economic dynamics within communities of color, remain mindful that widening economic inequality can impact collectivity, and authentically engage with the full breadth of those communities if their advocacy is to be effective. Modern political justice lawyering must also include strategies to support and harness the “disruptive power”140 of widespread youth-led movements, collective action, and protest. Many justice movements seek to harness disruption or provoke unrest to redistribute power or force reforms.141 While disruption through protest has been essential in bringing light and voice to modern social justice issues such as police brutality (through, for example, the Black Lives Matter movement) and economic inequality (through, for example, Occupy Wall Street), protests standing alone may not be enough to lead to structural reform or transformational change. Without a viable replacement to fill the void left by a disrupted system, a clear demand for meaningful change, and a plan for implementing that change, the disruptive power may never translate to justice. Finally, modern political justice lawyers must be able to integrate both positive and negative conceptions of equality into their advocacy. Many modern social justice problems are difficult or impossible to fully resolve through court orders.142 Moreover, courts have shown a growing reluctance to issue sweeping injunctive relief that leaves school systems or police departments under the management of courts or court-appointed special masters.143 While utilizing courts to prohibit or limit actions that infringe on individual rights, advocates should be able to articulate a positive vision of what stakeholders can or should do to better promote, protect, and respect those rights. In the context of police reform, for example, victory may take the form of a judicial finding that a police officer used excessive force or an award of money damages. However, even the broadest injunctive relief may struggle to translate into systemic reform—a positive conception of just and effective policing. B. Expanding the Lawyer’s Toolbox In order to effect systemic change, lawyers need to understand what levers are available to achieve that change, and when, where, and how to pull each lever. Political justice lawyers must be skilled at integrated advocacy, using individual and strategic litigation to establish and protect rights, traditional and social media engagement to shape and promote the narrative, community organizing to mobilize effected communities and their allies, and interdisciplinary collaborations to bring the work of other disciplines to bear on creating policies and practices to replace illegal and repressive practices. An effective political justice lawyer has many tools in her toolbox, and knows when and how to use each one. In addition to these tools, political lawyers must learn to break systemic problems into their smaller components; identify advocacy alternatives and evaluate the costs and benefits of each approach; and resolve instances in which an attorney’s own social justice values and vision collide. 1. Breaking Apart Systemic Issues Political justice lawyers must be able to break apart a systemic problem into manageable components. The complexity of social problems, can cause law students, and even experienced political lawyers, to become overwhelmed. In describing his work challenging United States military and economic interventions abroad, civil rights advocate and law professor Jules Lobel wrote of this process: “Our foreign-policy litigation became a sort of Sisyphean quest as we maneuvered through a hazy maze cluttered with gates. Each gate we unlocked led to yet another that blocked our path, with the elusive goal of judicial relief always shrouded in the twilight mist of the never-ending maze.”144 Pulling apart a larger, systemic problem into its smaller components can help elucidate options for advocacy. An instructive example is the use of excessive force by police officers against people of color. Every week seems to bring a new video featuring graphic police violence against Black men and women. Law students are frequently outraged by these incidents. But the sheer frequency of these videos and lack of repercussions for perpetrators overwhelm those students just as often. What can be done about a problem so big and so pervasive? To move toward justice, advocates must be able to break apart the forces that came together to lead to that moment: intentional discrimination, implicit bias, ineffective training, racial segregation, lack of economic opportunity, the over-policing of minority communities, and the failure to invest in non-criminal justice interventions that adequately respond to homelessness, mental illness, and drug addiction. None of these component problems are easily addressed, but breaking them apart is more manageable—and more realistic—than acting as though there is a single lever that will solve the problem. After identifying the component problems, advocates can select one and repeat the process of breaking down that problem until they get to a point of entry for their advocacy. 2. Identifying Advocacy Alternatives As discussed earlier, political justice lawyering embraces litigation, community organizing, interdisciplinary collaboration, legislative reform, public education, direct action, and other forms of advocacy to achieve social change. After parsing the underlying issues, lawyers need to identify what a lawyer can and should do on behalf of impacted communities and individuals, and this includes determining the most effective advocacy approach. Advocates must also strategize about what can be achieved in the short term versus the long term. The fight for justice is a marathon, not a sprint. Many law students experience frustration with advocacy because they expect immediate justice now. They have read the opinion in Brown v. Board of Education, but forget that the decision was the result of a decades-long advocacy strategy.145 Indeed, the decision itself was no magic wand, as the country continues to work to give full effect to the decision 70 years hence. Advocates cannot only fight for change they will see in their lifetime, they must also fight for the future.146 Change did not happen over night in Brown and lasting change cannot happen over night today. Small victories can be building blocks for systemic reform, and advocates must learn to see the benefit of short-term responsiveness as a component of long-term advocacy. Many lawyers subscribe to the American culture of success, with its uncompromising focus on immediate accomplishments and victories.147 However, those interested in social justice must adjust their expectations. Many pivotal civil rights victories were made possible by the seemingly hopeless cases that were brought, and lost, before them.148 In the fight for justice, “success inheres in the creation of a tradition, of a commitment to struggle, of a narrative of resistance that can inspire others similarly to resist.”149 Again, Professor Lobel’s words are instructive: “the current commitment of civil rights groups, women’s groups, and gay and lesbian groups to a legal discourse to legal activism to protect their rights stems in part from the willingness of activists in political and social movements in the nineteenth century to fight for rights, even when they realized the courts would be unsympathetic.”150 Professor Lobel also wrote about Helmuth James Von Moltke, who served as legal advisor to the German Armed Services until he was executed in 1945 by Nazis: “In battle after losing legal battle to protect the rights of Poles, to save Jews, and to oppose German troops’ war crimes, he made it clear that he struggled not just to win in the moment but to build a future.”151 3. Creating a Hierarchy of Values Advocates challenging complex social justice problems can find it difficult to identify the correct solution when one of their social justice values is in conflict with another. A simple example: a social justice lawyer’s demands for swift justice for the victim of police brutality may conflict with the lawyer’s belief in the officer’s fundamental right to due process and a fair trial. While social justice lawyers regularly face these dilemmas, law students are not often forced to struggle through them to resolution in real world scenarios—to make difficult decisions and manage the fallout from the choices they make in resolving the conflict. Engaging in complex cases can force students to work through conflicts, helping them to articulate and sharpen their beliefs and goals, forcing them to clearly define what justice means broadly and in the specific context presented. Lawyers advocating in the tradition of political lawyering anticipate the inevitable conflict between rights, and must seek to resolve these conflicts through a “hierarchy of values.”152 Moreover, in creating the hierarchy, the perspectives of those directly impacted and marginalized should be elevated “because it is in listening to and standing with the victims of injustice that the need for critical thinking and action become clear.”153 One articulation of a hierarchy of values asserts “people must be valued more than property. Human rights must be valued more than property rights. Minimum standards of living must be valued more than the privileged liberty of accumulated political, social and economic power. Finally, the goal of increasing the political, social, and economic power of those who are left out of the current arrangements must be valued more than the preservation of the existing order that created and maintains unjust privilege.”154 C. Rethinking the Role of the Clinical Law Professor: Moving From Expert to Colleague Law students can learn a new dimension of lawyering by watching their clinical law professor work through innovative social justice challenges alongside them, as colleagues. This is an opportunity not often presented in work on small cases where the clinical professor is so deeply steeped in the doctrine and process, the case is largely routine to her and she can predict what is to come and adjust supervision strategies accordingly.155 However, when engaged in political lawyering on complex and novel legal issues, both the student and the teacher may be on new ground that transforms the nature of the student-teacher relationship. A colleague often speaks about acknowledging the persona professors take on when they teach and how that persona embodies who they want to be in the classroom—essentially, whenever law professors teach they establish a character. The persona that a clinical professor adopts can have a profound effect on the students, because the character is the means by which the teacher subtly models for the student—without necessarily ever saying so— the professional the teacher holds herself to be and the student may yet become. In working on complex matters where the advocacy strategy is unclear, the clinical professor makes himself vulnerable by inviting students to witness his struggles as they work together to develop the most effective strategy. By making clear that he does not have all of the answers, partnering with his students to discover the answers, and sharing his own missteps along the way, a clinical law professor can reclaim opportunities to model how an experienced attorney acquires new knowledge and takes on new challenges that may be lost in smaller case representation.156 Clinical law faculty who wholeheartedly subscribe to the belief that professors fail to optimize student learning if students do not have primary control of a matter from beginning to end may view a decision to work in true partnership with students on a matter as a failure of clinical legal education. Indeed, this partnership model will inevitably impact student autonomy and ownership of the case.157 But, there is a unique value to a professor working with her student as a colleague and partner to navigate subject matter new to both student and professor.158 In this relationship, the professor can model how to exercise judgment and how to learn from practice: to independently learn new areas of law; to consult with outside colleagues, experts in the field, and community members without divulging confidential information; and to advise a client in the midst of ones own learning process.159 III. A Pedagogical Course Correction “If it offends your sense of justice, there’s a cause of action.” - Florence Roisman, Professor, Indiana University School of Law160 In response to the shifts in my students’ perspectives on racism and systemic discrimination, their reluctance to tackle systemic problems, their conditioned belief that strategic litigation should be a tool of last resort, and my own discomfort with reliance on small cases in my clinical teaching, I took a step back in my own practice. How could I better teach my students to be champions for justice even when they are overwhelmed by society’s injustice; to challenge the complex and systemic discrimination strangling minority communities, and to approach their work in the tradition of political lawyering. I reflected not only on my teaching, but also on my experiences as a civil rights litigator, to focus on what has helped me to continue doing the work despite the frustrations and difficulties. I realized I was spending too much time teaching