

In Defense of Safe Spaces: A Phenomenological Account

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Abstract: The notion of “safe space” is one example of a theoretical and pedagogical resource grounded in studies of marginalized experiences that has recently undergone backlash in dominant culture and the academy. In this essay, I offer a defense of safe spaces using the theoretical resources of phenomenology and offer suggestions for moving past the dichotomy of safe versus unsafe space. I argue that safe space should be understood not as static and acontextual, as truly “safe” or “unsafe,” but through the relational work of cultivating such spaces. Furthermore, far from restricting dialogue in the classroom, safe spaces encourage dialogue through requiring students to utilize critical thinking in their exchanges and through supporting marginalized students whose positions and humanity often fail to be recognized in dominant spaces.

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What happens on the college campus rarely stays there. Rather, the disputes and lived experiences that arise on campus open up into the shared social world to inform contemporary debates about identity, privilege, oppression, and freedom. The past few years in the US, Canada,¹ Great Britain,² and many other nations, we have witnessed student activism expose contradictions present in the university system. Generally, universities in the contemporary era aspire to *appear* diverse. Yet, without radical commitment to reimagining the system they often fail to practically and meaningfully represent the perspectives of historically marginalized groups. Historically marginalized students do not merely observe this contradiction, they feel it: the students’ presence is felt to be tolerated but not desired; they are permitted to be there, but with this granted opportunity are expected to express gratitude rather than challenge. When students refuse to adhere to these implicit expectations and instead challenge the status quo composition and traditions of the university, their perspectives may be trivialized, their suggestions mocked, and the theoretical resources they employ dismissed.

The notion of “safe space” is one example of a theoretical and pedagogical resource grounded in studies of marginalized experience that has recently undergone notable backlash in dominant culture and the academy. In feminist, queer, and critical race movements, an understanding of safe space has developed that is concerned specifically with keeping marginalized groups free from the violence and harassment they routinely experience in dominant spaces. Many educators have adopted this concept to consciously (re)create their classrooms as safe space, so that all students—including those with marginalized identities—are free to “unravel, build and rebuild

knowledge” (Stengel and Weems 2010, 507).

However, because the phrase “safe space” has been so widely adopted, it has arguably become an “overused but undertheorized metaphor” (Barrett 2010, 1). The term “safe space” has been used to refer to “separatist” safe spaces in queer, anti-racist, and feminist communities, “inclusive” safe space classrooms, and safe spaces in which (non-human) objects are central (Boostrom 1998; Barrett 2010). Further complicating our analysis, the term “safe space” is often invoked in public discourse to signify either (1) a progressive commitment to recognizing and including the lived experiences of marginalized groups or (2) an encroachment upon the rights of the abstract citizen’s freedom of speech. In invoking “safe spaces” to perform a political perspective—democrat or republican, radical or neo-liberal—popular essayists, political pundits, university administrators, and even many academics fail to understand the history and diversity of the kinds of safe spaces that can exist and the complex theoretical commitments underlying calls for safe spaces.

In this essay, I offer a defense of safe spaces and suggestions for moving past the dichotomy of safe versus unsafe space. I argue that safe space should be understood not as static and acontextual, as truly “safe” or “unsafe,” but through the relational work of cultivating these spaces. Understanding safe spaces in this way reveals several tendencies. First, and as an important starting point, it reveals that space is not neutral. Dominant spaces are discursively constructed as safe for normative social identities (white, male, heterosexual, middle-class) through making public space unsafe for marginalized identities. Second, focusing on the relationality of safe spaces shows their inherent paradoxical structure. Cultivating safe space requires the foregrounding of social differences and binaries (safe-unsafe, inclusive-exclusive) as well as recognizing the penetrability of such binaries. Renegotiating these binaries is necessarily incomplete; a safe space is never completely safe, for it cannot ever truly be. We can and should, however, encourage the critical cultivation of what we may call safer spaces as

sites for negotiating difference, challenging oppression, and disrupting and transcending misrecognition. Moreover, conceiving of safe spaces in this manner neutralizes prevailing criticisms of safe spaces such as the claims that safe spaces are averse to difference, silence normative identities, and further the divisions between students.

For the purposes of this piece, I am interested in exploring what dialogue between those of us who work within and across critical race theory, queer theory, and feminist theory can offer to university policies regarding and pedagogical practices in creating inclusivity. Here, I am not interested in weighing in on the consequences students or professors have faced in advocating for or against safe spaces. Instead, using a phenomenological analysis in the first section, I will draw attention to the process of constituting space as safe or unsafe for social groups through dominant discourse. In the second section, I respond to common criticisms of safe spaces by unpacking a 2015 dispute at Yale University regarding the responsibility faculty and administrators have in fighting against the misrecognition and abjection of marginalized groups. Here, I use the Yale case merely as an example. My argument can be extended to consider similar debates that have arisen on many college campuses across the U.S. (and many other nations) and in mainstream punditry criticism following the recent U.S. presidential election and rise in nationalist movements globally. Additionally, to provide a counter model to the example from Yale, and for descriptive purposes throughout this essay, I will draw from my own experiences in the classroom in creating safe(r) spaces for my students. My examples are to some degree course material specific, but I believe they will offer concrete references for what I mean as I argue for the practice of creating safe(r) spaces in class and on the university campus more broadly.

In the final section, I will address a criticism specifically directed at queer theories and theorists, namely that arguing for the recuperation of safe space for marginalized groups contradicts the deconstructionist epistemological position queer theory holds regarding

identity. In other words, it is assumed that the argument for the necessity of creating safe space for marginalized populations relies on naming the marginalized identity that requires protection from the dangers of the dominant identity, thus in effect reifying both identities. Queer theories, by contrast, reveal the inherent instability of identity positions, presumably negating the possibility of establishing the group as a stable group to protect. I contend that this presumed contradiction rests on at least two misunderstandings. The first is confusion between theory and practice, where the inherent instability of social identity is taken to mean we can never experience ourselves as belonging to a gender group, racialized group, class group, etc. While the status of gender and race may be ontologically troubled, practically, we are gendered and racialized through the gazes of others and through our affective relationship(s) to ourselves. The second misunderstanding relies on the misconception of the ontology of safe(r) spaces themselves that I address throughout, namely that safe space can ever be fully realized and that marginalized populations can ever be fully protected. If full and perfectly realized protection is not the aim of the work of creating safe(r) spaces in the first place, then using queer theories as instructive for thinking about safe space does not produce a contradiction but rather functions as a meaningful foundation for bridging the gap between theory and practice.

Fear and Lack of Safety

The idea of safety is relational, fundamentally related to the actual and perceived threat of violence. To feel safe is to move through space without fear of violence; while to *feel* unsafe is to experience one's vulnerability to violence. While we often do not perceive violence as something with which we continually engage, it is enacted upon us in a way that interrupts daily life. Moreover, the anxieties that arise in the expectation of intrusion of the unsafe reflect gendered, sexual, and racialized power relations that are effects of a system of structural violence (Koskela 1997). The effects of systematic and structural violence are far-

reaching and are not limited to merely the physical risk of violence. In terms of mobility, the fear experienced by vulnerable bodies works to allow some bodies to exist and move freely in public spaces through restricting the mobility of other bodies to private spaces (Ahmed 2003). Consider the work fear performs in the lives of persons who encounter regular harassment at work, in the military, in education or in the street and the behavioural adaptations fear motivates in attempts to create provisional safe space for the self. If she is harassed regularly in the street while she jogs, she may choose different routes or pay money to join a women's-only gym; if at work they may cease to volunteer for projects that put them in close contact with their harasser or they may avoid networking opportunities, including happy hours and retreats that place them in informal settings with their harasser; if in education, he may miss class, hold back on participating in order to not call attention to himself, have to put up with harassment in order to advance his career or give up his dream in order to be safe from harassment.

In all of these examples, fear of harassment functions to restrict the movements of the harassed. But the effects of restricted mobility extend beyond the lives of the harassed, producing benefits for social groups less likely to be harassed. The affective experience of fear then discursively reiterates public space as masculine space, white space, heterosexual space, through the denying of public space as safe for women, persons of colour, and queers. Take for example the parietal rules of the mid-twentieth century which restricted women on college campuses to their dorms, allegedly to keep them safe from potential assault. The impact of said rule was personal, as individual women were unable to leave their dorms after curfew, political in that the rule specifically applied to a gendered caste of peoples, and spatial, as space on the college campus is reiterated as masculine and thus unsafe for feminine bodies and the movement of femme people. Today we continue this norm of public space as masculine by routinely teaching girls and women special rules to keep them safe without attending to what makes them unsafe in dominant spaces (Stengel 2010). In-

stead of investigating the roots of the constitution of space as safe or unsafe, both then and today, we attempt to dispel from public space those to whom we fail to extend safety as possibility. The result is that based on personal experiences and social cues, people develop maps of where they feel threatened, which can have effects on one's economic, social, and political being (Valentine 1989). Institutional and social norms demand this process of mapping, encouraging some people to avoid certain spaces by designating them unsafe, thereby controlling how bodies relate to public space and to one another.

We can further consider what it means to feel safe or unsafe through a consideration of comfort and discomfort. In *The Cultural Politics of Emotions* (2004), Sara Ahmed argues that comfort is experienced not merely as emotional, but as the social-spatial fit between body and object. For example, your comfortable chair may be awkward for me, and my favorite cotton T-shirt made soft by repeated wear by *my* body may restrict your movement or hang too loose. In both instances, the shape of the body imprints upon the object that becomes comfortable for *that body*, in effect making the surface of the body disappear. The body as body reappears only when it fails to fit. My body appears as I squirm in an attempt to make your comfortable chair fit my awkward body; your body appears when the sleeves of my T-shirt restrict the movement of your arms or when it slides off the shoulders. The awkwardness, however, is not experienced as merely a disconnect in fit, but is felt as an awkwardness of the body itself. I may know upon reflection that the discomfort results from the incompatibility of my body and your chair; but I feel the discomfort as an awkwardness of my body. Similarly, social norms become a form of public comfort where some bodies are able to extend into spaces that have already been carved out for them. Because the space has been carved out through the repeated reiteration of norms and values, space is assumed to simply be for them naturally and the work of creating space disappears. However, just as individuals do not have pre-existing identities, neither do spaces; space is not naturally "straight,"

"white," or "masculine" but rather is actively produced (Binnie 1997).

Like the comfortable chair or T-shirt that have acquired their shapes through the repetition of the body inhabiting it, the discursive creation of public space creates bodily space wherein some may pass safely, for example the heterosexual couple holding hands, and others, the lesbian couple engaging in the same act, to *feel* uncomfortable. Queer subjects, when faced by the normative comfortability of heterosexuality may feel disoriented, out of place or estranged (Ahmed 2004). This disorientation is experienced in part due to the threat of violence that accompanies one's failure to "fall in line," but is also an effect of being denied access to participating in the shaping of public space. The repetition of heterosexuality, whiteness, and masculinity is naturalized in public spaces on billboards, in music, film and television, in displays of heterosexual intimacy, and through the protection of some within dominant institutions by actively or passively abandoning others. Those who experience comfort in the world, however, tend not to recognize the world as a world of norms they have taken in and are reflected all around them. Norms, like the body in my previous examples, disappear for those who seamlessly slide into normative space, only to reappear for those who do not "fit." For some queer theorists and queer identified peoples, embracing discomfort is desirable because comfort (and even the project of happiness itself) is associated with assimilative practices, where one who happens to be queer, of colour, or a woman is valued if they internalize and express allegiance to normative values (Ahmed 2010). Others, however, embrace the extension of normativity in order to be included in the "safety" of fitting in.

Nevertheless, while safety requires freedom from physical violence and the fear of physical violence, it is not adequate to provide safe space for marginalized groups. Additionally, safety entails a positive conception, realized through recognition as human, as worthy of safety and protection, and as valuable in creating the shared world. When marginalized groups are denied physical and psychological right to remit-

tance from violence, they are also denied right to recognition and instead often suffer from misrecognition. In the next section, I will unpack a 2015 controversy at Yale University over recommendations regarding Halloween costumes to question who is responsible for mitigating the harms of misrecognition, as well as to further the use of a phenomenological, deconstructivist methodology in understanding the need to take seriously as a resource the active creation of safe(r) spaces.

Agency and Choice

In the fall of 2015, the Intercultural Affairs Committee at Yale University sent an email to the student body advising them to avoid “culturally unaware or insensitive choices” in dressing for Halloween.³ The recommendations included specific practices to avoid, such as modifying one’s skin tone, as well as general questions one should ask in the process of choosing a costume, such as: “Is the humour of my funny costume based on ‘making fun’ of real people, human traits or cultures?” In response to this initial email,⁴ Professor Erica Christakis, an expert in early childhood education, penned her own email acknowledging the “genuine concerns of personal and cultural representation,” but questioning the interventionist strategy of administrators in attempting to shape the norms of Yale students, the Yale campus, and perhaps by extension the broader community. Specifically, Christakis appears concerned about the space available for students to develop an understanding of themselves as free and empowered. On a charitable reading, she seems to imply that if students are told how to act, they will fail to become internally connected to anti-racist principles because these are not adopted as their principles. In other words, Christakis suggested that rather than anti-racist norms being legislated by outsiders (framed as faculty, administrators, and parents), students should come to adopt them as their values through a free process of rigorous dialogue and critical reflection with students who believe racist Halloween costumes to be harmful. We may frame Christakis’ argument as vaguely Pla-

tonic both in terms of the form she argues for, a Socratic dialogic method, and also the goal, namely internal connection to the norms rather than external enforcement of the adoption of values. Yet, in providing such a sympathetic reading of Christakis’ position we are failing to consider the phenomenological horizons and history in which the argument is grounded, as well as her explicit failure to consider the power discrepancies that exist between groups of students on a campus that is not a neutral space. Considering the broader context enables a better understanding of what is at stake here for marginalized racialized groups which experience harm as an effect of racist Halloween costumes. Additionally, these events at Yale allow for consideration of the ways in which the politics of the campus and classroom extend into off-campus space(s) and then back on to campus. Racist Halloween costumes, while not unheard of on college campuses, are more often worn to university-associated fraternity and sorority parties. Thus, the question of how universities should respond is not necessarily a consideration of that which is framed as “on campus” behaviour, but rather invokes a complex consideration of what constitutes university space and where Yale students are in fact constituted by their identities as Yale students and where these identities are left behind. While presumably an unintended effect of Yale’s administration, the recommendation that Yale students avoid racist costuming functions to disrupt the binary distinction between the “on-campus” and “off-campus.” Here, the off-campus still invokes the on-campus in that the relationships of students in sororities and fraternities are established through entering a shared on-campus space. Furthermore, those invited to Halloween parties thrown by fraternities and sororities are often other university students met through on-campus activities. The students’ relations to one another here are internally constituted and mediated by the fact that they share a university identity cemented by and through the on-campus space of Yale. Yet, the students are also constituted externally as Yale students based on reference to the space by potentially being named by non-Yale persons as Yale students. The reference invoked in a hypothetical headline

“Yale frat threw a racist-themed party” is constructing a complex identity for Yale students that does not rely on mere present occupation of the Yale campus, but rather renders ambiguous where the space of Yale begins and where it ends.⁵ Nevertheless, bracketing this binary deconstruction in the abstract, the case at Yale is of special significance in that the debate about off-campus behaviours is hashed out on campus in many different kinds of spaces, some public (the lawns of Yale campus), some private (residence halls), and in classrooms.

Now, regarding Christakis’ specific argument, first, we must acknowledge the university campus itself as a historically racially exclusive and gender exclusive space. At Yale, the first black students admitted in the nineteenth century were not permitted to earn credit or to speak in class. Meanwhile, moving into the twentieth century, women and people of colour were rarely admitted until the 1960s, and it was during the sweeping national integrationist education movement that Yale had to confront its own “neutral” standards used for admittance (Karabel 2005). By the 1965-1966 school year, the Admissions Committee at Yale revised its admission procedures through considering that “cultural deprivation” and not lack intelligence can have an effect on black students’ SAT scores and grade point averages (Karabel 2005). In short, Yale in the 1960s acknowledged that social organizing principles and institutional discrepancies in access to resources affect black students’ development and thus in order to encourage greater racial diversity in their student body adapted their admission procedures to take affirmative action. Arguably, such a move is quite progressive, but as critical race theorists such as Lewis Gordon (1999), Franz Fanon (1967), and Paget Henry (2000) have shown, admittance into white space does not entail acceptance of blackness. In the 1960s and today, the majority of professors are white, the theories and perspective taught derive from white people, and what is considered disruptive versus instructive is often defined through the politics of the white gaze. We can see this not just in terms of how the university administration is chastised for daring

to make Yale a bit more comfortable for students of colour, but also in how students who responded to Christakis’ email were treated in the media coverage. One student who confronted Nicholas Cristakis for failing to fulfill his responsibilities as a professor and as the head of residency at Silliman Hall where he lived among students with his wife was quickly and diminutively dubbed “The Shrieking Girl”⁶ and, due to the subsequent harassment she faced as a woman of colour calling for safe(r) spaces at Yale, was compelled to delete her online profiles.

Second, by not mentioning race, Christakis fails to consider the racialized horizons in which racist costume-wearing occurs. Instead, she invokes a seemingly “boys will be boys” attitude regarding the responsibility students have to not harm one another, thus rendering the harm enacted unimportant. This move is also not neutral, but reinforces a protection of whiteness by emptying white students of responsibility for their actions and erasing the harms enacted against students of colour. The students who feel free to engage racial cross-dressing are not without a racialized identity—they are white—and the students whose identities are adopted as costumes are students of colour. The “why” question (i.e. why do white students engage in wearing racist costumes for fun?) is also relevant here. White students generally can adopt “other” racialized identities in play because they are repeatedly framed as lacking racial identity. Racial identity is less meaningful *to them* in their interpretation of what it means to be identified because it has not posed a problem for them. This, of course, does not mean that their identity is truly less meaningful in terms of effects that unfold over and within their lives. Rather, whiteness as neutral/non-identity (and as desirable and good) has been constructed within a contemporary history where blackness has been denigrated and reduced to the status of the sub- or non-human (Fanon 1967; Henry 2000; Gordon 1999, 2015). The neutrality and positivity of whiteness and white peoples relies on the constant (re)iteration of blackness as lack of being and black peoples as less than human. This dependent relationship of whiteness on blackness is performed through anti-black

language, anti-black systems of law and criminal justice, anti-black scientific discourse, and through the deployment of anti-black cultural images. Anti-black cultural images such as the jezebel, the mammy, the sapphire, the savage or brute, the thug, the Uncle Tom, and the minstrel man, have been used simultaneously throughout history to render black people as foolish and thus content with oppression and to frame black peoples as dangerous threats to white people. The anti-black costumes Yale sought to address in their recommendations to students tend to fall into one or more of these categories as white students “dress up” as “pimps,” “hoes,” “gang members,” “harem girls,” “Native Savages,” and so forth. Culturally appropriative costumes, while not necessarily rendering people of colour as dangerous or deviant, function instead to disregard the seriousness and the value of the cultures of peoples of colour. Through the general cultural acceptance and active defense of the right of white students to wear as costume Saris, or headdresses, or dashikis, the deep, internal histories and symbolic coherency of Indian, First Nations, and African cultures are rendered foolish, inferior, and infantile. The effect, here, is not just the denigration of people of colour’s cultures, but the uplifting of intelligent and properly cultured space as white. Furthermore, students of colour do not experience this belittling merely on the level of the symbolic, but as a direct abuse on selfhood. For if I am black, and black culture is decreed as inferior, stupid, infantile, and dangerous, then I am rendered in my very being inferior, stupid, infantile, and dangerous.

Despite these issues with Erica Christakis’ argument, the portion of the email to which students themselves most directly objected was attributed to Christakis’ husband, Nicholas Christakis, who is also a professor and residential head of college at Yale. Erica Christakis wrote, “Nicholas says, if you don’t like a costume someone is wearing, look away, or tell them you are offended. Talk to each other. Free speech and the ability to tolerate offense are the hallmarks of a free and open society.” In the students’ responses to the Christakises standpoint, we can unambiguously recognize their frustration with the lack of attention to

the social geography of space, the effect of which sets the conditions for the possibility of recognition available to students based upon race, class, gender identity, and sexual orientation. The Christakises’ positions within the university are somewhat unique in that not only do they interact with students in the classroom, but also as residential heads of college; they therefore play substantial roles in the cultivation of space for students both inside and outside of the classroom. Thus, in the students’ protests, open letters and essays, we find not merely a rebuttal of the Christakises’ positions, but a call to reconsider the expanded responsibility that faculty who live among students have in creating safe space for marginalized students. To understand why this might be a responsibility of those with formal and social power in the university setting, I suggest we look to the consequences of misrecognition and the possibilities existing for marginalized students to achieve reciprocal recognition. While the problem for marginalized and stigmatized groups can be quite obvious to those who work within and theorize from critical race, feminist, and queer deconstructionist perspectives, it is still not regularly acknowledged in dominant space, which in turn perpetuates misrecognition.

Contemporary recognition scholarship (Young 1990; Gutmann 1994; Honneth 1992) relies centrally on the Hegelian concept of mutual recognition that ideally allows citizens to operate as equals within the political world. Citizens, Hegel proposes in *The Phenomenology of Spirit*, want more than fair distribution of physical and intellectual resources; they desire confirmation of *their* humanity in its particularity and are willing to risk their lives to achieve it. While debates in recognition scholarship persist over the role social identity plays in conditioning the positioning of the subject internal to or outside of the struggle for recognition, most scholars in the field share the conviction that recognition is a crucial human good that serves as a precursor for justice in a pluralist and democratic society. For a society, then, to be deemed good or fair it seems a society must offer its citizens equal opportunities for *public* and *accurate* recognition. If it fails to do so, at least two injurious effects

arise. First, some human beings are denied access to something for which all humans strive and, second, the act of seeking recognition itself becomes a degrading experience for marginalized individuals in that one must ask for recognition from those who despise them.

As we attend to the active constitution of shared social space, we find that despised groups who are abjected or viewed through stereotypes must negotiate space that is collapsing around them in order to prove they deserve to be recognized as human beings with value. Significantly, these groups must seek recognition not from within their own group, but from those who despise them and who benefit from despising. Recognition, then, is on the one hand a useful framework because it exposes the interconnection between individuals and social groups. On the other hand, however, we must question whether the dominant recognition framework is merely a pathway to assimilation. Women, for example, resent the idea of casting gender as irrelevant to identity in that it obscures a history of gender inequality and encounters with sexist norms and barriers which produce objective and subjective effects. They seek to be understood, to be read or recognized as women, without being reduced to their gender and without being forced to internalize masculine norms to be valued. Similarly, persons who happen to be black, do not want race to be deemed as irrelevant to their lived experiences, concrete possibilities, and identities. But neither do they want to be reduced to their racial identities or be forced to internalize whiteness as normative and repudiate the value of blackness and black identities. Nevertheless, recognition as it is often conceived and practiced within dominant spaces does not on its own provide for retention of marginalized identity without either reduction to said identity or assimilation to the normative viewer's position.

Safe spaces, by contrast, can retain this tension and thus prove to be much more complex than merely offering absolute protection to marginalized identities at the expense of normative ones. Through the active cultivation of safe space in the classroom, marginal-

ized students are able to circumvent the requirement that they first defend their existence as human prior to participation in public space. Furthermore, classrooms cultivated as safe spaces disrupt the theoretical presupposition of public space as "for everyone" through consideration of the importance of social identity. Finally, safe spaces can begin the reparative work of reclaiming the humanity and value of self for marginalized groups not through rejecting critical thinking and openness, but rather through requiring it to understand and deconstruct systematic relations of power, identity, and oppression.

To return to the Christakis' argument: Nicholas Christakis's statement that students should be able to talk to one another positions the blame for continued misrecognition and the responsibility to speak up with the student who is perpetually misrecognized. Christakis' point fails to acknowledge, however, the discrepancies in power that exist between students who reside in space as non-normative or anti-normative and those who are reflected in the accepted and projected public norms of Yale culture. Furthermore, he assumes at least the following: (1) that Yale students are integrated in their social groups and classrooms; (2) that normative subjects would find authoritative the arguments of those constructed as their social subordinates; (3) that it would be safe for one who is marginalized to speak out against their classmates in public space; and (4) that it is the responsibility of marginalized and stereotyped groups to educate those who benefit from marginalizing and stereotyping them.

In defense of the Christakis' position, Professor Alan Jacobs of Baylor University argues that any Yale student who seeks an environment on campus akin to a home is bound to be disappointed. Residential colleges, he notes, are places where "people from all over the world, from a wide range of social backgrounds . . . come to live together *temporarily*. [They are] essentially public space," he adds, "though with controls on ingress and egress to prevent chaos and foster friendship and fellowship" (2015; emphasis in original). Many scholars take a different route, not calling into

question the desire to feel at home, but by challenging the assumption that “discomfort impedes learning” (Barrett 2010; Boostrom 1998; hooks 1989, 1994; Stengel 2010) and framing the positive pedagogical value of critique and disagreement. They allege that such safe spaces can in some instances censor critical reflection, replace sympathy with sentimentality, turn open-mindedness into empty headedness, and deny important differences existing among students (Boostrom 1998). Discomfort, they argue, serves an indispensable role in sharpening students’ perspectives and analytical skills. Students should, they admit, feel “safe enough”—but not necessarily comfortable—to voice their opinions and critically respond to their peers and instructors (Boostrom 1998).

Here I would like to make two points. First, recognizing educational space as by definition unsafe does not function to diminish the worth of safe spaces. Rather it can be a starting point for considering the ambiguous discursive terrain of pedagogical safe space. Instead of denying danger, safe space begins with recovering the legitimacy of fear and the deconstruction of the social imagery that simultaneously creates and supports a world organized around separation. The classroom in this instance offers up an invitation to interpret and respond to conflict (Stengel 2010). Discursive, pedagogical safe space is therefore not static, but a perpetual movement between safe and unsafe, individual and collective, agreement and disagreement. Safe spaces allow “individuals in a collective environment . . . [to] be empowered to encounter risk on their own terms,” knowing that these risks will vary based upon experience, but that they will not have to justify their right to experience (Hunter 2008, 18-19). In this conception, *space* becomes a code-word for the process of the ever-becoming of messy negotiations of identity and practice in motion (Hunter 2008).

Some practical examples may be instructive here. In my experience as Women’s and Gender Studies professor, I actively engage in the process of creating safe(r) space in my classrooms from the first day of the semester. Some basic techniques I have acquired

throughout my career include: allowing students to say their names first rather than calling them off of a roll, explaining the student code of conduct which prohibits harassment based on social identity, and describing what is required of them and what they can expect from me in a class where discussion is used as a common pedagogical tool. The first technique was developed through my own engagement in an optional development course on trans inclusivity in the classroom and from actively reading transfeminist research on preventing marginalization of trans students on college campuses (see Nicolazzo 2016). As a non-trans person, I had to acknowledge my experiential limits in considering what practices would best facilitate the opportunity for trans students to accurately name themselves, without having to identify themselves as trans to others if they do not so desire. I had to consider the way in which the space of the classroom is occupied not just by the people who comprise it at any given time, but what frames how we encounter one another (students and professors, students and students) from the beginning of the semester. How does power accrue to students who do not have to speak up and identify themselves as already mis-identified and what do I have to do in order to disrupt these normative functions? The practical purpose of these questions and the developed practice is to facilitate safe(r) spaces for trans students to identify themselves as trans if they wish to do so, but the effect is much broader in that it functions as a recognition that the “official roll” reinforces classroom and campus space as cisnormative through enacting a barrier for trans students to being accurately identified. While universities vary in terms of how they update student records, many universities require student records (and all that is derived from this record) to match one’s “legal” identity. Thus, if a trans student has not legally changed their name, they are often misnamed and misgendered until they do so. Now, in making this change to my teaching practice I have not erected a force field that will protect trans students from cissexism and transphobia during their time at the university, but I have actively intervened in the cisnormative functioning of the university and indicated something to all of the students about the

space we will all occupy together for the semester. An unintended, though not surprising, effect of this practice has been expressions of gratitude not just from trans students, but from students who have had their names mispronounced by (predominantly white) professors and teachers from primary through postsecondary schooling. I mention this here because it shows an important point, namely that as soon as we begin to interrogate the normative organization of space and its consequences for one marginalized group, the space itself is disclosed to us not just through or in the terms that we expect (i.e. as cis-normative), but as constituted by multiple systems simultaneously. While these initial constitutional practices are important, the handling of course materials that are “unsafe” for marginalized students also deserves our attention. Again, I will draw from my own experience in creating safe(r) classrooms, with the acknowledgment that this example is more specific and while still adaptable, as all course materials are constructed within social worlds, perhaps less amenable to directly assume.

Generally, debates about course content and safe spaces tend to collapse into debates regarding whether or not “trigger warnings” need to be given when professors assign “sensitive” materials, where sensitive generally means that a text employs racist language or employs explicit description(s) of sexual violence. I am not interested in centring debates on trigger warnings here, but I will note that trigger warnings and calls for them are symptoms of something deeper. They are not the goal in and of themselves. This should become clear through my example in that I do not use “trigger warnings”⁷ as they are commonly conceived. Rather, I build the space in which the harmful materials will be encountered in a way that enables access by the students who experience potential harm(s) through the materials themselves.

In a course, entitled “Gender, Race, and Science,” my students and I unpack the masculinist, anti-black racist, cissexist, heteronormative, classist, and ableist epistemological frameworks and methodological practices of the natural and social sciences. Unsur-

prisingly, the depth and breadth of sexism and racism in the history of science is formidable. But, for many marginalized students, even those who are women’s and gender studies majors, confronting the history of the sciences as well as contemporary epistemological frameworks and practices can be disorienting and potentially traumatic. My concerns inevitably centre upon black women’s possible experiences in the class due to the abuse and disparagement of black women that has occurred throughout the history of science and medicine. Further adding to the potential harm is the fact that this history lives with us today in terms of the failures to address the health inequities that black women face and the use of sexist and racist stereotyping to justify these inequities. In short, I was and still am concerned that the materials in this course could cause black female students to retreat inward, when what I desire for them are liminal moments that, while dangerous, are full of potentiality for change. Yet, I know these moments will be impossible, if I do not model, from day one, an anti-racist and anti-sexist classroom atmosphere.

The first step is choosing materials from black feminist writers who are aware of the harm that the use of racialized and sexist images can cause in their black female readers. Thus, when we cover the historical use of Sarah Bartmann as a “specimen” for furthering scientific justification for categorizing women as inferior to men and black peoples as a species apart from white people, we simultaneously read an excerpt from Patricia Hill Collins’ *Black Feminist Thought* (2000) which details the sexual politics of black womanhood. In a chapter entitled “The Sexual Politics of Black Womanhood,” Collins criticizes the historical use of Bartmann within a racist scientific project and the way Bartmann’s image is still used by contemporary scholars in their presentations on their research. She describes several approaches the various scholars take in prepping or failing to prep their audiences for the image of Bartmann they intend to project on the screen. Two of the examples are from men’s work (one white and one black). The white male scholar, whom Collins frames as having “done much to challenge scientific racism” through his work, left an image of

Bartmann on screen for several minutes while he told jokes about “the seeming sexual interests of White voyeurs of the 19th century” (2000, 142). This is while black women panelists sat on either side of him, positioned directly in front of the projection of Bartmann herself. By projecting the image of Bartmann in this way and while on a panel with prominent black scholars, the white male scholar functioned to invite the audience members to become voyeurs of Bartmann, reinscribing her, and by extension the black women panelists, as objects while he projected his own agenda. Collins notes she questioned him about his pornographic use of Bartmann’s image and his response featured references to “free speech” and the “right” to use public domain material however he so desired. What was missing from his response, and notably from the Christakis’ and others who champion racist speech and costuming, was a concern for the harm he effected against black women through his active contribution to their continued objectification.

