The Emory

Philosophy

REVIEW

Letter of Introduction

Dear Reader,

I am proud to present to you the second annual edition of the Emory Philosophy Review. The review was created last year by undergraduates who found the support for the humanities at Emory to be inadequate. In order to give exemplary undergraduates a platform to showcase their philosophical work, they created the Emory Philosophy review, a peer-reviewed philosophy journal. The initial goal for the journal, which we hope to carry over to this year and the years to come, is to enrich Emory's philosophy department and the humanities at large, giving our submitters a professional venue to share their work.

This year, the Emory Philosophy Review teamed up with Emory's chapter of Phi Sigma Tau, the philosophy honors society, in order to hold our first annual Undergraduate Philosophy Conference. Those who were selected for publication in the review or had bold and creative submissions were asked to present their paper at the conference. We hope that in the years to come both the conference and our journal will continue to add texture and depth to the Emory philosophy community and beyond.

Please enjoy this year's publication of the Emory Philosophy Review.

Warm regards,

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The Ethnic "Other" in Former Yugoslavia

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Introduction

The former Yugoslavia's history of ethnic conflicts can be understood as a series of intertwined and often competing traumas related to identity and political sovereignty. These traumas held an important function in the collective psyche of each ethnic group insofar as they signified an unconscious mechanism of group identity construction and fortification. Each generation has been forced to revisit these traumas in some way; the most recent outbreak of ethnic violence in the 1990s brutally illustrates the tenacity of these ancient traumas, as well as the conviction of nationalist extremists that these traumas can be reversed or resolved through the obliteration of an enemy group. The perpetuation of ethnic traumas will continue until a process of "working through" can commence.

The intergenerational survival of ethnic hatreds cannot be completely accounted for using traditional political or economic lenses. Therefore, I begin by analyzing the causal mechanisms underlying ethnic hatreds in the former Yugoslavia by drawing on psychoanalytic theories. I then discuss two prominent attempts at working through—or the process in which hidden traumas are acknowledged and overcome–the wars and genocides of the 1990s before offering new insights into the transmission and resolution of intergenerational trauma.[1] While there were multiple conflicts throughout the region during the dissolution of Yugoslavia, I will focus specifically on

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[1] MJ Sedler, "Freud's Concept of Working Through," *The Psychoanalytic Quarterly*, (1983), 1.

reconciliation attempts in Bosnia and Herzegovina due to the fact that it has "the most mixed ethnic composition" of the former Yugoslavian countries.[2]

Historical Overview

The complex history of the Balkan peoples can be conceptualized in the following manner: the arrival of Slavic peoples into the Balkan region; occupation by the Ottoman and Austrian-Hungarian Empires; the unification of Slavic peoples under the self-sovereign Kingdom of Serbs, Croats and Slovenes; the dissolution of the Kingdom during World War II and the founding of the Socialist Federal Republic of Yugoslavia; and finally the rise of Serb nationalism and ethnic violence in the 1990s. A brief overview of this history is necessary in order to provide substance for the subsequent psychoanalysis.

The first Slavic groups migrated to the Balkans from the Caucasus between the sixth and eighth centuries CE. The Orthodox Serbian kingdom which developed was soon threatened by the expanding Ottoman Empire, and the nature of this threat would be immortalized by the infamous Battle of Kosovo on June 28, 1389. Although its outcome was indecisive, the Battle of Kosovo is perceived as the beginning of Serb subjugation at the hands of the Ottoman Empire. In addition, Prince Lazar Hrebeljanović, who was considered a Serbian national hero, was killed during the Battle.[3] The Battle was regarded as the event which marked the toppling of Serbian self-sovereignty "despite the gap of seventy years between the Battle of Kosovo and the fall of Serbia."[4]

Not only did the Ottoman occupation signify a termination of Serbian self-sovereignty, it also diversified the region. The spread of Islam ultimately resulted in the formation of distinctive

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[2] Ewa Tabeau and Jakub Bijak, "War-related Deaths in the 1992-1995 Armed Conflicts in Bosnia and Herzegovina: A Critique of Previous Estimates and Recent Results," *European Journal of Population*, (2005), 188.
[3] Vamik Volkan, *Bloodlines: From Ethnic Pride to Ethnic Terrorism* (Boulder, CO: Westview Press, 1997), 51.
[4] Ibid., 61.

ethnic groups, such as Bosniaks (or Bosnian Muslims) and Kosovar Muslims. In the early 19th

century, the Serbs managed to expel the Ottoman Empire and establish a sovereign state,

although this feat did not imply that the region was free from foreign occupation. The lands of

Croatia, Bosnia and Herzegovina, Montenegro and Macedonia remained under Ottoman and

Austro-Hungarian rule.[5] The extent of Serbian dissatisfaction with the presence of foreign

powers is exemplified most famously by the assassination of Austro-Hungarian Archduke Franz

Ferdinand in Sarajevo by Bosnian Serb nationalists. This event instigated World War I, which

culminated with the unification of the ethnic groups into the Kingdom of Serbs, Croats and

Slovenes in 1918.[6]

The Kingdom represented a victory in terms of the definitive expulsion of foreign

hegemony from the region. Yet it also revealed critical incongruities among the ethnic groups, as

Serbs and Croats vied for greater political influence in the newly formed state. Nationalist fervor

would peak with the onset of World War II, when the Nazis invaded the region in 1941. The

Nazi occupation escalated into a civil war between ultra-nationalists; these included the Croatian

Ustaše and the Serbian Četnici. Recognized as the governing force in the region by the Nazis, the

Ustaše sought to eradicate Serb and Muslim populations, while the Četnici endeavored to fulfill

their vision of a "great Serbia."[7] Although the Četnici had received support from the Allied

Powers, the emergence of a third resistance group—the communist Partisans led by Josip Broz

Tito—soon gained the attention of the Allies. Tito's campaign, based on socialist ideology rather

than extreme nationalism, was ultimately successful. He established the Socialist Federal

Republic of Yugoslavia (SFRY) in 1945 and would serve as head of the state until his death in

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[5] Bette Denich, "Dismembering Yugoslavia: Nationalist Ideologies and the Symbolic Revival of Genocide," *American Ethnologist* 21 (1994): 372.
[6] Volkan, *Bloodlines*, 52.
[7] Denich, "Dismembering Yugoslavia," 374.