my students foundational lawyering skills, and too little time focused on the broader array of skills I knew to be critical in the fight for racial justice. We regularly discussed systemic racism during my clinic seminars in order to place the students’ work on behalf of their clients within a larger context. But by relying on carefully curated small cases I was inadvertently desensitizing my students to a lawyer’s responsibility to challenge these systemic problems, and sending the message that the law operates independently from this background and context. I have an obligation to move beyond teaching my students to be “good soldiers for the status quo” to ensuring that the next generation is truly prepared to fight for justice.161 And, if my teaching methods are encouraging the reproduction of the status quo it is my obligation to develop new interventions.162 Jane Aiken’s work on “justice readiness” is instructive on this point. To graduate lawyers who better understand their role in advancing justice, Jane Aiken believes clinics should move beyond providing opportunities for students to have a social justice experience to promoting a desire and ability to do justice.163 She suggests creating disorienting moments by selecting cases where students have no outside authority on which to rely, requiring that they draw from their own knowledge base and values to develop a legal theory.164 Disorienting moments give students: experiences that surprise them because they did not expect to experience what they experienced. This can be as simple as learning that the maximum monthly welfare benefit for a family of four is about $350. Or they can read a [ ] Supreme Court case that upheld Charles Carlisle’s conviction because a wyer missed a deadline by one day even though the district court found there was insufficient evidence to prove his guilt. These facts are often disorienting. They require the student to step back and examine why they thought that the benefit amount would be so much more, or that innocence would always result in release. That is an amazing teaching moment. It is at this moment that we can ask students to examine their own privilege, how it has made them assume that the world operated differently, allowing them to be oblivious to the indignities and injustices that occur every day.165 Giving students an opportunity to “face the fact that they cannot rely on ‘the way things are’ and meet the needs of their clients” is a powerful approach to teaching and engaging students.166 But, complex problems call for larger and more sustained disorienting moments. Working with students on impact advocacy in the model of political lawyering provides a range of opportunities to immerse students in disorienting moments. A. Immersing Students in “Disorienting Moments”: Race, Poverty, and Pregnancy Today, I try to immerse my students in disorienting moments to make them justice ready and move them in the direction of political lawyering. My clinic docket has always included a small number of impact litigation matters. However, in the past these cases were carefully screened to ensure that they involved discrete legal issues and client groups. In addition, our representation always began after our outside co-counsel had already conducted an initial factual investigation, identified the core legal issues, and developed an overall advocacy strategy, freeing my students from these responsibilities. Now, my clinic takes on impact matters at earlier stages where the strategies are less clear and the legal questions are multifaceted and ill- defined. This mirrors the experiences of practicing social justice lawyers, who faced with an injustice, must discover the facts, identify the legal claims, develop strategy, cultivate allies, and ultimately determine what can be done—with the knowledge that “nothing” is not an option. This approach provides students with the space to wrestle with larger, systemic issues in a structured and supportive educational environment, taking on cases that seem difficult to resolve and working to bring some justice to that situation. They are also gaining experience in many of the fundamentals of political lawyering advocacy. Recently, my students began work on a new case. Several public and private hospitals in low-income New York City neighborhoods are drug testing pregnant women or new mothers without their knowledge or informed consent. This practice reflects a disturbing convergence between racial and economic disparities, and can have a profound impact on the lives of the poor women of color being tested at precisely the time when they are most in need of support. We began our work when a community organization reached out to the clinic and spoke to us about complaints that hospitals around New York City were regularly testing pregnant women—almost exclusively women of color—for drug use during prenatal check ups, during the chaos and stress of labor and delivery, or during post-delivery. The hospitals report positive test results to the City’s Administration for Children’s Services (“ACS”), which is responsible for protecting children from abuse and neglect, for further action.167 Most of the positive tests are for marijuana use. After a report is made, ACS commences an investigation to determine whether child abuse or neglect has taken place, and these investigations trigger inquiries into every aspect of a family’s life. They can lead to the institution of child neglect proceedings, and potentially to the temporary or permanent removal of children from the household. Even where that extreme result is avoided, an ACS investigation can open the door to the City’s continued, and potentially unwelcome, involvement in the lives of these families. These policies reflect deeply inequitable practices. Investigating a family after a positive drug test is not necessarily a bad thing. After all, ACS offers a number of supportive services that can help stabilize and strengthen vulnerable families. And of course, where children’s safety is at risk, removal may sometimes be the appropriate result. However, hospitals do not conduct regular drug tests of mothers in all New York City communities. Private hospitals in wealthy areas rarely test pregnant women or new mothers for drug misuse. In contrast, at hospitals serving poor women, drug testing is routine. Race and class should not determine whether such testing, and the consequences that result, take place. Investigating the New York City drug-testing program immersed the students in disorienting moments at every stage of their work. During our conversations, the students regularly expressed surprise and discomfort with the hospitals’ practices. They were disturbed that public hospitals— institutions on which poor women and women of color rely for something as essential as health care—would use these women’s pregnancy as a point of entry to control their lives.168 They struggled to explain how the simple act of seeking medical care from a hospital serving predominantly poor communities could deprive patients of the respect, privacy, and legal protections enjoyed by pregnant women in other parts of the City. And, they were shocked by the way institutions conditioned poor women to unquestioningly submit to authority.169 Many of the women did not know that they were drug tested until the hospital told them about the positive result and referred them to ACS. Still, these women were not surprised: that kind of disregard, marginalization, and lack of consent were a regular aspect of their lives as poor women of color. These women were more concerned about not upsetting ACS than they were about the drug testing. That so many of these women could be resigned to such a gross violation of their rights was entirely foreign to most of my students. B. Advocacy in the Face of Systemic Injustice Although the students are still in the early stages of their work, they have already engaged in many aspects of political justice lawyering. They approached their advocacy focused on the essence of political lawyering— enabling poor, pregnant women of color who enjoy little power or respect to claim and enjoy their rights, and altering the allocation of power from government agencies and institutions back into the hands of these women. They questioned whose interests these policies and practices were designed to serve, and have grounded their work in a vision of an alternative societal construct in which their clients and the community are respected and supported. The clinic students were given an opportunity to learn about social, legal, and administrative systems as they simultaneously explored opportunities to change those systems. The students worked to identify the short and long term goals of the impacted women as well the goals of the larger community, and to think strategically about the means best suited to accomplish these goals. And, importantly, while collaborating with partners from the community and legal advocacy organizations, the students always tried to keep these women centered in their advocacy. In breaking down the problem of drug testing poor women of color, the students worked through an issue that lives at the intersection of reproductive freedom, family law, racial justice, economic inequality, access to health care, and the war on drugs. In their factual investigation, which included interviews of impacted women, advocates, and hospital personnel, and the review of records obtained through Freedom of Information Law requests, the students began to break down this complex problem. They explored the disparate treatment of poor women and women of color by health care providers and government entities, implicit and explicit bias in healthcare, the disproportionate referral of women of color to ACS, the challenges of providing medical services to underserved communities, the meaning of informed consent, the diminished rights of people who rely on public services, and the criminalization of poverty. The students found that list almost as overwhelming as the initial problem itself, but identifying the components allowed the students to dig deeper and focus on possible avenues of challenge and advocacy. It was also critically important to make the invisible forces visible, even if the law currently does not provide a remedy. Working on this case also gave the students and me the opportunity to work through more nuanced applications of some of the lawyering concepts that were introduced in their smaller cases, including client-centered lawyering when working on behalf of the community; large-scale fact investigation; transferring their “social justice knowledge” to different contexts; crafting legal and factual narratives that are not only true to the communities’ experience, but can persuade and influence others; and how to develop an integrated advocacy plan. The students frequently asked whether we should even pursue the matter, questioning whether this work was client- centered when it was no longer the most pressing concern for many of the women we met. These doubts opened the door to many rich discussions: can we achieve meaningful social change if we only address immediate crises; can we progress on larger social justice issues without challenging their root causes; how do we recognize and address assumptions advocates may have about what is best for a client; and how can we keep past, present, and future victims centered in our advocacy? The work on the case also forced the clinic students to work through their own understanding of a hierarchy of values. They struggled with their desire to support these community hospitals and the public servants who work there under difficult circumstances on the one hand, and their desire to protect women, potentially through litigation, from discriminatory practices. They also struggled to reconcile their belief that hospitals should take all reasonable steps to protect the health and safety of children, as well as their emotional reaction to pregnant mothers putting their unborn children in harms way by using illegal drugs against the privacy rights of poor and marginalized women. They were forced to pause and think deeply about what justice would look like for those mothers, children, and communities. CONCLUSION America continues to grapple with systemic injustice. Political justice lawyering offers powerful strategies to advance the cause of justice—through integrated advocacy comprising the full array of tools available to social justice advocates, including strategic systemic reform litigation. It is the job of legal education to prepare law students to become effective lawyers. For those aspiring to social justice that should include training students to utilize the tools of political justice lawyers. Clinical legal offers a tremendous opportunity to teach the next generation of racial and social justice advocates how to advance equality in the face of structural inequality, if only it will embrace the full array of available tools to do so. In doing so, clinical legal education will not only prepare lawyers to enact social change, they can inspire lawyers overwhelmed by the challenges of change. In order to provide transformative learning experiences, clinical education must supplement traditional pedagogical tools and should consider political lawyering’s potential to empower law students and communities.