The second scholar, a black man, used Bartmann’s image similarly in a presentation on the changing size of Black bodies in racist iconography. Collins writes: “Once again, the slide show began, and there she was again. Sarah Bartmann’s body appeared on the screen, not to provide a humorous interlude [as in the case of the white male scholar], but as the body chosen to represent the nineteenth-century ‘raced’ body” (2000, 142). Collins poses a similar question to the black male scholar regarding the purpose of encouraging the audience to engage in a lengthy voyeuristic gaze at a pornified image of Bartmann. His reply, while not centred on abstract norms of “rights” and “free speech,” was also telling and dismissive. Rather than considering her criticism, the black male scholar suggested that she missed the deep point of his presentation and stated he was concerned about race and not gender, thus reifying blackness and the harms black people face as harms against black masculinity.

The third scholarly use of an image of Bartmann described by Collins is by a prominent white female feminist scholar. This scholar, by contrast, adequately

prepares her audience for the image she is about to show, noting as she does that graphic images of black women’s objectification and dehumanization cause great harm to audience members. Collins admires her thoughtfulness, but, at first, believes her to be “overly cautious,” that is, until she sees the reactions of young black female students seeing Bartmann’s image for the first time (2000, 141). Many young black women in the audience cried and Collins recognized they were linking the pornographic treatment of Bartmann as displayed in these images with their own contemporary experiences of racialized, sexual surveillance.

The scientific objectification and debasement of black women is not merely historical, but exists alongside a contemporary order where black women are pornographically objectified and reduced. To act as if it were a bygone problem of bad science is to neglect contemporary black female students and potentially set them up for being disenfranchised in the classroom. Fortunately, I read *Black Feminist Thought* prior to entering the classroom as an instructor and have used the theoretical content and her descriptive anecdotes to create my classroom. The theory presented by Collins challenges the students by posing a threat to the normative constructs and assumptions within which students safely reside. How we use Collins work, inserting it into our coverage of a racist and sexist history of scientific practice, can function to provide a safe(r) space for black female student to engage with the materials.⁸

Returning to Jacobs’ argument, namely that students should not expect safety reserved for private spaces, like homes, in public spaces such as university dormitories and campuses, I think we can now see that the notion of the university as necessarily failing to be a home for all students ignores the socio-spatial reality of public space as imagined and continuously (re)iterated. Put more concisely, the university already exists and continues to be remade in its existence as a home for some students, namely those with normatively valued social identities. Arguing we should not act in order to make space comfortable for those who regularly experience discomfort in public space is not a

neutral argument. On the contrary, it is a call to (re)iterate public space in order to support those who regularly experience recognition through denying that possibility to marginalized groups. This is, of course, not to suggest that all persons confirmed as members of normative identities are valued. Rather, the binary of safe versus unsafe can be further challenged or “troubled” by looking at the ways in which space is not “safe” for all persons who engage in heterosexual practices. Cohen’s (1997) discussion of “welfare queens” and Collins’ discussion of black heterosexuality as deviant (1990; 2000) are two examples. According to Cohen, the welfare queen presumably engages in or has engaged in normative heterosexual practices to varying degrees and thus should be valued within the dominant (heterosexual) world. Yet, she is not accepted because she has not performed heterosexuality appropriately. First and foremost, the welfare queen is imagined to be black, and black sexuality, as Cohen shows, is defined as dangerous, as a threat to whiteness and white peoples. Second, she is poor and within neoliberal, capitalist orders, poor women who reproduce are rendered irresponsible and thus a drain on the dominant system. Finally, she is unmarried and thus fails to perform the patriarchal norm of sexuality as contained within the heterosexual marriage bond. Thus, while the welfare queen participates in the norm of heterosexuality, her heterosexual practices are not valued within dominant space and she is cast out as deviant. By contrast, commercial and urban space has been expanded to be “safe” for some homonormative identities (often white, upper/middle class, gay men) resulting in some queer subjects arguing that safe spaces are no longer necessary. Individual components of social identity, then, do not function to position groups as universally oppressed or universally privileged, but are complex in their dependence upon the ways systems intersect and how identities are assembled together. Space is complex and attention to this complexity does not eliminate the exchange of ideas, but enables an awareness of the framework that plays a role in the formation and expression of knowledge, power, and justice. By providing access to the critical framework in which our encounters occur, our students are able to think more

deeply about the social world they occupy and the kinds of theories and practices they come to utilize. Collins’ and Cohen’s examples force us to confront the ways in which seemingly normative identities that should be “safe” to occupy in public space become “unsafe” through intersecting with identities deemed undesirable and deviant. Deliberating upon the ways in which identities themselves can be simultaneously and paradoxically constituted by “safety” and “deviancy” can then facilitate a better understanding of the backlash that students like the “Shrieking Girl” face as they seek to raise their voices for equity.

One of the dominant criticisms expressed in conservative media coverage and on social media of this student of colour (the “Shrieking Girl”) is that she is privileged⁹ in terms of class and thus should stop whining about an issue as trivial as Halloween costumes. The language used to criticize this student is clearly gendered and racialized (she is described in blogs as shrieking, aggressive, unhinged, delusional, and as part of a mob that accosted Christakis).¹⁰ In representing her in this manner, her criticism, that Christakis has a general responsibility to attend to students’ safety as a professor at Yale and more specifically as a resident master who lives among students at Silliman Hall in order to serve as a direct contact and guide for them, is ignored. Furthermore, in concentrating upon her inappropriate “behaviour,” Nicholas Christakis’ defensiveness, as well as her implicit claim regarding how the constitution of space at Yale University manifests through power discrepancies are erased. Yet, the erasure of these components of the exchange is telling and is, in effect, part of the problem of the idea of neutrality itself. The exchange between Christakis and the student could never be neutral because he is already constituted in space as a rational, masculine-identified, academic whose argument is read as a refusal to put some students ahead of others and instead facilitate learning for all. By contrast, as a female of colour, the student was inevitably framed through gendered and racialized stereotypes, while simultaneously being cast as “privileged” because she attends Yale. Simply put, the politics of space were engaged yet unacknowledged in the media

coverage of this exchange, with the effect of rendering the student challenger as non-existent in her claim. How she is erased is notable: it is through making her hypervisible *as a woman of colour* that she, as a subject making a claim, is rendered absent. As Lewis Gordon explains in *Bad Faith and Antiracist Racism*, “the more present a black is, the more absent is this ‘something.’ And the more absent a black is the more present is this something. . . . In this formulation, then, the black’s absence fails to translate into his *human* presence” (1999, 98; emphasis in original). Invisibility of black people within antiracist racist societies is not new; it constitutes black people in their chattel roles under racialized enslavement and within colonial societies. But how black people are rendered invisible is significant for they are invisible not in-and-of-themselves (i.e. they are seen). Rather, their humanity is made invisible and they are regarded “as mere objects of the environment, mere things among things” (Gordon 1999, 98). The student’s situation is ironic. As she makes claims, asserts herself, she is viewed in a way that is not seen as herself. She is not seen as an individual, her humanity is missed, evaded, and she goes unrecognized as she is recognized merely as black and woman. To see her as a female student of colour is to not see her at all.

To return to the student’s claim, to make her present as human rather than a racialized and gendered body-object, her argument is not merely that Christakis should be fired or ashamed of himself, but rather that he is explicitly not engaging in a neutral act when he calls for students to “talk to one another.” Christakis is, she asserts, protecting white students at the expense of marginalized students of colour under the guise of color-blindness. Applying Gordon’s analysis (1999; 2015), white students on Yale’s campus are already present as human; it is the students of colour whose identities are constituted by ironic hypervisibility and absence. Thus, when we act in order to further uphold the humanity of white students’ abstract rights to learn, we do so at the further expense of marginalized students whom we expect to not only ignore the continuous dehumanization they experience, but we require they center the humanity of the

persons who cause their dehumanization. The creation of safe(r) spaces, of course, will not remedy the history of the erasure of the humanity of people of colour. But the generative act and subsequent actions that sustain safe(r) spaces can function to subvert, through deconstruction of the normative functioning of identities within space, the continuation of said erasure through appeal to “neutrality” as a value.

In the next section I will use the consideration of complex identities as they occupy space developed thus far to address a criticism of queer theory as an appropriate resource for building safe(r) spaces. Specifically, some scholars have argued that in calling for safe space for marginalized groups, queer theory negates one of its central tenets, namely, that identity is a mere artifact of discourse. Thus, a question we must attend to in calling for safe(r) space is: Can queer theory remain faithful to its epistemological premises by dismantling social contingency in some cases (e.g., gay and lesbian subject positions) while recuperating social contingency in others (e.g., racialized subject positions)? Or put differently, what does queer theory provide as a resource to critical race theory and feminist theory in understanding what safe(r) spaces are and how they function as liberatory?

Safe(r) Spaces as Queer Spaces

Queer theory as a discipline “troubles” the heterosexist, patriarchal, and race-blind assumptions built into sociological renderings of the subject, thus providing a more complex understanding of the subject position and the process of subject formation. Furthermore, queer theory shows how heteronormativity in concert with systems of race, class, and gender are woven together to reinforce hegemonic normativity that requires assimilation and similarity, rather than the uncertainty of partial, messy, and incomplete difference (Rodriguez 2003). Understanding the intersecting regulatory nature of race, gender, and sexuality is, in my mind, necessary to develop anti-oppressive practices that incorporate queer theories.

Queer theorists, beginning with Foucault, argue the subject is irreducible to an ontological self. The implication is that modern subjectification produces the appearance of subjects that represent closures in the performative interval. In Foucault (1980), after all, the modern same-sex oriented person is both a creation in discourse and in excess of the text once constituted. In Butler (1993; 1997) we see a similar argument regarding the status of the gender self and the lesbian self. Thus, in terms of identity, queer theory destabilizes the idea of the pre-constituted sexual, gendered, and racial subject and reframes the function of power as productive rather than simply oppressive.

Yet, in calling for safe spaces where women, persons of colour, and queer people are able to negotiate their social identities and the misrecognition they suffer, critics claim we fall back on the principles of an epistemology that requires the formulation of a subject with an intact, stable interiority. Without a commitment to the ontology of the self, this line of criticism continues, how does one identify the phenomenology of race, sexuality, and gender? For these critics it seems that queer theoretical currents that specifically aspire to “recuperate” non-European identities (Halberstam 2005; Jagose 1996), racialized subject positions, feminist subjectivities, and queer identities (Barnard 2004; Perez 2015) cannot simultaneously maintain deconstructionist epistemological position. On the other hand, theorists like Henry (2000) and Gordon (1999) are right to worry that the postmodern turn toward language as the source (and effect) of power and identity can obscure the functions of formal authorities, including political parties, elections, and corporate elites, thus potentially inducing political nihilism.

However, arguing for the instability of identity is not commensurate to arguing that social identity does not matter. Social identity categories can be both constructions and effects of power and can be solidified externally to create and maintain barriers to recognition and participation. Put differently, the instability of identity is not always actively chosen. When it is

not chosen by a subject who seeks meaning in and through transgressing normative boundaries, but rather is placed upon one as an effect of a normative system, then the subject can experience oppression in seeking recognition and/or participation (Butler 2004). One’s gender, race, or sexual orientation may not ontologically be the product of an inherent interiority, but nevertheless these categories function to map possibilities in social space for individuals identified as gendered, raced, and sexually oriented (Fanon 1967; Gordon 1999). For normative identities, space can open up around the self, enabling more options and a positive conception of a self as embraced and reflected in the dominant world. But, for those who fall outside the lines of normative identity, space becomes limiting, often negatively impacting available concrete options as well as the way one represents oneself. Thus, the effects of marginalization are tangible even if social identities are performative effects that must be constantly reiterated in order to exist. For this reason, among others, recuperating identity is required to repair the damage of self and community perpetuated by the repeated degradation of marginalized identity (Fanon 1967; Gordon 1999).

I propose, however, that the instability of identity and the understanding of identity as inherently unstable can queer the space of the classroom in a positive manner through the recuperation of marginalized identities. Furthermore, I contend that the concrete practice of creating safe(r) spaces on university campuses can inform the ostensible theoretical impasse described above. Consider what we have covered in previous sections. If spaces are not ever truly neutral, but are constructed and reconstructed through the effect(s) of power as it works on and within those spaces, then space itself is able to be remade through active interventions. Reading critical race theory, feminist theory, and queer theory together here can be quite instructive. Common critiques offered through black feminist and critical race theories (and black feminist critical race theories) reveal the reification of blackness through social structuring that is both formal and informal. “Black” and “blackness”

are linguistic abstractions imprinted with meaning that is mapped onto black peoples in a manner that is imprecise. The same is true regarding the concept of “whiteness” and explains how populations can be culturally “whitened” and why it may be possible to describe devalued class and gender populations as “black.” But, as critical race theorists who reject post-modern sensibilities argue, to leave the reality of “blackness” in the realm of ideas and language is to fail to adequately capture the black person as a problem in the antiblack world. The black person is not just read or understood through the idea of blackness, but is taken to be really black in their being—to such an extent that their entire being becomes a problem. Thus, the black person’s being is not unstable but reified as metastable. Furthermore, although the mapping of blackness onto people may be imprecise, it is not arbitrary. The black body is taken to be not just a sign of inferiority, but truly inferior. To diminish this point is to fail from the outset to create truly safe(r) spaces for people of colour in that it erases the lived history of the body as racialized. Take the example of Bartmann again: She, as a black woman, is erased as a human being, but is reified as her body. Her blackness is her inferiority existing in her body and her body is also the sign of her inferiority. But the shame of the black female students who are forced to publicly view Bartmann’s body alongside others is not abstract; it is not a linguistic concept, but is felt in their body, because her body is their body. Thus, to appreciate the experience of the lack of safety that black female students encounter here, we need the account of a critical race theorist (or a queer theorist with critical race sensibilities) because shame is an embodied experience that occurs through feeling the degrading gaze of the other. Yet this experience is also an effect of power that is diffuse, a point that post-modernist queer theories help us understand.

In producing safe(r) space in the classroom, we are morally required to respond to particular constructions and imaginations of what is “unsafe” for our students, but we can also expose those constructions as the products of discourses that can be reimagined through adopting new classroom policies and through

re-orienting ourselves in our roles as professors and administrators. Just as we have moved to understand gender, racial, and sexual stratification as more than the oppression and subordination of one group over and against another, we can come to understand safe space as something more than simply a response to a static and predefined category of “unsafe.” Like the work performed in challenging and reconfiguring binaries in feminist theory, critical race theory, and queer theory, a reconceptualization of safe space as argued in this essay understands the safety of the space as fluid, in constant negotiation, and never complete. Thus, we achieve a spatial organization that does not “protect” students from the unjust world outside (or a history of injustices), but rather allows for the bracketing of harm induced to allow them to analyze critically the systems that surround and affect them. In other words, by paying attention to the cisnormative construction of space that occurs through calling roll, by considering the voyeurism we implicitly invite in showing pornographic images of black women in class, and by deconstructing the way in which “neutrality” is a tool that empowers normative identities at the expense of marginalizes ones, we actively recreate spaces that provide room for the expansion of non-normative peoples to be more than just their identities as imposed.

Furthermore, the experience created in “safe” classrooms provides intellectual space for critical thought for normative identities as well. White students, male students, and straight identifying students are not left out. Rather, they are given the opportunity to learn and engage deeply with critical theories (and their fellow students) in order to further their intellectual and moral lives. Take for example what has happened when I have made the materials on the study of Bartmann safer for black female students. Through using black feminist perspectives to unpack and name the racialized harms enacted on Bartmann and black women generally, black female students studying the materials felt more comfortable to discuss the ways in which politics and scientific modes of inquiry intersect both historically and contemporarily. While this was notably my aim, the ways they dis-

cussed the scientific voyeurism enacted on and against Bartmann was not quite what I had imagined initially. Inevitably, however, this discussion has served the class better than I could have predicted. For rather than discussing Bartmann's vulva, breasts, and steatopygia, they discussed the politics of black women's hair and how it has been used to frame black people as "dirty," as "unkempt," and black women as less culturally desirable and valuable than white women. The politics of hair was a safe(r) framework through which black female students could analyze racist and sexist scientific theories and practices because they did not have to objectify themselves as pornographic racialized objects for the class in order to learn. Now, this does not mean that black female students were fully safe in this space. Discussing the way in which black women's hair, their hair, is used against them is still painful for black women, but for the students this was a safer way that they chose to consider objectification, hierarchies of sexuality, race, and gender in science, and the intersection of politics and science. Additionally, the black female students were aware of the shift they performed through naming this focus of discussion as their explicit intent when they were asked about the connection between black hair and the materials on Bartmann. One black female student explained that she felt more comfortable talking about the way black women's hair is framed by white people than she was discussing the way black women's sexuality and bodies are treated by white people. Another black female student noted that entitlement to black women's hair and their bodies are the same, but that talking about hair is easier than talking about the way her body and other black women's bodies are objectified and reduced. In setting up the possibility for greater comfort for black women in the classroom, I helped to create more options for them. As a result, they were able to lead the conversation in a way that reinforced their ability to learn the materials. For other students who are not black women, the assigned black feminist scholarship, coupled with the voices of the black women who led discussion in the classroom, allowed them to understand more deeply how systems intersect to oppress black women under the guise of science.

Pedagogically safe spaces extend a further benefit to all students, namely that of operating from an understanding of the embodiment of the historical subject. Traditional classrooms, by contrast, preserve a mind/body split that detaches a theorist or speaker's physical embodiment (and relationship to power) from their theoretical position. In doing so, the traditional classroom fails to attend to the socio-historical production of ideas and thus leaves students unable to evaluate critically and analytically the whole context. Instead, they are asked to accept uncritically the history of knowledge as handed down from a god's eye position, which can prevent them from seeing science, philosophy, economics, literature—all disciplines—as engaged in confronting problems that face human beings in their lived experiences. Showing students the relationship of theorists to power, formal and informal, enables students to examine more objectively the world in which they live, its production, and contemporary arguments fashioned by theorists, politicians, and pundits. Additionally, and again this is beneficial for all students, classrooms constructed to be safe spaces enable critical interrogation of self and the sources of our learning. Without the opportunity to see the self as located historically and socially in space, we prevent students from understanding processes of meaning and knowledge production.

To outsiders, it may appear as though professors who value the cultivation of safe space are hindering the free exchange of ideas. And even if students with normative identities feel as though they are unable to speak absolutely freely, this is not necessarily an obstruction of learning but an opportunity for deeper understanding. A white student, male student, or straight-identified student who has considered raising their hand, but then opted not to out of concern for how they may be viewed, can use this experience to reflect upon why their intended question or comment is problematic in terms of the course material thus far. In that moment, they have demonstrated their understanding, and then can reflect upon the question themselves, write about their experience in a reflection paper for the course, or come to office hours to discuss. The options for this student are still many. Fur-

thermore, even if the student decides to ask the question, the professor and other students will help them unpack the question critically. In other words, despite the notion of dominant students being ridiculed “for saying the wrong thing” often performed in abstract dialogues about safe spaces, students who belong to dominant groups are not in practice derided for asking questions. Quite to the contrary, in my experience the students who “use the wrong language” in discussing gender and sexuality/sexual orientation or “express views” steeped in racist and classist ideologies are often shown by marginalized students who are harmed by said rhetoric (and, of course, more specifically the implications of the rhetoric itself in creating space and policy) the issues with the language or viewpoint being expressed. Now, is the student who “uses the wrong language” or who expresses a “problematic view” that relies on racist/sexist stereotypes always convinced by the arguments presented? No, of course not. But, this hypothetical student is able to access a deeper connection to the course materials, which does benefit him in terms of his potential grade. Further, the fact that the marginalized student has responded in an insightful way demonstrates that the student feels “safe enough” to do so. That said, students in my courses, and other courses similar to those I teach, tend not to use outright racist, sexist, transphobic, homophobic slurs in the classroom regardless of whether I cultivate a safe space or not. Except for the rare exceptions, students who have made it their mission to disrupt or even troll in the classroom, students are concerned with the way their fellow students see them in class and thus save their more controversial points for written work that only I will read. Rather, what is more common is the uncritical deployment of problematic stereotypes and ideas about the world, which students have acquired through living in a society that is white-normative, sexist, capitalist, and heteronormative.

Concluding Thoughts

To conclude, then, the changes that occur in a safe space classroom are twofold. First, all students within

safe(r) space classrooms learn to interrogate systems of power, including performative public spaces, as important to the theories and perspectives being taught. They learn that all systems are created and maintained, rather than natural and absolute, and they learn to see the ambiguities of political and social life that dominant systems attempt to abject. Then, they are able to begin to ask how said systems are propped up and who benefits from the dominant institutional organization. If they themselves do not benefit, they can begin to build concrete strategies for revealing and dismantling the contradictions of said political, social, and economic systems. If they do benefit, they can then ask themselves if they want to be the beneficiaries of an unjust order wherein which they gain individually through the exploitation and marginalization of others, thus contributing to the dismantling of these contradictions through the revelation of the activity of dominant groups in the construction of spatial power constructs. In the end, even if they do not particularly care about the suffering of others, at least they will have been required to confront the reality of this attitude in themselves.

The second change is in the experiences of historically marginalized students. In safe space classrooms, these students come to understand that they have the power to respond if a student with more normative power—power that is constituted through an effect of matching dominant attitudes and ideals of identity outside of the classroom—makes a claim that reinforces racist ideology, sexism, or heteronormativity. Historically marginalized students also know it is not always their responsibility to represent the marginalized group to which they belong. This can be experienced as burdensome; the student must always be on edge, ready to respond to their fellow classmates who fail to understand the underlying racist, sexist, transphobic, etc. systems that make possible their ideas and comments. Such a burden can also create circumstances where it is easier for the individual student to adopt strategies and attitudes that do not necessarily serve them. As Fanon argues in *Black Skin, White Masks* (1967), people whose identities are non-normative have generally two choices. They can ask

the dominant group not to notice their blackness (and by extension, for our purposes, their femininity and/or queerness), or they can concede the badness of blackness and the goodness of the whiteness. Neither of these options produce equity for the non-normative person or group. Within the first negotiation, neutrality becomes the dominant force, and we have seen what neutrality produces in space when the construction of space fails to be interrogated. But with the second choice, there are two further general paths one may take. One may seek to recuperate the value of blackness by showing that blackness is really good; or one may accept the badness of blackness and use it against other black people to “put them in their place” when they have gone astray according to white standards. Regardless of which way the black person turns or which attitude they adopt, whiteness holds all the cards and functions as “the gaze of the third” (Gordon 1999). By contrast, in a safe space classroom, the marginalized student learns and then knows that the professor will take on that work, will serve as the “third,” and will not enable racist or transphobic ideas to be presented equivalent in their worth as anti-racist or trans-inclusive ideas. Yet while I am always there to intervene, in practice I rarely have to, at least by the end of the semester. Rather, the students, through the active work of the cultivation of the safe space classroom, have come to participate in dynamic dialogue because they feel supported by one another. Thus, far from shutting down dialogue, safe spaces often make dialogue more likely because these spaces remove, albeit not perfectly or absolutely, the alienation marginalized students often experience. And normative students often use their personal experiences of alienation from a team, from family members, from friends, and so forth within this opened space to connect to the experiences of marginalized students. And while we clearly unpack the difference between these forms of suffering and institutional oppression, the openness of the normative students, the way in which they render themselves vulnerable in order to connect with their classmates and the materials, contributes positively and importantly to the shared space.

In short, I contend that we do a disservice to our students, especially our marginalized ones, in reifying the mind/body split to preserve systems of “neutrality” and “objectivity,” which invariably turn out to be not so neutral or objective at all. I do not pretend students will always “get it right” and at times they will over-apply or over-extend theories and practices, but these instances, too, are learning experiences for both those who “call out/call in” and those who are “called out/called in.” To encourage these experiences with deep critical dialogue, we need to do better at defending safe spaces as theoretical and pedagogical resources. When politicians, journalists, pundits, and professors who are not experts in critical race theory, feminist theory, or queer theory occupy the most recognized voices in commenting on safe spaces, the content and function of safe spaces become confused and diminished. Students generally have less power than these aforementioned voices and thus become ridiculed or dismissed as overzealous or absurd. Yet it is our marginalized students that we should be listening to because they have a view of systematic expression of marginalization from all sides: both as members of said university community, trying to succeed within that community, and as marginalized subjectivities that do not fit comfortably within the system.

Endnotes

1. See for example coverage of the refusal of University of Toronto professor Jordan Peterson to use gender pronouns that correspond with gender identity if they do not “match” what he, Professor Peterson, deems to be their readable gender. Here, the invocation of free speech entails reference to the right not to be compelled to/in speech.

2. See coverage of the support and outrage expressed by UK academics and students regarding the call by the higher education minister, Jo Johnson, for all British universities to protect “free speech” on college campuses as a policy and practice or face fines. Here, free speech is generally invoked to protect conservative and xenophobic perspectives on immigration.

3. For a copy of the email from the Intercultural Affairs Committee at Yale see:
<https://www.thefire.org/email-from-intercultural-affairs/>.

4. For a copy of the email penned by Dr. Christakis see: <https://www.thefire.org/email-from-erika-christakis-dressing-yourself-email-to-silliman-college-yale-students-on-halloween-costumes/>.

5. Realistically, the motivation for issuing an administrative recommendation is at least in part based in concern regarding the bad publicity the university would face in light of a headline describing racist student parties.

6. To view the exchange see: https://www.youtube.com/watch?v=9IEFD_JVYd0&feature=youtu.be.

7. This is not to suggest that I am opposed to trigger warnings. I think they certainly do serve their purpose in courses/environments where the time to actively recreate space is not possible due to mitigating or external factors.

8. It perhaps goes without saying, but I do not show Bartmann’s image or other similar pornographic im-

ages of black women (or any marginalized group) in class, nor do I assign readings featuring such images. I have had white male students state in class that they “wish they had images to reference in reading/covering these materials to make the points more clear.” I rarely need to offer an explanation, however, as the black women in the class provide quite insightful explanations based in experience and theory regarding why such images would be deeply problematic in class. I include this example as it also shows that white male students are not silenced in safe(r) space classrooms. They clearly feel comfortable enough to request access to such images even after we have covered the problems with the public viewing of said images. But what has shifted through creating safe(r) space for black women in the class is they feel supported enough to respond and they are not attacked after they respond (which also requires a certain form of attention to the cultivation of classroom space itself).

9. See <https://dailycaller.com/2015/11/09/meet-the-privileged-yale-student-who-shrieked-at-her-professor/>.

10. For some examples see <http://victorygirlsblog.com/yale-shrieking-girl-identified-as-jerelyn-luther-video/>;
<https://www.nationalreview.com/2017/05/american-universities-true-purpose-transmitting-knowledge/>;
<http://time.com/5395131/college-bias-kavanaugh-diversity/>. Even op-eds meant to offer a defense of the student(s) confronting Christakis note that it would be easy to watch the video and deem her/them aggressive and unreasonable. See for example <https://www.cnn.com/2015/11/12/opinions/kohn-yale-protests/index.html>.

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Affective Engagements in the Classroom: An Autoethnography of Exits and Openings

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Abstract: We provide an autoethnography of gendered encounters in a graduate seminar. We use an affective lens to argue that these encounters stem from "more than" just individual sexism. We also use affect to identify how these encounters related to both exits from and openings for knowledge production in the classroom.

Keywords: affect; autoethnography; post-secondary education; knowledge production; graduate school

Autoethnographic Prelude

Maggie and Lauren: As two woman-identified graduate students running in similar critical political circles at our university, we had known each other for a few years, and were delighted to find ourselves in the same graduate seminar (especially as we are pursuing our doctoral degrees in different departments). Previously, in both classroom and social settings, we had shared a bond over feminist theory, and specifically theory related to care giving and emotional labour. We were both looking forward to extending previous conversations on these issues in this graduate seminar.

Unfortunately, the seminar did not unfold in a way that allowed for an extension of our prior conversations. Within the first few weeks, it became clear that other students did not welcome feminist issues or feminist interventions as avenues for discussion; insights from those students who identified as feminist were also not welcome. This was both shocking and dismaying to us—the course was a critical theory course, with entire weeks dedicated to issues such as social reproduction and colonialism (as well as a healthy dose of feminist theory scattered throughout segments on production, citizenship, and other topics). The professor, with whom we had both studied in the past, was a dedicated feminist, and we had witnessed his commitment to feminist theory in his pedagogy. In other words, all signs pointed to this seminar as a place for critical feminist engagement. This made it all the more troubling and confusing when we found that this space was anything but open to the types of critical feminist interventions we were hoping to explore.

At the end of one particularly frustrating class, we sought each other out, and hesitantly expressed our

concerns about the seminar. We were both relieved and saddened to hear one another recount the same feelings of dismissal and disrespect from our (generally male) colleagues, and we shared a sense of disbelief regarding the unwillingness of the class to discuss feminist issues, even when they were a part of the assigned reading materials. Subsequently, we also realized that neither of us felt that we had the space in this class to engage with our own experiences with the texts; this, we felt, was unfortunate, as we both dedicated numerous hours each week to completing the required course readings (as well as some of the suggested readings).

As a result—and with a renewed energy having had our experiences in the class mutually validated—we decided to meet outside of class once a week to discuss the course texts, papers, and presentations. In that moment, we found ourselves, two critical feminist graduate students, exiting the classroom, and opening a new epistemic space.

Introduction

Post-secondary education is fraught with sexism and hegemonic masculinities, which often render spaces, including the classroom, hostile to those who do not carry the privilege of maleness, whiteness, ability, and so on (e.g. Baker 2012; Caplan 1993; Coleman 2005; hooks 1994; Kelly and Slaughter 1991; Kobayashi 1994; Kyvik and Teigen 1996; Mintz and Rothblum 1997; Uhly, Visser, and Zippel 2017). Although the neoliberalization of the university has (re)shaped these dynamics (Gannon et al. 2015), this phenomenon is not new; women, people of colour, queer people, people with disabilities, trans* and two spirit individuals, the poor, and marginalized people in general, have struggled since the establishment of post-secondary institutions to carve out space in the academy. This paper arises from our experiences as women graduate students at a Canadian university, and our encounters with the oppressive gendering of academic spaces. In particular, this exploration centres on our experience in a graduate level seminar

class, which was dedicated entirely to critical theories of political economy. We argue that in this space, an affective plane emerged which shaped our interactions with our peers, and our production of knowledge as a class, in gendered ways that resulted in both exits (from the discussion, from the literal classroom space) and openings (to create new knowledge, to reflect on the university as a gendered space, to consider the role of affect), albeit in varied ways.

By employing an affective lens, we hope to foreground the interconnections between us as students (our experiences, our embodied being), our peers, the theory with which we engage, and the university space more generally. We do this by applying aspects of Dorothy Smith's (1987; 2005) institutional ethnography in tandem with autoethnography to analyze two particular incidents that occurred during the class in question. These two incidents evolved around moments of disjuncture and tension between us and our academic peers. Our reflections on these incidents, of course, can in no way be thought of as summarizing the entirety of a semester's exchange among the students of this class. Rather, following the work of Kaela Jubas and Jackie Seidel (2016), we use these incidents to ground our analysis in our "everyday" encounters in the academic workplace, and to begin to answer the following questions: How do affective planes enable or constrain knowledge production inside and outside of the classroom? What are the productive (im)possibilities of affective exits and openings?

In exploring these questions, our analysis aims to use an affective lens to examine how knowledge production is shaped in the post-secondary education classroom. We suggest that by focusing on affective planes—the intangible connections between people, places, and things through which our ability to affect and be affected circulates—we can illuminate a key mechanism through which knowledge production is intimately linked to the ways in which spaces are gendered. This focus, we contend, moves us beyond an account of how individual sexist attitudes impact knowledge production in the graduate seminar by il-

lustrating how the exchanges in a classroom are more than the sum of individual (gendered) interactions. An affective lens also helps us identify the productive potentialities of oppressive encounters. As we argue below, the affective plane which shaped our (negative) experience in the classroom also prompted us to find new (positive) space(s) from which to engage in knowledge production; as we exited one affective plane we were immediately immersed in another. In this way, we also see affect as that which might motivate us to move through tensions of exit and opening, of closure and beginning.