1980.[8] During this time, he would ground his regime in the principles of "brotherhood and

unity," thereby seeking to transcend nationalism and ethnocentrism in favor of a socialist ideal.[9]

Yet Tito's efforts would prove insufficient in quelling ethnic tensions, as the decades

following his death witnessed the revival of Serb nationalism. President Slobodan Milošević was

a central figure in this movement. As the constituent republics seceded from Yugoslavia—first

Slovenia, then Croatia and Bosnia-Herzegovina—the conflict quickly escalated into campaigns

of ethnic genocide, largely propagated by Serbs against Bosniaks in Bosnia-Herzegovina. The

atrocities included concentration camps and mass executions as well as the use of rape as a

weapon of war. The Bosnian War ceased with the Dayton Agreement, yet conflict would inflame

the region again in the late 1990s when the Kosovo Liberation Army sought independence from

Yugoslavia, which now only consisted of Serbia and Montenegro.[10] While Kosovo officially

gained independence in 2008, its status as a sovereign nation is still highly disputed.[11]

Identity in Opposition to the Other

Given the extensive history of ethnic violence in the former Yugoslavia, it is necessary to

investigate the origins of psychic forces underlying such conflicts. As explained by Vamik

Volkan, ethnic conflict originated in the Serb narrative of the Battle of Kosovo, which

mythologized Prince Lazar as a Serb martyr. This narrative "reinforce[ed] the Serbs' sense of a

traumatized, shared identity."[12] The Battle thus constitutes a "chosen trauma," in which the loss

of statehood was never properly mourned but instead became cemented in the Serb psyche

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[8] Volkan, *Bloodlines*, 52.
[9] Doris Gödl, "Challenging the Past: Serbian and Croatian Aggressor—Victim Narratives," *International Journal of Sociology* 37 (2007): 46.
[10] Volkan, *Bloodlines*, 52-55.
[11] Christopher Borgen, "Introductory Note to Kosovo's Declaration of Independence," *International Legal Materials* 47 (2008): 461-66.
[12] Volkan, *Bloodlines*, 61.

through the process of intergenerational transmission. Indeed, the long-lasting influence of the Battle is evident through the myriad artistic renditions of Lazar centuries after his death.[13]

This internalized trauma came to be a central component of Serb ethnic identity and has vast ramifications for inter-ethnic relations. Volkan describes a process of externalization in which unwanted or unacceptable aspects of one's own group are unconsciously attributed to another group.[14] This process suggests a mutual reinforcement between a group's chosen trauma and their image of the other. The other becomes a reservoir for a group's unacceptable feelings of inferiority and is reduced to a representation of a group's loss. Thus, the Muslim presence in the Balkans became a symbol of the Serbs' loss of self-sovereignty at Kosovo.

Yet is this single, foundational trauma sufficient to account for the history of ethnic conflict in its entirety? Perhaps Serbs consider the Battle of Kosovo a foundational trauma because Ottoman rule would introduce "the other" in the form of Bosnian Muslims. Recognition of the other is an integral component of demarcating and solidifying one's own identity. However, I assert that the ethnic troubles of former Yugoslavia attest to the presence of multiple group traumas which have been used to justify violence as a coping mechanism. The Yugoslavian Civil War of the 1940s demonstrates the presence of these overlapping traumas. Ante Starčević popularized the notion of a "great Croatia" in the 19th century, asserting the primacy of the Croatian ethnicity and its role as the sole, legitimate ruling power in the region. The ultra-nationalist Croats, or Ustaše, used these notions to justify their violence against Serbs during World War II.[15] This violence would represent yet another cultural trauma for Serbs and exacerbate the perceived need for retribution. Although nefariously exaggerated, the Croats' perception of threat was rooted in the reality of Serb political domination within the Kingdom of

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[13] Ibid., 43, 62-66.
[14] Ibid., 89.
[15] Denich, "Dismembering Yugoslavia," 373.

Serbs, Croats and Slovenes; similarly, the notion of a Muslim threat was rooted in the reality of

foreign hegemony.[16]

Feelings of threat, however exaggerated, formed the basis of ethnic identity, so that the

traumas themselves became "ethnic markers."[17] Fixating on such traumas does not imply that

feelings of pain or powerlessness are consciously acknowledged; indeed, such unwanted self-

representations were externalized and reinterpreted as intrinsic weaknesses in other groups. The

remaining effects of rage and the desire for retribution—which could be consciously attributed to

one's own group as they in some ways intimate a sense of powerfulness—inflated ultra-

nationalist sentiments. Such violent sentiments represented endeavors to rid the ethnic group of

the chosen trauma. Rather than re-integrating feelings of inferiority into one's own ethnic group,

however, ultra-nationalists sought to eradicate the reservoirs of such feelings in order to

permanently distance themselves from their own negative self-representations. However, these

catastrophically misguided attempts at coping with trauma only traumatized other groups.

Throughout the course of the region's history, different ethnic groups engaged in violence in an

attempt to work through their ethnic woes; this violence was viewed as unfounded aggression by

targeted groups and would form of the basis of new collective traumas.

Tito's Role

The relatively peaceful coexistence of these groups in the socialist Yugoslavia inspires

questions regarding the nature of such a coexistence and how it was maintained. Josip Broz,

more famously known as Tito, led the Partisan resistance movement during the 1940s, which

relied upon membership from all ethnic groups.[18] Tito's rule for the next four decades would be

predicated upon the notion of an overarching Yugoslav identity that transcended ethnicity. Tito

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[16] Ibid., 374.
[17] Volkan, *Bloodlines*, 45.
[18] Dejan Djokic, "Coming to Terms with the Past: Former Yugoslavia," *History Today* 54 (2004): 17-19.

broke ties with Stalin in 1948 and attempted to create a distinct form of Yugoslav socialism—or

Titoism—based upon self-management by the labor force.[19] Maintaining this Yugoslav ideal

required the suppression of ethnocentrism and the proper calibration of the political structure so

as to ensure that "no single ethnic group came to dominate the governmental institutions."[20]

Indeed, the task of defusing ethnic strife demanded a new historical narrative. Titoist

understandings of World War II emphasized the conflict as a socialist revolution which signified

liberation for all groups. In this manner, Tito sought to formulate the Yugoslav identity using a

common feat—a "chosen glory"—while neglecting the realities of inter-ethnic violence.[21] Tito's

attempts at Yugoslav unification, while well-intended, were perhaps counterproductive because

the stifling of ethnic divisions further hindered the mourning process.