#### TVA –

#### [a] defend strikes a form of protest against racial inequality – empirically happened internationally

Morrison 20 (Workers protest racial inequality on day of national strike By AARON MORRISON July 20, 2020, AP News, <https://apnews.com/article/mo-state-wire-new-york-il-state-wire-race-and-ethnicity-virus-outbreak-0fbc6aa5a60520900a434b51bd3c7ef6)//ww> pbj

Workers from the service industry, fast-food chains and the gig economy rallied with organized labor Monday to protest systemic racism and economic inequality, staging demonstrations across the U.S. and around the world seeking better treatment of Black Americans in the workplace. Organizers said at least 20,000 workers in 160 cities walked off the job, inspired by the racial reckoning that followed the deaths of several Black men and women at the hands of police. Visible support came largely in protests that drew people whose jobs in health care, transportation and construction do not allow them to work from home during the coronavirus pandemic. “What the protesters are saying, that if we want to be concerned — and we should be — about police violence and people getting killed by the police ... we have to also be concerned about the people who are dying and being put into lethal situations through economic exploitation all over the country,” said the Rev. William Barber II, co-chairman of the Poor People’s Campaign, one of the organizations that partnered to support the strike. Barber told The Associated Press that Monday’s turnout showed the importance of the issue to the people willing to come out during a pandemic to make their voices heard. “Sadly, if they’re not in the streets, the political systems don’t move, because when you just send an email or a tweet, they ignore it,” he said. The Strike for Black Lives was organized or supported by more than 60 labor unions and social and racial justice organizations, which held a range of events in more than two dozen cities. Support swelled well beyond expectations, organizers said, although a precise participation tally was not available. MORE STORIES: – Federal agents, local streets: A 'red flag' in Oregon – 2 arrested as Seattle protests turn violent – House leaders 'alarmed' federal officers policing protests Where work stoppages were not possible for a full day, participants picketed during a lunch break or dropped to a knee in memory of police brutality victims, including George Floyd, a Black man killed in Minneapolis police custody in late May. Dozens of janitors, security guards and health care workers observed a moment of silence in Denver to honor Floyd. In San Francisco, 1,500 janitors walked out and marched to City Hall. Fast-food cooks and cashiers in Los Angeles and nursing home workers in St. Paul, Minnesota, also went on strike, organizers said. At one McDonald’s in Los Angeles, workers blocked the drive-thru for 8 minutes and 46 seconds, about how long prosecutors say a white police officer held his knee on Floyd’s neck as he pleaded for air. Jerome Gage, 28, was among a few dozen Lyft and Uber drivers who joined a car caravan in Los Angeles calling on companies to provide benefits like health insurance and paid sick leave to gig workers. “It’s basic stuff, and it creates a more profitable economic environment for everyone, not just the companies,” Gage said. Glen Brown, a 48-year-old wheelchair agent at the Minneapolis-St. Paul International Airport, said his job does not give him the option of social distancing. Brown and fellow workers called for a $15 minimum wage during an event in St. Paul, and he said workers were “seizing our moment” to seek change. “We are front-line workers, (and) we are risking our lives, but we’re doing it at a wage that doesn’t even match the risk,” Brown said. In Manhattan, more than 150 union workers rallied outside Trump International Hotel to demand that the Senate and President Donald Trump adopt the HEROES Act, which provides protective equipment, essential pay and extended unemployment benefits to workers who cannot work from home. The House has already passed it. Elsewhere in New York City and in New Jersey and Connecticut, organizers said 6,000 workers at 85 nursing homes picketed, walked off the job or took other actions to highlight how predominantly Black and Hispanic workers and the residents they serve are at risk without proper protective gear during the pandemic. In Massachusetts, about 200 people, including health care workers, janitors and other essential employees, joined Democratic U.S. Senate candidates in front of the Statehouse in Boston. “We’re just being overworked and underpaid, and it makes you sometimes lose your compassion,” said Toyai Anderson, 44, a nursing aide at Hartford Nursing and Rehab Center in Detroit. “It makes me second-guess if I am sure this is my calling.” Anderson makes $15.75 an hour after 13 years on the job. Nationally, the typical nursing aide makes $13.38, according to health care worker advocacy group PCI. One in 4 nursing home workers is Black. Hundreds of other workers at six Detroit nursing homes walked off the job, according to the Service Employees International Union. The workers are demanding higher wages and more safety equipment to keep them from catching and spreading the virus, as well as better health care benefits and paid sick leave. Participants nationwide broadly demanded action by corporations and the government to confront racism and inequality that limit mobility and career advancement for many Black and Hispanic workers, who make up a disproportionate number of those earning less than a living wage. The demands include allowing workers to unionize to negotiate better health care, sick leave and child care support. Full Coverage: Racial injustice In South Korea, members of a transport workers union passed a resolution in support of the strike, raised their fists and chanted “Black lives matter” in Korean and “No justice, no peace” in English. In Brazil, McDonald’s workers rallied outside the flagship restaurant in Sao Paolo. The two largest Brazilian labor federations, together representing more than 24 million workers, filed a complaint with a national prosecutor describing examples of structural racism at the company. McDonald’s said it stands with Black communities worldwide. “We believe Black lives matter, and it is our responsibility to continue to listen and learn and push for a more equitable and inclusive society,” the Chicago-based company said in a statement. Justice Favor, 38, an organizer with the Laborers’ International Union Local 79, which represents 10,000 predominately Black and Hispanic construction workers in New York City, said he hopes that the strike motivates more white workers to acknowledge the existence of racism and discrimination in the workplace. “There was a time when the Irish and Italians were a subjugated people, too,” said Favor, who is Black. “How would you feel if you weren’t able to fully assimilate into society? Once you have an open mind, you have to call out your coworkers who are doing wrong to others.”