This paper is organized as follows. First, we present a note on our research method, drawing out how and why we combine the two approaches of autoethnography and institutional ethnography. Our intention in this section is to make explicit the methodological strengths and weaknesses of this work, while also situating our research in a tradition of inquiry which views research as fundamentally relational (Bondi 2003; Wilson 2008). Second, we explicate our understanding of affect and affective planes. This section is meant to provide the theoretical background from which our analysis and argument is constructed. We then provide two vignettes from the doctoral seminar (the seminar introduced in our autoethnographic prelude). Using these events as guides, we discuss the affective planes that emerged in the classroom at those two points in time-space. We explore how these affective planes provide an alternative lens from which to understand the ways in which the classroom space was gendered and, at times, even hostile. We discuss how, for us, this affective lens illuminates some of the ways in which gender-based oppression manifested in the classroom as more than personal attacks or individual sexist attitudes, and we explore how these affects constrained the mutual production of knowledge that we had hoped for—and indeed expect—in graduate seminars. Finally, we suggest that this affective plane thus corresponds to a variety of exits and openings: our peers “exiting” the conversation, us exiting the classroom, and perhaps most interestingly of all, us finding a new affective opening from which to (re)start knowledge production processes.

A Brief Note on Methodology

Carolyn Ellis, Tony Adams and Arthur Bochner (2011) explain that “autoethnography is an approach to research and writing that seeks to describe and systematically analyze (*graphy*) personal experience (*auto*) in order to understand cultural experience (*ethno*)” (n.p., italics in original). Similarly, Victor Jupp (2006) defines autoethnography as “a form of self-narrative that places the self within a social context” (15), while Heewon Chang (2008) describes autoethnography as a methodology that “combines cultural analysis and interpretation with narrative details” (46). This paper is built around such a method. We seek to employ an analysis and discussion of aspects of our shared personal experience in a graduate class so as to illustrate and better understand larger patterns of cultural experience and, specifically, patterns of academic cultural experience. We thus see autoethnography as “a radical form of making embodied knowledge claims” (Dutta 2018, 94); it is through a reflexive and critical engagement with our bodily inscribed experiences that we come *to know*. “Theory can do more the closer it gets to the skin” (Ahmed 2017, 10).

Given our use of autoethnography, concerns of reliability, generalizability, and validity (Ellis, Adams, and Bochner 2011) are naturally present. Memory is imperfect, and our recollections are necessarily incomplete, somewhat inaccurate, and potentially biased. However, we reject the idea of “universal truths” as sought in positivistic research, and instead follow the tradition of inquiry that understands qualitative research in general as a relational process (Bondi 2003), in which researcher(s), participant(s), writer(s) and reader(s) are mutual “constructors of knowledge” (Holstein and Gubrium 1997, 114). From this vantage point, we locate the generalizability of this research in the (potential) relationship it forms with the reader (Ellis and Bochner 2000), who can then reflect on the experience and the cultural patterns suggested by said experience. Put differently, we believe that the narratives presented here are generalizable in that the reader “will filter the story being told through their own experience and thus adapt the information to

make it relevant and specific to their life” (Wilson 2008, 32).

We also acknowledge that all people who witness or experience the same event often describe the event in different ways (Tullis Owen et al. 2009); our presentation of events likely differs from the recollections of others in the classroom. Nonetheless, we have attempted to produce a reliable recollection by drawing upon notes taken during the class, and by carefully reflecting on the events explored here, both individually and together. In many ways, this reflective process highlights the fact that academics are simultaneously participants and researchers, subjects and objects, and foregrounds the ways in which these multiple roles contribute to knowledge production.

Finally, we believe that the validity of this work also lies in the hands of the readers, who “provide validation by comparing their lives to ours, by thinking about how our lives are similar and different and the reasons why, and by feeling that the stories have informed them about unfamiliar people or lives” (Ellis, Adams, and Bochner 2011). As Tami Spry (2001) explains, a good autoethnography can be judged based on the quality of the writing, and its “ability to transform readers and transport them into a place where they are motivated to look back upon their own personally political identity construction” (713). In this way, good autoethnography is that which is emotionally engaging, “a provocative weave of story and theory” (Spry 2001, 713) through which a “purposeful *dialogue* between the reader and the author” (Spry 2001, 713, italics in original) is created. Following from these criteria, and in the fullest sense, this exploration is intended to be a relational exchange of ideas between the reader and the writers, facilitated by literary craft and rich description of personal stories.

In order to link our experiences to broader social structures, we have put autoethnography in conversation with institutional ethnography (Smith 1987; 2005). Institutional ethnography “is an analytic approach that begins where we as actual people with

bodies are located in time and space. It offers a theoretical approach to reflecting critically on what one knows from that embodied place in the world” (Campbell and Gregor 2008, 9). In this paper, we are analyzing a particular time, space, and place within our academic careers, and we are analyzing it from our embodied experiences as women located inside and outside of the classroom. Institutional ethnographers focus on understanding how our “everyday” experiences—such as work—are organized, and how relations that extend beyond the individual shape these experiences (Smith 1987; 2005). This method emphasizes that the individual knows and participates in social relations differently and, as a result, everyone has their own standpoint (Campbell and Gregor 2008).

By combining autoethnography with institutional ethnography, we are able to make links between the micro or local conditions of the graduate seminar and extra-local conditions, such as broader patterns of gendered spaces in academia. This, in turn, allows us to explicate how and why we experience the world in the way that we do (Taber 2010). Institutional ethnography begins with our experiences as individuals, and understands experience as both theory and data (Kinsman and Gentile 2010; Smith 2005; Taber 2010); it allows for experiences to be theory, rather than for experiences to be only theorized (Gould 2009; Smith 1987; 2005). Using institutional ethnography with autoethnography allows us to bridge the divide between personal experiences and the social (Jubas and Seidel 2016), to take our theory/experiences and link them to other social relations.¹

A Theory of Affect

Affect is used in the literature in a variety of ways. Some scholars use affect interchangeably with words like emotion and feeling (Gannon et al. 2015). Furthermore, a significant body of work conflates affective labour with emotional labour, socially reproductive labour, and/or care work.² In the words

of Ben Anderson, “the term ‘affect’ is now . . . a contested one that is used in divergent ways across different literatures” (2006, 734).

Our understanding of affect largely follows Anderson’s theory of affect. According to Anderson, affect is, first and foremost, the “transpersonal *capacity*, which a body has to be affected (through an affection) and to affect (as the result of modifications)” (2006, 735, italics in original). Importantly, this capacity, though presented here as two parts, is actually a singular capacity in which being affected and affecting are two sides of the same process. That is, when one affects, one is opened up to being affected, and vice versa. It is the necessary corollary of this that affect does not reside in anyone or anything. Rather, affect occurs through transitional exchanges and processes as objects/subjects encounter each other directly and indirectly; it “is produced only as an effect of its circulation” (Ahmed 2004, 120). Affect moves between bodies (Gannon et al. 2015). It is not an isolated capacity, but rather a transpersonal capacity in which affecting/being affected could not occur without the full interconnectedness between the self and the cosmos.

This understanding of affect is akin to Sara Ahmed’s (2014) discussion of Martin Heidegger’s (1995) notion of “mood” or “attunement.” As Ahmed (2014) explains, for Heidegger, “mood [or attunement] is being in relation to others” (15):

Attunements are *not side-effects*, but are something which in advance determine our being with one another. It seems as though attunement is in each case already there, so to speak, like an atmosphere in which we first immerse ourselves in each case and which then attunes us through and through. (Heidegger 1995, 67, quoted in Ahmed 2014, 15, italics in original)

Mood/attunement, like the conceptualization of affect described here, serves as the atmosphere through which our relations unfold. It is a transpersonal capacity, a “withness” (Ahmed 2014, 15) that always-already forms the possibility of affecting and being

affected, albeit in different and complex ways.

The transpersonal nature of affect also emphasizes the material aspects of affect. Affect is deeply embedded in material processes, and involves material encounters, which link the self to all other matter. Like physical encounters between person(s) and object(s), which can be unevenly distributed across time-space, affect also has a distribution across and through bodies, objects, and space. “‘Being affected-affecting’ emerge[s] from a processual logic of *transitions* that take place during spatially and temporally distributed encounters” (Anderson 2006, 735, italics in original). Just as encounters are often unevenly distributed, so too are affects (Gannon et al. 2015).

These affective encounters contribute to the composition of relations amongst and between individuals, groups of people, and objects (Anderson 2006). In fact, as Anderson (2006) argues, “the emergence of affect from the relations between bodies, and from the encounters that those relations are entangled within, make the materialities of space-time always-already affective” (736). All of our encounters are steeped in affect and involve being affected-affecting. This is significant, in that it precludes the possibility of affect being a linear process:

There is not, first, an ‘event’ and then, second, an affective ‘effect’ of such an ‘event.’ Instead, affect takes place before and after the distinctions of subject-world or inside-outside as a “ceaselessly oscillating foreground/background or, better, an immanent ‘plane.’” (Anderson 2006, 736, quoting Seigworth 2000, 232)

Therefore, “to think through affect we must untie it from a subject or object and instead attune to how affects inhabit the passage between contexts through various processes of translocal movement” (Anderson 2006, 736). To reiterate, affect is not something one can possess; it is “not contained within the contours of a subject” (Ahmed 2004, 121). Instead, affect can be thought of as the “between” contexts—a plane in and through which our interactions are shaped, affected, and affecting. Given the particular emphasis in

this paper on connecting personal experiences to broader institutional patterns, attending to affect facilitates this bridging.

Affect is also distinct from emotions, as emotions are the registering of an (or multiple) affect(s). Anderson (2006) writes:

Feelings always imply the presence of an affecting body: an affection is therefore a literal impingement of the emergence and movement of affect on the body (when the body can be anything). But the movement of affect is not simply received by a blank body 'in' space or 'in' time. Feelings act as an instantaneous assessment of affect that are dependent upon the affected body's existing condition to be affected. (736)

In other words, while emotions are "instantaneous assessments of affects," they are also dependent upon and shaped by "the affected body's existing condition to be affected." As being affected always involves affecting, emotions themselves have the potential to (re)produce affects. While each feeling may be instantaneous, feelings can involve residual impacts which will often intermingle with other affections. Because of this, feelings are also potential mechanisms through which new affective planes may emerge. The work of affect scholars like Ahmed (2014) and Ann Cvetkovich (2012) emphasize this interplay between emotions-feelings-affect. This interplay also helps to illustrate how and why affects and affective ecologies can emerge in unlimited forms and ways. These multiple affects and affective planes are often co-existing and interacting with/shaping a singular relation at once.

Finally, it is important to note that "emotions and affects are best understood as only weakly cognitive phenomena that straddle the merely individual and the broadly social" (Anderson and Holden 2008, 145). This statement contains two crucial points. First, emotions and affects are "only weakly cognitive phenomena," and are therefore not purely or wholly conscious experiences. People may register affects through instantaneous feelings, but the affection itself

works on the edges of consciousness. Second, the fact that affect "straddle[s] the merely individual and the broadly social" means that affect and emotions are components of what Anderson and Adam Holden call "assemblages" (2008, 146). The word assemblage "designates the priority of neither the state of affairs nor the statement but their connection, which implies the production of a sense that exceeds them and of which, transformed, they now form parts" (Philips 2006, 108; also quoted in Anderson and Holden 2008, 157). Put differently, "assemblage" emphasizes the connection between subject(s), object(s), and place(s), and suggests that these connections involve a transformation in which the subject(s), object(s), and place(s) come to produce a sensation or affect. Assemblages indicate "a process of arranging, organizing, and fitting together multiple, heterogeneous, elements. Assemblages, therefore, bring together elements from a milieu, context, or surrounding" (Anderson and Holden 2008, 146). The role of affect in these assemblages further demonstrates how affect is one of the powerful forces linking together individuals, collectivities, and the cosmos. As Ahmed (2004) explains, it is this linking together, and the failure of affect to be located in singular, "that allows it to generate the surfaces of collective bodies" (128).

Exploring Affect in/through Classroom Experiences

With this conceptualization of affect in mind, we present two recollections for consideration. Both of these incidents occurred in a doctoral seminar in a Canadian university that included five women, four men, and a male professor, all from different academic units and disciplines. Two of the students were non-white, and the ages of the students spanned from the mid-twenties to the fifties.³ The two authors, as previously mentioned, were in this class together. Both authors begin from the embodied standpoint of two woman-identified doctoral students. Although we share many similar characteristics in terms of our subjectivity as white cis-gendered women, we differ in our financial backgrounds, our embodied dis/ability,

and our engagement with heteronormativity. These subtle similarities and differences impact the ways in which we each navigate academic spaces—and the ways in which we are affected/affecting in the classroom.

Maggie: I was the first student to give a presentation in the seminar, covering the second week of assigned readings. I was nervous—as I always am when presenting—but particularly so given that I was the first student to present for this class. It can be both a negative and a positive to “go first.” On the one hand, you have no template to follow, no earlier examples to go by. This can be intimidating and imposter syndrome is always quick to reassure you that your thoughts are not good enough. On the other hand, you get to be the template and may perhaps set the tone for the class, and even subsequent classes to come. There is a creative potentiality to this, an opportunity to contribute to and shape the structure of the class.

After much deliberation, I decided that I wanted to achieve two aims in the presentation. First, I wanted to summarize and explore the themes in the assigned readings, which involved a broad overview of the theoretical tradition of political economy. Second, and more importantly, I wanted to focus on the challenges of doing critical theory, like political economy, at this point and time in academia. My goal was thus to place the researcher/theorist/student at the center of the class: we do not passively discuss texts in graduate seminars. Rather, as feminist scholars like Ahmed (2017) contend, we *do* theory. By focusing on the embodied “doing” of theory, and the constraints placed on this “doing” by the academic institution, I wanted to ground the discussion not only in the texts but also in the bodies (us) that (re)produce and disrupt theory.

At the end of my presentation, I posed three

questions based on the readings (and specifically my reading of the readings) to prompt the class discussion. One of these questions involved a discussion of neoliberalism. In line with my theme of “doing” theory, I was interested in how my peers experienced the neoliberalization of the university, and whether or not they felt that neoliberal norms present challenges for doing critical theory. What practical challenges do critical scholars face when doing “critical” work in a neoliberal institution that is increasingly concerned with quantity over quality? How does the individualization of the academy—from a space where people come together to collaborate on knowledge production to a place which is primarily concerned with individual citation indices and publication counts—disrupt (or alternatively open up space for) critical scholarship?

Upon concluding my presentation, and posing my discussion questions, the professor asked my peers if they had any questions for me based on my talk. A male colleague raised his hand and (correctly) pointed out that I had neither defined the term “neoliberalism,” nor specified exactly how this term applies to the university. He asked if I could elaborate on this before the discussion began. I agreed that this term is oft-used and rarely defined and explicated my understanding of the term (a set of norms which prioritizes individualism, competition, and quantity over quality) so that discussion could at least begin from a mutual starting point. The conversation then continued fruitfully; indeed, many of the students in the class were currently grappling with these questions as they were beginning to construct their doctoral dissertation projects while also navigating the competitive publish-or-perish mentality that so pervades our institutions.

Several weeks later in the course, we were discussing relations of production. A male colleague was commenting on one of the assigned

readings and began talking about class relations in what I thought to be a vague manner. As a response to his commentary, I explained my particular understanding of class and asked him to explain his, so that I could engage with his ideas as best as possible; the way he had been mobilizing the term seemed contradictory to my understanding of class and I was struggling to comprehend his broader point because of this definitional gap. My colleague was visibly irritated by this (me); he moved from addressing the class more generally to speaking directly to me, while also ignoring the question by continuing to make his broader point. I contemplated letting my question go—I felt that the conversation was shifting towards confrontation—but ultimately, and in true “feminist killjoy” fashion (Ahmed 2017),⁴ I continued to press him to be clear. I’m not sure how this exchange was read by others in the class; my question had shifted the discussion from the group to the two of us in a way that I perceived to be somewhat hostile, and in a way that focused my attention completely on this particular colleague.

Finally (I suppose when it became evident that I was not going to drop the question), my colleague responded and defined class based on income brackets. This clarified much of my earlier confusion, as I generally understand class as centering on the wage-labour relation, in a very traditional Marxist sense. I decided to thank my colleague for his clarification, partly because his response had resolved my confusion and, more honestly, because I felt that the exchange had been heated and I wanted to cut the tension that was flooding the space.

To my dismay, however, my attempt at deescalating the exchange was unsuccessful. Unlike the encounter above, in which definitional clarity of the term “neoliberalism” enriched the discussion, this time, the conversation was completely stunted. Other students had had

hands raised, waiting for a turn to provide their comments on the topic; these hands were quickly lowered and silence overcame the room. The professor, who kept a speakers’ list for the class to ensure that everyone was given space to speak, consulted the list. The students who had been waiting passed on the opportunity when called. This encounter seemed to have produced such discomfort that no one wished to engage further with the topic; what could have been a productive discussion of class turned into stifled silence. At this point, I turned my attention back to the rest of the class, many of whom seemed to register the tension and abrupt halt as well. After unsuccessfully attempting to continue the dialogue by calling on those who had previously indicated a desire to speak, the professor suggested that this may be a good time to take our usual fifteen-minute break. The class enthusiastically (too enthusiastically?) concurred, and we variously headed to the restroom, coffee shop, or our individual offices before reconvening for the second half of the seminar.

This first recollection involves two incidents and spans two classes and several weeks. Nonetheless, we argue that, fundamentally, the core of these two incidents are very similar; one student used a term without explicitly identifying their understanding of this term; another student pointed out this omission and challenged the first student to elaborate clearly their particular use of the term. Despite this similarity, the outcomes of these two incidents were rather different. In the first case, conversation was enriched by this challenge and our theoretical discussion continued unhindered (or perhaps even enhanced) in this classroom space. In the second incident, however, a similar challenge stifled knowledge production and discussion completely. Upon reflecting on these exchanges, we were left wondering: How can these two similar exchanges result in such different outcomes?

Similarly, consider this second recollection:

Lauren: Right before one class, about midway through the semester, we were informed by our departmental administrator that our professor was unexpectedly unable to join us for the seminar. He left a note asking us to go ahead with the class in spite of his absence, indicating that all of the students could together lead and facilitate the discussion. This included designating one person to manage a “speakers’ list” (particularly important as our grades were significantly impacted by the participation portion of the class) and one student to take notes for the instructor on the nature of the discussion. These notes and the speakers’ list were to be provided to the professor after the class. All of these tasks, and the responsibilities for following up with the instructor, were taken on by woman-identified members of the course, including Maggie and myself.

At this point in the semester, the tension among students had become quite noticeable, and rather than feeling excited to attend class (as I had been at the beginning of the term), I felt anxious and uninterested, particularly when it came to participating in class discussions. This was unusual for me. I love learning and I love political economy theory. I was excited to take this course as an opportunity to expand my knowledge of political economy theory, and to gain a more in-depth understanding of the core theories that comprise this field. At this point in my degree, I had already completed my course requirements, but I had decided to take this extra class for credit in order to expand my knowledge, to work on my writing skills, and to be challenged by my professor and my colleagues to engage in theoretically rigorous thought exercises. In other words, I had chosen to take this course for personal intellectual gain and interest.

When we received the note stating that the professor would not be attending and that the class was to self-organize that day, my heart

immediately sank. I had a very distinct feeling of anxiety that the class would be both chaotic and tense, requiring a lot of emotional labour with little intellectual benefit. Frankly, I was worried about losing three hours of my day, and not getting the positive learning experience that I so desired. Despite the feelings of anxiety, I was committed to attending the class and resigned myself to stay.

The class began quite smoothly. At about the half-way mark, however, Maggie interrupted a male colleague who was speaking. While she did interrupt our colleague (breaking classroom etiquette), her tone was not confrontational; rather she made an intervention in the discussion that had theoretical and practical implications for how the class understood and debated the assigned readings, which were focused on the relationship between morality and the economy. After the interruption, our male colleague finished his thought, and the discussion proceeded despite this interruption for some time. Several minutes later, however, our colleague raised his hand and said, “I don’t want a response to this, but notice that I was the only one who was interrupted during this discussion?” Maggie then apologized, as it was clear that the comment referred to her interruption, and acknowledged the wrong in her earlier actions. Yet, despite this apology, the conversation was again, completely stunted. An awkward silence ensued for some time, and it was only after much effort by the student-facilitators that class discussion resumed.

As the dialogue was picking up again, I was in the process of commenting on one of the assigned readings for the week. The same student that Maggie had interrupted cut me off to give his thoughts. While I attempted to re-assert myself, and stated that I would like to finish my thought, the majority of the class acted as if this interruption had not happened, and discussion continued, with other students jump-

ing in to pick up on the point made by the male student. Unlike when a male student had been interrupted—causing an effective end to the conversation—the erasure of my voice did not even register for most of my colleagues.

Throughout my academic career, I have often spent time thinking about how to best engage in course discussions and class activities so that I can contribute to the learning space and collective knowledge creation by “raising up” my colleagues and supporting them. Indeed, I consider this a key factor in bringing feminist values and social justice practices into my “everyday” work (Ahmed 2017; Smith 1987). As Ahmed (2017) asserts, these practices are integral to the feminist movement; we must strive to build feminist tendencies into our everyday lives, and we must attempt to practice feminism, as opposed to simply speaking of feminism.

Given my personal goals of practicing feminist values when I engage in a class (a practice which often requires substantial emotional labour and reflection), I was quite frustrated and disappointed that so many of my peers were willing to allow the erasure of my participation in the course in this way. I was hurt that my classmates neither respected my voice, nor the expression of my ideas in this space. Furthermore, I was extremely exasperated that I had spent so much time preparing for class by analyzing five publications (articles and books) of theoretically dense material and constructing questions for clarification and discussion. I felt as though my efforts to be both a respectful classmate, as well as my academic labour to prepare for the course, had not just been dismissed; it had been completely devalued.

At this uncomfortable moment, I could not stay in this space. Instead, I promptly got up and removed myself from the classroom—a physical manifestation of an affective exit. I

could begin to feel my face becoming red. My anxiety increased and my feelings of frustration began to bubble towards the surface. I chose to take my own ten-minute break in order to gain some perspective and space from the class and the individuals that were fuelling my frustration. I was also tired; I chose not to challenge this students’ behaviour more forcefully because of my desire to avoid provoking or eliciting a (more) confrontational reaction. I could not expend any more emotional labour in that space at that time.

Of course, this ten-minute reprieve was not the end of this incident. The affective residue of the experience followed me home at the end of the day. I spent a significant amount of time that evening criticizing myself for not being more assertive, and for not asserting that it was my right to participate, and to be respected, in the course. I spoke to friends and my partner about the experience. And while these discussions helped, it also bred greater frustration; now I was spending time and emotional energy outside of the classroom processing the ways I had been affected in the class.

This recollection likewise involves two incidents; however, these occurred within a three-hour period (the length of one class). Again, we suggest that the fundamental exchanges and interactions in these two incidents are very similar. In both the first and second case, a student interrupts another student, who addresses this interruption. However, the outcomes vary significantly. In the first case, the conversation is cut off entirely and the mutual construction of knowledge that is meant to occur in graduate seminar spaces is inhibited. In the second case, the interruption did not stop the production of knowledge; rather, it simply changed who was able to participate.

These two recollections bring us to the question that is at the heart of this paper: How do two fundamentally similar incidents and interactions lead to such different outcomes?

To begin to answer this question, we suggest that, within this classroom, an affective plane emerged which shaped the ways in which these similar interactions were affected and affecting. Affective planes, as previously described, are the intangible in-betweens that connect us all, opening us up to and enhancing and constraining the ability to affect and be affected. Affects do not belong to individuals; rather, affective planes are deeply linked to the relations between people. This means that affective planes are more than the sum of individual people and events; instead, they connect all aspects of an event, reside in the context and processes through which our exchanges occur, and, on the limits of our consciousness, shape the ways in which we interact. In the vignettes above, we contend that while the cores of these exchanges were similar, the ways in which the gender of the subjects mattered were shaped by the affective plane. For instance, when a male colleague was challenged or interrupted, the exchange led to the complete disruption of knowledge production in the classroom, while when a woman was interrupted, the discussion and knowledge creation generally continued (albeit in a way that often excluded the viewpoints of those interrupted). We suggest that the particular affective plane that had emerged in this classroom played an important role in making such outcomes acceptable. This plane connected the students in the classroom so that interrupting and challenging a male student became unacceptable, to the extreme point of precluding the possibility of further knowledge production. When the same actions were directed toward female students, however, they were not meaningful enough (they did not affect enough) to halt discussion altogether.

While one could insist that the above incidents are just consequences of blatant sexism, we feel that this focus on affective planes is particularly useful because this process of making certain interactions “acceptable” and others “inacceptable” is not necessarily or always a conscious or governable process. We do not think that any of the individuals in the classroom believed that an action directed towards men should

result in one consequence while the same action directed toward women should result in another. In fact, we continue to engage with many of the individuals from the class in our shared university community. We see these colleagues participating in feminist events on campus and advancing feminist issues through participation in organizations like the Graduate Student Association. Two of the male students have actually approached us on separate occasions, expressing a desire to learn more feminist theory in the form of a student-led discussion group. While these are, to some degree, anecdotal assessments of these individuals, we maintain that the classroom dynamics were therefore not the doing of conscious actions. Rather, we believe that there was something in the way in which we, as a collective, came together that produced these outcomes. Our collective and relational togetherness manifested in such a way that we were opened up to being affected by certain exchanges in gendered ways. The affective plane increased the potential (and therefore the actual manifestation) for problematic gendered social relations in this space, in which the acts, interactions, and exchanges related to one gender produced certain acceptable affects, while these same acts, interactions, and exchanges related to another gender produced different affects—and thus outcomes—altogether.

Importantly, we wish to be clear that we do not think that affective planes can be separated from relations of power. The interpersonal and systemic relations of power that occur between different people are, instead, intimately tied to affects. For instance, there were undeniably gendered power dynamics at play in the incidents explored in the two vignettes (and in the class more generally): the fact that knowledge production ceased when male students were challenged or interrupted is undeniably tied to the systemic privileging of men (and subordination of women) as legitimate producers and holders of knowledge. Additionally, affective planes often emerge and change as a consequence of individual emotions, actions, and systems of power; individual sexist attitudes (whether explicit or implicit) will shape (and be shaped by) affective planes. These dynamics were clearly also at

play in the classroom. For instance, a strong hostility towards “feminism” was explicitly demonstrated by two of the male students and one female student; when the discussion topic was “social reproduction,” these students resorted to worn-out, simplistic descriptions of feminism (“All feminists are man-haters”), and the class quickly descended into a polarized confrontation. Subsequently, social reproduction and the theoretical insights of notable feminist political economists, such as Jane Jensen, Meg Luxton, and Spike Peterson, were not discussed in the class, as the professor tactfully intervened by challenging these problematic conceptualizations of feminism, albeit at the expense of discussing the assigned feminist texts in a meaningful way. Such hostility cannot be untied from gendered power relations and sexist norms and attitudes, nor can they be untied from the affective plane that we identify here.

Our point is rather quite the opposite: it is precisely in this mutual affected-affecting dynamic—this intertwinedness—that we feel the strength of affect, as an analytical tool, resides. Affect provides a way to move from the individual to the relational, to the ways in which collectives are opened (or not) to affecting and being affected. This contrasts with neoliberal ideology, which places the responsibility/blame for relational affects squarely on the individual (Jubas 2012, 46). An affective lens, on the other hand, allows us to move away from focusing on the individual actions and beliefs of specific people and towards the ways in which these actions and beliefs intermingle, co-exist, disrupt, and become “more than” through our relations with one another.

This “more than” is an especially important part of our analysis here, for despite several attempts to intervene and change the classroom climate by both the professor and various students, the particular affective plane that had emerged persisted throughout the course. For example, as mentioned above, the professor kept a speakers’ list to ensure that all students were given space to voice their concerns and thoughts, and prioritized voices that were being silenced or diminished. He also held individual meet-

ings with all of the students to address the classroom dynamics, and allowed Lauren to speak to the class as a whole about respect, safe spaces, and feminist pedagogy. Nonetheless, these individual attempts to intervene and disrupt this affective plane were not able to (re)shape this plane. Affects and affective planes are not the direct consequence of an action that can be manipulated accordingly. Rather, they are the sum and excess of our relations, our affections, and our affectedness. Although always at least partially affected by actions and interventions, they are impossible to control directly. By focusing on affective planes, aspects of our exchanges that are both on the edges of consciousness and more than the sum of individual thoughts and acts can be illuminated, interrogated, and better understood.

Affective Exits and Openings

An important consequence of these events was the ways in which they influenced knowledge production for the class as a collective, and for us as individual researchers. Deborah Gould (2009), for instance, highlights the importance of understanding how affect and emotions contribute to research and the process of knowledge production; while Gould is referring to how she was affectively moved by her field research, her point applies equally to other spaces of knowledge production. What about the affective planes of the classroom? What role do they play in processes of knowledge production? In this final section, we detail three ways the affective planes facilitated exits and openings that shaped the class as a whole and impacted us individually. We also draw out the broader implications of these exits and openings.

First, we suggest that under this affective plane, certain moments of tension led to conversational exits. This, we contend, was problematic, as working through moments of tension productively—as opposed to exiting tensions—is fundamental to what academics do, and to what we, as students, try to do in class settings. Tensions create space to challenge each other and ourselves, to unpack our deeply held

assumptions and biases, and to flesh out our understandings of complex concepts and social phenomena. They are opportunities for researchers to address their own ontological and epistemological groundings (Smith 1987; 2005), and are therefore of great pedagogical import. Yet in this case study, these moments of tension moved away from potential sites of academic production and towards spaces of discomfort, resulting in conversational exits. For instance, as evidenced by vignette number one, when disagreements or disjunctures left the male colleagues in discomfort, class discussion ended, preventing any further useful theoretical discussions. In other words, in this affective space, male students were able to choose to exit certain conversations. On the other hand, when women were made uncomfortable during the discussion and by the classroom dynamics, the conversation largely continued, except now the female student was excluded from participating, as demonstrated by vignette number two. In this case, female students faced forced conversational exits. The affective plane in which we were working created a mutual affection in which chosen exits by men, and forced exits for women, seemed (or, indeed, were rendered) legitimate, even when the “formal rules” and course etiquette (as outlined on the course syllabus) suggest that students have a certain obligation to each other to try to engage with ideas and intellectual challenges respectively and inclusively.⁵

Second, and relatedly, we suggest that the affective climate that emerged in this classroom not only contributed to diminishing the voices of certain students, as described above, but also ensured that the topics and class content that were of interest to feminist students could not be the central drivers of knowledge production. The pedagogical and political consequences of this are significant, as the distinct knowledge sets and insights of feminist theory were excluded from the processes of knowledge creation; these knowledges and concerns had to exit the seminar. As shown in both vignettes, when men were uncomfortable, knowledge production ceased; when women were uncomfortable, knowledge production continued. Under this affective plane, male students

had to feel comfortable and female students had to find avenues to deal with feeling uncomfortable for collective knowledge production to occur inside the classroom space. Any topic, issue, or idea that rendered men uncomfortable therefore had to exit the classroom. In this case, feminist issues and concerns seemed to make some male students uncomfortable, and were thus effectively forced to exit the seminar space, despite a strong presence on the course syllabus. This was demonstrated most forcibly during our week exploring social reproduction, as mentioned above.

Lastly, we suggest that this affective plane is also tied to our literal exit from the classroom. As our autoethnographic prelude explains, in response to the seminar’s affective plane, and the affective manifestations of our class dynamics, we decided to meet outside of the classroom for a few hours every week to discuss course readings, presentations, and papers. We worked in our university’s Graduate Student Association’s lounge. We worked in coffee shops and bookstores. We occupied virtual space through text and Skype. During our sessions, we addressed questions that we had about the theories we were reading, the discussions that had unfolded during previous classes, and most importantly of all, we began to unpack the classroom dynamics. We tried to understand why we felt the way we had in the classroom space. We reflected on our emotions, as instantaneous assessments of affects, and from there we sought to understand more broadly our affective encounters in the seminar. Indeed, we laid the groundwork for what was eventually to become this paper.