　　　Tito envisioned that such an act of unification would be sufficient for reconciliation. As

the civil wars of 1990s would reveal, this was not the case. Ancient traumas were augmented by

recent instances of violence during World War II and, rather than allowing communal mourning

to ensue, Tito sought to suppress this painful past in favor of a triumphant, albeit illusory, shared

narrative. Yet how does one account for the fact that Yugoslavia prospered for some time as a

multiethnic nation under Tito's rule? As explicated by Teresa Brennan, Freud's understanding of

group behavior may suffice for explaining Yugoslavia's relative ethnic cohesion. Freud asserts

that individual, libidinal drives (understood as instinctive or sexual energy) can be directed

toward a group leader. An individual may identity with certain leaders because these figures

represent the individual's ego-ideals, or idealized versions of the self. Groups are stabilized,

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[19] Thomas Oleszczuk, "Group Challenges and Ideological De-Radicalization in Yugoslavia," *Soviet Studies*, (1980), 561-2.
[20] Gödl, "Challenging the Past," 46.
[21] Djokic, "Coming to Terms," 17-19.

then, through the "deflected self-love…involved in the tie to a projected ego-ideal."[22] This model

reinforces the argument that Tito's attempts at reconciliation did not signify a genuine working

through of past traumas but relied upon a shared tie to a charismatic leader.

Understanding Violence through the Death Instinct

The most recent instance of ethnic violence in the former Yugoslavia exemplifies

Volkan's concept of the time collapse, which he describes as the "commingling" of past traumas

with contemporary events.[23] Serb ultra-nationalists, predominantly operating in Bosnia-

Herzegovina, viewed the Bosnian Muslim ethnicity as a perverse strain of Serbs who had been

"contaminated" by Ottoman religion and culture. This accusation of the other as representing a

tainted version of the original group is not unique to the Serb psyche; Croat nationalists espoused

similar views of being the legitimate ethnic group among "Islamicized Croats."[24]

The violent actions against other groups signify endeavors to return to a state prior to

trauma. This notion is reminiscent of Freud's concept of the compulsion to repeat, which he

suggests implies the presence of a death instinct independent of the pleasure principle.[25] Whereas

the pleasure principle serves as the impetus or underlying motivation for interaction with the

world (so that one's needs and desires may be met), the death instinct represents a desire to

return to a state prior to life—a state in which one exists merely as inorganic matter.[26] Thus,

genocidal destruction sought to restore an imagined time of Serbian dominion prior to the trauma

of Ottoman rule. Such motivations are consistent with the conduct of Bosnian Serbs during the

most recent civil war. Systematic rape was used "to destroy parent-child and spousal bonds and

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[22] Teresa Brennan, "Transmission in Groups," in *The Transmission of Affect* (Ithaca, NY: Cornell University Press, 2004), 57-58.
[23] Volkan, *Bloodlines*, 35.
[24] Denich, "Dismembering Yugoslavia," 373.
[25] Sigmund Freud, "Beyond the Pleasure Principle," in *The Freud Reader*, ed. by Peter Gay (New York, NY: W. W. Norton & Company, 1989), 594-626.
[26] Ibid.

render large numbers of the society's child-bearing women contaminated and thus unmarriageable." [27] These atrocities were thought to mirror Ottoman practices which targeted Serb populations, including impalement.[28]

Past Attempts at Working Through Ethnic Conflict

Dayton Agreement

Armed conflict in Bosnia and Herzegovina was officially terminated with the signing of the Dayton Agreement in November 1995. [29] Named after the American city in which they took place, the peace talks involved representatives from Bosnia and Herzegovina, Croatia, Serbia and the United States. The Dayton Agreement attempted to provide the groundwork for the reconstruction of Bosnia and Herzegovina as a democratic, free-market state. It established two entities—the Bosniak-Croat Federation and Republika Srpska—with separate governing structures. The Bosniak-Croat Federation consisted of 51% of Bosnia and Herzegovina's territory, while Republika Srpska comprises 49%.[30] These two entities were to be unified under a central government consisting of a three-member presidency, a bicameral legislative body, and a council of prime ministers.[31] In addition, the Dayton Agreement authorized a NATO peacekeeping presence to stabilize the region.[32] This included the establishment of the Office of the High Representative (OHR), which gave the international community considerable influence in overseeing reconstruction, such as the ability to remove uncooperative public officials and establish state border police.[33]

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[27] Lynda E Boose, "Crossing the River Drina: Bosnian Rape Camps, Turkish Impalement, and Serb Cultural Memory," *Signs* 28 (2002): 73.
[28] Ibid., 82.
[29] Julie Kim, "Bosnia: Overview of Current Issues," *Foreign Affairs, Defense, and Trade Division*, (2008), 1.
[30] "Bosnia's Next Five Years." *United States Institute of Peace*, (2000), 3.
[31] Kim, "Bosnia: Overview of Current Issues," 2.
[32] Ibid.
[33] "Bosnia's Next Five Years," 5.

In the first five years since its enactment, it was clear that ethnic unification and stability would not be achieved easily. Nationalist political parties, which had concentrated power during the war, obstructed implementation of the Dayton Agreement. These nationalist parties operated largely within their corresponding entities, and although Bosniaks and Croats shared the Federation, they "maintain[ed] separate, parallel lines of authority."[34] Given that political divisions between ethnic groups were formalized in the provisions of the Agreement, it is perhaps not surprising that nationalist parties resisted collaboration at the federal level and that "central institutions…remain[ed] weak and ineffective."[35] The Dayton Agreement and the political structures which it has established remain in effect, yet Bosnia and Herzegovina continues to struggle with economic and infrastructural underdevelopment and ethnic separatism as evidenced by segregated education systems.[36]

The Dayton Agreement was never intended to serve as method of "working through" ethnic trauma—not only because its provisions prioritized political and economic stability over the psychosocial elements of recovery, but because it assumed that attaining this material stability was necessary before the resolution of psychological trauma could commence. Given the country's meager progress, revising the Agreement or instating new provisions appear to be reasonable recommendations for future action. However, disrupting the existing political structure, despite its inefficiency, may place the country in yet another precarious situation in which extremists steer attempts at reform to suit nationalist agendas. It is remarkable that the Agreement itself may serve as a barrier toward reconciliation in civil society, both because it was undemocratically imposed upon the residents of Bosnia and Herzegovina by international forces

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[34] Ibid., 2.
[35] Ibid.
[36] Pilvi Torsti, "Segregated Education and Texts: A Challenge to Peace in Bosnia and Herzegovina," *International Journal on World Peace*, (2009), 66.

and because it relies upon political divisions between ethnic groups which thwart cooperation, especially at the federal level. Dayton's ambitions for democratic nation-building not only failed to openly address this trauma but presupposed that democratic processes can succeed in an ethnically fractured country.