#### [b] Read international affs that don’t link to pessimism – Egyptian strikes are literally overthrowing their governments

Janice Jayes 18 [Dr. Jayes writes on current security and humanitarian challenges in the Middle East and Latin America., The Real War in Egypt: the Labor Struggle. The Public (May 2018 ) http://publici.ucimc.org/2018/05/the-real-war-in-egypt-the-labor-struggle/]//anop

If you missed the exciting Presidential election news out of Egypt this past March, don’t be too hard on yourself: also missing it were 96 million Egyptians. Yes, a few Egyptians showed up at the polls for an exercise that faintly resembled an election, but the event was lacking a few key ingredients–like actual opposition candidates. Incumbent General-turned-President Abdel Fattah al-Sisi drove five contenders out of the race by arresting or threatening them, then allowed one opposition candidate (a member of al-Sisi’s campaign staff) to register just hours before the deadline. As expected, al-Sisi claimed a “landslide” victory with a Mubarak-esque 97% of the vote. This election is one of the many things about post-Arab Spring Egypt that look remarkably like pre-Arab Spring Egypt. Egypt is again governed by a military-dominated clique that runs the state like a private investors’ club, elections are staged for international consumption, and any hint of political independence in NGOs, media or labor is ruthlessly silenced. It isn’t just opposition candidates that have been jailed: the 2018 Human Rights Watch Report notes that tens of thousands of Egyptians have been detained, arrested, tortured and disappeared since al-Sisi came to power in 2013. The only notable change from the Mubarak years is that al-Sisi no longer relies on the Communist menace to justify repression and solidify his relationship with Washington; instead, he deploys the newest smokescreen, the War on Terror, to justify mass repression. It’s the old Mubarak machine in new counterterrorism clothing. Counterterrorism may not be winning the war against terror in Egypt (in November, 310 Egyptians were killed by extremists during an armed assault on a mosque in el Arish), but it is doing a pretty good job of distracting attention from the crackdown on civil rights. For example, in February 2018 the Egyptian Army rolled out a major anti-terrorism operation in the Sinai that flooded the news with tales of troop convoys, bombing operations and weapon seizures. Of course, the media blackout meant that the news available came only from government sources, leaving open the question of who exactly was being targeted and how. Still, the images of Egyptian troops fighting extremism achieved the regime’s information goals at home and abroad. Many Egyptians, cognizant of the civil war hell that has engulfed Libya and Syria, watched the military assault on the Sinai and calculated that now was not the moment to press for freedoms of speech and assembly—even if they might be nice things to have in the month before a presidential election. The military operation also reminded the U.S. of Egypt’s partnership in the War on Terror, silencing some congressional critics of al-Sisi who had been debating tying part of the $1.6 billion U.S. aid package to political reform. U.S. military aid has helped Egypt equip counterterrorism units that are also used to break up strikes and protests. The real war for Egypt isn’t going to be waged in the Sinai, however. It will be waged in the textile mills, railroad yards and teacher’s lounges across the nation. Egyptian unions led the nation into the Arab Spring by creating a space for public protest in the years before 2011, and they are the only civil society sector challenging the government today. The Labor Spring of 2008 In 2008 videos of workers defacing a poster of then-President Mubarak shocked the nation. While the tech-savvy youth of Cairo captured the world’s imagination in the Arab Spring of 2011, it was actually the Egyptian labor movement that ousted the thirty-year regime of Hosni Mubarak in 2011. Between 2004 and 2010 there were more than 4000 unauthorized strikes across Egypt. Working conditions were abysmal and worsening. The official monthly wage was $6 a month (34 Egyptian pounds, set in 1984), and the majority of the population subsisted on less than $1 a day. Some workers earned more ($45–$117 a month), but living conditions were increasingly unstable as the government scrambled to attract foreign investment and loans in the wild west of neoliberal capitalism. Temporary contracts ended traditional labor protections, and the state backed off from commitments to subsidies on basic consumption items. Striking Workers at el Mahalla, 2006. The strikes that undid Mubarak’s Egypt centered on the textile industry in el Mahalla al Kubra. More than 20,000 workers shut down production multiple times and, while the demands were focused on workplace issues (wage increases, benefits, work protections and the right to establish unions independent from state control), the day-to-day cooperation required to manage community life during strikes inevitably politicized discussions. Since the 1950s the Egyptian state had controlled the syndicates that organized everyone from lawyers to street sweepers, trading benefits for political support. But by the 2000s the state had abandoned the compact, and replaced bargaining with violent repression. In 2008 strikers in Mahalla moved from an attitude of petitioning to confronting the state. It was the labor movement that laid the groundwork for the Arab Spring in Egypt, and despite harsh repression since 2013, unions remain the most active civil society sector challenging the regime. The strikes in Mahalla were largely invisible to most Egyptians due to state media controls, but in April 2008 phone videos showing strikers defacing a poster of President Mubarak went viral, stunning the government (which quickly negotiated a resolution to the strike) and fascinating the few Egyptians with access to social media. The unplanned act foreshadowed a new era of Egyptian politics. Three years later urban youth received the credit for expelling Mubarak, but it was the unions—lawyers, teachers, transportation workers, textile workers, etc.—who led the way. Unfortunately, workers found that little changed after 2011. Each administration since 2011 has waged a campaign of harassment against labor leaders, criminalizing protests, strikes and independent unions. Repressive laws designed to combat terrorist militias have been used against labor; unlucky activists have been detained in the middle of the night and held for years without charges or tried in military courts for destabilizing the nation. Egyptian Special Forces raid in central Cairo, Sept. 2017. Hundreds of Egyptians have disappeared since 2013, but in 2016 the kidnapping and murder of Giulio Regeni, an Italian graduate student studying unions in Cairo, created an international scandal that exposed the brutality of the regime. The signs of torture on his body, consistent with Egyptian security practices, sent a chilling message to international journalists, academics and human rights activists who might once have expected their passport to protect them: in Egypt, no one is safe from the state. A New Global Chapter in the Labor Struggle The labor crisis in Egypt isn’t a remote struggle showcasing the horrors of distant countries. It raises the same issues that increasingly confront workers everywhere: how do vulnerable groups achieve a life with dignity in an era when states are abandoning commitments to the public good in favor of serving elites? When capital can travel easily across borders to seek out the weakest regulatory markets? There isn’t really any road back from globalization—changes in technology and production chains have made that impossible—but we can resurrect an alternative vision of globalization that recognizes the shared concerns we all have with addressing economic and political rights. The U.S. government, blinded by its fixation on Islamist radicals, has given the Egyptian government a free hand to abuse state power, using weapons paid for with American taxpayer money. At a minimum, the U.S. could condemn the harassment of journalists, the midnight detention of human rights activists, the criminalization of strikes and protests, or even the sham of an election that just passed. Egypt today is more violently repressive than it was during the Mubarak years, but workers continue to challenge a state that is more interested in capturing the approval and investments of international capital than in serving the public they purport to represent. Egyptian labor deserves our attention and support.

#### [c] Solvency deficits to the TVA are neg ground – it proves there’s a debate to be had

#### SSD is good – it forces debaters to consider a controversial issue from multiple perspectives. Non-T affs allow individuals to establish their own metrics for what they want to debate leading to ideological dogmatism. Even if they prove the topic is bad, our argument is that the process of preparing and defending proposals is an educational benefit of engaging it.

#### T first –

#### [1] T indicts your reading of the aff in the first place, so it’s an evaluative mechanism to adjudicating substance of the 1AC. It’s silly nonsensical to leverage the aff against T since it presupposes that the aff is being won.

#### [2] T is a question of jurisdiction- judges don’t have the jurisdiction to vote on a non-topical aff that hasn’t met the burden of proof of the resolution.

#### [3] Topic ed – we only have 2 months to talk about the topic, but we can learn about the K outside of debate

#### [4] Extra-topicality – even if the affirmative claims to advocate the resolution, they skirt discussion of its instrumental intent by arguing the benefits derived from their contextualized advocacy outweigh.

#### Drop the Debater – deters future abuse

#### Competing Interpretations -

#### [1] Reasonability causes a race to the bottom because debaters keep being barely reasonable

#### [2] reasonability collapses bc we debate ab the specified briteline anyway

#### No RVIs -

#### [1] Baiting—they’ll just bait theory and prep it out—justifies infinite abuse and results in a chilling effect

#### 2] Illogical—you don’t reward them for meeting the burden of being fair – logic outweighs since it determines whether an argument is valid.

#### Everything operates on the offense-defense paradigm so impact turns are not independent of the theory debate so if I win no rvi’s they cannot win on these arguments.