In *Living a Feminist Life* (2017), Sara Ahmed provides guidance for understanding these exits and openings more broadly. As Ahmed writes, “The experience of being a feminist is often an experience of being out of tune with others” (40). Affect, as described and analyzed here, is part of what dictates being in and out of tune with others; it is that through which we orient ourselves to the people, places, and objects around us. The affective planes discussed in this paper left us “out of sync with a world” (Ahmed 2017, 41). Our

voices and concerns were not in harmony with the collective affect of the class, and we ended up feeling out of place, and out of space. As Ahmed (2014) explains, “When attunement becomes an aim, those who are not in tune or who are out of tune become obstacles” (20). We felt like obstacles, bodies that were not at ease in that place (Ahmed 2017, 22). In response, we sought distance from that place, an exit.

However, as Ahmed (2017) reminds us, distance is sometimes needed to follow a thought. We need space to think through, to think-feel, and to begin to “redescribe the world we are in” (Ahmed 2017, 27). In our exit, our search for distance from the affective plane which rendered us “out of tune,” we moved towards each other and towards new understandings of our experience in the classroom. This *movement towards* unfolded in a dual sense. On the one hand, we literally moved to a new space together, an opening where we could validate our feelings, where we could feel, once again, in tune. On the other hand, our exit also led us to a place where we could reflect on our bodily experience in a meaningful way. In other words, our exit provided an opening, somewhere to go, and allowed us to revisit where we have been (Ahmed 2017, 31). We could (re)think our experiences, we could begin to make sense of the world as we saw/felt it, and we could begin *theorizing*. This exit from the classroom, and opening to a new pedagogical space, echoes the tradition of feminist consciousness-raising (Firth and Robinson 2016), whereby those who are out of tune with the world come together and connect by forming “an account of oneself with and through others” (Ahmed 2017, 30). Our movement, our passing from exit to opening, and the affective planes which facilitated and shaped this movement, were part of the process through which we learned about the world which did not accommodate us (Ahmed 2017).

“Feminism as a collective movement,” Ahmed writes, “is made out of how we are moved to become feminists in dialogue with others. A movement requires us to be moved” (2017, 5). Affect, in the classroom, in knowledge production, and beyond, can move us.

When we are affectively out of tune, we can exit. We can move towards openings. Through this movement, we affect and are affected. We gain capacity, accumulate affective value, so that we can ourselves become agents of movement, of change. And when we are ready, we can (re)enter; our theories, our knowledge, and our embodied being can move once again, perhaps this time decentering that which originally propelled us outwards.

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Endnotes

1. Notably, while compared to other, more traditional institutional ethnographic studies, we do not focus primarily on the ways in which texts coordinated the ruling relations in the classroom (e.g. Daniel 2008; Diamond 2009; Campbell and Gregor 2002). We do, however, acknowledge that, broadly speaking, the class was organized around the readings and student code of conduct put forth on the course syllabus.
2. For instance, in the historical materialist feminist tradition, socially reproductive labour is generally defined as “the complex of activities and relations by which our life and labour are daily reconstituted” (Federici 2012, 5). Similarly, Michael Hardt claims “affective labour is itself and directly the constitution of communities and collective subjectivities” (1999, 89), while Mignon Duffy asserts that care work is labour which provides for the basic needs of others in moments of dependency, thereby allowing the continuation of society (2011). In our view, these defini-

tions, while attached to different terms, are referring to the same type of labour—or, at the very least, do not sufficiently demonstrate the differences between these activities.

3. This information is based on how students self-identified/located themselves during the first class, during which each student presented some autobiographical information about themselves and their research by way of introduction.

4. As Ahmed (2017) writes, “Someone says something you consider problematic. At first you try not to say anything. But they keep saying something. So maybe you respond, carefully, perhaps. You say why you think what they have said is problematic. You might be speaking quietly, but you are beginning to feel wound up, recognizing with frustration that you are being wound up by someone who is winding you up. The feminist killjoy appears here: when she speaks, she seems wound up” (37).

5. This is not to suggest that students should be obliged to engage in harmful ideas, for instance, to entertain the legitimacy of a racist viewpoint.

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Legal Solutions to Street Sexual Harassment in the #MeToo Era

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Abstract: Street sexual harassment is the unwelcome commoditization of women's bodies by fellow citizen-strangers. This harm is under-recognized by traditional, Anglocentric common law. This paper begins by discussing the #MeToo wave, in particular by suggesting that it is a re-branded version of the feminist movement that is helpful but not sufficient to address street sexual harassment. Second, the paper outlines how street sexual harassment harms women. Third, some contextual analysis of why governments and legal systems have been slow to address street sexual harassment are provided. Fourth, the paper assesses the various areas of the law that may be used to curb street sexual harassment. Finally, this paper canvasses the ways other governments have taken action against street sexual harassment. Ultimately, this paper argues that the lack of protection of the basic civil right to use the public sphere free of sexual harassment is a failure of the Canadian justice system, and a criminal response remains essential. Other methods of legal regulation are inadequate without the social condemnation that criminal law carries.

Keywords: street sexual harassment; #MeToo; street harassment; catcalling; law; sexism; feminism; Canada; United States; criminal; critical legal studies; legislation

Introduction

Street sexual harassment is the unwelcome commoditization of women's bodies by fellow citizen-strangers. Street sexual harassment can be defined as unwanted comments, gestures, and actions made in a public place related to the innocent party's perceived sex, gender, gender expression, or sexual orientation (Stop Street Harassment 2015). This includes actions such as whistling, leering, sexist slurs, persistent requests for a name or number, following, flashing, and public masturbation (Stop Street Harassment 2015). Historically, this behaviour has been described using the ungendered and non-descript term of "catcalling." The insults—or "compliments" as they may be mischaracterized by perpetrators—can be frequent but unpredictable. This consistent but randomized violence creates sizeable harm by making public space uncomfortable, even unsafe, for women. Dread of this impending violation of dignity is a state of oppression for many women.

This harm is under-recognized by traditional, Anglocentric common law. The #MeToo wave of the feminist movement has brought a renewed interest in, and public discourse about, the oppression that mainly women face, usually at the hands of men. Personal experiences—so prominent in the #MeToo wave—are often absent in legal discourse and, to some extent, academic research generally. The feminist movement, in contrast, relies on the power of storytelling and consciousness-raising to counteract the dominant male viewpoint. This paper explores the ways that the #MeToo wave of feminism has raised awareness of sexual harassment, how this might bring attention to street sexual harassment in Canada, and the potential legal remedies available.

This paper begins by discussing the #MeToo wave, in particular by suggesting that it is a re-branded version of the feminist movement that is helpful but not sufficient to address street sexual harassment. Second, the paper outlines how street sexual harassment harms women. Third, some contextual analysis of why governments and legal systems have been slow to address street sexual harassment is provided. Fourth, the paper assesses the various areas of the law that may be used to curb street sexual harassment. Finally, this paper canvasses the ways other governments have taken action against street sexual harassment.

Ultimately, this paper argues that the lack of protection of the basic civil right to use the public sphere free of sexual harassment is a failure of the Canadian justice system, and a criminal response remains essential. Other methods of legal regulation are inadequate without the social condemnation that criminal law carries.

The #MeToo Context

I contend that the true value of #MeToo is not in its expression as a new “movement.” Rather, #MeToo fits within the greater feminist movement, and is not a separate movement unto itself. This article therefore labels the movement as a “wave” within the feminist movement, an approach endorsed by others (Parry 2018).

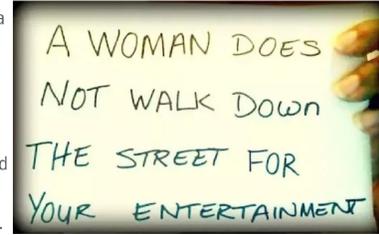
The #MeToo wave of feminism is a modern and digitally-flourishing take on a traditional pillar of the women’s movement: consciousness-raising. Women sharing their oft-similar stories of gender-based violence creates a unifying experience out of what can seem to be an individual or even invisible problem. The #MeToo wave has created a more open social climate for discussing gender-based violence, including street sexual harassment.

Many #MeToo stories seem to include—and responses to these stories gain oxygen from—the abuse

of power. This is evident in the #MeToo focus on Weinstein-style harassment, i.e. abuse within a relationship of unequal power. However, this focus poses a challenge to addressing issues of street sexual harassment, or sexual assault more generally, where the issue is not about an individual asserting and abusing their power over a more vulnerable colleague or date. Acts of street sexual harassment are more randomized and anonymous. Perhaps because a single incident of street sexual harassment is less destructive or violent than a rape, it is wrongly deemed innocuous. The more universal an experience in men’s lives, the more often society rationalizes street sexual harassment as a harmless experience (e.g., “boys will be boys,” “locker room talk,” and various other anachronisms for broad-based and socially acceptable gender violence). This ignores how a hundred incidents of harassment invade the psychological safety and self-worth of women.

The genesis of #MeToo mainly regarded the struggles of privileged, white, cis, wealthy, and often celebrityized women, the root theme of this wave of the feminist movement. The lessons, however, can and should be broader. Intersectional analysis acknowledges that multiple spheres of structural disadvantage exist but cannot be understood by simply adding layers of disadvantage. Race, gender expression, and all the factors that signal non-conformity to the patriarchy’s idealized woman can affect the way she is harassed and the harms she experiences. Notions of attractiveness are socialized, including social preference by race, economic status, gender expression, and physical ability. The harm from street sexual harassment varies based on social preference and status. Street sexual harassment is not reserved for women who are deemed socially desirable, and can also be used as a tool to police and demean women perceived as undesirable or nonconformist. Thus, while the #MeToo wave of feminism has provided an important shift toward personal and widely shared stories, an intersectional feminist lens is also necessary to address street sexual harassment.

My allergies had been just horrific, but I'd decided to brave the run across the street to the little bodega anyway because I'd been out of dishwasher soap and milk and coffee filters for three days. As I walked up the steps to the entrance, two men walked out. Because I'm a woman who's been trained by society not to look strange men in the eye when its dark out and they look potentially threatening, I didn't. But they stopped in the doorway and came up close to me, speaking far louder than was necessary. "Whoa mama, look at those tits." "Daaaaamn. Naw like really dog, daaaaaamn." One started masturbating and pushed up close to my face as I stared at the ground, trying to navigate around them. He rubbedbed himself and licked his lips as he undressed me with his eyes and loudly proclaimed what he'd do to me.



CompleteStreetsCat
@SheRidesABike
Follow

Replying to @Karnythia

@Karnythia slapped on butt by passing male bicyclist (30ish?) while walking home from the library, arms full of books. #firstharassed
Age: 6

Samantha B
@samanthab5h
Follow

I was #firstharassed at 11 by a group of firemen, who told my mother and I they couldn't decide which one of us they wanted more.

8:20 AM - 28 May 2015

I still remember how traumatized the first time I was street harassed by a grown man (I believe I was 12?), and my immediate impulse was to blame myself. (In fact, I raced home to change because I was convinced it was my fault for wearing a tank top and shorts on a hot summer day.)

Just in the last few days I have personally seen and heard of several explicit examples of male street harassment of women in my own immediate neighbourhood. In one case, as I was taking my kids home on the streetcar I saw a car with two men in their early twenties slow down to yell degrading comments at a young woman of no older than sixteen.

I was also told of two men yelling negatively across the street at a woman, just outside where I work, laughing that she was so "fat" that they were "F***** amazed you can even pull your pants on B*****", and then joking and being rude when a woman called them out on it.

Then, just a couple of days ago, a woman who is a close friend of mine, walking in the rain, was accosted by men on the covered patio of a local bar as she passed by, one of whom leered that he liked his "women wet".

"I wanted my voice back. I was frustrated by street harassment and I no longer wanted myself or others to have to deal with sexual harassment and objectification in public spaces. Working for Hollaback! means I get to do something about a problem that I am passionate about ending... I do it because the public needs education about the harm that street harassment causes, and people need to know that they don't have to put up with street harassment." -Lauren Alston

Image 1: A sample of online posts sharing thoughts about and personal experiences of street sexual harassment. (Clockwise from top left: Collazo 2013; unknown; Laxer 2013; Alston 2012; Moore 2015; Boosil 2015; CompleteStreetsCat 2015)

The Harm

Many women can still recall their first personal experience with street sexual harassment because it was traumatizing (Trudy 2013; Vinciguerra 1994). Norma Anne Oshynko wrote in her Master of Law thesis that "street harassment can best be understood as an integral part of a system of sexual terrorism which allows men to dominate and control women" (Oshynko 2002).

Street sexual harassment tells women that our presence in the public sphere is open for comment and criticism by strangers. The attacks remind women that our bodies are commodities to be freely consumed and commented upon by fellow citizens. Several scholars have argued that street sexual harassment—and the lack of legal recourse available to survivors of it—is an ongoing denial to grant women their basic human rights. Gender scholar Robert Allen wrote:

Whether in the workplace or on the street, the purpose of sexual harassment is to reduce women to objects sexually vulnerable to men, and to reestablish the traditional power relation-

ship between men and women. Indeed, women's sexual vulnerability to men is a key locus of male power, something men learn to expect. (1995, 134)

As Cynthia Grant Bowman wrote in her *Harvard Law Review* article, street harassment is the denial of a basic civil liberty:

The most fundamental definitions of liberty include the right of an individual to go where she chooses in spaces that are public. Indeed, liberty of this sort is essential to equal participation in the affairs of the polis. The security to move about in public, what Blackstone called "the power of locomotion," is one of the most basic civil rights; it is essential to the rights to assemble and petition for redress of grievances—the primary prerequisites to participation in public affairs and admission to the public realm. Thus, when the law fails to protect women from street harassment, it deprives them of one of the basic goods for which government was ordained, leaving them in an Hobbesian wilderness men do not share. (1993, 520-21)

More specifically, the many harms of street sexual harassment include feeling powerless, dehumanized, and isolated; fearing for one's safety; and the practical effects of changing one's daily habits, including going outside less and at more restricted times (Davis 2017; Fox 2016). No recitation of the harm flowing from street sexual harassment would be complete without noting the role that sexual harassment plays in condoning gender-based violence. Widespread objectification of women's bodies is linked to violence against women (American Psychological Association 2007; Oddone-Paolucci, Genuis and Violato 2000).

Recognizing these harms is important because damages are a key element under the law, but also because such recognition helps to stamp out the myth that some women enjoy street sexual harassment. As with other forms of sexual violence, myths exist to reinforce the acceptability of the violating conduct. That "catcalls" are inoffensive and even flattering is one such myth. *New York Post* writer Doree Lewak con-

troversially wrote of street harassment as a "drive-by dose of confidence [that] is the 10-second antidote to all that negative feedback in the real world" (2014). Although some women may claim that they enjoy the experience, this does not address the lack of consent to such harassment by all women.

The Statistics

The nature of street sexual harassment makes it difficult to track; it is constant yet unpredictable. Often, the woman is alone and the only witnesses are friends of the offender. Often, the harassment comes from a moving vehicle.

Hollaback! and Cornell University began a large-scale research survey on street harassment in 2014. There were over 16,600 respondents overall, making this survey the largest analysis of street harassment to date. The study found that, globally, the majority of women experience their first incident of street harassment during puberty (Livingston 2014).

In Canada, 620 women participated in the survey: 73% reported their first experience with street harassment between the ages of 10 and 17, and 79% of women reported being followed by a man or group of men that made them feel unsafe during the past year (Livingston 2014). Over 60% of women reported changing their daily lives to avoid harassment, for example by taking different modes of transportation or a different route home, not going out at night, not socializing, feeling distracted at school and work, and changing the time of leaving an event or location (Livingston 2014). A 2013 Hollaback! Ottawa community consultation on street sexual harassment found that 97% of respondents had experienced harassment on the street in the past year (Hollaback! Ottawa 2013).

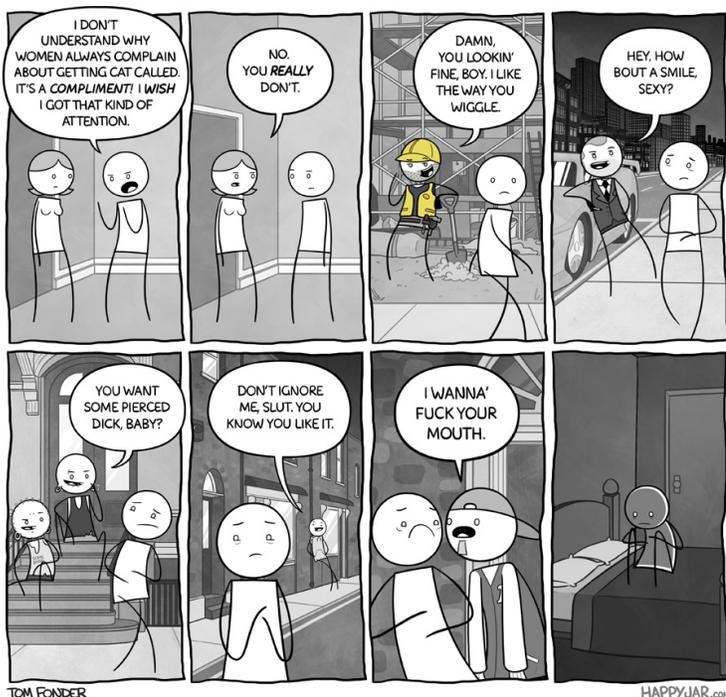


Image 2: Tom Fonder 2014

Relevant Academic Theories

A primary reason for the lack of government priority given to street sexual harassment is its disproportionate effect on women. As briefly discussed below, dominance feminism best explains the lived experiences of women subjected to street sexual harassment. Critical legal studies (CLS) also helps explain why women are refused full and equal access to legal protections and why the law systematically under-serves less powerful communities.

Dominance feminism emphasizes the difference in power between men and women and how men's interests dominate the agenda in a patriarchal society (Chamallas 2012). Women's lack of power means a lack of voice in state priorities and governance (MacKinnon 1983). Street sexual harassment does not often attack male dignity. The status quo allows men to engage in street sexual harassment at their whim. Thus, the current system of what is deemed acceptable street sexual harassment shoulders women with the majority of the harm. Dominance feminism explains why street sexual harassment is not mentioned in the House of Commons or newspapers (Baumgardner and Richards 2000). Such awareness would require the legislature and media to step out of the dominant male perspective.

Critical legal studies has value in dissecting discrimination within the law. CLS deconstructs the way that power embeds and recreates itself within the legal system, never devolving to the vulnerable. Critical legal theory posits that:

Legal thought originates, of course, within the consciousness of the dominant class because it is in this class' interest to bring it into being, but it is accepted and interiorized by everyone because of the traumatic absence of connectedness that would otherwise erupt into awareness. (Gabel 1992)

Feminist legal theorists would point out that the dominant class is overwhelmingly male.

Relevant Canadian Law

Sexual harassment has been recognized as an offence under the anti-sex discrimination provisions in the human rights codes present across Canada's provinces (*Janzen v. Platy* 1989). Freedom from sexual harassment is thus a human right in part because sexual harassment is an affront to dignity, personal integrity, autonomy, and personhood (Allen 1995; British Columbia Law Institute 2001).

Chief Justice Dickson for the Supreme Court stated in 1989 that sexual harassment is "an abuse of both economic and social power" (*Janzen v. Platy* 1989). Courts have recognized that sexual harassment includes leering (*Webb v. Cyprus Pizza* 1985), sexually suggestive gestures (*Sharp v. Seasons Restaurant Ontario* 1987), and derogatory or degrading remarks. These legal cases involved workplace sexual harassment, however, not street sexual harassment.

In considering street sexual harassment, one fundamental question is whether the legal response should be a matter of private or public law, as both could play a role. Broadly speaking, public law is an umbrella term to describe the areas of law that affect society as a whole, and private law regards disputes between individuals and commercial entities. After reviewing elements of private law, this paper argues that, ultimately, the social condemnation aspect of public law, in particular, the Criminal Code established by the federal government, makes it a more useful avenue to begin addressing street sexual harassment. The Criminal Code is taught to law students as the set of rules the government uses to indicate what behaviour the state condemns and will punish through a reduction in civil liberties.

i. Private Law

Feminist scholar Catharine MacKinnon (1987) wrote: "Sexual harassment, the event, is not new to women. It is the law of injuries that it is new to" (3). In a 1992 Law Society of Upper Canada (LSUC) conference paper, lawyers stated a similar idea: "There is no inher-

ent barrier preventing resourceful counsel from conceiving a cause of action arising from circumstances wherein a client has been the victim of sexual harassment” (LSUC 1992, D-2). This progressive stance would prove naive. Sexual harassment by way of sex discrimination has been a proven tort (*Lajoie v. Kelly* 1997), but courts have been reticent to recognize it in other instances (*Seneca College v. Bhadauria* 1981). The Alberta Court of Queen’s Bench said that whether the court recognized a tort of sexual harassment “is still an open question” (*Campbell-Fowler v. Royal Trust Co.* 1993). Gillian Demeyere provides a helpful summary of sexual harassment torts to date:

While courts have uniformly allowed actions for breach of contract based on alleged sexual harassment to proceed, the treatment of actions in tort has been less consistent. Some courts have declined to exercise their jurisdiction over claims asserting independently recognized torts where the conduct alleged might be also described as sexual harassment....

There can be little dispute that the wrong of sexual harassment can include the violation of interests long protected by the common law. Indeed, the pleadings approach concedes as much, by finding actions that plead independently recognized causes of action to be within the jurisdiction of common law courts. But by holding actions that plead merely “sexual harassment” to be beyond the jurisdiction of the common law, the pleadings approach implicitly declares that the wrongfulness of sexual harassment consists wholly in the fact that it is a form of sex discrimination. So understood, the common law cannot come to recognize a new tort of sexual harassment, because *Bhadauria* tells us that sex discrimination falls within the exclusive jurisdiction of human rights commissions. (2005, 647, 663)

The courts have recognized a tort of sexual harassment by other names, recognizing that sexually har-

assing conduct is tortious. But court recognition of the explicit tort remains weak. The established torts of battery, sexual assault, nuisance, and emotional distress all hold elements relevant to street sexual harassment. As mentioned earlier in this article, sexual harassment results in a loss of dignity, autonomy, personhood, and personal integrity (BC Law Institute 2001, at 11). Additional harms flow from any of battery, assault, nuisance, or emotional distress that is sexual or gender based “including difficulties relating to depression, anxiety, mood disorders, disturbances of sleep, eating, sexuality, personality, interpersonal relationships, child development, and learning abilities” (British Columbia Law Institute 2001, 11). Tort law and its awards have recognized such damages.

Sexual assault is an accepted sexual violence tort, often seen in cases of childhood sexual abuse. Even with near-universal societal rejection of rape, Canadian courts have not awarded civil remedies for sexual assault consistently. The harm of sexual assault “has not yet been fully recognized by the civil justice system” (British Columbia Law Institute 2001). Craig Brown and Melanie Randall (2004) argue for an expansive, public insurance-like system:

This leads us to examine alternative ways that the financial resources available to automobile accident victims might also be available to benefit victims of domestic and sexual violence. This involves the reform of the criminal injuries compensation system and a clear articulation of a rationale for compensation. Given that this would involve significant public expenditure, and therefore political opposition, we also consider models for a private insurance response. Our conclusion is that the only viable solution to the gross under-compensation of those injured by acts of domestic and sexual violence in Canada, is a substantially enhanced public compensation scheme. (316)

If sexual assault survivors do not feel adequately compensated by the civil justice system, there is little hope for victims of street sexual harassment. One problem is that there is rarely any physical evidence.

Further, unlike a rape at a house party, where witnesses may have a personal connection with the complainant, there is not necessarily a personal connection with witnesses on a public street corner. Legal remedies in civil suits are aimed to put the Plaintiff in the situation they would have been in but for the wrong done to them. Courts have struggled to adequately award damages to sexual assault survivors seeking to be put in the situation they would have been in prior to the acute attack; street sexual harassment survivors have even less reason for hope. Compensable losses due to street sexual harassment too often result from cumulative experiences and are, therefore, too multi-causal to satisfy the tort framework.

DB et al. v. Johnson (2012) is one Canadian civil litigation case related to street sexual harassment that proved a success. Various plaintiffs filed a claim against their neighbour for damages arising from assault, battery, and intentional infliction of mental suffering. The behaviour included making lewd sexual suggestions and comments, verbal sexual harassment, inappropriate touching (such as grabbing breasts and buttocks, sometimes in public). The Court commented that “[t]he whistling, catcalls and insults by themselves, however objectionable, cannot support a claim for damages.” Nonetheless, the Court decided that “non-consensual touching aside, each of the female plaintiffs, satisfied me that they had suffered humiliation and intimidation and an apprehension of sexual assault.” The Court assessed damages at between \$350 and \$5,500 per plaintiff. Unhelpfully, this victory was only possible because there was an identifiable Defendant making continuous and traceable assaults. It is also worth noting that the Defendant did not defend in the action.

A British Columbia report on civil remedies in cases of sexual assault recommends extending the bases for liability to include negligence, vicarious liability, and breach of non-delegable duty (British Columbia Law Institute 2001). An expanded conception of sexual assault and its causes increases the chances of remedies for survivors. It also increases potential street

sexual harassment recovery when combined with growing class action capacity in Canada.

The basic purpose of class action law is to change the costs and benefits in any legal situation so plaintiffs can band together to distribute the costs of litigation across a number of Plaintiffs who each have a right to a remedy that would not individually be sizeable enough to warrant a law suit. Companies that might normally breach their duties because the harm to an individual customer would not merit an expensive action become justly exposed to their aggregate liability (Canadian Bar Association: BC Branch 2017).

Street sexual harassment class action suits could use traditional negligence and vicarious liability law to build class actions against the actors whose inertia facilitates street sexual harassment. Examples might include outdoor construction companies that refuse to act against staff or contractors who sexually harass passersby, municipalities whose inaccurate transit schedules leave women vulnerable for long periods of time, or bars that, instead of calling the police, eject harassing patrons who then move to verbally harass others in the public sphere.

Overall, private tort law has struggled to account for women. Margot Schlander (2002) has explored the reasonable person standard in torts and its bias toward what men deem reasonable. Martha Chamallas’ research has determined that “the negligent infliction of emotional harm and negligent interference with relationships are low in the hierarchy of compensable harms, in part because of their cognitive link to women and women’s injuries” (2005, 4).

Remedies for gender-based violence are no different. In “Gendered Harms and the Law of Tort: Remediating (Sexual) Harassment,” Joanne Conaghan identified structural concerns within tort law:

It may be precisely because the law recognizes the “wrong” inherent in defamation that it is socially perceived; it may be because the law denies a remedy for many of the acts which constitute sexual harassment that it is too often

socially denied. In other words harm is socially constructed and legally constituted; unless a harm is recognized as such by society and by law, it is not experienced as such. That is why for years many women have put up with sexual harassment without complaint: the social and legal failure to recognize the injury entailed has led women simply to endure it, repressing their feelings of violation, incipient outrage, the sense that a wrong had been perpetrated [footnotes removed]. (1996, 429)

Even established gender-based harms struggle within status quo tort law; new concepts such as street sexual harassment face many challenges. Though Conaghan (1996) and Brown and Randall (2004) argue for a continued use of tort law as part of the feminist project, this article argues it cannot be the only avenue for upheaval, particularly where street sexual harass-

ment is concerned. The threshold for intention in any torts—albeit on the balance of probabilities—may be too onerous in most cases of street sexual harassment.

ii. Public Law

The criminal law also has a poor record addressing gender-based violence. Sexual assault rates are disturbingly high and convictions disturbingly low; this has been driven by many factors related to systemic misogyny in the policing and judicial establishments (Randall 2004). The outcome for more fleeting forms of gender violence, such as street sexual harassment, remains an open question. The following portion of the article will address specific sections of Canada’s *Criminal Code*. There is no *Code* provision squarely focused on street sexual harassment.

Section 265. Assault

The s.265 sexual assault provision of the *Criminal*

Assault	Harassment/Stalking	Public Indecency	Common Nuisance
<p>265. (1) A person commits an assault when</p> <p>(a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;</p> <p>(b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or</p> <p>(c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.</p> <p>Application (2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.</p>	<p>264. (1) No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.</p> <p>Prohibited conduct 2) The conduct mentioned in subsection (1) consists of</p> <p>(a) repeatedly following from place to place the other person or anyone known to them; (b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them; (c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or (d) engaging in threatening conduct directed at the other person or any member of their family.</p>	<p>173. (1) Everyone who wilfully does an indecent act in a public place in the presence of one or more persons, or in any place with intent to insult or offend any person,...</p> <p>175. (1) Every one who (a) not being in a dwelling-house, causes a disturbance in or near a public place, (i) by fighting, screaming, shouting, swearing, singing or using insulting or obscene language, (ii) by being drunk, or (iii) by impeding or molesting other persons, (b) openly exposes or exhibits an indecent exhibition in a public place, (c) loiters in a public place and in any way obstructs persons who are in that place,...</p>	<p>180. (1) Every one who commits a common nuisance and thereby</p> <p>(a) endangers the lives, safety or health of the public, or</p> <p>(b) causes physical injury to any person,...</p> <p>(2) For the purposes of this section, every one commits a common nuisance who does an unlawful act or fails to discharge a legal duty and thereby</p> <p>(a) endangers the lives, safety, health, property or comfort of the public; or (b) obstructs the public in the exercise or enjoyment of any right that is common to all the subjects of Her Majesty in Canada.</p>

Image 3: This chart provides a short form of the key Criminal Code provisions that could be argued to be applicable to street sexual harassment.

Code does not work well for street sexual harassment because street sexual harassment involves words and not physical touching or force, as described under s.265.1(a). Under s.265.1(b), any act or gesture that is reasonably perceived as a subjective threat could be considered assault. So, although the collection of street sexual harassment experiences in a woman's life may be threatening on the whole, each incident will likely seem too benign to reach the s.265 threshold. Highly menacing sexual harassment—even on the street—could reach this threshold, however.

Section 264. Harassment

The s.264 criminal harassment provision is often called the anti-stalking provision. However, much research exists on the section's deep inadequacy in addressing stalking (for example, see MacFarlane 1997). Section 264 sets too high a threshold for use against street sexual harassment. The *Code* requires "repeated" acts. Although women's lived experiences of street sexual harassment are repeated, the perpetrator is usually different in each instance. Because the *Code* historically requires that a single harasser attack the same women repeatedly, street sexual harassers who randomize their attacks on different women receive impunity under this current provision.

Section 173. Indecency

The public indecency sections of the *Code* hold potential to curb street sexual harassment. Street sexual harassment is instinctively—as the harm discussed above provides—an indecent act. Unfortunately, despite a rich body of statutory interpretation, indecency has never been thoroughly interpreted through a feminist lens.¹ Anti-pornography issues involving decency have focused on overall threats to women, but within the community standards test. The community standards test is a judicial endorsement of tyranny of the majority. This is demonstrated by the Court's recognition that public opinion surveys may be appropriate to measure "a general average of community thinking and feeling" (*R v. Labaye* 2005). The court has focused on the "harm" issue within the community standards test, arguing that social norms are not determinative² but this half-measure is insufficient.

Lise Gotell cites Jeffrey Weeks in her deconstruction of the *Butler* decision. In *R v. Butler*, Butler, a Manitoba video storeowner, was convicted under the *Criminal Code* obscenity law for distributing pornographic videos. Butler claimed the *Code* violated his constitutional right to freedom of expression. The Court upheld the obscenity law as a justifiable restriction on freedom of expression. Weeks (and then Gotell) wrote: "Moral panics are flurries of social anxiety, usually focusing on a condition or person, or a group of persons, who have become defined as a threat to accepted social values and assumptions" (Weeks 1986, 95). Gotell (1997) notes that the *Butler* factum submissions embody the core problem with the community standards test:

The role of law as guardian of the moral universe is clearly defended and applauded in each of these factums. Implicit here is the assumption that the depiction of sexual practices that lie outside of majoritarian norms constitutes a threat to the community itself. (53)

Although some feminists interpreted *Butler* as a victory, the victory is steeped in a problematic legal framework. Queer theorists such as Brenda Cossman (2004) contend that *Butler* did not apply a feminist lens to community standards. As Gotell (1997) states, "*Butler* merely provide[d] a new feminist language to legitimize and modernize what is really an old conservative, moral agenda" (at 99).