International Criminal Tribunal for the former Yugoslavia

The second prominent attempt at working through the traumas of ethnic violence was the International Criminal Tribunal for the former Yugoslavia (ICTY). Established in 1993 by the United Nations, ICTY has charged over 160 individuals with crimes against humanity.[37] These included "heads of state, prime ministers, army chiefs-of-staff, interior ministers and many other high- and mid-level political, military and police leaders from various parties," among them former president of Yugoslavia Slobodan Milošević.[38] Milošević's proceedings terminated following his death in 2006; Bosnian Serb leader Radovan Karadžić was sentenced to forty years' imprisonment in 2016 and a trial judgment for Ratko Mladić is expected in the coming years.[39]

Not only did ICTY help to expel war criminals from Bosnia's new political structure, it also sought to endorse the notion that "guilt should be individualized, protecting entire communities from being labelled as 'collectively responsible.'"[40] While it has experienced success in prosecuting war criminals from all ethnicities, it is unclear whether ICTY has succeeded in its larger goal of separating individual action from collective indictment. Indeed, despite the official truth-seeking charge of the ICTY, "the truths established in a courtroom may

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[37] "United Nations International Criminal Tribunal for the Former Yugoslavia." About the ICTY.
[38] Ibid.
[39] Ibid.
[40] Ibid.

fail to resonate among local communities."[41] Empirical data from a survey conducted in 2010,

for instance, demonstrates these "competing ethnic narratives," as the majority of respondents

from each ethnicity believed that its group was mainly on the defensive during the war.[42] These

considerations raise serious questions regarding the role of war crimes tribunals as arenas of

ethnic reconciliation and resolution.

As Shoshana Felman describes in *The Juridical Unconscious*, a trial can repeat rather

than remedy historical traumas in ways which circumvent an unspeakable abyss. When

examining Hannah Arendt's *Eichmann in Jerusalem*, Felman argues that the trial of Adolf

Eichmann endeavored "to articulate the impossibility of telling through the legal process and to

convert this *narrative impossibility* into *legal meaning*."[43] According to Felman, Arendt is

jurisprudentially conservative in that she views the trial as a judgment of the actions of a single

individual, not a larger history of anti-Semitism.[44] It appears that ICTY can best be classified as

endorsing a jurisprudentially conservative approach toward war crimes as evidenced by its

commitment to differentiating between individual offenders and the groups to which they

belong. This approach, however, fails to locate the presence of ethnic hatreds beyond the

actions—and minds—of a small group of individuals. It forgoes an examination of the historical

and collective psychological structures that have resulted in the most recent conflict. Yet, as

Felman suggests, even if the ICTY were to put the history of trauma itself on trial, the trial may

only be able to demonstrate the incomprehensible nature of this history.

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[41] Janine Natalya Clark, "Bosnia-Hercegovina Part II: Truth," In *International Trials and Reconciliation: Assessing the Impact of the International Criminal Tribunal for the Former Yugoslavia*. (New York, NY: Routledge, 2014), 83.
[42] Ibid.
[43] Shoshana Felman, *The Juridical Unconscious*, (Cambridge, MA: Harvard University Press, 2002), 159.
[44] Ibid., 120-122.

Recommendations for Future Attempts at Working Through

Conventional understandings of recovery stress the importance of testimony that render trauma articulable and comprehensible. In her *Stages of Recovery*, Judith Herman explains that the work of recovery involves "reconstruct[ing] the traumatic event as a recitation of fact."[45] While the transmutation of the unspeakable into a narrative is inherently beneficial in allowing a survivor to re-interpret the trauma as a past event, narration exists for an end outside of itself— namely for the purpose of communicating what was once unspeakable to others. The act of testimony and the state of being heard are complementary and equally important processes necessary for working through. Being able to articulate one's own trauma is part of a broader process of rendering this trauma comprehensible, first to oneself and then to others. Yet ethnic groups in Bosnia and Herzegovina are largely reluctant to acknowledge the trauma of other groups for fear of losing an understanding of themselves as victims and potentially confronting themselves as aggressors. This state is reminiscent of psychoanalyst Melanie Klein's description of the paranoid-schizoid state, in which the ego is incapable of integrating its idealized and demonized versions of the same object.[46] The acknowledgement of pain in the other is equivalent to a loss of a certain, idealized version of the self based upon a group's unique historical account of events. Thus, working through can be equated with a certain "looking through" the demonized characterization of the other and recognizing the pain beyond it as legitimate.

How can the notion of "looking through" be applied to build empathy and reconciliation between groups? The problems of ethnic strife are inextricably bound to ethnic identity. Indeed, it is through ethnic identity that ethnic trauma situates and reaffirms itself. Disregarding or ignoring ethnic identity as a relevant marker is both unfeasible and symptomatic of the tendency

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[45] Judith Herman, "Remembrance and Mourning," In *Trauma and Recovery* (New York, NY: Perseus Books Group,1997), 175-7.
[46] Melanie Klein, "Introduction," In *The Selected Melanie Klein*, edited by J. Mitchell, 20-21.

to suppress or deny trauma. If the perpetuation of ethnic identity inherently implies the transmission of its corresponding traumas, is ethnic conflict inevitable? Perhaps a departure from a linear, genealogical model of trauma—in which trauma has a discernible beginning point, an extension that is manifested through time and space, and an unfathomable yet highly anticipated end—is necessary in order to realistically grapple with the pain and loss associated with embodying a particular ethnicity. An alternative to a linear model of trauma is a cyclical one in which trauma is understood to be a ubiquitous experience and the process of working through must be repeated generationally. This conceptualization of trauma is perhaps less satisfying in that it implies that trauma is never completely resolved. Yet it may be necessary given that each generation will be forced to interact with its histories, which cannot and should not be rewritten to minimize or invalidate the accompanying traumas.

The question remains as to how these principles can be applied to matters of everyday interaction in Bosnia and Herzegovina. In *Politics is About Relationship*, Harold Saunders proposes the notion of a whole body politic in which relationships grow through a "cumulative, multilevel, open-ended process of continuous interaction."[47] Fostering relationships in civil society not only increases the magnitude and reach of individual agency but provides a medium through which narratives of trauma can be spoken and heard. The Dayton Agreement and the International Criminal Tribunal for the former Yugoslavia were formulated as universal and unilateral forces of reconciliation and legitimated by international backing. This top-down approach, indeed any approach that is far removed from the everyday citizen, will only be interpreted as imposing a uniform account of history incongruent with group perceptions. The "medium" of civil society differs from that of the courtroom in that the latter, as argued by

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[47] Harold H. Saunders, "A Different Way of Thinking--Another Way of Relating," In *Politics Is about Relationship*. (Palgrave Macmillan, 2005).