## Case

#### CROTB – vote for the better debater

#### [a] anything else is self-serving

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#### Vote Neg on presumption

**A) Nothing spills over – there’s no connection between the ballot and chancing people’s attitudes. You encourage more teams to read framework which turns your offense and prevents the alteration of mindsets, the 1AC transforms itself into repetitively being read and read again till its devoid of any value.**

**B) No warrant for a ballot – the competitive nature of debate coopts any ethical value of advocating the aff – winning rounds only makes it look like they just want to win which proves framework and means advocating by losing is more effective.**

**C) Debate – none of their evidence is specific to it – sets a high threshold for solvency and ignores how communicative norms operate.**

#### Afropessimism is *ahistorical* that misses all the boats in terms of theorizing anti-black violence and *only* serves as a form of political demobilization which forecloses any possibility for black liberation.

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Wilderson argues that blacks are not of the world, they are also not part of the “narrative,” not part of history. Wilderson states: “As provocative as it may sound history and redemption (and therefore narrative itself) are inherently anti-Black.”[11] For Wilderson, blacks are outside of history; “space and time” are absent: “just as there is no time for the Slave, there is also no place for the Slave.”[12] In asserting that black people are outside of history, Wilderson is making the claim that Blackness is irrevocably marked as slaveness—there is no historical change in the meaning of blackness and position of black people. In Afropessimism, for example, Wilderson claims that “Afropessimism is premised on an iconoclastic claim: that Blackness is coterminous with Slaveness.”[13] “Blackness,” Wilderson emphasises, “cannot exist other than Slaveness”.[14] **This is not so much an iconoclastic claim as a false one.** It is true, of course, that Black lives after slavery continued to be marked by domination and violence. The spectre of extreme violence aimed at individuals and black communities, the expropriation that marked share cropping in the rural south, the super-exploitation of black industrial workers, the precarious position of black women performing paid and unpaid domestic labour, and the continued vulnerability of black women to all of the above as well as gender-based domination, all serve to emphasise the continuities of domination. But while there were important continuities between in the condition of black people during and after slavery, **the rupture caused by the end of slavery nonetheless represented a massive change in how black life was organised—a reorganisation that transformed the articulation between white supremacy and the capitalist social order.** **The end of slavery presented new and important opportunities for black agency even if full “freedom” was not achieved. It was marked by the formation of black civil society, the emergence of new possibilities as well as new challenges for black politics**. It was during this period that the institutional backbone of black civil society was developed—including the black church (which was as much a political institution as a sacred one); black institutions of higher learning; cooperative and mutual aid societies; and. a myriad of other organisational initiatives. **All were launched and/or consolidated during this period. The ability to form families, expand black politics, and build black civil society represented a type of real if limited progress.** Further, Wilderson’s claim that the black condition is defined by “slaveness,” that blacks are not of the world, they are also not part of the “narrative,” not part of history is also profoundly anti-political. For Wilderson, blacks exist outside of the domain of politics: “The violence of the slave estate cannot be thought of the way one thinks of the violence of capitalist oppression. It takes an ocean of violence to produce a slave, singular or plural, but that violence never goes into remission. Again, the prehistory of violence that establishes slavery is also the concurrent history of slavery. This is a difficult cognitive map for most activists to adjust to because it actually takes the problem outside of politics.”[15] **Wrong. What progress has been made has been the result of fighting through social movements that, as Malcolm X urged, used any means necessary.** **Fighting oppression is inherently political. The anti-political nature of Wilderson’s central claim casts aside the momentous struggles of black people for liberation in the U.S., massive struggles for freedom throughout the African Diaspora, the 20th-century African national liberation struggles, as well as contemporary African struggles against neocolonialism, neoliberal regimes, and against the new imperial project of redividing Africa.** Perhaps the most immoral implication of Wilderson’s claim that slaveness defines blackness is that the human is defined against blackness. **If blacks are not human then it is easier to claim that black people are outside of history, and blacks are outside the realm of politics.** For Wilderson, all human life is defined in opposition blackness, in opposition to the condition of being a slave. Wilderson explains, “Human Life is dependent on Black death for its existence and for its conceptual coherence. There is no world without Blacks, yet there are no Blacks who are in the World.”[16] **This claim places Wilderson outside of both the black radical and black nationalist traditions.** **Black movements whether black liberal, black Marxist, or black nationalist fought and died insisting on Africans’ humanity**—although some, particularly but not exclusively many black nationalists, questioned the humanity of those that enslaved others. **Black movements have historically, and correctly, demanded a place in a world the recognition of one’s own humanity regardless of one’s status as enslaved, expropriated, and oppressed.** Finally and critically, **this version of Afropessimism severely mischaracterises the relationship between anti-blackness, white supremacy, and capitalism**.[17] Wilderson asserts that political economy is of little use for analysing the black condition as the condition of the slave, the condition of blacks, is subject to violence that cannot be explained by political economy. Further, the status of the slave is invariant to “historical shifts.” **I assert that only by understanding the interaction between the multiple systems of domination blacks are subject to—white supremacy (of which anti-blackness is a central structural feature), patriarchy and capitalism—will we be able to understand for any given era the status of blacks; the massive and multiple forms of violence that blacks experience, and the way forward toward full black liberation.** In **Afropessimism**, Wilderson only briefly considers the role of political economy in black subjugation. He argues that the use/study of political economy cannot explain the violence committed against blacks. This violence, Wilderson argues, is invariant across time. Specifically: “Black people exist in the throes of what historian David Eltis calls ‘violence beyond the limit,’ by which he means: (a) in the libidinal economy there are no forms of violence so excessive that they would be considered too cruel to inflict upon Blacks; and (b) in political economy there are no rational explanations for this limitless theatre of cruelty, no explanations that would make political or economic sense of the violence that positions and punishes Blackness….the Slave’s relationship to violence is open-ended…unaccountable to historical shifts.”[18] **What Wilderson misses is that blacks are subject to multiple sources of violence—the cumulative nature of which is monstrous.** Simultaneously analysing the articulation of white supremacy, patriarchy, and capitalism leads one to the realisation that blacks depending on context in various combinations experience violence as workers, women, and/or as black people. Each system of domination routinely inflicts violence for those at the bottom of each hierarchy. I would add that an aspect of white supremacy and anti-blackness is that for blacks even the forms of violence that derive from patriarchy and capitalism are intensified due to white supremacy**. This violence is also rational to the degree that each form of violence is ultimately aimed at reinforcing the rule of those at the top of each system of domination**. In a much earlier essay, Wilderson more directly addresses the relationship between capitalism and black subjugation. Wilderson asserts that “…the United States is constructed at the intersection of both a capitalist and white supremacist matrix.”[19] This statement is promising in that it hints at the simultaneous analysis of the interaction between capitalism and white supremacy. Yet, he does not sufficiently explore the consequences of this statement and does not analyse the actual dynamics created by the articulation of capitalism and white supremacy. For example, in Afropessimism Wilderson correctly asserts that “….the emergence of the slave, the subject-effect of an ensemble of direct relations of force marks the emergence of the capitalism itself.”[20] The “primitive” accumulation necessary for the establishment of the capitalist social order does have at its centre the brutal and hideous social relations of slavery and the slave trade, but not only slavery.[21] But unlike what Wilderson argues, the historical record shows that under white supremacy and colonialism blacks are not the only racially subordinate group to be subject to “direct relations of force.” As Ince argues, “direct relations of force” do not only mark the subject of the slave, but of the colonised more generally such as the genocide of the indigenous peoples of particularly the “New” World (itself a precondition of capitalism).[22] Establishing and maintaining capitalism has required the expropriation of resources and labour—simultaneously wedded to the violation of black, brown, and yellow bodies throughout the world. In the end, non-white bodies are disposable in the global North and South; in the ghettoes, barrios, reservations, prisons, refugee camps and immigration detention centres that can be grimly found throughout the world. The particularities are important—and anti-blackness is a key particularity that shapes capitalism and white supremacy, but as argued earlier, it still a part a global system of white supremacy marked by direct relations of force, and which non-whites are racialised differently by that force. Within the context of the U.S., only a type of stubborn blindness, a refusal to acknowledge the historical record, and refusal to see the interrelationship between capitalism and racial domination can lead those such as Wilderson to argue that “we were never meant to be workers…..From the very beginning, we were meant to be accumulated and die.”[23] This assertion flies against the historical evidence. No, blacks were meant to work, die, and be accumulated as need be. White supremacy often demands that blacks die. Capitalism demands that blacks must also, when necessary work and/or be accumulated. Each, and patriarchy as well, continually make their bloody demands. Through politics and other means of struggle blacks continually resist. This resistance can only be successful by understanding the mutual articulation between each system of domination. **What is at stake is far more critical than an abstract academic debate between theorists. These debates speak directly to how we understand Trump’s victory in the 2016 presidential elections and the racist, authoritarian and potentially fascist phenomenon of “Trumpism” and the rise of neo-fascist movements in the global north and south**. It speaks to how we best understand the accelerating rates of inequality in both the global north and south popularly described by Thomas Piketty.[24] **It speaks to how we understand the rising wave of violence that black folks face here, throughout the Diaspora, and within Africa itself.** **Afropessimists have an ahistorical narrative that distorts the relationship of white supremacy to capitalism—insisting despite all historical and contemporary empirical evidence to the contrary that the core logics of slave-based anti-blackness exists outside of, and ultimately invariant to, the dynamics of the capitalist political economy.** This strand of theorising has taken root in real-world activism—in this case among young black activists struggling once again for black liberation**. Afropessimism, however, presents real political dangers for those organising for black liberation.** I will mention three such dangers here. **By arguing that black subjugation lies outside the realm of the political, Afropessimism serves as a basis for political demobilisation rather than mobilisation.** Indeed, Wilderson is correct when he states, “This is a difficult cognitive map for most activists to adjust to because it actually takes the problem outside of politics.”[25] Second, **Afropessimism severely undermines those attempting to build solidarity with other racially subordinate groups.** Do we still need to be building independent radical black movements and organisations? Yes. Is building solidarity hard. Yes. Is one likely to experience anti-black racism from some other peoples of colour? Yes. **Is it still a necessary task if meaningful political victories are to be achieved? Yes.** Third, by ignoring the class and gender dynamics within black communities, Afropessimism makes it far more difficult to understand the dynamics of intra-black politics. Understanding these dynamics is crucial for fighting all forms of oppression and domination that are experienced within black communities. Afropessimists are correct to insist that the logics of racial domination are autonomous and not fully determined by a capitalist social order. Afropessimists fail to understand, however, the effects of the interaction of multiple systems of domination have on black life and politics. It is our task to forge better theoretical weapons to not only illuminate the nature of oppressive systems of domination, but also to provide effective tools to combat oppression.