Community standards tests such as those discussed in *Butler*—even those that purport to focus on harm over norms—are antithetical to feminism. Community standards embody normative social codes of conduct that have oppressed women throughout Anglocentric history. The weakness of the community standards test is directly linked to indecency, a concept that has for years been used to regulate women's behaviour through government-sponsored regulation of sexual and artistic preferences. The decency provisions are also steeped in gender roles: the male-dominated legislature and courts are here to protect women and children from exposure to culture that is unseemly and "slutty." More modern interpretations of inde-

gency based on community standards and harm have facially attempted to move away from embodying majority preferences, but feminists have effectively exposed such court claims (Cossman 1997). I contend that such decency provisions are the sword of moral panic and a key tool in regulating women's sexual behaviour. To call on legal definitions of decency and community standards to protect women against street sexual harassment therefore seems counterproductive. The *Criminal Code*, as the book of rules to indicate social condemnation of behaviours, should focus on the harassers, not on the so-called decency of the harassed.

I suggest that the courts and the legislature should avoid the community standard in reviewing the decency of street sexual harassment according to s.173(1) and move toward a more feminist focus on the agency of each individual woman. Leading scholars in the US have similarly argued for a sexual harassment doctrine that employs a reasonable person standard that accounts for complainants' intersectional identities (Onwuachi-Willig 2018).

The relevant "flashing" provision, under section 1.75(b) of the *Criminal Code*, will not be considered under the scope of this paper because "flashing" is an obvious and recognized form of extreme street sexual harassment. The "flashing" sections state that anyone who (a) causes a public disturbance by shouting, using insulting language, using obscene language, or molesting another is guilty of disorderly conduct, and any person who (c) loiters in public and obstructs persons who are in the same place is committing a crime.

Either (a) or (c) could be used to criminalize street sexual harassment. Even if the harassment is not as obviously acute or offensive as flashing, an action that disturbs a woman in public should be considered a disturbance if she feels the language directed to her was insulting, obscene, or bothersome (the traditional definition of molestation) sufficient to satisfy ss.173-175. Finally, any street sexual harassment that results in a woman feeling uncomfortable while walking her

preferred public route should be considered obstruction. To make a woman uncomfortable in public is a core kind of obstruction. Obstructing women's free participation in the public sphere is central to the negative impact of street sexual harassment. In this way, ss.173-175 are the most fitting response to street sexual harassment.

To properly capture and condemn street sexual harassment, the public indecency provisions provided in ss. 173-175 should be made more generic to encompass verbal indecency, or the list of indecent acts should be expanded beyond such physical acts as flashing to explicitly include indecent verbal assaults.

Section 180. Nuisance

Section 180 is the last potential option to criminalize street sexual harassment. Satisfying subsection (a) requires viewing street sexual harassment as endangering women's health and comfort. It also requires viewing the (predominantly female) victims as members of the public. This should be straightforward. However, the legal community has a history of accepting the male viewpoint as the norm and actively asserting the male right, under and in the law, not to know about the experiences of women. Feldthusen (1990) references the danger present when a dominant group assumes, uses, or imposes their narrative as the neutral viewpoint: "[M]ost male law professors still refuse to consider, let alone engage with, the issues. Instead they exercise the male 'right not to know': to ignore, deny, neuter, trivialize, and redefine gender issues in legal education" (70-71).

Envisioning a New Code Provision

As is evident from the above discussion, there is no *Code* provision squarely focused on street sexual harassment. None of the existing laws are easily adaptable. Overall, the indecency and nuisance portions of the *Code* seem *prima facie* more useful than the assault or harassment portions.

In two recent cases, the Canadian Courts have ad-

dressed possible use of the *Code* provisions to penalize street sexual harassment. In *R v. Kohl*, the complainant was jogging when the accused, a stranger to her, jumped out from behind bushes and blocked her way in a threatening and frightening manner; the accused did not touch her or speak to her. The complainant ran away and the accused chased her down the street. When the complainant ran to a house to seek help, the accused stood at the end of the driveway and stared at her. The complainant stated that she was very frightened. In this case, the accused was convicted of criminal harassment under s.264(2)(d) and was sentenced to three years' imprisonment. He appealed the conviction and the sentence. The appeal of the conviction was dismissed, but the sentence appeal was allowed to reduce the sentence to two years, with conditions. This is an extreme case of street sexual harassment that met the threshold for criminal harassment as envisioned by the *Code*.

In *R v. Burns*, the perpetrator whistled at the complainant and said "nice butt" or "nice ass." After the complainant ran to get away, the Appellant called out, "Are those pants painted on?" The Appellant was acquitted of the conviction for harassment, with the Court noting:

While the [perpetrator's] conduct was clearly inappropriate and unwanted, we do not see the incident as amounting to threatening conduct within the meaning of those words in s.264(2)(d). Although the complainant justifiably felt upset and scared by the appellant's conduct, viewed objectively, we do not see it as rising to the level of a "tool of intimidation designed to instill a sense of fear. (*R v. Burns*)

This Court decided that this very common example of street sexual harassment did not warrant sanction under the *Code*.

Despite inadequacies, criminal law stands as our society's main mechanism to condemn actions. I therefore contend that the Canadian legislature should enact new criminal laws against street sexual harassment. Street sexual harassment provisions may not be easy to prosecute, but neither are many provisions of

the *Criminal Code* regarding sexual violence. Condemnation under the *Code* is an important start to establishing the basic type of conduct that will not be tolerated. A new provision eschews the need to re-envision older provisions alongside unbiased statutory interpretation.

The struggle to recognize sexual harassment is amplified by the law's chosen human rights approach, which requires the right be tied to a status; for example, that of an employee. This caveat hinders the full protection of dignity that women deserve in all roles and situations. The advantage of a criminal law approach to street sexual harassment is that it codifies the breach of attacks on dignity across the citizen experience.

i. Looking Internationally

Many jurisdictions around the world have taken action to curb sexual harassment and provide helpful lessons or ideas that Canada should consider. For example, in 2010, UN Women launched targeted programs to increase women's public safety in Ecuador, Egypt, India, Papua New Guinea, and Rwanda (United Nations 2010). In 2014, the Nepal police implemented a focused campaign to curb sexual harassment on public buses. Police register complaints and file reports regarding the places and circumstances of harassment (Stop Street Harassment 2014). In the District of Columbia, it is now illegal to engage in abusive language or conduct that disturbs a person's path through a public space (Badger 2014). In March 2015, Peru passed an anti-sexual harassment law that states that any act or threat affecting the freedom and dignity of movement and the right to physical and moral integrity of vulnerable peoples is harassment and punishable (Steinkellner 2015). Belgium and Portugal have made it illegal to sexually harass or intimidate a person and violation of the law is punishable by a fine of up to one year in prison; Portugal has made it three years if the victim of harassment is younger than 14 years (King 2016). In November of 2017, Belgium handed its first court judgment related to street harassment. The state fined a man nearly €3000 for harassing a female police officer (Flanders Today 2018).

Many jurisdictions have taken the route of ticketing for street sexual harassment. In partial response to the #MeToo movement, France has passed legislation which will target several forms of sexual harassment, including street harassment. The new law will ban “insulting, intimidating, threatening and following women in public spaces,” any of which can lead to a fine of up to €750. France’s junior minister for gender equality, Marlène Schiappa, stated, “Harassment in the street has previously not been punished. From now on, it will . . . forbid insulting, intimidating, threatening and following women in public spaces” (Politico 2017; Harper’s 2018.)

There are some significant drawbacks, however, to a ticket-based regime, including the potential for bias in implementation and the potential for disproportionately targeting marginalized groups (White 2018). Further, a ticketing system may undermine any message the state intends to make about the seriousness of street sexual harassment. Compared to the more common breaches that result in tickets—speeding, parking incorrectly, riding a bicycle without a

helmet—tickets send no strong message about society’s unwillingness to accept a particular behaviour.

ii. Recent Canadian Developments

In March 2017, the Standing Committee on the Status of Women conducted a study on violence against young women and girls in Canada and presented their findings and recommendations to parliament (House of Commons 2017). The committee provided 45 recommendations to help prevent gender-based violence. A few recommendations recognized the lack of research on street harassment and called for the Government of Canada to fund initiatives, including new research and analysis of existing research that addresses intersectional violence, street harassment, and sexual harassment in public spaces and its effects on women (House of Commons 2017).

The Government of Canada proposed Bill C-309, *An Act to Establish Gender Equality Week*, to recognize certain hardships faced by women. The Act proclaims the last week of September each year in Canada as “Gender Equality Week.” The Bill received Royal As-

Watch a Woman Experience 100 Instances of Street Harassment In One Day



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#DudesGreetingDudes uses humor to prove catcalling isn't just a friendly hello

You see a dude in a nice suit, just roll up on him like “Damn. You wearing that suit. Hmm Hmm!”
#DudesGreetingDudes
— Elon James White (@elonjames)
November 2, 2014



FIST BUMPS STRANGER
DAMN, YOU GOT SOME SOFT
KNUCKLES. I CAN TELL YOU
MOISTERIZE.
#DUDESGREETINGDUDE
S — SAM KILLERMANN
(@KILLERMANN) NOVEMBER
4, 2014

Image 4. This graphic shows some of the activist work being done to bring street sexual harassment to the fore. (Hui 2015; Brown 2014; Killermann 2014; Magwood 2014; Romano 2014; White 2014; Jurecko 2016; Crosby 2017; Gillis 2018).

sent on June 21, 2018, and September 2018 saw the first Gender Equality Week. The notable feature about this Act is that 2016 debates on the issue reflect recognition of “[c]atcalling, harassment on the street, slut shaming, [and] victim blaming” as commonplace, and that “[w]e need to raise the bar on those” (House of Commons Debates 2016). Yet, notably, the Act itself does not explicitly recognize street harassment.

Kiera Liblik has noted that Canada has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), a UN document focused on eliminating sex-based discrimination, and has suggested that failing to criminalize street harassment would be against the interests of CEDAW (Liblik 2015).

Conclusions

Many women’s organizations, including Women in Cities International and Hollaback!, are helping to share personal stories and raise consciousness about street sexual harassment. Street sexual harassment is an affront to human dignity and the right to participate freely in the public sphere, a basic civil liberty. Street sexual harassment—and the lack of legal response to it—is therefore an ongoing denial of basic rights. The shift in awareness and recognition of workplace sexual harassment provides some hope for similar change regarding street sexual harassment. However, judicial systems still struggle to bring justice to women survivors of workplace harassment. No current Canadian law may be sufficient to address street sexual harassment, due to historical bias in construction and application of the law. New criminal laws are therefore required. Other jurisdictions are enacting stronger anti-street harassment provisions

than Canada. It is time for our legislators to lead on women’s right to dignity in public.

Endnotes

1. The *Butler* decision is one of the better-known indecency decisions. This article will refer to Butler because it engages core questions around indecency. *Little Sisters Book and Art Emporium v. Canada* (Minister of Justice) [2000] 2 SCR 1120 is an equally relevant and concerning decision.

2. Craig (2009) states: “Chief Justice McLachlin determined in *Labaye* that the type of harm identified in *Butler* (that being ‘conduct which society formally recognizes as incompatible with its proper functioning’) must be assessed not by community standards of tolerance, but rather by those norms which our society has formally recognized in the constitution or similar fundamental laws: ‘The inquiry is not based on individual notions of harm, nor on the teachings of a particular ideology, but on what society, through its fundamental laws, has recognized as essential. Views about the harm that the sexual conduct at issue may produce, however widely held, do not suffice to ground a conviction. *This is not to say that social values no longer have a role to play.*” [footnotes removed]

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Reflections on the Hypatia Controversy: Philosophical Methods and Social Justice

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This cluster of articles proceeds from a symposium funded by both the Social Sciences and Humanities Research Council of Canada and Kule Institute for Advanced Studies. The symposium took place in March 2017 at the University of Alberta on the topic of "Social Justice, Feminist Affects, and Philosophical Futures: Responding to the Hypatia Controversy." Chloë Taylor, along with Ada Jaarsma of Mount Royal University, was an organizer of this day-long symposium, and Alison Suen was one of the seven presenters at this event. Given that the significance of lived experience for philosophical and social justice scholarship was frequently highlighted over the course of the original controversy, the organizers of this symposium were careful to forefront the perspectives of women-of-colour philosophers and social theorists and trans scholars. Atlantis agreed to publish a partial proceedings from this event and, as editors, we continued to be mindful of the importance of lived experience in seeking reviewers for this publication.

Although feminist philosophers remain painfully divided over the events of April and May 2017, it is agreed that these events raised an array of important ethical, disciplinary, social, and methodological questions and marked a pivotal moment in the discipline. As Namrata Mitra argues in her article included in this issue, Rebecca Tuvel's article was in fact an exceptional philosophical essay in terms of citational practice and argumentative style, and yet it was widely decried as having reinforced structural harms to marginalized people. What does this say about the norms of the tradition in which we, as feminist philosophers, have been trained? Must we, as philosophers, rethink our methods? Tuvel was criticized because, although she is white and cisgender, she wrote on a topic that most directly impacts trans people and people of colour. This raises questions about who has

the authority to speak in a discipline that has traditionally claimed to evaluate arguments based purely on their purportedly objective logical merit. Given the gravity of these questions, one of the primary goals of this collection of essays is to explore the issue of methodology in feminist philosophy. While the three essays collected here come from different disciplines and traditions within and beyond philosophy, they each expose presumptions hidden in the methods that philosophers traditionally employ. We believe this selection of essays contributes to conversation regarding philosophical methods. We hope that this collection will inspire philosophers and social justice theorists to continue to grapple with the ethical import of their divergent methods.

* * * *

In “Benefits and Burdens of Engaging in Argumentation,” Stephanie Kapusta identifies two forms of “argumentation injustice” to which philosophers from marginalized groups are particularly vulnerable. She argues that certain traditional ways of doing philosophy—in particular, the excessive focus on logical-epistemic goals of argumentation—create two conditions for injustice. First, it places disproportionate burdens on philosophers who belong to marginalized groups; second, it exposes these philosophers to harm (both cognitive and emotional). Kapusta persuasively demonstrates that participants of an argumentational exchange relate to the argument in different ways: for some, it is an intellectual exercise; for others, it is of existential import. Indeed, the latter could even experience psychological harm when they engage in an argument that does not fully recognize their identity and oppression. As such, philosophers experience differential burdens and risks, despite the fact that a philosophical exchange of reason is supposed to be impartial. Using Tuvel’s essay as her case study, Kapusta argues that insofar as trans* philosophers are especially invested in argumentational exchanges that concern their identity, they shoulder a disproportionate burden (both cognitively and emotionally) when they engage in such exchanges. For example, according to Kapusta, there is an implicit misgendering in

Tuvel’s argument; specifically, Kapusta contends that Tuvel’s argument inferentially excludes trans women who do not pass as cisgender women, thereby reiterating the transexclusionary micro-aggression found in mainstream literature on philosophy of gender. “Non-passing” trans woman philosophers who engage in Tuvel’s argument are then burdened with the additional responsibility of having to show that they, too, are women, while also suffering the psychological harm of having their identity denied.

For Kapusta, this argumentational injustice presents a double bind. On the one hand, philosophers from socially marginalized groups offer an indispensable voice in arguments that concern their identity and oppression: not only do they have vested, existential interests in such debates, they are also more likely to diagnose fallacies and problematic assumptions hidden within these arguments. On the other hand, engaging these arguments can be taxing for philosophers from socially marginalized groups: the disproportionate burden and exposure to potential harm could further alienate those whose voices are sorely needed in these debates. To adequately address this double bind, Kapusta calls for a “major ‘overhaul’ of the professional culture of philosophy.” Yet, given the difficulty of such a monumental task, Kapusta ends her paper by acknowledging the urgency for socially marginalized philosophers to engage in debates that are disproportionately burdensome and risky, “even if full enjoyment of the enticing goods on offer is denied to [them].”

Kapusta’s essay invites us to consider important questions regarding our responsibilities as philosophers. *How* can we argue responsibly? *What* can we responsibly argue about? And perhaps more controversially, *who* is responsible for engaging an argument? Implicit in this call is the recognition that *contexts* matter. The specific ways we have been trained to argue, as well as the standard we use to evaluate an argument, are both products of our professional culture. As such, to address the injustice instantiated by certain argumentational practices, we must address the professional culture from which such practices emerged.

The issue of responsible argumentation and the urgent need to interrogate our discipline take center stage in Namrata Mitra's "Disciplinary Matters in the *Hypatia* Controversy." In her essay, Mitra articulates the importance of contextualization when theorizing social and political issues. Like Kapusta, Mitra also critiques a method of doing philosophy that has long been the standard: specifically, she argues that the method of abstraction favoured by traditional philosophy often produces illusions of objectivity and universality. Mitra contends that the problem is not just that we do "bad philosophy" when we presume our particular history, context, and identity to be universal; beyond this, such a presumption has been complicit in colonialism and other forms of oppression. Drawing from both feminist and postcolonial literature, Mitra demonstrates how the exclusion of social-historical context, the omission of marginal voices, and the proclivity to stay in the comfort zone of abstraction, have long infected the discipline of philosophy.

By drawing attention to the long history of decontextualization in philosophy, Mitra offers a helpful way for us to understand and analyze the *Hypatia* controversy. One of the main charges against Tuvel's article is that it did not sufficiently attend to the "lived experience" or existing literatures of those whose lives her article discusses. Her article has been criticized for being too abstract, relying primarily on a conceptual analogy between gender identification and racial identification. While Mitra agrees with this critique, she questions why Tuvel's article was singled out for retraction, as if the lack of contextualization in her article was an aberration in professional philosophy. Mitra suggests that, ironically, by singling out Tuvel's article, her detractors (or at least some of the 800-plus signatories of the Open Letter) seem to have committed the very sin of which they believe Tuvel's article is guilty. That is, her detractors have also failed to contextualize Tuvel's essay within the broader history and culture of philosophy. They, too, have abstracted Tuvel's article from the tradition of philosophy, where the lack of attention to social-historical contexts is the norm rather than the exception.

Indeed, once we go beyond the confines of academic philosophy and contextualize Tuvel's article within the broader social-political history in America, we can begin a conversation on methodology in a more profitable way. As mentioned above, one common charge against Tuvel's article is the argument's reliance on identity analogies. Critics of Tuvel have argued that gender-identification and racial-identification are not in fact analogous. Therefore, justifications for transgender identification do not translate into justifications for transracial identification. Using the works of Serena Mayeri and Janet Halley, Mitra examines the efficacy and perils of various forms of identity analogies in American civil rights advocacy. From the analogy between the right to religious practice and queer acceptance, to the analogy between sexual orientation-based discrimination and racial discrimination, the use of identity analogies is commonplace in the American legal and political landscape. While Mitra does not explicitly analyze the analogy between gender identification and racial identification, she shows us that there is a wealth of literature on identity analogies from which we could draw. According to Mitra, rather than retracting Tuvel's article, a more productive way to engage with Tuvel's argument is to situate it within existing debates on identity analogies.

The issue of identity analogies becomes prominent in the third essay of this collection. In "Allegories of Gender: Transgender Autology versus Transracialism," Aniruddha Dutta offers a diagnosis of the discomfort that many feel toward the transgender-transrace analogy. Dutta frames the issue in the following question: why are we more inclined to accept self-determination with gender identification than with racial identification? That is, why does gender allow for subjective identification but not race? Tracing an ongoing effort to decouple subjective identity from social position in critical and activist discourses, Dutta offers a compelling account of the ways gender has been "individualized, interiorized, and dissociated from biological and social determinism." Following Foucault, Dutta highlights the confessional nature of gender identification: like sexuality, gender as a core personal identity becomes a *truth* that one must confess. And insofar as

our gender confessions correspond to, and avow, an interiorized selfhood, they are immune to sociobiological determinations. The individual is the ultimate arbiter of their gender reality.

Significantly, racial identification does not permit the kind of self-determination that we see in gender identification. Rather, race is linked to ancestry, primarily consanguineal ancestry. As such, racial identity is something that one inherits socially or biologically, rather than a matter of self-determination. However, the contention that racial identification is a matter of consanguineal ancestry presumes a hierarchy of kinship whereby blood relations are privileged over the non-genetic, “chosen” ones. To articulate the divergent ways we construct gender and racial identifications, Dutta employs Elizabeth Povinelli’s distinction between “autology” and “genealogy.” Whereas autology permits an individual to justify their gender identity by appealing to the supposed authenticity of the inner self, genealogy delimits racial identity with a “deterministic conflation of sociobiological ancestry, subjective racial identity, and racial (dis)privilege.” For Dutta, the anxiety surrounding transracialism can be understood as an effort to maintain the boundaries that separate autology and genealogy. The rigid separation can, as Dutta argues, become an “oppressive generalization” with which gender identity is inevitably tied to “confessional technologies of power,” while racial identity is predestined by sociobiological inheritance. However, Dutta neither advocates for granting autology to *all* identity claims, nor do they deny the political relevance of autology discourse. Rather, Dutta’s analysis helps us to begin understanding why many are troubled by the transgender-transrace analogy. But more importantly perhaps, it is a reminder that gender identification has not always been autological. Indeed, the widespread acceptance of gender *self*-identification is the fruit of those who have worked hard to dissociate gender identity from biological materiality. Acknowledging the historical contingency of gender self-identification can perhaps remind us that the way we determine racial identity *also* has its own history and evolution.

The Benefits and Burdens of Engaging in Argumentation: Trans*feminist Reflections on Tuvel's "In Defense of Transracialism"

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Abstract: After considering some ways of assessing argumentation, I present an ethical assessment of Tuvel's argument in her article "In Defense of Transracialism." My claim is that some transgender women engaging with Tuvel are exposed to certain kinds of injustice associated with argumentational work, namely, disproportionate burdens and risk of psychological harm.

Keywords: argumentation; argumentational injustice; transgender; Rebecca Tuvel; misgendering

The *Hypatia* controversy surrounding Rebecca Tuvel's article "In Defence of Transracialism" elicited a flurry of responses on social media and in the press (Bettcher 2017a; Dutta 2017; Oliver 2017; Schuessler 2017; Singal 2017; Winnubst 2017). In her article, Tuvel defended a rather strict analogy between gender transition and "transition to another race" (Tuvel 2017a, 272). Many scholars have denied the validity of that analogy, either on philosophical grounds or sociological ones (for example see Borck 2017; Sealey 2018). Despite the fact that a whole philosophy journal issue has been dedicated to the controversy (*Philosophy Today* 2018, 62.1), both in journal articles and on social media there has been relatively little philosophical assessment of the trans-exclusionary implications of the content and method of Tuvel's argumentation, particularly for transgender women.¹ This may not be surprising, for two reasons. First, Tuvel's claims concerning race and racial "transitions" are the focus and most prominent (as well as controversial) aspects of the article. Second, Tuvel adopts an explicitly trans-positive approach, especially in her express commitment to respect transgender identifications, and to regard them as legitimate (Tuvel 2017a). It might then appear that the article is unequivocally trans(gender)-inclusive.

My goal in this contribution is to engage with Tuvel's article on the question of the trans-exclusionary and marginalizing implications of some of her assumptions. Much of that trans-exclusionary thrust emerges from Tuvel's use of Haslanger's definition of woman (Haslanger 2012). After the controversy her article generated, Tuvel admitted that she "could have spent more time grappling with the criticisms of Haslanger's view" (Tuvel 2017b), so the present article might appear as nitpicking, an attempt to dwell on a matter that has already been addressed. However, an essential

and original part of my project is to locate Tuvel's paper within a broader context of much traditional philosophical practice that creates conditions of injustice for professional philosophers who belong to marginalized groups. I can second—and wish to expand upon—Talia Bettcher's (2017a) sentiment that the controversy is not just about Tuvel's article, but presents a broader issue for philosophy, particularly a certain traditional way of doing philosophy which focusses on the logical-epistemic goals of argumentation, and on the subsequent assessment of argumentation in light of these goals. In contrast, an ethical assessment of argumentation reveals that at least some practices of professional philosophy expose members of marginalized groups to injustices. More specifically, I illustrate how Tuvel's article instantiates this type of injustice with respect to at least some transgender women who engage professionally with her argument. I do not contend that this is because of Tuvel's analytic approach in her article, nor that analytic argumentation generally leads to injustices within argumentational exchanges (Botts 2018; cf. Tuvel 2018). In fact, I employ analytic methods myself in this article. The problems lie elsewhere, as I hope will become clear.²

In the next section, I briefly discuss two main ways in which we can assess philosophical argumentation: logical-epistemic assessment, and ethical assessment. I then set up a framework in which to understand professional argumentation as work with associated goods and burdens. Just as in any work, there are "bads" to be avoided in the content and in the way the work is structured, and goods that are legitimately expected by those who undertake the work. I then argue that the burdens of argumentation considered as work may be relatively greater in some cases for professional arguers with particular identities or who are members of particular marginalized groups. Tuvel's article then serves as an example of how this additional burdening can happen. After anticipating some objections to my view, I end with some general remarks regarding the eradication of injustices within professional argumentation.

The Logical-epistemic Perspective and the Ethical Perspective on Argumentation

At some risk of over-simplification, I think one can locate several broad responses to Tuvel's article according to whether a more "logical-epistemic" or a more "ethical" assessment of her argumentation is adopted. The former type of assessment has been the more traditional approach within Anglo-American analytic philosophy. It considers arguments from the perspective of such measures as justification, rationality, and convergence upon truth. In his *New York Magazine* article, for example, Jesse Singal writes:

Anyone who has read an academic philosophy paper will be familiar with this sort of argument. The goal, often, is to provoke a little—to probe what we think and why we think it, and to highlight logical inconsistencies that might help us better understand our values and thought processes. This sort of article is abstract and laden with hypotheticals—the idea is to pull up one level from the real world and force people to grapple with principles and claims on their own merits, rather than—in the case of Dolezal—baser instincts like disgust and outrage. This is what many philosophers do. (Singal 2017)

In a similar vein, Justin Weinberg, editor of the philosophy blog *Daily Nous*, says of Tuvel's article, "in terms of quality, it's a very normal paper" (quoted in Schuessler 2017).

In contrast, in a *Chronicle of Higher Education* piece, Shannon Winnubst adopts an "ethical" assessment. She focusses far more on the social position of the potential addressees of Tuvel's reflections. She states:

After all, the methodological insularity evidenced in Tuvel's article and its publication effectively render ignored and disrespected black, trans, and other minority scholars who work in these fields doubly marginalized. The inequalities perpetuated are both conceptual and practical. (Winnubst 2017)

I will consider these two ways of normatively assess-

ing argumentation more closely. They are not mutually exclusive, and the way I describe them should be regarded as “bare bones” accounts of each.

Roughly speaking, an argument is usually taken to be a set of propositions. One or more of these propositions provides rational support for a particular proposition of the set, the conclusion. Argumentation is the dialectical exchange of reasons for or against a proposition (thesis). The exchange can take written or oral form. The logical-epistemic perspective considers argumentation *in itself*, looking at the inherent goals and standards of arguing, assuming that arguers are generalized rational arguers, considered in the abstract. Whatever else those arguers may be is irrelevant to the assessment of argumentation (Bondy 2010).

Logical-epistemic assessment of argumentation considers the various “intrinsic” goals that argumentation serves and assesses a given argument or arguments in light of such goals understood as standards or criteria for “good” argumentation. For example, it is generally accepted that converging on truth (however conceived), or justifying and rationally persuading, are among such intrinsic goals (Bermejo-Luque 2011; Johnson 2000; Micheli 2012;). These goals of argumentation can be used to evaluate arguments and arguers in a functionally normative way; one asks whether—and how well—the arguments presented have fulfilled one or more of these intrinsic goals.

Another possible type of assessment of argumentation focusses more on “extrinsic” factors. Of course, what is and is not “extrinsic” in the case of argumentation depends on the goal of the exchange of reasons, the degree of theoretical abstraction that one is willing to perform, and on what one regards as appropriate to abstract away from. Generally, the goals of argumentation in extrinsic assessment are considered as far more dependent on the context of argumentation, including the more particular interests of the arguers. Within negotiation, for example, the goal may be to reach a deal between parties with conflicting interests; within deliberation, the extrinsic goal of argumentation

is to choose and execute a particular course of action (Paglieri and Castelfranchi 2010; Walton and Krabbe 1995; cf. Mohammed 2016). Other goals are of a political or ethical nature. Such goals will be my main focus in what follows.

Within philosophy in particular, argumentation has been critiqued from an ethical point of view as regards both method and style. There has been criticism of Anglo-American philosophy’s practices of idealization, to the exclusion of actual social hierarchies and oppressions (Berenstain 2018; Mills 2005; various contributions in Tessman 2009). This kind of critique can be viewed as “extrinsic” in that it focusses on the way western philosophical argumentation has developed under the influence of particular historical schemas or narratives (Peña-Guzmán & Spera 2017), such as the recurring “argumentation-as-war” metaphor (Rooney 2010). This is a sociohistorical critique. However, the implication of such critique is usually that philosophy as currently practiced is *morally* or *politically* questionable since its historical self-conception—as mirrored in its practices and institutions—is exclusionary of certain types of people, such as women. Although I do not take up sociohistorical approaches here, I will also point to exclusionary tendencies in Tuvel’s argumentation.

More directly relevant to my limited project in this article is the moral status of participants as rational arguers, or—if argumentation is viewed as a process for establishing true beliefs—as contributors to knowledge. There has been much recent interest within philosophy in *epistemic injustice*. This type of injustice occurs when members of marginalized groups suffer prejudiced credibility deficits (*testimonial injustice*) or prejudiced intelligibility deficits (*hermeneutical injustice*) in their status as contributors to knowledge (Fricker 2013; McKinnon 2016). The former are injustices that occur when someone’s testimony is not granted the due credibility it deserves, simply on the basis of the person’s social position. The latter is a result of the fact that oppressed members of society have very little influence on the concepts, theories, and terminology used to describe experiences that are partic-

ularly in their interests to express. They are marginalized within the process of discursive resource production (hermeneutical marginalization) which then has the effect that when they do actually attempt to express their experience of oppression, they are unintelligible to the dominant group. This intelligibility deficit is hermeneutical injustice. Testimonial and hermeneutical injustices are closely linked to *testimonial quieting* (Dotson 2011) in which members of oppressed groups are silenced through dismissal of their testimonies or else are constrained to adopt discourses that do not fully reflect their experience. This adoption occurs in the face of harmful ignorance, prejudice, or bias that shape the receptive competence of their audiences.

Bondy (2010) has applied the notions of testimonial injustice to argumentation, in what he calls “argumentative injustice.” Bondy argues that in argumentation both credibility deficit *and* excess endanger one of the goals of argumentation, namely, the justificatory “force of reason” alone. There are three ways in which this goal is frustrated. First, due to prejudicial imbalances in credibility (and authority) among the parties in a debate, the arguments that the respective parties proffer are not considered as they should be by the lights of logical-epistemic normativity. Second, the status as arguer within the community of arguers is diminished through credibility deficit or enhanced through credibility excess. In either case, members of the community cease to engage with proffered reasons in the way they should: they will either tend to “not bother” with the arguments of those perceived to have poor arguer status or accord too much authority to those who have enhanced status, simply assuming that they are correct. Third, those who suffer credibility deficits will lose confidence and self-esteem as arguers and tend to withdraw from argumentation. Those who enjoy credibility excess will become over-confident and not engage with others at all, or not as seriously as they should (Bondy 2010). So, arguments, the external perception of arguers, and their self-perception are all affected by prejudicial credibility defects and excess. The rationality of their exchange is defective as a result.

Bondy considers how an “intrinsic” good of argumentation, the force of rational justification, fails to be realized because of epistemic injustice. He focusses, namely, on the detriment caused to the normative, rational nature of argumentation: unjustly accorded credibility deficits and excesses cause reasons to lose the force that they *should* have. At first sight, it seems that Bondy’s assessment is purely logical-epistemic. Yet this impression arises only because he considers the further logical-epistemic consequences of what are—in the first instance—harms that possess a distinctly moral nature. For undeserved, prejudiced diminishment of arguer status within a community of arguers is a moral harm, a type of disrespect. Moreover, if we accept that attributed credibility excess to members of dominant groups is “contrastive” (Medina 2011) then credibility excess accorded to some will likely cause credibility deficits suffered by others, by members of subordinate groups, leading to similar moral harms. It is this relative diminishing and enhancement of status between marginalized and socially dominant or privileged arguers that is, to my mind, the primary moral harm. The primary harm then leads to logical-epistemic harms (failure of rationality) as well as to other moral harms (lack of self-esteem, exclusion). One might note, by way of addition, that further moral harms for the marginalized arguers also include the limitation of “epistemic agency, one’s ability to pursue epistemic projects, and epistemic autonomy, one’s ability to pursue epistemic projects that stem specifically from one’s distinct lived experience” (Pohlhaus 2014, 110).