Felman, often inadvertently repeats the very traumas it attempts to remedy. The fluidity and spontaneity of civil society may be more beneficial in attempting to work through trauma, as civil society is predicated upon relationship building, which in turns relies upon reciprocation in speaking and listening. Endeavors to encourage the growth of interethnic relationships through public policy may be limited, although eliminating educational segregation would constitute an important first step. Ultimately, however, this process will require time and a shift in values and perceptions in order to challenge an atmosphere of mistrust and antagonism.

Conclusion

Rather than being unilaterally traced to a single, foundational trauma, ethnic violence in the former Yugoslavia should be understood as a historical succession of multiple traumas which have solidified and magnified one another. The resolution of these traumas has appeared elusive after centuries of strife. Ultimately, I contend that the failure to terminate the intergenerational transmission of ethnic hatreds is rooted in a desire to prematurely transcend or simply deny the presence of entrenched traumas. The process of working through requires an acknowledgement of both one's own pain and that of other groups, as well as a recognition that so long as history and ethnicity locate and express themselves through the human body and psyche, the individual will be forced to cope with the traumas inhering in these forces. Understanding ethnic strife in this matter inevitably involves its own forms of loss, such as the loss of the self as a being immune to the influences of a living history and the loss of the very idea that trauma has an end. Yet if Bosnia and Herzegovina's ethnic traumas are openly discussed and reinforced so that no one group's pain is utilized as a justification for violence, perhaps trauma can function merely as a mechanism of ethnic identification rather than interethnic violence.

Bibliography

Boose, Lynda E. "Crossing the River Drina: Bosnian Rape Camps, Turkish Impalement, and

    Serb Cultural Memory." *Signs* 28, no. 1 (2002): 71-96.

    http://www.jstor.org/stable/10.1086/340921.

Borgen, Christopher. "Introductory Note to Kosovo's Declaration of Independence."

    International Legal Materials 47, no. 4 (2008): 461-66.

    http://www.jstor.org/stable/20695829.

Brennan, Teresa. "Transmission in Groups." In *The Transmission of Affect*, 51-73. Ithaca, NY:

    Cornell University Press, 2004.

Denich, Bette. "Dismembering Yugoslavia: Nationalist Ideologies and the Symbolic Revival of

    Genocide." *American Ethnologist* 21, no. 2 (1994): 367-90.

    http://www.jstor.org/stable/645894.

Djokic, Dejan. "Coming to Terms with the Past: Former Yugoslavia." *History Today* 54, no. 6

    (2004): 17-19.

Freud, Sigmund. "Beyond the Pleasure Principle." In *The Freud Reader*, edited by Peter Gay,

    594-626. New York, NY: W. W. Norton & Company, 1989.

Gödl, Doris. "Challenging the Past: Serbian and Croatian Aggressor—Victim Narratives."

    International Journal of Sociology 37, no. 1 (2007): 43-57. doi:10.2753/IJS0020-

    7659370103.

Volkan, Vamik. *Bloodlines: From Ethnic Pride to Ethnic Terrorism*. Boulder, CO: Westview

    Press, 1997.

"Bosnia's Next Five Years." *United States Institute of Peace*, 2000.

"United Nations International Criminal Tribunal for the Former Yugoslavia." About the ICTY.

      Accessed December 1, 2015. http://www.icty.org.

Clark, Janine Natalya. "Bosnia-Hercegovina Part II: Truth." In *International Trials and*

      Reconciliation : Assessing the Impact of the International Criminal Tribunal for the

      Former Yugoslavia. New York, NY: Routledge, 2014.

Felman, Shoshana. *The Juridical Unconscious*. Cambridge, MA: Harvard University Press,

      2002.

Herman, Judith. "Remembrance and Mourning." In *Trauma and Recovery*. New York, NY:

      Perseus Books Group, 1997.

Kim, Julie. "Bosnia:Overview of Current Issues." *Foreign Affairs, Defense, and Trade Division*,

      2008.

Klein, Melanie. "Introduction." In *The Selected Melanie Klein*, edited by J. Mitchell.

Oleszczuk, Thomas. "Group Challenges and Ideological De-Radicalization in Yugoslavia,"

      Soviet Studies (1980).

Saunders, Harold H. "A Different Way of Thinking--Another Way of Relating." In *Politics Is*

      about Relationship. Palgrave Macmillan, 2005.

Sedler, MJ. "Freud's Concept of Working Through," *The Psychoanalytic Quarterly* (1983).

Tabeau, Ewa, and Jakub Bijak. "War-related Deaths in the 1992-1995 Armed Conflicts in Bosnia

      and Herzegovina: A Critique of Previous Estimates and Recent Results." *European*

      Journal of Population / Revue Européenne De Démographie 21 (2005): 187–215.

Torsti, Pilvi. "Segregated Education and Texts: A Challenge to Peace in Bosnia and

      Herzegovina," *International Journal on World Peace* (2009).

Believing in the Body: Deleuze, Sensation and Cinema

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"We must believe in the body, but as in the germ of life, the seed which splits open the paving-stones, which has been preserved and lives on in the holy shroud or the mummy's bandages, and which bears witness to life, in this world as it is." – Gilles Deleuze, *Cinema 2*

I. Introduction: Body and Potentiality

An exigency underpins Gilles Deleuze's *Cinema* books. In one of the most charged passages of *Cinema 2*, Deleuze presents man as paralyzed by the intolerability of the modern world, structured as it is by a "powerful organization of poverty and oppression" (*C2*, 20). A massive arrangement of oppression and exploitation permeates all spheres of capitalist society, yet provokes little reaction besides resignation or disinterest. Man feels trapped: dispossessed of his ability to act, the "link between man and the world is broken" (*C2,* 171-172). The world appears like a bad film that man watches with a certain sense of apathy. Deleuze is not hopeless, however. This link can be restored through "belief in this world," by "[discovering] and [restoring] belief in the world before or beyond words." Deleuze emphasizes that believing in the world is not the same as believing in a different world (i.e. a transformed world in which oppression and exploitation would no longer exist). Rather, it is "belief in this world, as it is" (*C2,* 172). We do not need to conjure up some utopian world to strive towards (e.g. a transformed society in which oppression and exploitation would no longer exist), but rather find a way to reconnect with the world we're already living in. From this urgency, Deleuze sets a mission for cinema: "The cinema *must* film, not the world, but belief in this world" (*C2,* 172, emphasis mine). Thus, Deleuze's theory of cinema comes first of all from an *interested* idea of art: in which art serves as a means through which we might move beyond the arrangements of

power that stratify man and disconnect him from the world. Cinema, for Deleuze, should answer Artaud's call for a "true culture. . .a refined means of understanding and *exercising* life" (*TaID,* 10). Clarifying what believing in *this* world entails, Deleuze proposes that it is "simply believing in the body…as in the germ of life, the seed which splits open the paving-stones" (*C2,* 172-173). Cinema must film belief in the body, must make us believe in the body.