#### Political hope isn’t naïve or useless – they paper over histories of resistance

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These days, the invocation of faith in the transformative possibility of self and society risks naiveté. We live in a time, after all, when the ties that bind us have badly frayed, when we seem unable to properly regard the pain of our fellows, and when political leaders seem hell-bent on exploiting it for gain and to satisfy their own narcissism. To defend the role of faith in political struggle may seem odd. Yet, hear me out. Ta-Nehisi Coates’s latest book, We Were Eight Years in Power: An American Tragedy, is his clearest expression yet of political fatalism—his “deeply held belief that white supremacy was so foundational to this country that it would not be defeated in my lifetime, my child's lifetime, or perhaps ever.” As in Coates’s Between the World and Me (2015), we again encounter white supremacy not as a political ideology, but as the defining feature of the U.S. polity—its essential nature. The book comprises previously published essays—one for each of the eight years Barack Obama held the presidency—prefaced by moving biographical and personal meditations that give each chapter philosophical weight. Taken together, it is about Obama and the United States—and it is about Coates. It charts the course of Coates’s career from a time when he could not make ends meet to his recent position of speaking for and to Americans about Black America. Obama’s presidency made this possible; it opened the door for a “crop of black writers and journalists who achieved prominence during his two terms.” This is also a book about shattering a great illusion—the idea that Obama’s presidency represented black power. “Obama, his family, and his administration were a walking advertisement for the ease with which black people could be fully integrated into the unthreatening mainstream of American culture, politics, and myth. And that was always the problem.” For Coates, Obama represented a possibility that had always been denied, the idea that a black American could one day inhabit the highest office of the land. And if a black American could be president, couldn’t the United States be more than the explicit racism of its past and the institutional racism of its present? Coates himself was taken by this seductive idea, something he laments throughout the book. As he explains: It is not so much that I logically reasoned out that Obama’s election would author a post-racist age. But it now seemed possible that white supremacy, the scourge of American history might well be banished in my lifetime. In those days I imagined racism as a tumor that could be isolated and removed from the body of America, not as a pervasive system both native and essential to that body. Herein lies the explanation for why a man who curries favor with white supremacists assumed the presidency after Obama. Donald Trump’s ascendancy was a virulent reaction not only to Obama, but to the idea that his presidency signaled the country’s embrace of a multiracial polity. The running theme in Coates’s book is that white supremacy is native and essential. It is the source of his motivation. Coates’s goal is to distance both black Americans and himself from thinking of white supremacy as a focus of transformative politics. And his theme should guard against the familiar tendency to deny the national past by invoking its ever-present commitment to redemption. Sometimes denial comes in the form of efforts to sanitize history, Coates tells us, as was the case with Americans seeking to reconcile themselves to a civil war that was about rights, or railroads, or tariffs—anything but race. But denial also comes in the form of believing in “an arc of cosmic justice,” the sense “that good acts were rewarded and bad deeds punished . . . ” Coates argues instead that U.S. history is merely the record of its fundamental nature. Transcendent stories cannot relieve us of this burden. For Coates, the desire to transform the United States reflects a naïve religious longing. When Coates tells us that “cosmic justice, collective hope, and national redemption” are meaningless to him, he is asking black Americans to resist the temptation to allow those things (which all seem to be interchangeable throughout the book) to have meaning for them. This is his “black atheism.” It removes the desire to appeal to white Americans because it removes the belief that white Americans are “interested listeners” (even if they are regular readers). In doing so, black Americans arm themselves against disappointment because they drop their “expectations of white people . . . ” Challenging Coates is difficult, not because of the assuredness of his analysis, but because of his reputation as “America’s best writer on race.” Coates bristles at this reputation, but he has also embraced his status. He has mastered the balance between speaking to black pain and suffering (acknowledgement, after all, is so central to one's ethical and political standing in a community otherwise defined by disregarding black life) and lacerating a class of white Americans, many of whom perversely see such attacks as moments of cathartic release. This is as Coates intends. Similar to his affection for hip-hop music—the way in which he was captured and captivated by the lyricism of its artists—he seeks to deploy his writings as a talisman. “Out here,” he tells us, “in the concrete and real, sentences should be supernatural, words strung together until they compelled any listener to repeat them at odd hours . . . ” Coates understands the power of music, and from his love for it, he crafted his “earliest sense of what writing should mean.” His audience is captured precisely because his words are incantations that leave them spellbound. But when the United States selects its eloquent spokesperson on the “race issue”—as it always does—all other voices become mere noise, and the complexity of our political traditions and our lived experiences are flattened out. In Coates’s view, for instance, Harriet Tubman, Ida B. Wells, and Martin Luther King Jr. were all failures. They performed the same script, they failed to move their audience to action, and they never reshaped U.S. life and culture. “All of these heroes,” Coates insists, “had failed to cajole and coerce the masters of America.” In Coates’s telling, fine historical distinctions disappear, time stands still, and the past and future collapse into the political horrors of the present. This is what happens when we listen only to a single voice; no conversation is possible. We are disabled from speaking thoughtfully and accurately about political and cultural transformation on racial matters. But there is a sleight of hand in Coates’s “black atheism”; it conflates hope with certainty, and hope becomes our fatal flaw. Yet we don’t need to believe that progress is inevitable to think that, through our efforts, we may be able to move toward a more just society. We can, however, be sure that no good will come of the refusal to engage in this work. There is much in this that should concern us. Coates describes the pain visited on black bodies and engenders white guilt. He erodes the idea that who we are need not determine who we may become. He obstructs rather than opens any attempt to reckon with our racial past and present in the service of an inclusive future. And he participates in a politics where words and actions can never aspire to change the political community in which we live, and for that reason they only fortify our indignation and deepen our suspicion—namely, that as black Americans, we are as alien to this polity as it is alien to us. The aspiration to defend a more exalted vision of this country’s ethical and political life is taken as the hallmark of being asleep, dreaming in religious illusions. To be alive to an unvarnished reality, to be woke, is to recognize that no such country is possible. This runs roughshod over that thread in the grand tradition of U.S. struggles for justice—a tradition in which hope and faith are forged through political darkness. Hope involves attachment and commitment to the possibility of realizing the goods we seek. Faith is of a broader significance, providing hope with content. Faith, the black scholar Anna Julia Cooper suggested in 1892, is grounded in a vision of political and ethical life that is at odds with the community one inhabits. It is a vision that one believes ought to command allegiance, for which one is willing to fight, and in which one believes others can find a home. Faith looks on the present from the perspective of a future vision of society, and uses the vision as a resource to remake the present. And so faith, the philosopher and psychologist William James explained in 1897, is “the readiness to act in a cause the prosperous issue of which is not certified to us in advance.” In other words, faith has never been exhausted by the political reality one happens to be living in. Political faith has always rested on the idea that we are not finished, a thought that Coates rejects out of hand. In the nineteenth century, Ralph Waldo Emerson called this capacity for human renewal “ascension, or the passage of the soul into higher forms.” In our political life this means, as James Baldwin well knew, that both our liberal democratic institutions and its culture “depends on choices one has got to make, for ever and ever and ever, every day.” Faith has always been a loving but difficult commitment precisely because it makes politics about maybes rather than certainties. One of the greatest dangers of U.S. exceptionalism, for instance, is that it has habituated us to think about the structure of political life as necessarily progressing. Writing in the wake of the Montgomery bus boycott—a successful nonviolent campaign against racial segregation—King sought to chasten the obvious excitement: “Human progress is neither automatic nor inevitable. Even a superficial look at history reveals that no social advance rolls in on the wheels of inevitability.” Yet Coates appears simply to invert U.S. exceptionalism, replacing it with the equally fatalistic idea that the United States is fundamentally broken. In a world where the good or bad is fated to happen, faith and hope have no foothold. This ultimately weakens our resolve and undermines our ability to take seriously the idea of an “American experiment.” Black activists have not forged their faith with the stone of U.S. exceptionalism. Rather, they have used their darkest hours to “make a way out of no way”—to address the triple crises of exclusion, domination, and violence. Abolitionists such as David Walker faced it in the form of the enslavement of black folks. Frederick Douglass encountered it with the rise and crash of reconstruction. Wells faced it as she confronted the horror of lynching and the disposability of black life. And in our own time, Black Lives Matter (BLM) activists are reminded of a similar disposability of black life that goes unpunished. And yet, they are keepers of the faith, recognizing that its vitality is not exhausted by the reality they struggle against. In her recent New York Times article, “Black Lives Matter Is Democracy in Action,” Barbara Ransby narrates a powerful account of BLM activists creating contexts for collective leadership and using those opportunities to transform the power of voice into actions that meet the needs of ordinary people. This effort would be impossible for people who accept Coates’s perspective. Their efforts may not win the day, but they certainly won’t win the day without the faith that winning is a possibility. Faith does not deny the present, but refuses to be defined by it and sink into it. We now face a president who seeks to colonize every waking moment of our lives with feelings of dread, thus arresting our ability to imagine a reality beyond television, social media feeds, and newspapers. The illusion of our present moment is not expressed in political faith, but in the belief that we can respond constructively without such faith. Political faith is fully realistic about the present disasters and rejects illusions about assured future progress, while also insisting that we are not certain to fail. It is hopeful without being optimistic. We may falter, and the material, psychological, and political goods of white supremacy may deplete our desire to transform. We know the history—from the 1880s to the 1960s—of white backlash in response to a more expansive racial justice. In fact, we are living through one such backlash given the ascendancy of Trump. But our political community is what it is because we have made it this way. It is not fated to be. Believing otherwise makes white supremacy something more than a collection of choices, habits, and practices—it makes it part of human nature itself. Coates wants us to face the facts and embrace black atheism. But throughout the book he often slides from working in the historical register to speaking in the idiom of philosophical metaphysics—at one moment he stands in time and at another he stands outside of it, confidently telling us how history will end. For this reason, Coates doesn't dismantle white supremacy; he ironically provides it with support. Please understand my concern. Coates is right: he doesn’t have a “responsibility to be hopeful or optimistic or make anyone feel better about the world.” We must, as he has often done, speak the truth. But we must not claim to know what we cannot possibly know. Humility creates space for hope. This is why James Baldwin remains so helpful and why his work is ubiquitous these days. The United States, he insisted, is a collection of choices. And precisely for this reason, we must learn how to let go of former identities as we quest after better ones. He was not a political strategist, but a keen observer and analyst of U.S. political and ethical culture and in this regard, his writings are directed to cultivating a new orientation. Baldwin’s insight for us was that we find it challenging to live together precisely because we have not always understood what it means to allow features of ourselves to perish. In depicting our many selves, Baldwin reduces the burden of letting go. If there is only one self at stake, as Coates believes, if white supremacy is the country’s only identity, then letting go is entering an abyss. Perhaps, as so many tell us, the sun is setting on the U.S. empire. The death of an empire is nothing to lament, tied as intimately as empires are to death and destruction. But the United States is not only an empire. Its liberal democratic tendencies run deep and have often been used not merely for good, but to bring about the good as it relates to racial equality. As the empire dies, why should we abandon the idea that something new may yet be born? What we must ask ourselves now, is what in our past might we retrieve for our present, how might those resources be reimagined to articulate a political faith more humane and just than the reality we find ourselves living, and how might we allow portions of ourselves to die with grace so that we might flourish with dignity? Answering these questions begins with denying that the story of who we are is simple and settled.