My own approach to the assessment of argumentation engagement with Tuvel (2017a) is related to the secondary moral harms that authors such as Fricker, Dotson, Medina, Pohlhaus and Bondy discuss—loss of self-respect, loss of epistemic confidence or excessive epistemic confidence, various forms of silencing—but the primary injustice is different. The primary injustice consists in the following: *the content or structure of the argumentational exchange itself places disproportionate burdens on socially marginalized arguers or exposes them to the risk of psychological harms.* There need be no denial of credibility, yet the second-

ary effects can be similar; cognitively burdened arguers will find their self-esteem can be affected, and they may exclude themselves from debates that are of vital interest to them. To distinguish this notion of injustice from Bondy's I will use the generic term "argumentational injustice," of which "argumentative injustice" (involving prejudicial credibility deficits and excess of which Bondy speaks) is just one type. The two types of injustice I analyse in what follows are also types of argumentational justice, but distinct from Bondy's. One involves disproportionate cognitive burdens that arise due to social position. The other involves risk of psychological harm. Both arise from engaging with arguments within an exchange of reasons (that is why they are "argumentational" injustices). In the next section, I give a brief account of these injustices.

The Burdens of Argumentational Work and Associated Injustices

Nora Berenstain considers a type of labor that I believe argumentation, as I conceive it, may involve. Particularly when challenged to explain the nature of their own oppression, members of oppressed groups perform a kind of discursive labor that can be exploitative, in that it is largely "unrecognized, uncompensated, emotionally taxing" (Berenstain 2016, 569). Inasmuch as explanations or testimonies of this sort can be elements of proffering reasons within an argumentational exchange, Berenstain's notion of exploitative labor can also apply to argumentation. However, in contrast to Berenstain, I assume that participants in argumentational exchange do not engage in argumentation in bad faith, are genuinely willing to listen and to learn, and do not seek to take credit for arguments that are not their own. That said, I point out that there may still be additional, uncompensated burdens for some transgender women as they engage with Tuvel's argument.

In this kind of context, argumentational practice is *work*, work that encompasses the activities of study, the coherent and precise formulation of propositions (such as theses and definitions), the invention of ar-

guments and counter-arguments, the posing of incisive questions and challenges to theses and arguments, and so forth. This work will also devote itself to verbal expression, such as trying to find the precise and clear formulations for thoughts and arguments. As from work in general, one is entitled to expect certain non-monetary "goods" of work, such as excellence in performing relevant tasks, social status, community and collaboration, and a sense of self-respect (Gheaus and Herzog 2016). However, argumentational work—like any work—also comes with burdens.

Some philosophical arguments are more difficult and more complex than others. If those who consider and try to understand those arguments and those who develop them are equally intelligent and possess the same argumentative acumen (an assumption I will make), we can say that some arguments require more cognitive effort than others. We are talking about what one might call the cognitive burdens of argumentational work.

Yet, these are not the only burdens that come with engaging in philosophical argumentation. Consider, for example, ethics or political philosophy, or the philosophy of gender and race, the disciplinary focus of Tuvel's article. In these fields, one is more likely to discuss questions concerning identity, oppression, injustice, and marginalized groups. This, in turn, will mean that some philosophers have an acute interest in presenting or disputing arguments that treat *their own* identity, oppression, or marginalization. That interest arises because these philosophers are existentially invested in presenting and correctly analyzing the injustices to which they themselves, as members of marginalized communities, are exposed. It is thus an over-simplification to consider merely the cognitive costs of engaging in certain arguments. There may also be significant emotional costs of some form. I will not attempt to neatly distinguish the "purely" cognitive realm from the emotional realm in relation to argumentative burdens, and simply call all these burdens "the burdens of argumentational engagement" (BAE). The burdens involved are relative to a particular person in the ways indicated above and are

also relative to the subject matter and goals of an argument. What one wishes to argue for (or against), the number of argumentative steps one needs to get there, as well as the emotional burden one bears in doing so, will influence the BAE.

Exposing someone to harm within an argumentational exchange is the second type of injustice I wish to consider. In any collaborative venture undertaken to secure important, common goods or benefits—and I take argumentation to be such—increased exposure of one party to harm on the basis of their identity or social position is an injustice. Below, I focus on the risk of the psychological harm of misgendering which, considered as a microaggression, has been shown to cause harmful psychological effects (Sue 2010; Nordmarken 2014; Kapusta 2016; Pulice-Farrow, Clements & Galupo 2017). My claim is not that such harms necessarily occur within argumentational work but that there is an unwarranted selective exposure of some of the arguers to the risk of these harms, and this exposure occurs due to the fact that they are members of a marginalized group, that is, socially situated within systems of subordination.

In summary, here are two types of injustice that can occur within argumentational work:

(i) Those who, due to morally irrelevant factors, in particular their social position, have to bear a relatively higher burden of argumentational engagement (BAE) in securing the goods of argumentational work, suffer an injustice. For example, one's gender identity or membership in a marginalized group is a morally irrelevant factor. If BAE is relatively higher due to such factors, an injustice occurs. This is a version of a "benefits and burdens principle": all other things being equal, those who collaborate towards similar goods (benefits) of work should be equally burdened. I will call this injustice "disproportionate BAE."

(ii) Like any work, argumentational work is unjust if it exposes arguers to the risk of psychological harm, on the basis of their social position. I will call this "harm injustice."³

Let us now turn to a more detailed analysis of Tuvel's argument to see how her article risks inflicting the above injustices on trans women as they engage with it.

The Transgender Burdens in Rebecca Tuvel's "In Defense of Transracialism"

I will point out the implicit misgendering in Tuvel's article, the manner Tuvel deals with it, and consider its microaggressive character. Misgendering occurs, I claim, because some trans women who engage with Tuvel's argument are denied membership of the class woman or, from the point of view of offering reasons within an argumentational exchange, it is at least left undecided or indeterminate whether they are women or not. It is worth noting that the misgendering is *inferential*, that is, the transgender woman must engage with Tuvel's argument argumentationally to realize that she is being misgendered. This is an important aspect of this type of argumentational injustice. It is not the case that excesses of deficits of credibility diminish rational engagement with arguments, thus resulting in rationality deficits. Quite the opposite: it is *through engagement with reasons*, that is, through the drawing of inferences from the claims and arguments put forward that the misgendering occurs.⁴

As regards the injustices involved in such a situation, one can say that since misgendering imposes emotional burdens on the transgender woman that cisgender arguers do not bear, disproportionate BAE occurs. Further, inasmuch as insistent misgendering is a microaggression or micro-invalidation (Sue 2010), there is also a risk of harm injustice.

At the beginning of her discussion of the moral acceptability of racial self-identifications, Tuvel states the general principle that "we treat people wrongly when we block them from assuming the personal identity they wish to assume" (Tuvel 2017a, 264). In the final section of her article, and in the accepted style of philosophical argumentation in the analytic tradition, Tuvel then anticipates an objection to her general argument. The objection is that Tuvel's ac-

count of race and gender based on self-identification seems far too permissive. What, after all, is to stop someone self-identifying as a wolf, for example, or some completely other being? Are we to respect such a self-identification? No, says Tuvel, and she suggests the following moral constraint on the recognition of self-identities:

It is reasonable for a society to accept someone's decision to enter another identity category only if it is possible for that person to know what it's like to exist and be treated as a member of category X. Absent the possibility for access to what it's like to exist and be treated in society as a black person or as a man (or as an animal), there will be too little commonality to make the group designation meaningful. For example, if a cisgender white man fights for his rights not to be subject to anti-black police violence or to misogyny, yet never faces the possibility of having his rights so violated, we can reasonably expect allyship, not identification, from him. (272)

Tuvel thus espouses the following constraining principle on the recognition of people's self-identification that I define as *PossibleKnowledge*:

PossibleKnowledge: For x's self-identification with a gender category g or with a race category r to be ethically acceptable, it must be possible for x to know what it is like to exist and be treated as a member of g, respectively of r.

Tuvel is expressing a condition for the reasonableness or ethical acceptability of a gender or racial self-identification. But it is important to realize how this condition combines argumentatively with Tuvel's endorsement of Sally Haslanger's definitions of gender and race (Tuvel 2017a, 273-4). Let us focus on the perspective of trans women. Haslanger defines a woman as follows:

S is a woman if S is systematically subordinated along some dimension (economic, political, legal, social, etc.), and S is "marked" as a target for this treatment by observed or imagined

bodily features presumed to be evidence of a female's biological role in reproduction. (Haslanger 2012, 230; 250)

Tuvel sees in this definition the potential for including trans women in the definition of *woman*. The reason for this is that the bodily features Haslanger mentions in her definition need only be imagined. To be a woman, a transgender woman does not actually have to possess vagina, ovaries, or a uterus, for example. In Tuvel's argument, *PossibleKnowledge*—combined with Haslanger's definition (let us call the combination *PossibleKnowledgeFromSocialPerception*)—requires only that it be possible that the transgender woman be socially perceived as possessing female sexual characteristics, thus be classified as a woman, and so know what it is like to be so classified. If this chain of events ensues, her self-identification is reasonable or ethically acceptable.

However, Haslanger's definition of woman has been critiqued for its trans-exclusionary character (Jenkins 2016). [5] That critique points out that Haslanger excludes from the category woman those transgender women who are not perceived as being in possession of female reproductive organs. In an endnote—and almost as an afterthought—Tuvel acknowledges this critique and simply states that she is open "to the possibility that there might be ways to know what it's like to exist and be treated as a woman without being so classed by others" (Tuvel 2017a, 276-77). She does so, presumably, to avoid the conclusion that the gender self-identifications of trans women who do not "look" female or are not generally considered within society to be capable of female role in reproduction, are not morally acceptable. For without this caveat, this is what *PossibleKnowledgeFromSocialPerception* would imply.

Tuvel thus seeks to avoid misgendering these trans women. Yet, there is scope for injustice in any argumentational engagement by trans women with Tuvel's article:

(i) *Disproportionate BAE*. "Filling in the argument"—that is, showing how it is possible to

know what it is like to exist and be treated as a woman without being so classified, without “passing” as a cisgender woman—is postponed to a later date, and left simply as a claim assumed to be rationally arguable. From the point of view of reasons proffered, it is left undecided, indeterminate. Yet, it is particularly in the interest of the transgender women whose self-identifications are deemed morally questionable due to *Possible Knowledge From Social Perception* that this additional argumentative step be made. Of course, trans women who are located at intersectionally precarious social positions are particularly affected. These include trans women of colour who cannot present the hyper-sexualized object of the racist gaze and so cannot count as women in a racist culture, or disabled trans women arguers, for whom it is more difficult to perform the gender codes of society, and thus to be treated as a member of the category of women (cf. Clare 2009). Or it may be the transgender woman who cannot be viewed socially as a woman due to socio-economic class, especially if hormonal and surgical interventions are expensive or access to them is restricted. Older trans women who transition in later life, when hormones do not have the same “feminizing” effects, are also particularly vulnerable to this inferential misgendering as they engage with the article: These women are at worst inferentially labelled as not women; at best their being women is left undecided. In either case, there will be a sense of alienation and sense of lack of respect for their personal struggles. An emotional burden is born that cisgender persons will not experience when engaging with the same argument.

(ii) *Harm Injustice*. The transgender woman philosopher who is not viewed (classified) as a woman within her social environment realizes that she is implicitly misgendered as she engages with Tuvel’s argument. This may not, in itself, cause significant psychological harm. But allied to the probable misgendering of these

people in their own society, as well as a certain “tradition” in the philosophy of gender that is known to have been trans-exclusionary (Kapusta 2016; Jenkins 2016; Bettcher 2017b), there is a danger of cumulative microaggressions (Sue 2010; Nordmarken 2014; Pulice-Farrow, Clements & Galupo 2017). These can cause actual psychological harms within the professional community for trans women who engage with this material. (I leave it as an exercise for the reader to analyse how harm injustice or disproportionate BAE might arise from engaging with passages from Bach (2012, 269); with Mikkola’s “equivocal cases” of woman (2009, 578 ff.); with Witt’s vacillations regarding “third gender” conceptions of trans people—including, presumably, trans women (2011, 41); with Zack’s disjunctive definition of woman (2005); and with Alcoff’s woman-defining “relationship of possibility to biological reproduction” (2006, 172)). The continued misgendering of “non-passing” transgender women can amount to repeated microaggression. Moreover, in more extreme cases, some transgender women’s self-respect may be undermined.

Some Objections and More Points to Ponder

Let me anticipate some objections to my analysis. First, one objection might consist in claiming that the transgender population I have been considering is very small. Perhaps there are—in point of fact—no transgender women arguers who are affected by injustices in the way I have described. First, there may in fact be no argumentational engagements by transgender women inferentially misgendered by arguments of the type I have described. Second, philosophers or professional arguers may be more psychologically robust than most, so that the misgendering does not impose the burdens I have spoken of. However, even if there were, in fact, no such engagements by transgender women with arguments like Tuvel’s or relevantly similar to Tuvel’s, the risk of in-

justice or the potential threat of injustice is, itself, a moral wrong. In response to the second point, the anticipated objection portrays the philosopher as an idealized rational agent, unperturbed by her social position or marginalization. If really proffered as an objection to my argument, it would reflect the image of a disembodied, unemotional, unfeeling ideal of the philosopher, a completely unrealistic portrayal, but also one with sexist and misogynistic undertones (Peña-Guzmán and Spera 2017; Berenstain 2018).

It might be claimed that even if the transgender women I speak of suffer injustices in the ways I have indicated, they nevertheless always retain the option of simply not engaging with Tuvel's article. However, simply foregoing argumentational engagement with Tuvel and other authors is a kind of "argumentational smothering" akin to testimonial smothering (cf. Dotson 2011; 2014, 127). Such a solution also causes harms. First, there is the political harm of exclusion: professional arguers who are transgender would tend to exclude themselves from a discussion or even a given sub-discipline, and the latter would then fail to be or become trans-inclusive. Second, this solution arguably brings a logical-epistemic harm given that increased diversity of arguers opens professional argumentation up to the insights of marginalized persons and provides a corrective for misconceptions.

Relatedly, one could suggest that the injustices are certainly possible but easily mitigated or eliminated through the organization of academic argument. For example, there might be some unwritten convention that only marginalized persons should take part in debates that directly touch upon their identities or situation. This solution would—so the thought goes—help to avoid the misgendering or other exclusionary practices that relatively privileged professional arguers have been known to engage in. However, such a practice is also morally problematic. First, members of the profession would be implicitly constrained to "out" themselves. Moreover, it would lead to a kind of "sorting" of people within the academic profession according to their identities or social status. Even if such policy were implementable, it

could lead to morally, politically—and perhaps epistemically—undesirable effects of another kind. Philosophers from minority or marginalized groups might feel burdened to undertake work in these areas rather than, for example, in the philosophy of physics or some other area where their creativity and argumentational acumen is better served, and more fruitful to the community. Their professional autonomy and academic freedom would, thereby, be impaired, and their work, perhaps, less productive.

A further objection might concern the perspective I have taken of the risk of exposure to injustices for *individual* professional arguers who belong to marginalized groups. Perhaps one should—so the objection goes—look at longer-term consequences of such debates. It may turn out, for example, that the philosophical profession *as a whole and in the longer term* benefits from these argumentational exchanges, even if marginalized individuals who contribute to them are subject to emotional harms or disproportionate BAE. For example, the professional practitioners of philosophy may become more aware and better informed about their colleagues from marginalized groups and alter their practices accordingly. With time, philosophy will become more diverse, both with regard to its professional membership, as well as with regard to its methods and practices.

Responses to this objection will vary depending on fundamental convictions regarding normative ethics. A utilitarian approach might lead one to the conclusion that a greater aggregate and long-term benefit is furthered by the engagement of marginalized individuals in professional argumentation, and therefore ethically justified, even if some marginalized individuals suffer by being disproportionately burdened, psychologically harmed, or "sacrificed" in some other way. Let me simply note that I place the emphasis on individual dignity and equality. In line with this idea, a harm experienced by an individual is not usually justified by invoking an aggregate or general, long-term benefit. Even if social progress often occurs in this mode of individual sacrifice, that does not mean that the wrongs that occur on the way are morally

justified. This relates to what I believe to be a certain moral dilemma facing marginalized philosophers and which I will now briefly discuss.

Concluding Remarks: Marginalized Philosophers Embracing a Dilemma?

Using a particular example, I have illustrated how harm injustice and disproportionate BAE can arise within the philosophical exchange of reasons.

The most reasonable way to mitigate the injustices I have discussed is to not proffer arguments that impose harm injustice or disproportionate BAE. We are all charged with this task. Being widely read in critical race theory, disability studies, queer theory, trans* theory, and so on, as well as becoming actively involved with, and attentively listening to, people who are oppressed within society surely helps, for it cultivates awareness of the ways that our theories and arguments can burden others.

There is a lingering doubt in my mind, however, concerning the complete eradication of the injustices I have discussed without a more major “overhaul” of the professional culture of philosophy, and so I will end on a somewhat pessimistic note. Tacit encouragement to put forward clever and “provocative” claims that are more likely to be published, and an excessive focus on logical-epistemic assessment of argumentation all contribute, I think, to a tendency to be somewhat careless with regards to the moral impacts of one’s own argumentation. There are also blind spots in philosophers’ awareness of intersectional axes of oppression and how ideas can impact these, fostered by a lack of willingness (and time) to go beyond strictly philosophical literature in one’s own field. To my mind, this all points to a need for a more general—and perhaps quite radical—reform of professional institutions, culture, and practices. Yet, as Kristie Dotson points out, such changes to socially and historically entrenched practices and epistemological systems can be very difficult (2014).

Since change is likely very slow and incremental,

what are members of marginalized groups who are philosophers to do in the meantime, when those who are not marginalized along similar axes produce burdening arguments? On the one hand, certain strategies of argumentation produce disproportionate BAE, and may also be harmful or potentially harmful. On the other, some of those arguers directly exposed to the burdens and injustices by these problematic strategies are also those most likely to detect and expose them. This creates a dilemma. There is an urgent need to argue in these cases. But the argumentational engagement this involves will likely be disproportionately costly, and risky. Perhaps the willingness and competence to engage nevertheless, are signs of a valuable asset in the struggle against injustice and signal a kind of argumentational “burdened virtue” (Tessman 2005), the virtue of a person undertaking engagement, even as full enjoyment of the enticing goods on offer is denied to her.

Endnotes

1. I do not provide a full, detailed intersectional analysis of race and gender in this article, partly due to constraints of length, and partly because my reflections are based on the experiences that come from my subject position, namely, that of a white, trans woman (who belongs to the academic precariat). A full treatment of Tuvel’s article would certainly require a more thoroughly intersectional lens that considers race, especially given how Tuvel closely intertwines issues of race and gender identity. I will, however, discuss some intersections with being trans, such as race, class, age, and disability, later in the article. For the purpose of this article, I understand transgender women or trans women as persons who were assigned as male at birth, but who identify as women.
2. For a useful sketch of analytic feminism and its uses, see Garavaso (2018) and Garry (2018).
3. It is clear that a general point could be made about how arguments concerning marginalized groups may disproportionately burden or harm members of those

groups (people of colour, women, LGBT people, or those intersectionally positioned in any of these). I do not have the space to provide examples. The question of why such instances warrant the term “injustice” would need more development. Let me simply note two points on this subject. First, the argumentational injustices discussed here are objectionable harms or unfairness, or constitute the threat of objectionable harms or unfairness. Second, those affected are members of social groups, not simply individuals who happen to have certain sensibilities (such as in the case of an arguer who fears spiders considering an argument about spiders). The emotional burdens *are linked in some causal way to social position*. I would like to thank an anonymous reviewer for urging me to make this point clearer.

4. I would like to thank an anonymous reviewer for challenging me to better explain the “argumentational” character of this injustice.

5. One should note that Jenkins’ own proposed corrective to Haslanger’s account, involving the notion of “having a female gender identity,” has itself been critiqued for being trans-exclusionary. See Andler (2017). The details of this further debate are not directly relevant to the present article.

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Disciplinary Matters in the *Hypatia* Controversy

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Abstract: The problem that was thrown up during the *Hypatia* controversy is a systemic one. I argue that objections to Tuvel's essay regarding its exclusion of perspectives from marginalized points of view should be re-framed as a disciplinary wide issue. I show some ways in which the universal applicability and vantage point often assumed in canonical writings in philosophy, specifically on history and personal identity, emerge from specific contexts and points of view. I demonstrate what is at stake in recognizing the particularity of these contexts. I find that the false dichotomy between seemingly interested "social justice" scholarship and disinterested inquiries into truth, which I hold perpetuates the disciplinary conditions that produced the *Hypatia* controversy.

Keywords: *Hypatia* controversy; Rebecca Tuvel; social justice

The controversy following the publication of Rebecca Tuvel's essay titled "In Defense of Transgenderism," published in *Hypatia* (March 2017), revealed longstanding schisms in the discipline of philosophy. In her essay, Tuvel identifies an inconsistency between the social acceptance of "transgenderism" and "transracialism" by citing the examples of Caitlyn Jenner and Rachel Dolezal. These figures function as a springboard for Tuvel's discussion of the conventions of gender transition and racial passing. She argues that these identities are analogous and since one is irrefutably acceptable the other should be considered acceptable too.¹ Animating the controversy were two opposed yet oddly overlapping responses: while some claimed that Tuvel perpetuated a harmful epistemic method by not including the perspectives and scholarship of black and transpersons ("Open Letter to *Hypatia*," 2017; Winnubust 2017), others held that the essay did not cause exceptional harm because the article's methods reflect the norms of the discipline (Weinberg 2017a). Interestingly, both responses suggest that Tuvel's essay did not aberrate from but rather exemplified the genre of philosophical analysis. The implications of this shared view, however, are understood in vastly different ways by these two responses. In this essay, I explore the stakes of this overlapping yet dissenting recognition of the disciplinary nature of Tuvel's article.

Philosophy, like all disciplines, has a form.² That is, in order to be recognized as an argument in the discipline, an essay needs to observe certain formal requirements (Dotson 2012). Yet the formal elements of the discipline remain unmarked as attributes of the form, so though they are present they may not be reckoned. They remain unrecognizable *as discipline-specific*. There is much at stake in naming and studying the form of the discipline, and the *Hypatia* controversy is

a productive site at which to draw out the formal attributes of philosophy, making them more recognizable and therefore more open for accountability. In this essay, I discuss two disciplinary attributes that are at the heart of the canonical and contemporary methods, attributes which are prevailing but under-theorized in the controversy: the claim to universality and the claim to abstraction. Moreover, in what follows I unpack the effects of these formal conventions on ideas of personal identity and of history. Finally, I argue that contrary to claims, these seemingly abstract and universal ideas carry significant traces of their particular context and that overlooking the details of its context is harmful. This is the key point of my essay. The open letter, which was one of the driving engines of the controversy, demanded a retraction of Tuvel's article on the grounds that it caused epistemic harm ("Open Letter"). Even before the letter was delivered to the journal, the associate board apologized for the harms caused by the article (Weinberg 2017b). This specific charge of harm needs to be taken very seriously in the context of a discipline whose formal norms have a long-standing record of epistemic harm. Tuvel's essay observes the disciplinary forms of philosophy. I argue that to isolate the critique of this epistemic method to Tuvel's essay alone and to demand its retraction overlooks how her argument is produced within the intellectual tradition of Western philosophy. In short, if there was a problem brought into focus during the *Hypatia* controversy, it was a systemic one. Accordingly, what is central to my own argument is that Tuvel's article should be taken as an example of disciplinarity in philosophy, rather than a sole or outlier example. I take the controversy to be an invitation to scrutinize philosophy-qua-discipline. The call for retraction, on the terms of my argument, becomes itself a perplexing expression of disciplinarity, rather than an incisive critique of Tuvel's project. The very charge of "harm" itself becomes an expression of philosophical commitment: to think with and against, in the name of cross- and inter-disciplinary forms and methods.

Abstraction and Universality as Disciplinary Form

What kinds of knowledge are made possible, or conversely, rendered impossible, when an inquiry acknowledges its ties to the particular context out of which it emerged? This question is an important one, even if it is often evaded by knowledge-seekers, and even if the inquiry in question is seeking to invoke "universal" ideas such as justice or beauty. In the discipline of philosophy, it is quite common to pursue abstract inquiries rigorously, while at the same time to bracket the particular context(s) of the philosophical "problem" under investigation. If anything, this lack of attentiveness to the context of the problem is insisted upon in the name of good philosophical virtues like clarity, objectivity, and the universality of legitimate knowledge. Put more strongly, questions such as "what is identity?" or "what is history?" are considered for inclusion in the corpus of philosophical knowledge only after the particularities of any discernible context have been sloughed off to reveal a universal question. In simple terms, the philosophical method consists of bracketing unnecessary contextual details in order to work out the answer to the problem in the abstract. Yet when this method plays out in the context of professional philosophy, it is usually not able to achieve such abstractions. Indeed, one of the aims of this article is to demonstrate how philosophical ideas, particularly social and political theories, fail to leave or abstract away from their contexts, despite vested interests that they do so. This failure emerges, in particular, out of a twofold tendency: a given context is assumed universal and this assumption remains unacknowledged (and most likely unrecognized) by the philosopher.

What is at stake in assuming one's own particular context to be universal?³ Consider how the following method of abstraction is not unique to Tuvel's essay, but central to writings in the discipline of philosophy: for the purported sake of clarity of examination, a problem, including a social-political problem, is placed into an abstract realm. In that realm, the argument is entertained, explored, and concluded without

any significant interruption from historical, literary, and anthropological discourses. Once the problem is resolved, its conclusion is taken back out of the abstract sphere and assumed to be universally “applicable,” sometimes with minor adjustments to accommodate the differences between various social and material contexts. This method is as old as philosophy itself: we see it in Plato in the fourth century BCE, Thomas Hobbes in the seventeenth century, Immanuel Kant in the eighteenth century, George Friedrich Hegel and John Stuart Mill in the nineteenth century, John Rawls in twentieth century, and in every major canonical thinker in the history of philosophy.

Here, I want to be clear that I am not making a case against abstraction. Abstraction is necessary for thinking and for conscious movement. To ask us to abandon it would be as if asking us to forgo thought itself. It would amount to asking people to write laws without an idea of justice, to make moral decisions without a conception of good and evil, to multiply and divide without numbers, and to never create a new recipe or make a map. Therefore, I am certainly not asking us to stop thinking, counting, cooking, and travelling. Instead, I am asking us to open that abstract realm of philosophical thought further, and to contaminate that sphere with contradictory ideas and discourses from other disciplines, before settling upon our questions and, certainly, before arriving at our conclusions. Such cross- and inter-disciplinary contamination is especially urgent when we contemplate our social world and ourselves within it, as, for example, when we consider arguments about identity.

Let us explore how the subject of “personal identity” has been taken up in the discipline of philosophy in relation to the claims of abstraction and universality. Traditionally, this question asks: On what basis can I say that I am the same person today as I was yesterday and will be tomorrow? What is the criterion for claiming that one is the same self over time? The usual suspects for this criterion have been the soul, the body, one’s mind, or a combination of each of

them. John Locke, writing in the late seventeenth century, invokes the now famous example of the prince and the cobbler whose bodies swap their “souls carrying the consciousness” (Locke 1689). Even if the body of the cobbler were to be recognized by others as that of the cobbler, he would still be the prince because he would have the consciousness of the prince. “Consciousness alone unites actions into the same Person,” states Locke definitively (1689). In a bid to emphasize that it is not the substance that determines the sameness of the person over time, he engages in another thought experiment and asks us to imagine our little finger being cut off. As long as our consciousness remains intact we would continue to be the same person, despite the missing little finger. Over three hundred and fifty years later, Daniel Dennett, in a work of philosophical science fiction, takes this imaginative exercise about the loss of the finger and extends it to the loss of the entire body. He tells an exciting story about a scientist hired by NASA to recover a dislodged nuclear warhead buried underground. His body and brain were separated. When his body died, another body was created, and his memories were recreated on a computer. At different points, different bodies and brains were hooked up. We are left asking: What constitutes the self? The brain, body, memories, or a combination of each of these? Both Locke and Dennett’s work on personal identity appear in many introductory philosophy anthologies and are widely taught in freshman courses across North America. The mind-body dualism and the puzzles they present in this story are framed in the terms laid out already in Locke’s writings: imaginary musings, which are not tied to a specific “real” world context, lead to conclusions that are understood to be universally applicable to all contexts.

Feminist philosopher Susan Brison pursues a related but different line of inquiry. She poses questions of personal identity in the specific context of trauma. Survivors of war and violence who are suffering trauma often claim that they died in the war, or that they miss the person they used to be (2003, 38). Brison takes up the question about the criteria of the continued self by situating it in the specific, named

context of those who have written about the effects of trauma on themselves. She wonders what it means to claim that one's continued identity is situated in memory when one's memory has been partly erased or re-arranged, and when flashbacks seem like the present. To the survivor of trauma, one's body (which is inseparable from one's mind) also does not present itself as a viable site for the continued self. Brison, herself a survivor of assault, found that in experiences of trauma, the discreet categories in the mind-body dualism seem like a myth rather than convincing and robust descriptions of human life. Many traditionally assigned psychic states, Brison writes, present themselves as bodily symptoms and vice versa (2003, 44). Eventually, Brison turns to the narrative self as the possible basis on which the self can be represented as continuous before and after the experience of trauma. One of the effects of past theorization of personal identity, which looks to otherworldly settings rather than to narratives by people who speak about having lost their selves and having experienced the very loss of continuity in question, is that philosophy stops being an effective resource for those who need it the most.

Though the experience of trauma is common in our society, and survivors speak of it in terms of outliving their former selves and inquire what it means to no longer be the person they once were, philosophers have largely overlooked these writings in their discussions of personal identity. As Brison notes:

Philosophers writing about the self have, at least since Locke, puzzled over such questions as whether persons can survive the loss or exchange of their minds, brains consciousness, memories, characters, and/or bodies. In recent years, increasingly gruesome and high-tech thought experiments involving fusion, fission, freezing, dissolution, reconstitution, and/or teletransportation of an individual have been devised to test our intuitions about who, if anyone, survives such permutations. Given philosophers' preoccupation with personal identity in extreme, life threatening, and possibly self-annihilating situations, it is odd that

they have neglected to consider the accounts of actual trauma victims who report that they are not the same person they were prior to their traumatic transformations. (Brison 2003, 38-39)

Brison explains this phenomenon by saying that philosophers are trained to look away from the "messy real world" in favour of a fantasized "neater" and "controllable" realm as the preferred setting for contemplating philosophical problems (Brison 2003, 39). Perhaps this disciplinary move is based on the assumption that imagined otherworldly contexts can approximate a universal context by virtue of its seeming removal from contingent historical and social conditions in this world. After all, the thought experiment of a person undergoing brain-body transplants, or duplicating his memories on a computer, is assumed to be universally applicable *because* it is not particular to any specific person's "real" experience. In fact, it may even be tempting to think of these fantastical settings as universal because one can easily swap out one socially assigned identity, such as gender, race, or religious identity, for another. We have seen such a move in the recent trend in philosophy wherein the traditionally assigned pronoun "he" is swapped for "she," leaving everything else about the argument intact. However, what these nearly self-annihilating mind-body thought experiments tend to miss is that the protagonists in these examples have already been imagined as invulnerable to trauma and immune from psychological dissociative states, even while they are subject to morbid experiments. In personal identity thought experiments, trauma has traditionally been both an impossibility and an improbability. Therefore, it turns out that these examples are not based on a universally applicable context at all, but rather are limited to a figure who is invulnerable to trauma despite repeated violent experiences. The conditions of possibility and impossibility in thought experiments are determined by the limits of the author's imagination, which in turn are shaped by the author's vantage point, existing knowledge, curiosity or its lack, and experience. The realm of an abstract thought experiment is not universal but is rather particular to the author's context and worldview.