Deleuze's formulation necessarily raises the question: what constitutes belief in the body? How are we not already believing in our bodies? This question is best pursued through other facets of Deleuze's philosophy (i.e. outside of the *Cinema* volumes), here drawn primarily from Brian Massumi and D.N. Rodowick's accounts. As a starting point, Deleuze refuses an "organic" conception of the body. In this notion, the body is "defined by that which in or of it remains the same." It is conceived as a static form, "grasped solely form the point of view of [its] generality." That is, "bodies are reduced to what they have in common" (*UG,* 96). There is a transcendent idea of what a body is (for example, what constitutes "a man") to which all real bodies are conceived in relation to as "good" or "bad" copies. True difference is effaced in favor of "degrees of similarity" (*UG,* 97). For instance, there is a certain image of what a man "is," that all real bodies are conceived in relation to as more or less similar (i.e. more or less masculine). This is logic of identity, which groups people together as essentially similar (e.g. "you are all men").

Deleuze, however, moves away from models of similarity and identity to conceive of the body as "as a potentiality defined by relations and forces or the power to affect and be affected" (*GDTM,* 154). This is an immanent image of the body. It defines the body by the relations it enters into (with other bodies, objects, affects, etc.) rather than by comparison to a transcendent form. As such, it affirms difference rather than similarity. Furthermore, Deleuze puts time into

the body. The organic image of the body is static and fundamentally unchanging. However, if the body is a potentiality, defined only by the relations it enters into, it is in constant variation or becoming depending on what affects it and vice versa.

The opposition between these two conceptions of the body is not an academic squabble, but rather concerns the real effects of power on lived experience. In his book on Michel Foucault, Deleuze defines power as an organizing or mapping of the real. It "formalizes," organizing "the horizons of seeing and the limits of saying" through a process of stratification and composition (*GDTM,* 197-198). Put in a different way, power "codes" bodies such that certain, postures, identities, affects, etc. are produced. This is not necessarily a "bad" thing; it is just that the body's virtually infinite potential is diminished (just as when you eat, your mouth can no longer be used to kiss or talk). The problem is rather an entrenching of this territorialization that loses sight of potentiality altogether. This is precisely what the organic conception of the body does: it raises a particular modality of the body to a fixed and transcendent ideal.

In *Cinema 2*, when Deleuze speaks of the broken link between man and the world, he is highlighting such an over-coding of the body. Although time is "invention or it is nothing at all," the organic regime continually makes-the-same rather than affirm time as fundamentally a force of change (*UG,* 106). Furthermore, it effaces this process by posing as "natural" or "common sense." Time is conceived as the return of the same (according to transcendent forms), rather than a continual making-different (and thus a continual opening of possibility). As such, we no longer "believe in the world" and feel trapped. The world is intolerable, but there appears to be no outside—it appears permanent, unalterable. Deleuze proposes that "believing in the body" can lead us out of this situation because he defines it first of all as a potentiality (which becomes

limited by the relations constructed by power, but nevertheless maintains the possibility to form new relations and thus change). Power seeks to organize life, but life always exceeds and escapes stratification because it is in time (rather than static). Organic models build on top of the body without organs—"the body outside any determinate state…the body from the point of view of its potential, or virtuality" (*UG*, 70)—but can never destroy it. Thus when Deleuze asks that we "[reach] the body before discourses, before words, before things are named" (*C2*, 172-173), he is proposing that we rediscover our potential to become-other, our capacity to construct new modes of existence than the one given to us.

II. Giving a Body in Cinema

In *Cinema 2*, after proposing that to believe in the world requires that we "simply [believe] in the body" (*C2*, 172), Deleuze introduces a group of directors who participate in what he calls "the cinema of bodies" (*C2*, 192). This classification involves a curious thesis. Cinema, although ostensibly a figurative art, does not necessarily "give" a body. A body must be brought about, constituted through a particular will-to-art Deleuze identifies in John Cassavetes, Chantal Akerman and Philippe Garrel, among others. This becomes clear when we keep in mind what a body is for Deleuze, i.e. a potentiality that is always open to change and becoming (as opposed to a "static mass," *GDTM*, 154). Any conception based on principles of identity and similarity does not really give a body because it ignores this most fundamental quality. "Give me a body then" (*C2*, 189)—the cinema of bodies answers this demand.

To articulate how cinema can "give" a body, Deleuze first turns to the idea of modulation as a coming-into-being opposed to the fixed identity of the mold. In *Cinema 1* Deleuze, drawing heavily on Bergson, notes how film is composed of "any-instant-whatevers" rather than a movement between privileged instants or poses. That is, instead of the ancient conception of

movement as the transition between forms, movement in cinema is—as observed on the filmstrip—a mechanical succession of equidistant instants ("immanent material elements" rather than transcendent poses). Cinema does not give movement as the passage *between* forms, but rather as a continual *forming* without destination or end. Thus, Deleuze states that cartoon films are works of cinema because "the drawing no longer constitutes a pose or a completed figure, but the description of a figure which is always in the process of being formed or dissolving through the movement of lines and points taken at any-instant-whatevers of their course" (*C1,* 5). Whereas the photograph is a mold of its object, freezing it in time as a static form, "cinema is modulation through and through" (*Negotiations,* 53). The photograph fixes its object while cinema "constitutes and never stops reconstituting the identity of image and object" (*C2,* 28).

While this continual constituting and reconstituting of identity is in one sense, for Deleuze, an intrinsic quality of cinema, its creative potential is effaced in the regime of the movement-image. In the movement-image, shots are linked by a continuity of action and reaction. These images are constantly internalized into the unified whole of the film, each shot rationally following its predecessor. As Rodowick explains, a transcendent idealism underpins the movement-image for Deleuze. These links are made possible by principles of teleology, identity, and repetition and express an indirect image of time that is defined by movement in space. In this sense, "the body serves as a locus" (*GDTM*, 154) that organizes action and reaction according to a sensory-motor schema. Its potential for variability and invention (that is, to reconstitute its identity through a process of continual modulation) is inhibited as the body is made to link self-identical spaces together according to the demands of organic narration.