**Libidinal explanations confuse habit and instinct AND material transformation key**

Peter **Hudis 15**, Professor of English and History @ Queens College, 2015, “Frantz Fanon: Philosopher of the Barricades,” Pg. 35-37

Fanon’s vantage point upon the world is his situated experience. He is trying to understand the inner psychic life of racism, not provide an account of the structure of human existence as a whole. Racism is **not**, of course, an integral part of the **human psyche**; it is a social construct **that has a psychic impact**. Any effort to comprehend the social distress that accompanies racism by reference to some a priori structure—be it the Oedipal Complex or the Collective Unconscious—**is doomed to failure**. Carl Jung sought to deepen and go beyond Freud’s approach by arguing that the subconscious is grounded in a universal layer of the psyche—which he called “the collective unconscious.” This refers to inherited patterns of thought that exist in all human minds, regardless of specific culture or upbringing, and which manifest themselves in dreams, fairy tales, and myths. Jung referred to these universal patterns as “archetypes.” It may seem, on a superficial reading, that Fanon is drawing from Jung, since he discusses how white people tend to unconsciously assimilate views of blacks that are based on negative stereotypes. Even the most “progressive” white tends to think of blacks a certain way (such as “emotional,” “physical,” or “aggressive”), even as they disavow any racist animus on their part. However, Fanon denies that such collective delusions are part of a psychic structure; they **are not permanent features** of the mind. They are habits picked up and acquired from a series of social and cultural impositions. While they constitute a kind a collective unconscious on the part of many white people, they are not grounded in any universal “archetype.” **The unconscious prejudices of whites do not derive from genes or nature, nor do they derive from some form independent of culture or upbringing.** Fanon contends that Jung “**confuses habit with instinct**.”21 Fanon objects to Jung’s “collective unconscious” for the same reason that he rejects the notion of a black ontology. His phenomenological approach brackets out ontological claims on both a social and psychological level insofar as the examination of race and racism is concerned. He writes, “Neither Freud nor Adler nor even the cosmic Jung took the black man into consideration in the course of his research.”22 This does not mean that Fanon rejects their contributions tout court. He does not deny the existence of the unconscious. He only denies that the inferiority complex of blacks operates on an unconscious level. He does not reject the Oedipal Complex. He only denies that it explains (especially in the West Indies) the proclivity of the black “slave” to mimic the values of the white “master.” And as seen from his positive remarks on Lacan’s theory of the mirror stage, he does not reject the idea of psychic structure. He only denies that it can substitute for an historical understanding of the origin of neuroses.23 Fanon adopts a socio-genetic approach to a study of the psyche because that is what is adequate for the object of his analysis. For Fanon, it is the relationship between the socio-economic and psychological that is of critical import. He makes it clear, insofar as the subject matter of his study is concerned, that the socio-economic is first of all responsible for affective disorders: “**First, economic. Then, internalization or rather epidermalization of this inferiority**.”24 Fanon never misses an opportunity to remind us that racism owes its origin to specific economic relations of domination—such as slavery, colonialism, and the effort to coopt sections of the working class into serving the needs of capital. It is hard to mistake the Marxist influence here. It does not follow, however, that what comes first in the order of time has conceptual or strategic priority. The inferiority complex is originally **born from economic subjugation**, but it takes on a life of its own and expresses itself in terms that surpass the economic. Both sides of the problem—the socio-economic and psychological—must be combatted in tandem: “The black man must wage the struggle on two levels; whereas historically these levels are mutually dependent, any unilateral liberation is flawed, and the worst mistake would be to believe their mutual dependence automatic.”25 On these grounds he argues that the problem of racism cannot be solved on a psychological level. It is **not** an “**individual**” problem; **it is a social one**. But neither can it be solved on a social level that ignores the psychological. It is small wonder that although his name never appears in the book, Fanon was enamored of the work of Wilhelm Reich.26 This important Freudian-Marxist would no doubt feel affinity with Fanon’s comment, “Genuine disalienation will have been achieved only when things, in the most materialist sense, have resumed their rightful place.”27