However, the disciplinary form of philosophy has traditionally demanded that the particular context be generalized and presented as universal.

Another reason to choose examples distant from the contemporary social context of the intended reading audience has to do with the perception that details can compromise philosophical rigor. If an argument is embedded in a particular social context, its focus on questions about an abstract philosophical problem might be derailed by debates about the details of class, race, sexuality, and gender that were only meant to be incidental and not essential to the examples. Mary Midgley once pondered what details would best serve her argument against ethical relativism. She states that the criteria for illustrative details should be something “remote” enough so that “we shall probably find it easier to think calmly about it” (1981, 2014, 11). (She eventually settles on an erstwhile Japanese samurai practice, a practice remote from herself and her readers). The social and geographical location of Midgley and her intended audience is a particular one, and it is relevant to the search for an example that is “remote” from it. Already, such an example is not universal but particular, and ironically relative to the location of the audience. Of course, “remote” is an entirely relative term as it depends upon the vantage point of the viewer. Making a case for an objective, universal moral standard through examples which must be “remote” so that different audiences situated in different places can agree to its universality carries within it much comic irony. At the same time, such a contradiction is worthy of serious philosophical exploration and can be carried out by interrogating the social location, context, and vantage point of the inquirer.

One of the most widely circulated objections to Tuvel’s “In Defense of Transracialism” was that the essay’s argument was not sufficiently situated in accounts of the lived experiences, histories, and perspectives of marginalized groups. As this section seeks to demonstrate, such objections would be more fruitful if they were situated within a broader critique of modern Western philosophy. The generalization of

one’s own context and vantage point as abstract and universal is a long-standing formal practice in the discipline, despite being critically challenged by many readers writing from within and outside of the discipline. While the discussion of personal identity shows the effects of abstraction and universality on a micro-level analysis of the self, we may ask how these formal methods shape our understanding of more macro and global institutions, and narratives of our social-political past.

Much of the field of postcolonial/decolonial theory has been dedicated to searching out a beneficial legacy of the universal (e.g., democratic equality and justice) to guide systems of law and political institutions and sorting this from a harmful legacy (e.g., universal history and universal progress) that is routinely used to justify state violence. It helps to turn to Dipesh Chakrabarty, who makes an important intervention into the formal conventions of the philosophy of history. He shows that major European philosophers who espoused Enlightenment ideas of democracy and freedom as a universal good also accepted, if not promoted, the European expansion of empires in South Asia and Africa. Chakrabarty draws our attention specifically to John Stuart Mill, a philosopher who held these two seemingly opposing beliefs. On the one hand, Mill claimed that the best sort of government was a democratic one while, on the other hand, he believed that Asians and Africans were not yet ready or sufficiently civilized to self-govern (Chakrabarty 2000, 8). How are such contradictory claims theoretically sustained in philosophy? According to Chakrabarty, both claims build upon a historicist construction of Europe’s past. Here is how this construction works: narrators of European history divvy up their past into specific periods or eras, such as “medieval,” “modern,” “feudal,” and “capitalist.” Each period is identified by specific characteristics in its modes of thought and production, its values, and its cultural system, as though the other periods are discreet and separate spheres with little iteration of earlier cultural ideas and practices. These periods or eras are then placed into a progressive order whereby one period indicates “backwardness” and another signifies

“progress.” This allows for the construction of a historical narrative whereby feudalism progresses to capitalism, and medievalism progresses to modernity. However, major Enlightenment thinkers did not acknowledge how these historicist categories were based on narratives of Europe’s intellectual and material past. Instead, they framed it as the fixed trajectory of all world history and world future. Conveniently, by their own measure, Europeans had nearly reached the teleological end of universal history. Having arrived there first, it fell upon them to guide their colonies towards humanity’s foretold destiny. With this new understanding of world history, one that is not particular to any context because it has been abstracted away from all contexts, it is no longer a contradiction to proclaim both democracy as the highest form of government, and Europe as the right or best imperial ruler of South Asia and Africa. In fact, such a rule fully accords with democracy because it enables the colonizers to teach the colonized how to rule themselves.

It is important for Chakrabarty that his readers recognize how the phenomena of political modernity, such as civil society, the liberal state, government bureaucracy, and citizenship are the products of Europe’s intellectual and material past (2000, 9). However, the particularity of modernity’s historical context had to be erased in order to make modernity the teleology of world history and Europe’s advancement towards that universal goal. Not only is that context decontextualized, but the specific vantage point of the philosopher-historian is also erased. When the historicist story of Europe’s past is assigned a universal status, its thinkers are simultaneously conferred an omniscient point of view that allows them to look into the past, present, and future of the entire world from everywhere and nowhere.

What is at stake in representing our past and future in abstract and universalizing forms? These forms, that continue to thrive in the discipline of philosophy, have wreaked great epistemic and material harms the world over, particularly in the Global South. For over two centuries now, the story of man-

kind’s “progress” has become the sedimented grounds on which Europe and later the United States have legitimized imperialism and routine wars. More recently, in 2001, the US military launched “Operation Enduring Freedom” by driving tanks into Afghanistan. To aid these efforts, images of Afghan women in burqas were widely circulated in the US and were effective in erasing narratives of economic and social damage caused by twenty years of covert US war in Afghanistan, and in creating a chivalric narrative of rescuing Afghan women (Mahmood 2005; Abu-Lughod 2013). The US government congratulated itself for bringing freedom and modernity to the women (United States, 2004). Soon after the invasion, *The New York Times* contributed to this idyllic picture of Afghanistan having nearly arrived at the teleological end of history. Women, liberated and joyous, are now “uncovering their faces, looking for jobs, walking happily with female friends, on the street, and even hosting a news show, on Afghan television,” announced an essay unironically titled “Liberating the Women of Afghanistan” (*The New York Times* 2001). The idea of universal history hurtling towards modernity with the US at the helm continues to function as justification for invasions and imperialism. Moreover, as Saba Mahmood points out, such a narrative succeeds in erasing accounts of the devastated living conditions of Afghan women due to the war.

The formal attributes of philosophy need to be seriously reckoned with in the context of its harms. It is in this regard that we should receive our inheritance of social and political philosophy with a critical perspective, principally by asking how we can draw on its nourishing legacy without reiterating its devastating effects. [4] An understanding of long-standing disciplinary forms can also guide how we critically unpack the Hypatia controversy. The open letter does not call for an engagement with Tuvel’s essay but rather its retraction on the grounds that “[i]ts continued availability causes harm.” Such a framing of the charge effectively lets the discipline off the hook but places Tuvel at the center, making her answerable for centuries-old epistemic harms wreaked by claims to abstraction and universality.⁵

Questions that seek to interrogate the theoretical implications of assumed universal contexts are often treated within the discipline of philosophy as a special interest topic. Inquiries about the particular context of philosophical questions or the vantage point of the inquirer have not seemed to affect either the contents of the philosophical canon or how it is commonly taught in American classrooms. For instance, John Stuart Mill's support for colonization is usually categorized as a discreet topic with no bearings on his ethical and political writings. Mill is taught and often written about as though his point of view does not come from a specific location and time but from a space-less and timeless context. Or, think about how common it is to teach Immanuel Kant's writings on ethics and politics as universal questions emerging from universal contexts, without interrogating how they were affected by his anthropological writings on race. Kant's writings, like all other writings in the philosophical canon, emerge from very specific historical contexts; this is overlooked, however, when organizing the canon into the curriculum. As a discipline, philosophy has traditionally been uncurious about the historical and social context of its own canon, and it continues to remain so in many of its areas. Accordingly, it is all the more important to create conditions in which to foster difficult and productive disagreement.

At the heart of Tuvel's essay lies an analogy between the way that gender identity and racial identity are constituted and claimed. Tuvel seeks to make both identities performatively constituted in order to allow for more freedom in how they can be claimed. Representation of race as a socially constructed identity that can be challenged performatively is both a common trope and a common subject of contention in literature on passing. The trope itself is not new. However, the more worrisome aspect of Tuvel's essay is that all racial passing is cast as the same. Tuvel abstracts some principles of racial passing regardless of which identity one has been socially assigned, which identity one seeks to claim, or how one seeks to claim it. She dubs this process "transracialism" (a term originally coined by Janice Raymond to deny

recognition of transgender identity). The framework of Tuvel's iteration of "transracialism" cannot account for the differences between black-to-white passing and white-to-black passing in present-day America or its past. What kinds of knowledge are erased when we seek to abstract the idea of race, racial identity, and racial passing by overlooking the particular context of different racial identities, their histories, locations, and the power relations among and within the groups?

Forms of Identity Analogies

One question that the *Hypatia* controversy has returned to the forefront of disciplinary conversation is: How should we understand identity analogies? This seemed to be the major point of contention on social media during the controversy, with some calling for an end to all identity analogies. How can we negotiate this demand in the context of existing feminist discussions on identity and their analogies? Different forms of identity analogies have been constructed towards different political ends in the US; sometimes to secure rights for marginalized groups and at other times to limit, if not deny, rights to marginalized groups.⁶ Since the 1960s, civil rights arguments in the American judiciary have been made in courtrooms through "like race arguments" or analogies with existing anti-discrimination rights for racial minorities who are recognized as the first constituency to gain protections and freedoms through identity-based rights.⁷ One productive way to respond to the *Hypatia* controversy involves sorting through some forms of identity analogy to unpack the freedoms and harms they enable.

Black feminists such as Patricia Hill Collins and bell hooks have argued that analogical arguments about discrimination faced by "women" and "people of colour," predominantly made by white feminists, fail to recognize the intersections between the identity categories. Such analogies effectively erase the experiences and struggles that are particular to women of colour. The thinkers demand a recognition of identity

categories as intertwined and varied when mapped on a person. The form of intersecting categories does not readily yield identity analogies. Consider how an analogical argument which asserts that women face employment discrimination like people of colour and so deserve similar legal protections appears to require that one imagine the category of women as white and ignore the intersection of “women of colour” who, by virtue of belonging to both categories, are not *like* either category but *are* both.

Although the form of intersecting identities may seem resistant to an analogical relationship, it is possible to arrange the analogical argument in a way that the point of intersection lies at the center of the frame, rather than outside of it. For instance, a case seeking protection against discrimination based on sexual orientation can be made with an analogy to racial discrimination by focusing explicitly on queer persons of colour who need legal protection as queer persons of colour. Serena Mayeri explores the example of Pauli Murray, an African American lawyer who formulated an influential form of race and gender analogy, in her case for the inclusion of women under Title VII of the Civil Rights Act in 1964. She pointed to the position occupied by black women who, at the time, were supposedly entitled to protection against discrimination (as a racial minority) but were denied protection against discrimination (as women). How is a black woman who is repeatedly denied employment able to tell if it is based on her race, her gender, or both? Until she is protected from discrimination against both, she will continue to suffer discrimination, which may very well be on the basis of her race (from which she is ostensibly protected), or from her race and gender simultaneously. Murray invoked the figure of “Jane Crow” to draw on a “race-sex parallel to highlight [. . .] that the eradication of racial discrimination was impossible without the inclusions of black women in employment protections” (Mayeri 2001, 1045).

One of the main limitations of analogical arguments as the basis for seeking redress is that the legal remedy can only be modelled on existing protections of

the group to which one will be compared. While identity analogies are unavoidable in civil rights advocacy, the identity with which one is yoked in an analogy is open for strategic alterations. The stakes are very high in choosing the identity group (whose claims of injury and redress are already recognized) for the analogical argument. Attempts to make new pairings of identity groups in the service of political advocacy and social acceptance, as Tuvel does, are already a part of the disciplinary tradition. Once again, Tuvel’s essay observes an established practice in feminist philosophy. For example, we may turn to feminist philosopher Chris Cuomo who argues that queer acceptance should be secured through an analogy with the right to religious practice rather than the prevailing comparisons with racial minority rights (2008). The particular pairing of the analogy matters because laws against racial discrimination in the US are based on a conception of racial identity that is unchanging and immutable (i.e. identity as who one is), whereas laws for exercising religious freedoms are based on a conception of identity that requires affirmation and practice (i.e. identity as what one does). Since homophobia often takes the form of “love the sinner, hate the sin,” she calls for a social re-conceptualization of queer identity that is understood in terms of queer acts. By calling for changes in the identity pairing from racial identity to religious identity, she is inviting her readers to change how sexual orientation is ontologically understood from what one *is* to what one *does*.

In addition to the specific liberatory possibilities shown by Cuomo, let us consider other urgent reasons for moving away from formulating identities as fixed and immutable. Writing for an audience of civil rights advocates, Janet Halley asks, “[h]ow should a critical politics of the law think about the possible coercive effects of identity-based advocacy?” (2000, 44). After a 1938 landmark judgement against racial discrimination claimed that race was an “immutable” identity situated in “a discreet insular community,” subsequent anti-discrimination cases for other marginalized groups, particularly gays and lesbians, have cited similar conditions. However, as Halley reminds

us, an analogy can often work both ways. For instance, if one claims that B is like A, on the grounds of X and so should enjoy the same rights as A, then one is also implicitly claiming that A is also like B in terms of X. Typically, the effect of this has been that judges who oppose the rights of B start making the requirement of X more and more stringent (Halley 2000). This has had negative effects on both group A and group B. In the response to gay rights advocacy using “like race” arguments, judges who opposed gay rights sought to narrow the criteria of immutability, which in turn affected ongoing and future race-based anti-discrimination cases. The criteria of “immutability” became more rigorously applied, which means that, in the courtroom, racial identity was being constructed as fixed and unchanging. Accordingly, any mutable aspects of one’s identity were edged out from the category of race. This implies that racial discrimination (such as prohibiting black women employees from wearing braids or telling Latino employees that they cannot speak in Spanish at work) becomes morally acceptable if one can assimilate (Halley 2000). This also affects groups of “theoretically mutable characteristics” such as those fighting against discrimination on the basis of fatness (Halley 2000, 66). As a result of the more rigorous criteria for the “like race” analogy, it becomes more difficult to seek protection under the reified requirement of immutability because it implies that if it is possible for one to lose weight, then discrimination based on weight should not be protected by the law; one should simply lose the weight. How did all of this affect queer communities who were seeking rights through “like race” arguments? Queer groups began policing identity-based claims within the community. If one has access to gay rights by establishing that one is either born gay or straight, then ways of desiring which exceed the borders of those two categories such as bisexuality, queerness, and pansexuality become subject to shaming from within the community, in addition to ostracism from outside.

Of course, this does not mean that group B (from the analogy of B is like A) should now suffer in silence and stop fighting for their legal rights (Halley

2000). Rather, the solution might lie in how and when we make our identity-based analogies. Halley suggests that while we cannot (and should not) abandon identity analogies in the courtroom, there is an imperative to make them more carefully. She encourages us to forgo those forms of identity analogies that are based on how identities might be ontologically constituted (e.g., B is constituted like A), as it has been done by Cuomo, Tuvel, and much philosophical writing on social ontologies, but rather make them based on the similarity of the discrimination faced by the two groups; the harms that B suffers are similar to the harms that A suffers, or there is a similarity in the structure of oppression acting on both groups, or there are similar factors at the root of their oppression.⁸

Concluding Reflections on the Hypatia Controversy

It has been over a year since the *Hypatia* controversy pushed Tuvel, the journal, and contemporary feminist philosophy into the glaring public spotlight. Perhaps the most alarming aspect of it all was the widely supported public letter that demanded retraction rather than critical engagement with Tuvel’s article. Public letters have typically been used as an instrument of writing back to power. This public letter, however, staged an inversion of the genre: it was crafted and supported by leading figures of disciplinary and institutional authority and the criticism focused entirely on the work of an untenured philosophy professor. It is a chilling spectacle to witness another junior feminist colleague being publicly shamed (Weinberg 2017a) rather than engaged with and mentored for her perceived academic shortcoming by senior feminists.

Another unsettling aspect of the entire controversy is that it is often named after Rebecca Tuvel, e.g., “The Tuvel Affair.” This moniker misleadingly suggests that Tuvel’s argument is such an aberration from the discipline that it produced a controversy. It is worth reiterating that Tuvel’s article is not atypical within the context of the discipline from which it emerged. As I

have argued earlier in this essay, her argument observes the norms of philosophy, namely, claims to universality and abstraction, which should be examined as disciplinary forms in relation to the harms they cause. The origin of the controversy, however, seems to lie less in the unusualness of the article and more in the escalating public response to academic writings on social media. In this case, it began with rumblings on Twitter and Facebook, which galvanized into the now-famous public letter with 830 signatories. Before the letter could be delivered, the associate board of editors apologized for publishing Tuvel's article. As the article had already passed the journal's peer review process and had already been published, this move was unprecedented in the discipline. Then, philosophy blogs and national newspapers picked up the story and dubbed it a controversy. Naming the controversy after Tuvel places her at the center of the frame all over again, and risks a dangerous precedent for emerging scholars in the discipline.

Endnotes

1. One of the main critiques of Tuvel's article, namely, its exclusion of the socio-historical contexts and writings of the very marginalized groups who both constitute the object of analysis and are deeply affected by such theoretical inquiries, is essentially related to broader questions about the discipline of philosophy. Sabrina Hom shows that the elision of two centuries of African American literature on passing in Tuvel's essay is not new in feminist philosophy: Tuvel's omissions heed an existing tradition of exclusionary citational practices established by senior feminist philosophers, including Christine Overall and Cressida Heyes. Through a close reading of literature on passing, Hom demonstrates that philosophical questions that are posed on the basis of speculations about passing and not on the basis of its two-hundred-year-old literary history are often rendered moot, if not misleading, due to the absence of relevant citations and readings. For instance, Heyes (2006) frames the main challenge of passing as a moral issue about dishonesty, rather than about the loss of com-

munity and family for the marginalized community and the passer, as it has been framed in African American literature. Likewise, Overall's question about how "passing might amount to betrayal of group identity" (Hom 2018, 35) overlooks the legacy of that question in contemporary debates about mixed-race identity claims in the twenty-first-century United States census. Such a critique also overlooks the possibility of someone who passed and drew on their new positions to engage in politics towards racial justice (Piper 1991, 9). All of these questions have been fiercely debated in literature from the perspectives of those who have been most affected by them. Hom contends that by overlooking the literature on passing, one runs the risk of asking questions that prioritize "the position of a white gaze" (Hom 2018, 34).

2. Caroline Levine (2015) unpacks the ways in which forms/structures impose upon us to organize, or disorganize our social, political, and cultural worlds. I draw on her work to think about the formal dimensions of the discipline of philosophy.

3. Feminist philosophers have long explored the problems of assuming the universal category of citizen, human, or person as a cisgender man. Susan Mendus (2001) argues that democracy does not allow for equal participation of men and women when the citizen is imagined as a man. Debra Bergoffen (2003) has illustrated the importance of thinking of the category of human as differently sexed in order to make recognizable sexual violence during war as a crime against humanity.

4. Examples of such work in philosophy include the *Creolizing The Canon Series* (NY: Rowman & Littlefield) edited by Jane Ann Gordon and Neil Roberts in which questions about race, empire, and theories of history inform close readings of canonical figures such as Hegel and Rousseau.

5. A similar argument is made by Amy Olberding (2017), who in a blog post on *Feminist Philosophers*, makes a plea to "to stop symbolically conscripting

Rebecca Tuvel into the role of personifying all of [the] systemic issues that attach to the profession at large.”

6. See Mayeri (2001) for a critical legal history of “gender is like race” analogies. This analogy was instrumental in the advocacy for white women’s rights in Antebellum America, and later as a feminist legal strategy from the 1960s in cases such as inclusion of “gender” in title VII, and then again during the 1990s in arguments for legal remedies for Violence Against Women Act. Not coincidentally, the same analogy was politically mobilized in the opposite direction in the nineteenth century by defenders of slavery and of white women’s subordination within patriarchy.

7. Halley (2000) critically unpacks gay rights cases that rely on “like race” arguments to demonstrate which have more coercive effects would need to be rethought. However, she finds that calling an end to identity analogies is off the table since identity analogies is the only recognizable form of civil rights advocacy in the US. As she explains, “the ethical inquiry [into ‘like race’ arguments] has to be conducted, I think on an assumption that asking the advocates of gay, women’s, or disabled people’s rights to give up ‘like race’ similes would be like asking them to write their speeches and briefs without using the word ‘the.’ ‘Like race’ arguments are so intrinsically woven into American discourses of equal justice that they can never be entirely forgone. Indeed, analogies are probably an inescapable mode of human inquiry and are certainly so deeply ingrained into the logics of American adjudication that any proposal to do without them altogether would be boldly utopian. . . .” (46)

8. For a more detailed discussion on different forms of analogical argument see Serena Mayeri (2001).

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Allegories of Gender: Transgender Autology versus Transracialism

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Abstract: This article explores how race and gender become distinguished from each other in contemporary scholarly and activist debates on the comparison between transracialism and transgender identities. The article argues that transracial-transgender distinctions often reinforce divides between autological (self-determined) and genealogical (inherited) aspects of subjectivity and obscure the constitution of this division through modern technologies of power.

Keywords: transracialism; gender identity; autology

Introduction: Two Scenes of Transgender Recognition

Let me begin with a scene that might seem quite removed from the North American debate on "transracialism" and the highly contested (dis)analogy between transgender and transrace identities¹. In late 2016, the Indian government introduced a bill on transgender rights titled the *Transgender Persons (Protection of Rights) Bill 2016*. The bill attracted many criticisms from transgender activists in India. Many activists strongly protested the bill's decree (later revised) that people would need to be certified by "district screening committees," including psychiatrists, to be legally recognized as transgender (Orinam 2016). However, activists have been divided on the issue of what should take the place of such screening committees. Some activist collectives lobbied for a fully self-determined process through which trans people should be able to legally change their gender to male, female, or transgender/other, sans screening and irrespective of transition (THITS 2016). Other trans activists worried that without a screening process altogether, cisgender people could claim to be trans to gain welfare measures. Among them, some expressed concern that the inclusion of "genderqueer" within the transgender category in the bill might be misused by gay or lesbian people to claim trans identification, thus excluding underprivileged trans people truly deserving of welfare (Dutta 2016). This is a particularly fraught question given that many South Asian gender-variant communities like *kothis*, *dhuranis*, and *hijras* include a spectrum of people, including those who might be described in Anglophone terms as feminine same-sex-desiring men, trans women, and people with fluid or overlapping subject positions, thus defying neat cis-trans binaries (Dutta and Roy 2014). In that context, the recognition of

“transgender” as a legal category invested with rights and benefits spurs anxieties on part of both the state and communities regarding the proper subjects of such recognition.

Cut to the United States, where the increasing representation of trans identities in mainstream media and culture has been hailed as a “transgender tipping point” (Penny 2014). In April 2015, even as this moment was unfolding in US popular culture, trans writer Meredith Talusan was interviewed for an article in the now-defunct feminist website *The Toast*, where she was asked about her conception of gender identity and selfhood. Talusan departed from common narratives of transgender identity as innately determined from childhood, and provided a nuanced account of how she came to identify as a woman informed by both her subjective traits and her sociocultural context:

I’m not the type of woman who believes that there is something unchanging about me that makes me a woman. Mainly, I’m a woman because there are huge parts of me that have come to be coded in this culture as feminine, and that this culture makes so difficult to express unless I identify as a woman. Even when I identified as a gay man, I felt so much pressure to be masculine . . . and I was only allowed to be feminine as a parody. . . . So to be the kind of feminine I wanted to be in this culture, I felt the need to identify as a woman and I don’t regret that decision because women are awesome. (Jerkins 2015)

Later that year, the “transgender tipping point” took an unexpected turn when controversy erupted over the racial identity of Nkechi Amare Diallo (formerly known as Rachel Dolezal), who was exposed as having white parentage after years of representing herself as black (Koerner and Dalrymple 2015). Several commentators, including Diallo herself, described her claim to blackness as analogous to trans people’s claims to be a different gender relative to their social gender assignment (Allen 2015). In this context, Talusan joined a chorus of trans and people-of-colour

(POC) voices that quickly rebuffed comparisons between Diallo’s identity and trans narratives, writing, “the fundamental difference between Dolezal’s actions and trans people’s is that her decision to identify as black was an active choice, whereas transgender people’s decision to transition is almost always involuntary. . . . Dolezal identified as black, but I *am* a woman, and other trans people *are* the gender they feel themselves to be” (2015). Talusan thus backtracks from her previous statement about her womanhood as a consciously self-determined identification rather than an unchanging essence: now gender is posited as an involuntary, static and inherent aspect of subjectivity.

The striking contrast between Talusan’s former and latter statements is symptomatic of the anxieties surrounding trans recognition at a moment when “transgender” is being increasingly absorbed into liberal regimes of governance and mainstream forms of cultural representation around the world. As the brief comparison between the Indian and US contexts indicates, the transnational spurt in trans visibility prompts a tense reckoning with the implications of trans recognition and whom it might legitimately encompass or not. The controversy around Diallo’s claims demonstrates how the stakes of the governmental and social recognition of transgender identities extend well beyond the specific case of gender. Indeed, the increasing incorporation of trans identities into liberal governance regimes, coupled with media visibility, has positioned transgender narratives as paradigmatic models for various forms of identification that go against social assignment. As Susan Stryker (2015) says regarding the transgender-trans-race analogy:

Perhaps the very first question to pose here is how discourses and narratives rooted in transgender history and experience have come to supply a master story for other kinds of bodily transformations. . . . How is it that transgender stories have become well known enough, relative to other claims of identity transformation, to function as the better-known half of the pair?

In response to the invocation of transgender as a legitimizing narrative for transracialism, many journalists, scholars, and activists have responded by insisting not only that race and gender identity operate in fundamentally different ways, but also that the transgender-transrace analogy perpetuates harm on people who are oppressed in gendered or racial terms. For instance, Samantha Allen (2015) argues that unlike gender, racial transition is simply not possible except as an exercise in cultural appropriation and white privilege. She goes on to aver that Diallo's attempt "to pass as someone whose identity deserves respect on the same grounds as transgender people . . . has the potential to do real damage to public perceptions and conceptions of transgender identity." In the academic context, transrace-transgender analogies have been critiqued as abstract theoretical exercises that ignore the material lived experiences and knowledges of trans people and POC, as was suggested by the open letter to Hypatia asking for the retraction of Rebecca Tuvel's 2017 article "In Defense of Transracialism" (Open Letter 2017). In a review of Rogers Brubaker's book *Trans: Gender and Race in an Age of Unsettled Identities*, C. Ray Borck says:

In Tuvel's case as in Brubaker's, just because it is conceptually possible to cull a logic from the most banal of pop-cultural encounters with transgender and apply it to a sociologically nonexistent thing called transrace doesn't mean that doing so produces any kind of knowledge illuminating actual gendered or raced lives, histories, material realities. . . . Even if we are in a moment in which transrace is emerging as an identity category . . . I maintain that our best methods for understanding what it is or means will not be best produced by taking transgender as the point of departure or comparison. (2017, 684)

In this context, it is perhaps germane to reframe Stryker's question as such: What is at stake in dissociating transgender from such analogical uses, in not letting it be a referential narrative for other, more controversial, identity claims? If on one side transgender emerges as a "master story" invoked for the

validation of what is currently socially unacceptable, on the other, trans is sought to be maintained as a sacrosanct narrative of ontologically valid identification that should not be contaminated through comparison with "sociologically nonexistent" phenomena. This ignores how transgender has not always been a sociologically validated or legible category. As Adolph Reed (2015) puts it, "transgender wasn't always a thing—just ask Christine Jorgensen." Further, as the contested inclusion of genderqueer within the transgender category in India suggests, not all trans identity claims are likely to be treated the same, and some are more sacrosanct than others, depending on factors like conformity to a binary transitional narrative or lack thereof. The deeper issue, then, is to parse the conditions of legibility that permit identity claims to be recognized as valid or not, particularly in the realms of critical scholarly and activist discourse.

I here draw inspiration from trans and POC scholars who have cautioned both against analogical confluences of transrace and transgender, and against some of the ways in which the transrace-transgender analogy is shut down. As Kai M. Green says, simply saying that "race and gender are not the same" might serve to re-naturalize gender such that "transgender can become a category that we take for granted" (2015). Paisley Currah (2015) notes that some attempts to shut down the transrace-transgender comparison reduce "trans politics and claims to identity" to the "most simple minded versions of trans essentialism." A comment underneath Stryker's aforementioned post (2015) provides a neat example: transrace and transgender are "not comparable . . . [because] trans is an actual medical condition. These people have different hormones in their body that cause them to feel like the other gender." Such claims are part of a biologically deterministic etiology or causal narrative of gender identity that is widely prevalent in both the medical establishment and popular culture. Indeed, transgender legibility in the mainstream has been often premised on the etiology of a predetermined brain sex that manifests itself through anatomical dysphoria right from one's childhood, which serves to maintain a deeply biologized ontology of

gender (Tannehill 2013). It is this kind of an etiology and ontology that Diallo sometimes evokes to validate her “transracial” identity based on an innate racial disidentification with whiteness from her childhood, but far less successfully (Kim 2015).

However, it is not only biological essentialists who have bristled at transgender-transrace analogies; indeed, many critics position themselves against the biological determinism of both race and gender, and rather locate their objections in the dissimilar sociohistorical constructions and lived experiences of these categories. For instance, race is understood as a more recent colonial construction that functions more as an externally imposed taxonomy rather than deep subjective identification (Anderson 2017), whereas gender is apparently an older, more cross-cultural construct, and a more essential part of core selfhood (Talusán 2015). However, as suggested by Talusán’s oscillation between essentialist and non-essentialist understandings of gender identity, I contend that commentators have not always been transparent about their own role in such processes of construction. That is to say, transrace-transgender distinctions are not merely attempts to understand external social realities but actively work to construct race and gender in ways that merit further exploration.

In particular, I am interested in how the relation between socially assigned categories, material position within hierarchies of privilege, and subjective identification is understood in different ways for different identity claims. I would argue that a key reason for the discomfort with transrace-transgender analogies lies precisely in the way that gender identity has been de-essentialized and the aspects of social position and subjective identity have been delinked from each other through critical discourses and activist struggles. Gender has been individualized, interiorized, and dissociated from both biological and social determinism to a greater degree relative to other axes of identity, permitting ontological justifications of gender identity that are not based on fulfilling external material criteria. In that regard, the dissociation of transgender and transrace narratives serves as an allegory that

might help us to parse the contemporary reconstruction of gender in contrast to other forms of identification. With reference to Elizabeth Povinelli’s analytical distinction between “autology” and “genealogy” (2006), I specifically examine the constitution of gender as both ontologically deeper and more autological or self-determined relative to the genealogical determination of race. The attempt to examine how this division is constituted in contemporary discourses on transracialism is not to adjudicate transrace identity claims as valid or otherwise, nor to lay out an abstract theory of race and gender over the lived struggles of racially or gender marginalized people. It is rather to tease out what becomes taken for granted in our affective and intellectual responses to the transrace versus transgender question.

On Materiality and Identity

While the historical dynamics and social materialities of race and gender are undeniably different, there is at least one common question at stake in debates about racial and gender identity claims. This is the relation between social position in its material and experiential aspects (the lived experiences and privileges/disprivileges resulting from one’s placement within socially assigned categories) and subjective identification. In which cases does a distinction between social position and subjective identity become not only analytically useful, but also politically acceptable? This is a question that turns up, for instance, in debates about trans women having allegedly experienced male privilege, or about Diallo’s white privilege in relation to her claim to blackness.

Rather than tackling this question with reference to race or gender right away, it might be illuminating to begin from an analytical and political category that has been rather neglected in the debates on transracialism: class. In the predominant genealogy of class critique that comes to us via Marxist theory, class is glossed as a collective relation to the social means of production (Marx and Engels 1945). In the Marxist framework, it would make no sense to self-identify as

a particular class, especially when one's subjective identity is at odds with social position. For instance, in the US context, many rich people say that they are middle class (Frank 2015). However, for the purposes of political economic analysis, only change in one's material circumstances would correspond to a valid change in class position. Since the very definition of class is in terms of an external position within socioeconomic relations, one could argue that it is a materially determined category and not an individualized identity at all, even though that is how it is often glossed in American intersectionality speak.