However, in a particular sign of the time-image—the series—the modulatory capacities of cinema emerge in full-force in the cinema of bodies. In the series, a film divides its images by

irrational intervals—unbridgeable gaps that disallow clear and rational association between the images on either side. Whereas the interval between shots in the movement-image produced the image of an ever expanding whole that encompasses every image, these irrational cuts give the whole as the "outside." The interstice disassociates and unlinks images, making them appear incommensurable to each other and thus affirming their difference rather than similarity. In the irrational interval, time appears as a force from the outside that "[interrupts] repetition with difference and [parcels] succession into series" (*GDTM,* 178). Each moment becomes charged with the potential for the construction of new relations, rather than the continual return of the same.

In this opening, the cinema of bodies seizes upon film's powers of modulation to "give a body." Citing Jean-Louis Comolli, Deleuze describes films in which "characters are constituted gesture by gesture and word by word...they construct themselves, the shooting acting on them like a revelation" (*C2,* 192-193). Images of bodies are no longer linked by principles of identity and similarity—the logic that ensures the functioning of the movement-image—but rather differ from each other in a process of emergence and variability. The cinema of bodies gives a direct image of time because time is no longer subordinated to the movement of bodies in space, but rather appears as a force from the outside that fractures identity at every moment. In the series, which draws upon cinema's capacity to reconstitute its objects at every moment, the present "becomes an opening where principles of identity and transcendence give way to a virtuality, the possible emergence of new subjectivities and new forms of thought" (*GDTM,* 144).

III. Sensation

"[C]inema does not give us the presence of the body and cannot give it to us," Deleuze writes, "because it sets itself a different objective; it spreads an 'experimental night' or a white

space over us…[producing] the genesis of an 'unknown body…The problem is *not* that of an absence of bodies, but that of a belief which is capable of restoring the world and the body to us on the basis of what signifies their absence'" (*C2,* 201-202). As Rodowick correctly notes, what signifies their absence is time: the cinematic body lacks presence (i.e. "being") because it is always divided from itself by time, constituting and re-constituting itself at every moment. What disallows the cinema from giving the presence of the body is precisely what allows it to reach "the body before discourse," to make us believe in the body's potential to become and thus the inventiveness of time. However, here I want to slightly deviate from Deleuze to argue that this "genesis of an 'unknown body'" in cinema occurs not only through the perception of a direct time-image, but through sensation as well. This is not to posit sensation and perception as two entirely separate domains, but rather to deepen Deleuze's account of cinema's ability to make us "believe in the body" by introducing ideas from his earlier work *Francis Bacon: The Logic of Sensation.*

Like Deleuze's distinction between the movement-image and the time-image, *The Logic of Sensation* posits two opposing wills-to-art: the figurative and the Figure (or the figural). Figurative art refers to a pre-existing object that it endeavors to represent. As such, it is "organic representation," operating through a logic of similitude and identity. Organic thought, Brian Massumi explains, abstracts the body "from the singular flow of its movements through the world. . .[and defines it] by its similarity across its variations: self-identity" (*UG,* 96). Figurative art is thus judged by degrees of similarity (e.g. "it looks nothing like him!" vs. "it looks so realistic!"). In the same logic described earlier, figurative art conceives of the body as a static, self-identical form. The Figure, on the other hand, is defined as "the sensible form related to a sensation" (*LoS,* 31). Rather than requiring the spectator's brain to identify the represented object

(to affirm principles of similarity), the Figure has a sensible presence in itself. It acts "immediately upon the nervous system, which is of the flesh" (*LoS,* 31). Deleuze discusses Bacon's work as an attempt to avoid the figurative in order to bring about the Figure. However, this distinction requires deepening. As Deleuze notes, "the Figure is still figurative; it still represents someone (a screaming man, a smiling man, a seated man), it still narrates something" (*LoS*, 79). What makes Bacon's paintings sensible Figures, while other painters are stuck with the figurative? The answer is time; Bacon's Figures render time visible.

Bacon's paintings, Deleuze observes, have a number of seemingly random manual marks—a-signifying patches of color and lines—that appear as if "a *catastrophe* overcame the canvas." These zones are what Deleuze calls the Diagram—a chaos that attests "to the intrusion of another world into the visual world of figuration" (*LoS*, 82). The Diagram disrupts the figurative, introducing forces that lie outside the order of representation. Deleuze cautions that the Diagram must not overwhelm the painting (as is the case with some abstract art). It is not the sensible fact of the Figure itself, but is rather the necessary context from which the Figure will emerge. The Diagram "unlocks areas of sensation" (*LoS,* 89), but is not sensible on its own. It is through the Diagram that Bacon's Figures avoid the figurative to act on their viewer's nervous system. Through the Diagram, the resemblance between the Figure and would be its organic correlate (a pope, a man, etc.) is forged out of "non-resembling means. . .a sensible resemblance" rather than a figurative one. Whereas in photography "the relations between the elements of one thing pass directly into the elements of another thing, which then becomes the image of the first"—a figurative resemblance—Bacon's Figures pass through chaos (the Diagram) only for resemblance to surface as "the brutal product of non-resembling means" (*LoS,* 94).

This becomes clearer on consideration of the Diagram's role "as a *modulator*" (*LoS*, 98). The chaos of the Diagram services the purpose of liberating lines, colors, and planes from the realm of the figurative and allowing them to exist in themselves as a-signifying traits. However, the disorder does not engulf the entire painting. Instead, the Figure emerges from the Diagram as a rhythm emerging against chaos, an order arising out of a confrontation with formlessness. It is in this sense that the Diagram acts as modulator: the body is not given as a static mold (as in figurative art), but rather is in the process of becoming ("a continuous and variable mold," *LoS,* 96). In its confrontation with chaos, the body is put into variation, rhythm, and appears in a becoming rather than as a self-enclosed object. The Figure thus restores time to the body and with it, sensation. For sensation cannot be defined as a quality, but rather as an "intensive reality" (*LoS,* 39) which moves from one level to another. Sensation is change in time, the singular encounter with a "wave [flowing] through the body" (*LoS*, 42). If figurative art operates through the law of the same—positing static, transcendent forms that are abstracted from "the singular flow of its movements through the world" (*UG,* 96)—Bacon's Figures affirm the body's variability by restoring it to time, making visible "the force of changing time, through the allotropic variation of bodies" (*LoS,* 54).

Obviously there are a number of correlates between Deleuze's account of Bacon's work and his description of the time-image: the appearance of a force from the outside, the notion of modulation (on this point, Deleuze allies the painted Figure and cinema against the photograph's mold), and an opposition to organic representation. However, most vital for our discussion is the question of how sensation in art restores us to our body's potential (makes us reach "the body before discourses"). For Bacon's Figures are not representations of bodies sustaining a sensation, but are sensible in themselves.