**Turn – social death theory is a tool of whiteness suppressing true resistance movements.**

**Mbembe 15.** Achille Mbembe Is A Philosopher, Political Scientist, and Public Intellectual., 9-19-2015, "Achille Mbembe on The State of South African Political Life," Africa is a Country, <http://africasacountry.com/2015/09/achille-mbembe-on-the-state-of-south-african-politics/> //RS

Finally, it is crucial for us to understand that we are a bit more than just “suffering subjects”. “Social death” is not the defining feature of our history. The fact is that we are still here – of course at a very high price and most likely in a terrible state, but we are here. We are here – and hopefully we will be here for a very long time – not as anybody else’s creation, but as our own-creation. To demythologize whiteness is to dry up the mythic, symbolic and immaterial resources without which it can no longer dabble in self-righteousness or in the morbid delight with which, as James Baldwin put it, it contemplates “the extent and power of its own wickedness.” It is to not be put in a position in which we die hating somebody else. On the other hand, politicizing pain is not the same thing as advocating colorism. In fact, it must be galling to put ourselves in a position such that those who look at us cannot but pity us victims. One way of destroying white racism is to prevent whiteness from becoming a deep fantasmatic object of our unconscious. We need to let go off our libidinal investments in whiteness if we are to squarely confront the dilemmas of white privilege. Baldwin understood this better than any other thinker. “In order really to hate white people”, he wrote, “one has to blot so much out of the mind – and the heart – that this hatred itself becomes an exhausting and self-destructive pose” (Notes of a Native Son, 112). This is what we have to find out for ourselves – in a black majority country in which blacks are in power, what is the cost of our attachment to whiteness, this mirror object of our fear and our envy, our hate and our attraction, our repulsion and our aspirations? Part of what racism has always tried to do is to damage its victims’ capacity to help themselves. For instance, racism has encouraged its victims to perceive themselves as powerless, that is, as victims even when they were actively engaged in myriad acts of self-assertion. Ironically among the emerging black middle class, current narratives of selfhood and identity are saturated by the tropes of pain and suffering. The latter have become the register through which many now represent themselves to themselves and to the world. To give account of who they are, or to explain themselves and their behavior to others, they increasingly tend to frame their life stories in terms of how much they have been injured by the forces of racism, bigotry and patriarchy. Often under the pretext that the personal is political, this type of autobiographical and at times self-indulgent “petit bourgeois” discourse has replaced structural analysis. Personal feelings now suffice. There is no need to mount a proper argument. Not only wounds and injuries can’t they be shared, their interpretation cannot be challenged by any known rational discourse. Why? Because, it is alleged, black experience transcends human vocabulary to the point where it cannot be named. This kind of argument is dangerous. The self is made at the point of encounter with an Other. There is no self that is limited to itself. The Other is our origin by definition. What makes us human is our capacity to share our condition – including our wounds and injuries – with others. Anticipatory politics – as opposed to retrospective politics – is about reaching out to others. It is never about self-enclosure. The best of black radical thought has been about how we make sure that in the work of repair, certain compensations do not become pathological phenomena. It has been about nurturing the capacity to resume a human life in the aftermath of irreparable loss. Invoking Frantz Fanon, Steve Biko and countless others will come to nothing if this ethics of becoming-with-others is not the cornerstone of the new cycle of struggles. There will be no plausible critique of whiteness, white privilege, white monopoly capitalism that does not start from the assumption that whiteness has become this accursed part of ourselves we are deeply attached to, in spite of it threatening our own very future well-being.

**Psychoanalysis is infinitely regressive, not falsifiable, and too abstract**

**Gordon 1** – Paul Gordon, accomplished psychotherapist, “Psychoanalysis and Racism: The Politics of Defeat,” RACE & CLASS v. 42 n. 4, 2001, pp. 17-34.

But in the thirty years since Kovel wrote, that attempt to relate mind and society has been fractured by the advent of postmodernism, with its subsumption of the material/historical, of notions of cause and effect, to what is transitory, contingent, free-¯oating, evanescent. Psychoanalysis, by stepping into the vacuum left by the abandonment of all metanarrative, has tended to put mind over society. This is particularly noticeable in the work of the Centre for New Ethnicities Research at the University of East London, which purports to straddle the worlds of the academy and action by developing projects for the local community and within education generally.28 But**,** in marrying psychoanalysis and postmodernism, on the basis of claiming to be both scholarly and action oriented, it degrades scholarship and undermines action, and ends in discourse **analysis a language** in which metaphor passes for reality**.** Cohen's work unavoidably raises the question of the status of psycho- analysis as a social or political theory, as distinct from a clinical one. Can psychoanalysis, in other words, apply to the social world of groups, institutions, nations, states and cultures in the way that it does, or at least may do, to individuals? Certainly there is now a considerable body of literature and a plethora of academic courses, and so on, claim- ing that psychoanalysis is a social theory. And, of course, in popular discourse, it is now a commonplace to hear of nations and societies spoken of in personalised ways. Thus `truth commissions' and the like, which have become so common in the past decade in countries which have undergone turbulent change, are seen as forms of national therapy or catharsis, even if this is far from being their purpose. Nevertheless, the question remains: does it make sense, as Michael Ignatieff puts it, to speak of nations having psyches the way that individuals do? `Can a nation's past make people ill as we know repressed memories sometimes make individuals ill? . . . Can we speak of nations ``working through'' a civil war or an atrocity as we speak of individuals working through a traumatic memory or event?' 47 The problem withthe application ofpsychoanalysis to social institutionsis thatthere can be no testing of the claims made. If someone says, for instance, that nationalism is a form of looking for and seeking to replace the body of the mother one has lost, or that the popular appeal of a particular kind of story echoes the pattern of our earliest relationship to the maternal breast, how can this be proved? Thepioneers of psychoanalysis, from Freud onwards, allderivedtheirideas in the context oftheirwork with individual patients and their ideas can be examined in the everyday laboratory of the therapeutic encounter where the validity of an interpretation, for example, is a matter for dialogue between therapist and patient**.** Outside of the consulting room, there can be no **such** verification process, and the further one moves from the individual **patient,** the less purchase psychoanalyticideas canhave**. Outside the therapeutic encounter, anything and everything can be true, psychoanalytically speaking**. Butif everything is true, then nothing can be false and therefore nothing can be true. An example of Cohen's method is to be found in his 1993 working paper, `Home rules', subtitled `Some re¯ections on racism and nation- alism in everyday life'. Here Cohen talks about taking a `particular line of thought for a walk'. While there is nothing wrong with taking a line of thought for a walk, such an exercise is not necessarily the same as thinking. One of the problems with Cohen's approach is that a kind of free association, mixed with deconstruction, leads not to analysis, not even to psychoanalysis, but to . . . well, just more free association, an endless, indeed one might say pointless, play on words. This approach may well throw up some interesting associations along the way, connections one had never thought of but it is **not to be confused with political analysis**. In `Home rules', anything and everything to do with `home' can and does ®nd a place here and, as I indicated above, even the popular ®lm Home Alone is pressed into service as a story about `racial' invasion.