If the evocation of class seems a bit far-fetched in this discussion, it would be instructive to recall that some versions of radical feminism have indeed conceptualized gender in terms of class relations: one's relation to the biological means of reproduction determines the sex class that one is socially placed within at birth (Firestone 1970). Contemporary TERFism, or trans exclusive radical feminism, extends such arguments to deny the validity of transgender identities. One's sex class is seen as an immutable socially determined reality, resulting in a rigid binary division of privilege and disempowerment: there is no subjective reality to gender; rather gender is merely an ideological construct that keeps the sex classes intact. Therefore, subjective gender identification is not valid, and trans identity serves to deny the material determination of assigned sex (Barrett 2016). In practice, this means that trans women deserve to be exposed as bearers of male privilege and non-binary people simply cannot exist.

Activist and academic discourses have powerfully refuted such a deterministic materialism of sex/gender. More mainstream trans discourses have done this by positing an alternative form of material determination through essentialist etiologies such as brain sex which prompt and justify bodily transition, thus biologically and socially dissociating trans people from their socially assigned gender (Tannehill 2013). The deep ontological reality of trans women as women, and their anatomical transition to their authentic self, dissociates them from male privilege (Thom 2015).

However, recent trans activism has moved away from biologized etiological and ontological narratives hinged on bodily transition. Trans activist-academic discourses have increasingly shown that the materiality of gender as both socially perceived and subjectively lived is often contextually changeable, intersectional and non-binary, rather than materially determined into rigidly binary social classes. For instance, trans feminist Kat Callahan (2013) posits the idea of "provisional male privilege": privilege does not simply follow from having male-assigned bodies, but rather is linked to the performance of hegemonic masculinity, which often excludes trans and queer people. Indeed, the co-constitution of gender with class and race means that even cisgender maleness is not always a privilege in itself and some cis men might end up having less privilege than elite women, as evident in the persecution and criminalization of Black men and masculinities through the US carceral complex.

Further, trans activists and scholars have also increasingly forwarded a distinction between subjective identification and the presence or absence of gendered privileges. This became particularly apparent after the famed feminist author Chimamanda Ngozi Adichie (2017) made statements about all trans women having had male privilege at some point in their lives. Some trans feminists like Jen Richards (2017) went beyond the defense against the charge of male privilege, and pointed out that trans women, like any other gendered group, may have very different narratives and histories of gender (dis)privilege. While some trans women experience little or no male privilege due to early visibility or transition, others like Caitlyn Jenner and Richards herself have grappled with male privilege for much of their lives, both benefitting from and suffering due to their social assignment as upper-class white males. Irrespective of the degree of privilege, however, material position is not seen as the determinant of their identity both before and after transition.

Indeed, the role of bodily transition and social passing is also increasingly downplayed relative to self-identi-

fication in trans discourses. As Asher Bauer (2010) says, “sex is as much a social construct as gender, as much subject to self identification . . . while (anatomical) modifications may be necessary for our peace of mind, they are not necessary to make us ‘real men’ or ‘real women’ or ‘real’ whatevers.” Moreover, the proliferation of genderqueer and non-binary discourses have foregrounded ever more fluid configurations of subjective identity and gender expression. Trans advocates on popular feminist websites like *Everyday Feminism* have argued that genderqueer people need not look androgynous, and presentation as cisgender need not coincide with cis identification (Reading 2014). In diametrical opposition to the materialist determination of sex advanced by TERFs, such advocates argue that gender should be neither defined by anatomy nor by looks or dress, but rather, only by how one identifies: gender identity is posited as entirely self-determined and need not meet any external social criteria (Micah 2015).

This tendency is also evidenced in the aforementioned Indian debate over transgender rights legislation. Some activists have advocated a dual system of recognition where legal gender identity as male, female, or other is based entirely on self-attestation, without having to fulfill external criteria of transition. However, to access benefits from the state, one has to be vetted by committees led by community members who would presumably take factors such as gender expression, caste, and class into account (THITS 2016). The distinction between legal identity and certification for benefits carries the privilege-identity distinction to its logical conclusion, and seeks to formalize it into legal procedure: the state cannot adjudicate identity claims based on external assessments of social identity or position, but the lived experience of (dis)privilege remains a valid consideration for accessing benefits.

There is a stark contrast between the disaggregation of self-identification and external material position in the case of gender and the deterministic approach to racial identity in progressive spaces. While race is commonly acknowledged to be sociohistorically con-

structed, it seems to function as a materially determined reality akin to class in Marxist political economy, where any valid sense of subjective identity can only follow from the social predetermination of one’s racial position. As Zeba Blay says, “racial divisions may ultimately be a construct . . . but ‘skin color is hereditary.’ And it’s skin color that primarily determines racial privilege” (2015). Further, unlike the case of class, where agential economic mobility is possible, the material determination of race is typically assumed to be fixed; any transformation in racial position does not seem to be feasible, and any attempted change can be seen only as dissimulation. This is apparent in a stream of commentary on Diallo which sees her actions as always perpetuating white privilege, which remains immutable irrespective of anything that she might do (Blay 2015; Millner 2017). As Blay puts it, “transracial identity . . . allows white people to indulge in blackness as a commodity, without having to actually engage with every facet of what being black entails . . . Dolezal retains her privilege; she can take out the box braids and strip off the self-tanner and navigate the world without the stigma tied to actually being black” (2015). In the academic context, Kris Sealey disagrees with Rebecca Tuvel’s contention that Diallo’s actions might amount to a “renunciation of white privilege” (2017, 271); Sealey instead reiterates that “Dolezal’s decision to reject her privilege . . . ultimately affirms that privilege in her very decision to reject it (the privilege lies in having the option to say ‘yes’ or ‘no’)” (2018, 26). Both Blay and Sealey underline that such an option is typically not available to black people, and that transition from black to white is often much more fraught and risk-laden, as evidenced in historical cases of black people passing as white for survival.

My point here is not to defend Diallo’s identity claims against charges of white privilege, nor to deny that the variable access to racial transition and “passing” is contingent on social privileges or lack thereof (which is also true of gendered transition in a different sense, where class and economic ability often determine both the access to and the quality of transitional treatments). There are certainly points where Diallo’s

self-representations seem liable to the charge of privileged opportunism; for instance, Diallo seems to have previously claimed discrimination based on whiteness (Allen 2015). However, the critique of Diallo's identity claims often extends far beyond her narrative to the ontological dismissal of transrace per se as "not a thing" (Blay 2015) and as "sociologically nonexistent" (Borck 2017, 684). This shows how Diallo's story has served as a particularly limited and limiting narrative that has constrained discussions of racial fluidity in the US. As the Afro-Jewish philosopher Lewis Gordon points out, "people have been moving fluidly through races since the concept emerged in its prototypical form" (2018, 14). Beyond the case of passing for survival, Gordon cites various other examples of racial mobility: groups such as Irish Americans or Greek Americans "achieving white identity," but also individuals from these communities who followed different trajectories and became black through socialization, or were known as black to begin with (15). Such collective and individual trajectories of racial transformation have been evoked only marginally in the debate on transracialism. Diallo's extraordinary visibility, resulting in continuous media coverage and a book contract, demonstrates her privileged status that serves to invisibilize other agential negotiations with race. One may object that these other narratives do not explicitly claim transracial identification, but neither did Diallo until after her dramatic outing: initially she even distanced herself from the term "transracial" (Moyer 2015). Cressida Heyes notes that individual motivations for changing social or legal race, particularly whether people seek to merely pass as a different race or conceptualize a different racial identity, are often unclear in the historical record (2009, 143). Ironically, wholesale dismissals of transracialism and the reduction of agential racial transformation to Diallo's case—for instance, Borck (2017, 684) says that transrace as a category has just one exemplar—re-centers her in discussions about racial fluidity and reinforces the privileged status of identity narratives originating in white American contexts.

Given that the dismissal of transrace on the basis of

Diallo's story only bolsters her representational preeminence, could one reframe the issue to separate the question of her material privileges from the ontological question of transracialism? This calls for an interrogation of why the distinction between subjective identification and the materiality of social position does not seem feasible for transrace narratives. Why does it become so difficult to separate the critique of Diallo's actions from the dismissal of transrace, both in her case and as a whole? Why does not a privilege-identity (or materiality-subjectivity) distinction emerge here in the way it does for gender? I do not seek to offer a prescriptive answer to these questions. Rather, I would seek for scholars and activists to recognize that we are not simply dealing here with socially determined materialities, but with a specific condition of legibility that we ourselves help to create for good or bad, such that the distinction between privilege and identity becomes intelligible in certain kinds of identity claims, but not in others.

Autological Gender and Genealogical Race

Understanding our investment in (re)producing such a condition of legibility requires introspection about why many of us, both POC and not, evidence such a gut reaction against racial self-determination while gender self-determination seems to be much easier to accept irrespective of the (dis)privileges informing individual trans narratives. Part of the answer might lie in the modern emergence of gender and sexuality as expressive of psychic interiority and the truth of the self. Heyes notes that sex, gender, and sexuality have come to be seen as "core ontological differences attaching to individuals" and further, the sex-gender distinction has repositioned gender identity as a matter of individual psychology, inner authenticity and self-expression that might contravene social sex assignment (2009, 148). Conventional cisgender epistemologies of gender conflate assigned sex and gendered essence while trans-inclusive epistemologies challenge this conflation. Both, however, demand that we associate sex/gender with a deeply interior identity, recalling the argument that Foucault famously makes

about sexuality as a truth we must confess: “sexuality is related . . . to the obligation to tell the truth . . . and of deciphering who one is” (1988, 16). Even as trans discourse refuses biological or social criteria for gender determination, the confessional avowal of gender as a core personal identity is perhaps the condition that permits its legibility and ethico-political validation as a self-determined reality: our gendered sense of self-perception must *mean* something in terms of the ontology of our inner being and correspond with an interiorized selfhood (even if gender-queer or agender) that demands recognition beyond social impediments. Self-determination thus redeploys confessional power, reversing the cissexist idea that sociobiological sex assignment naturally corresponds to an essential unchangeable identity, such that the avowal of gender as an interiorized essence now becomes the basis for social sex-gender recognition. This redeployment is taken to its logical conclusion in an article by Wiley Reading in *Everyday Feminism*, which argues for the recognition of gender identity as independent of not just sexed embodiment but also gender presentation:

I’ve let my hair grow out so long that I have to put it in pigtails . . . I sound like a girl, right? I’m not. Why? Because I don’t identify as one. . . . Although gender identity and gender expression *can be* related . . . they don’t have to be. . . . Gender identity is internal. . . . It’s the word (or words) that you could use to decide yourself that simply *make sense to you*. . . . Gender identity is internal, deeply-rooted, and a central part of many people’s senses of self. (2014; emphasis in original)

Reading thus articulates gender identification as a decisional process that should be absolutely unconstrained by social or material determinations but, simultaneously, it ultimately springs from and is justified on the basis of a “deeply-rooted” individual essence that the subject deciphers and confesses.

In contrast, race is linked more with collective descent than individual subjectivity. Heyes observes that race is seen to derive from ancestral inheritance and is

located within a collective genealogical narrative, which renders racial self-determination illegible:

[M]y race does not exist only in the moment but depends on my heritage . . . race is taken to be *inherited* in a way that sex is not. The claim that ‘I’ve always known I was really white inside’ is unpersuasive in part because it implicates others; if one’s immediate forebears are not white, the claim risks being unintelligible. (2009, 143-144; emphasis in original)

Sealey argues that:

[R]ace is really about a *relationship*—namely, a relationship between actual genetic ancestry . . . and the cultural and social signification of that ancestry . . . which then allows ancestry to mean certain things. . . . Hence, the role and predicative force of ancestry, in my racial identity, is not biological at all, but rather, *social*. (2018, 23; emphasis in original)

Sealey’s framing of race as a “*social* construction,” with *social* italicized, “emphasizes the status quo’s relative imperviousness to individual agency” (24). This argument ignores how ancestry may be recoded through individual and collective agency as well as social transformations: for instance, one’s ancestral affiliation may be retrospectively mapped as white or black in ways that contravene the racial designations of one’s forebears (Gordon 2018, 15). Further, despite Sealey’s insistence that the “predicative force of ancestry” is not biological but social, in her argument, the social signification of inheritance ultimately references “actual genetic ancestry” (2018, 23). The definition of ancestry is thus limited in terms of consanguinity over chosen or voluntary kin, reinforcing a normative model of lineage based on blood relations and perpetuating hierarchies of kinship that exclude queer arrangements of family and genealogy.

The association of race with consanguineal ancestry means that the possibility of individualized racial subjectivity outside of one’s “actual genetic” genealogy may be dismissed entirely. As Blay says, “transracial identity. . . perpetuates the false idea that it is possible

to 'feel' a race" (2015). The only legible and valid form of subjective racial identity seems to hinge on the experience of consanguineal belonging, erasing the possibility of non-genetic affiliation with a racialized collectivity. Witness Denene Millner's explanation of why Diallo can never be black: "like diamonds, blackness is created under extreme pressure and high temperature, deep down in the recesses of one's core. It is sitting between your mama's knees on a Saturday night . . . It is showing up to the family reunion" (2017). This establishes a deterministic relationship between consanguineal heredity and subjective racial identity, which may also be extended to social position: heredity determines skin colour determines racial privilege (Blay 2015). More constructionist accounts of race that do not see race as biological may also dismiss subjective racial identification. Victoria Anderson (2017), for instance, argues that race as a politically constructed taxonomical system based on fallacious classifications precludes racial identity as an "innate, inner experience" as claimed by Diallo, but is silent on why socially constructed categories cannot be interiorized, as commonly accepted in the case of gender.

The contrast between the individualized determination of gender and the social and/or biological determination of race evokes Elizabeth Povinelli's analytical distinction between autology and genealogy as the dominant forms of discipline in late liberalism (Povinelli 2006; Posocco 2008). Gender self-determination may be understood as a paradigmatic case of autology, by which Povinelli refers to the discursive construction of the autonomous, sovereign and self-determining subject (Povinelli 2006). Autology organizes identity based on "a fantasy of self-authorizing freedom . . . what do *I* think, what do *I* desire, *I* am what *I* am, *I* am what *I* want . . . (which is) a phantasmagorical figure of liberalism" (Povinelli and Di-Fruscia 2012, 80; emphasis in original). However, as we saw above, the autological construction of gender identity is justified and delimited through the operations of confessional power such that self-determination should be free of material determinations and yet rooted in interiorized selfhood. Genealogy, on the

other hand, refers to "discourses which stress social constraint and determination in processes of subject constitution and construe the subject as bound by 'various kinds of inheritances'" (Posocco 2008).

The ways in which the lines between transrace and transgender are drawn in contemporary debates on transracialism, such that the materiality-subjectivity or privilege-identity distinction operates in one domain but not the other, serves to police and reproduce the autology-genealogy distinction. While the dissociation of interiorized subjectivity from social sex-gender assignment and related material (dis)privileges in the case of gender enables the autological project of gender self-determination, the deterministic conflation of sociobiological ancestry, subjective racial identity, and racial (dis)privilege preserves race as resolutely genealogical. The anxious desire to delimit the valid domain of autology and maintain proper distinctions between autology and genealogy is evidenced in the aforementioned contrasting statements by Talusan. She articulates her womanhood as a conscious decision in the face of social contingencies, only to later qualify transgender identity and transition as involuntary and expressive of essential selfhood, in contradistinction to transrace which is cast as an illegitimate exercise in autology without a deep ontological basis: "Dolezal identified as black, but *I am* a woman" (Talusan 2015). As Reed (2015) notes, "essentialism cuts in odd ways in this saga . . . [s]ometimes race is real in a way that sex is not," as an immutable social reality based on biologized ancestry, while sometimes "gender is 'real' in a way that race is not," as the involuntary ontological core of selfhood. However, qualifying Reed, this is not merely "opportunistic politics," it is symptomatic of how race and gender are constructed and situated differently with respect to autological and genealogical discourses and modalities of power.

The contrast between the individualized autology of gender and the collective genealogy of race thus might be one of the underlying reasons for the widespread discomfort with transracialism and the race-gender analogy. If the fantasy of autological gender identity

disguises the operations of confessional power, such autology is constituted and delimited through its distinction from genealogical aspects of selfhood. Whether transracialism is an ethically or ontologically valid phenomenon or not, the separation of autological and genealogical domains of identity ties us to the oppressive generalization of gender as an inevitable “deeply-rooted” essence that we must decipher and confess, in contradistinction to race or ethnicity that is assigned to us or derives from our inherited collective positions. The autology-genealogy separation as applied to race and gender thus works as a disciplinary mechanism through which the subject is constituted within contemporary forms of governance: it ties one to confessional technologies of power in certain aspects of selfhood and to sociobiological inheritance in other aspects.

Inasmuch as many of us derive pleasure or validation from ontological identification, I am not asking for doing away with the autology of gender self-determination as merely a ruse of power. Indeed, the very emergence of this autological discourse marks hard-won struggles against the genealogical regulation of assigned sex-gender. Nor is this an argument for the indiscriminate extension of autology to all domains of identity. I end with the rather more humble proposal that we become more reflexive about how and why we disentangle subjective identity from material difference and social position in some cases but not others, and how our inconsistent usages of the materiality-subjectivity distinction reinforce or reconfigure the governmental demarcation of selfhood into autological and genealogical domains. More reflexive uses of the materiality-subjectivity distinction could help us understand the variable and sometimes contradictory imbrications of identification and social positioning for *both* gender and race. Such reflexivity might enable a more contextualized approach to contradictory alignments of material position and subjective identification and allow for a more transparent accounting of why scholars and activists may be more accepting of some such identity claims than others, rather than the generalized adjudication of subject positions as per a preset autology/genealogy divide

that consigns certain axes of identity to the autological fantasy of self-determination and others to genealogical constraints. Critiques of privileged forms of gender and racial (dis)identification might then also avoid the adjudication of their relative degree of ontological realness or validity, which is perhaps ultimately undecidable.

Endnote

1. I use “transrace” instead of the more usual adjective “transracial” in order to disambiguate my usage from the sense of “transracial” as pertaining to cross-racial adoptees (see Moyer 2015).

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Book Review: *Surrogacy: A Human Rights Violation*

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Book under review: Renate Klein. 2017. *Surrogacy: A Human Rights Violation*. Victoria, Australia: Spinifex Press.

The central contribution of Renate Klein's book is to document reports by activists, case studies, and readings of legal regulations about the negative impacts of commercial surrogacy. Klein is an Australia-based retired scholar of reproductive health sciences, and co-founder of Spinifex Publishing. The book, emerging from Klein's own involvement in the activist network FINRRAGE (Feminist International Network of Resistance to Reproductive and Genetic Engineering), is a feminist manifesto that calls for an end to commercial surrogacy. Its style may best be described as non-academic scholarly, with evidence and arguments drawn from both scholarly and non-scholarly sources.

Klein urges readers to take a more critical look at surrogacy, particularly liberal feminist notions of choice and agency. The book's six chapters, as well as the introduction and conclusion, analyse the harms to women's bodies resulting from medical interventions, the economic disparities that drive the surrogacy industry, and the symbiotic relationship between profit-driven medical research into reproductive technology and surrogacy.

Klein starts by defining commercial surrogacy as a process whereby a woman carries a fetus for another couple in exchange for money. The fetus may be biologically/genetically related to one or both of the commissioning partners, or genetically unrelated to either. The process is overseen by fertility clinics, surrogacy agencies, lawyers, and sometimes psychologists. From this definition, Klein builds her argument against commercial surrogacy by presenting what she calls "short- and long-term harm" (13) to all involved. Drawing on documented reports from a variety of sources, including legal actions, unpublished research, and memoirs, Klein argues that surrogates are rarely

made aware of the medical complications—sometimes fatal—that result from the processes of egg extraction, implantation by medical intervention, and *in vitro* testing. The emotional toll on surrogates and commissioning mothers are also rarely taken into account. Further, Klein argues, the children born of surrogacy experience conditions similar to child trafficking in that money and border-crossing are often involved. Other “harms” to children born through surrogacy include abandonment by commissioning parents, removal from gestational parent, and/or the possibility of encountering siblings that one has never known or known of.

In further chapters, Klein draws on additional types of evidence, such as news reports and published work by journalists and feminist activists, to argue that surrogacy, through its bank of donated eggs, sperm, and embryos, directly feeds the for-profit reproductive technologies market. Klein exhorts readers to recognize the potential and real ways that women’s bodies are used as “testing sites” in this market, and the “violence [constituted] against women and other non-human animals and plants” (108) by reproductive technologies such as genetic testing, gene modification, and cloning, all of which Klein attributes to patriarchal control over women’s bodies vis-à-vis medical technology.

Klein structures her arguments against surrogacy around the central issue of patriarchal control. She reads Australia’s regulatory legal frameworks for immigration, adoption, and surrogacy as driven by male-centric notions of inheritance and family ties. She also examines reports from conferences and feminist groups about regulations in Europe, East Asia, and Australia to argue that these regulations fail to counteract market forces that work through the male-dominated market logic of monetizing women’s bodies. Klein documents and draws on feminist campaigns and scholarship across Europe, North America, Asia, and Australia that have worked to build consensus and collective action against the surrogacy industry, which, Klein repeatedly argues, uses women’s bodies for profit rather than altruism. Add

in issues of race and class, and surrogacy is a process to be ended, rather than celebrated. As Klein states, “the birth mother is always from a lower socio-economic class, and also often from a different ‘lower ranked’ ethnicity than the commissioning couple” (7).

Klein’s urgency to end surrogacy, however, results in her making two related claims that require a more critical handling. First is the issue of the rights of the unborn. Klein’s arguments about the “rights” of children to be born without their origins being tied to money and their rights to be raised by gestational parents are not sufficiently complicated further through a feminist lens. Her argument occludes the important, albeit uncomfortable, consideration that all children’s origins are tied in some way to financial considerations via the unpaid and paid labour of parents. Importantly, Klein’s notion that children have the right to raised by gestational parents radically disavows the very feminist approach she emphasizes, namely, a consideration that would see parenting as a combination of economic, physical, and mental efforts that might sometimes come from those who did not, in fact, give birth to a child. The second issue, which Klein foreshadows in her introduction, is that of gay men and surrogacy. Klein describes a notorious case from Australia in which two gay men used their son (birthed by a surrogate in Russia) as part of a pedophilia network to argue that surrogacy is one way men can create children whom they might later abuse. Such use of atypical examples—even in cases where the exceptions are important enough to require mention—requires careful caveats. Klein offers only that such cases “we all hope . . . are rare” but that we cannot “know for sure” (41). This issue in particular, and Klein’s arguments in general, require a much more rigorous framing.

Indeed, while Klein’s agenda and tone are clearly activist, the book would benefit from a critical studies approach to the many nuanced aspects of surrogacy. For example, several scholars have suggested that surrogacy has helped to de-naturalize heterosexuality and the heterosexual couple as the norm for reproduction and child rearing (e.g., Barrett 2015; Morera 2018).

Further, being mindful of Klein's call to understand choice in "the social context within which women make decisions" (17), it can be argued that surrogacy does in fact represent agency for some women. Not all women are constrained by finances or male control (such as by husbands)—factors that might force women into surrogacy. Klein only documents the latter cases from developing countries but does not consider the former in any cultural context. In her assertion that commercial surrogacy is always a harmful practice, Klein overlooks women who may choose more freely what to do with their bodies.

On whole, *Surrogacy* is a valuable source of densely packed information on the big arguments around surrogacy. It is not, however, a scholarly engagement with the very concepts of choice, agency, rights, and ethics that Klein raises as reasons for banning commercial surrogacy. In the assertion that surrogacy represents an "individualistic desire for a child" that translates to the "right to" have one "whatever the price, and whoever gets left behind" (10; emphasis original), Klein appears to argue against a rights-based ethical framework. It is not clear how this view aligns with her concern for the "human rights" of children and surrogate women. The book repeats many of its arguments, which are often couched in emotional terms to "Stop Surrogacy Now"—the name of the campaign that was launched in May 2015 by a large network of international activists, of which Klein is also a member. This message is clear, and the book's method and style serve its activist agenda. A deeper, inclusive, and critical reading is, however, necessary to contextualize, understand, and explain surrogacy in its contemporary avatar.

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Book Note: *Violence Against Indigenous Women: Literature, Activism, Resistance*

Christine Lorre-Johnston is a Senior Lecturer in the English Department at University Sorbonne Nouvelle in Paris, where she teaches literature in English and American studies. Her research is in postcolonial literature and theory, focusing on the work of contemporary Canadian, as well as New Zealand and Australian novelists and short story writers. She has co-authored *The Mind's Eye: Alice Munro's Dance of the Happy Shades* (Fahrenheit, 2015), and co-edited *Place and Space in Alice Munro's Short Fiction: A Book with Maps in It* (Camden House, 2018). She is editor of *Commonwealth Essays and Studies* and writes the Canadian books section for *The Year's Work in English Studies*.

Book under review: Allison Hargreaves. 2017. *Violence Against Indigenous Women: Literature, Activism, Resistance*. Waterloo: Wilfrid Laurier University Press.

Violence Against Indigenous Women: Literature, Activism, Resistance is a timely contribution to a body of work that argues a central role for storytelling in Indigenous scholarship, activism, and justice.

Allison Hargreaves' starting point is the fact that hundreds of Indigenous women in Canada have been murdered or have gone missing. Although these murders and disappearances have drawn recent public attention, the underlying issues of colonialism and power imbalance have not been adequately recognised or addressed. Hargreaves identifies as "an allied settler scholar" (she has worked with a sexual assault crisis group and an Indigenous/non-Indigenous coalition group) whose aim is to address misrepresentations of gendered colonial violence. In keeping with Māori scholar Linda Tuhiwai Smith's ideas in *Decolonizing Methodologies: Research and Indigenous Peoples* (1999), Hargreaves approaches Indigenous women's literature (creative works, as well as visual and oral texts) as methodology, making this literature a significant site for the creation of knowledge and for resistance. Her own research method in *Violence Against Indigenous Women* involves comparison of Indigenous research and literary works with other types of policy and activist discourse about gendered colonial violence.

In Chapter 1, "Finding Dawn and the Missing Women Commission of Inquiry: Story-Based Methods in Anti-Violence Research and Remembrance," Hargreaves focuses on *Finding Dawn*, a 2006 documentary by Métis filmmaker Christine Welsh. By "re-membling" missing girls and women in British Columbia, Welsh recreates the territories, communities, and networks they are part of, making way for a new understanding of the violence aimed at them. Hargreaves argues that this work stands in contrast to the Missing Women Commission of Inquiry, which elides much of each woman's story.

In Chapter 2, “Narrative Appeals: The Stolen Sisters Report and Storytelling in Activist Discourse and Poetry,” Hargreaves discusses three sources: the quantitative and qualitative research conducted by the Native Women’s Association of Canada (NWAC) as part of the Sisters in Spirit campaign; a 2004 report by Amnesty International titled *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada*; and the Cree-Métis poet Marilyn Dumont’s commemorative poems in *A Really Good Brown Girl* (1996). Hargreaves suggests that the Amnesty International report uses a human rights storytelling approach, implicitly relying on the colonial state to initiate change. The NWAC is careful to frame its qualitative research within biographical narratives to reflect the complexity of lives concerned. And by acknowledging the difficulty of establishing public knowledge about violence, Dumont’s poetry postpones closure.

Chapter 3, “Compelling Disclosures: Storytelling in Feminist Anti-Violence Discourse and Indigenous Women’s Memoir,” examines instances of public apology in Canada to reveal their role in a narrative of “post-colonial” reconciliation, while dissimulating the colonial power they are meant to redress. In contrast, Hargreaves notes that the 2006 memoir *Morningstar: A Warrior’s Spirit* by Dene (Chipewyan) activist-writer Morningstar Mercredi uses Indigenous personal experience as a politically relevant basis to put the (settler) reader in a position of responsibility, thereby aiming to forge a different set of relations between settlers and Indigenous people.

Chapter 4, “Recognition, Remembrance, and Redress: The Politics of Memorialization in the Cases of Helen Betty Osborne and Anna Mae Pictou-Aquash,” deals with the logic of progress and liberation that often underlies performances of public apology. Hargreaves suggests that these practices unfold as if colonial violence were something of the past, despite current evidence to the contrary. In her view, commemorative creative works—David Robertson’s 2008 graphic novel *The Life of Betty Osborne* and

Yvette Nolan’s 2006 play *Annie Mae’s Movement*—despite their own limitations, are more critical in that they raise questions about popular anti-violence remembrance and grievability.

Hargreaves concludes in “Thinking beyond the National Inquiry: A Red Girl’s Reasoning” that gendered violence is largely a product of contemporary colonial relations, and that the political urgency is not settler reconciliation but decolonial transformation. By making a case for Indigenous literature as methodology, Hargreaves reaffirms the need for resistance to status quo. In the current context where women’s voices are often hushed, and their stories misrepresented, *Violence Against Indigenous Women* opens new venues for feminist alliances through a vital, specifically Indigenous, viewpoint.

Gathering

Heat rising today after a cold spring and I am indoors and in my head. Squandering an early summer day is heresy in this country. God help me, I think, but if not, well that's fine too.

When I called Aunt Kay last night, she was making dinner.

"How does 103 feel?" I asked. As always, she laughs.

"I didn't expect to live this long." And, as always: "When is David getting married?"

My voice cracked from shouting and I coughed.

"Are you fighting something?"

Fear, I wanted to answer: I didn't tell her, but I'd called twice earlier, and it rang and rang for minutes. No answer. I'm stabbed with the knowledge she is down to months or weeks. She keeps up her small apartment, the fridge stuffed with morsels wrapped in plastic and rubber bands, walls filled with fading family photos her daughter will one day take down. Tchotchkes, mementos everywhere.

Are we ever ready to lose a loved one? Some of us have more time to prepare; others little or none.

A bright yellow bird appeared on the deck yesterday, stunned from the impact of a crash against glass, ending its spring busyness. I picked up its cooling body, felt the miracle of its soft intricacies, whispered a blessing before laying the body under a budding bush near the shore. When I walked down this morning, the bird was gone.

Resurrection? Predator? It doesn't matter, really. The future is always a promise, and always fatal. The old apple tree, the bird's home, endures these absences year in and year out. At night, I fall asleep looking at stars, listening to the disputes of snarling raccoons in the yard, and I wake before dawn to the scent of lilac, the hush of soft green poplar leaves in the wind. Don't give up on the world, says the poet; keep going even when the going is slow, says Confucius. Everything a bumper sticker. Childhood is burnished with simplicity, and the gift of years, if we're lucky, is nuance, the lingering specifics of intimacies, a kind of worship of what we've been given, gratitude for those we've walked alongside.

Well, maybe I've gone too far: I'm no Mallarme nor Debussy, and it's only an ordinary afternoon in an ordinary life, one that reminds me you could live to 103 if you don't take yourself too seriously, if you wrap up tiny moments and store them, and when people ask you how you lived this long, you give them a different answer each time: I used to skate a lot. I've been a widow for decades. I don't let things worry me.

Up the hill, a machine digs up earth for a foundation. The bus stops on the main road and the neighbour's son and daughter jump out, kick up dust along the gravel. I step outside to water a planter and check on the young crabapple tree with its wind-cracked limb. Always there will be storms and lost limbs, I am always starting over and the years in my body lean harder against the seasons. What else is there to do? And what a time. What a time.

Now this: red blossoms emerging from branches of the broken limb, jubilant.

* * * * *

Lorri Neilsen Glenn's most recent book is *Following the River: Traces of Red River Women* (Wolsak and Wynn), an award-winning mixed-genre exploration of the lives of her Ininiwak and Métis grandmothers and their contemporaries. Author and editor of several collections of poetry and nonfiction, Lorri has worked with writers across Canada and in Ireland, New Zealand, Australia, Greece and Chile and has served on national and regional literary juries. Her award-winning essays have appeared in *The Malahat Review*, *Prairie Fire*, and *Event*, among other journals and anthologies. Former Halifax Poet Laureate, Lorri is a mentor in the University of King's College MFA program in creative nonfiction and Professor Emerita at Mount Saint Vincent University @neilsenglenn