For Deleuze, sensation is necessarily outside of the logic of organic representation because it is the very mark of the body's relation to an outside. Bacon's Figures are sensible forms because they render time visible and thus affirm the body's relationship to outside forces. Whereas figurative or representational art poses itself as the copy of a fixed and transcendent form, which implicitly stands outside of force relations (outside of the "singular flow of its movements through the world"), the Figure is visibly in a process of being-affected and thus becomes singular, a "matter of fact" rather than a representation. Sensation, Deleuze writes, "[exceeds] the bounds of organic activity" (*LoS,* 40) and acts on the body without organs ("beyond the organism, but also at the limit of the lived body," *LoS,* 39). Organic representation defines the body as having an intrinsic, fixed identity independent of the relations it enters into. Sensation, however, is the felt awareness that the body is contingent and open to the outside. Deleuze argues that, as soon as the image ceases to be a static form (but rather makes forces and time visible, becoming a "matter of fact") it in turn affects the spectator as a force—acting on his nervous system, affecting him in a sensation. "As a spectator, I experience the sensation only be entering the painting, by reaching the unity of the sensing and the sensed" (*LoS*, 9).

IV. Conclusion: Cinema & Sensation

This account of sensation deepens our understanding of the "cinema of bodies." As previously discussed, when the cinematic body is no longer organized by the movement-image as a locus of action and reaction ("organic narration"), cinema presents an "undecidability of the body" (*C2,* 203). The body divides from itself in time, constituting itself anew in each moment in a series of continual variations. With *The Logic of Sensation*, we can conceive this movement as a sensible rhythm that traverses our body without organs. As soon as cinema brings us before "the reality of the body" (*LoS*, 45)—that is, the body as a potential, as in time and thus subject

continual variation and change—we enter into a becoming-other. As Massumi explains, "[b]ecoming-other orchestrates an encounter between bodies, considered from the point of view of their virtuality" (*UG,* 96). If cinema *gives* a body (rather than represents one), we have such an encounter. As cinema opens the body onto the virtuality of time, it produces a sensation that necessarily disrupts the organic. The spectator ceases to be a self-enclosed subject and is entered by something from the outside—a sensation. In sensation, the movement of time registers on the nervous system as a differentiating in relation to force.

"Becoming is bodily thought…an unhinging of habit" (*UG,* 99). In the encounter between the spectator's body and the film's, our body cannot be experienced as a static, self-identical form. As the movement of the film splits its bodies in time in a becoming, a sensation traverses our body without organs. Sensation is change; it moves through the body as a vibration that rhythmically varies in relation to what produces it. It sends us off in a direction as we experience new affects and intensities that vary in relation to the rhythm of the images. In doing so, we are pulled away from an assurance about what the body *is* to a question of what it can become and what it is becoming. As such, our organic conception of ourselves is decomposed as we discover our capacity to become-other, opening our horizon of possibilities so that we may choose a different mode of existence than the one delimited by power.

Deleuze, in his grim portrait of the modern world, describes man as "*not himself* a world other than the one in which he experiences the intolerable and feels himself trapped" (*C2,* 170). We feel hopeless and apathetic in the face of the intolerable because we no longer believe in the potential for change, for a creative way out. Deleuze calls this a lack of belief in *this* world (as opposed to a better world), because to construct new modes of existence one must first believe in the present as the opening onto the new rather than the repetition of the same. Power, as an

organization of "the horizons of seeing and the limits of saying" has colonized our bodies such that our potential to become different and invent new desires is effaced. Yet, we can still rediscover this potentiality if we believe in the "body before discourses," before its stratification and organization by power. We must believe in our body as something that is in time and thus constantly open to transformation despite all the forces working to make it stay the same. To this end, cinema "spreads an 'experimental night' or a white space over us. . .[producing] the genesis of an 'unknown body' which he have in the back of our heads" (*C2,* 201). It does not map out a new image of the body that we must become identical to, but opens its bodies onto the virtual. In doing so it opens ours as well, the rhythm of the screen's variations pulling our body away from its organic identity and towards new possibilities of affection and therefore life.

Bibliography

Artaud, Antonin. Theatre and its Double. New York: Grove Press, 1958.

Deleuze, Giles. *Cinema 1*. Minneapolis, University of Minnesota Press, 1986.

Deleuze, Gilles. *Cinema 2*. Minneapolis: University of Minnesota Press, 1989.

Deleuze, Gilles. *Francis Bacon: The Logic of Sensation*. Minneapolis: University of Minnesota
Press, 2002.

Massumi, Brian. A user's guide to Capitalism and Schizophrenia. Cambridge: The MIT Press,
1992.

Rodowick, D.N. *Gilles Deleuze's Time Machine.* Durham and London: Duke University Press,
1997.

Anti-Rape Activism: A Raced Critique

Rupsha Basu

I.   Introduction

Two white women accused nine black teenagers of rape on a train in 1931. The ensuing trial, immediate convictions, and death sentences invited an international media blitz and decades of appeals, pardons, and landmark Supreme Court decisions to acquit the defendants, the last of which was handed down in 1976. The trails serve as a useful case study in examining the racially blind nature of what I refer to in this paper as the rape script. The origins of our understanding of the rape script — what many now call 'rape culture' — have racialized roots in American slavery and the Jim Crow era. Over time, the script has evolved by means of feminist intervention and activism, wherein modern rape prevention is primarily composed of activists rather than scholars (though, of course, there is some overlap). In a well-intended campaign to broaden the definition of rape and institutionalize its prevention, the anti-rape movement has waged a persistent battle against the criminal justice system for the last few decades, using tactics such as shield and marital rape laws, the elimination of evidentiary requirements, rigid standards of consent, trauma and PTSD awareness, and federal Title IX compliance.

However, we must now apply a self-critical eye to activism and interrogate how it has contributed to an ineffective rape prevention strategy that distances rape culture from normative identity and conceives of the category "rape victim" as self-evident and monolithic. While there are certainly other issues at hand regarding rape prevention, such as underlying assumptions about ability and class, I will primarily focus on the elision of race and non-normative sexuality given the unique history and interconnectedness of race and rape narratives in the United States,

especially in regards to Black Americans. This paper will critique the methodology of the feminist anti-rape movement and make recommendations to improve it. I will conclude that the anti-rape movement has historically relied on a raced (white) heteronormative rape script that impedes the theorization of non-normative rape narratives. A lack of reflexivity or deconstruction of these norms begin to explain why the legislative gains over the last 30 years have done little to reduce the incidence of rape.

II.   Normative Heterosexuality and the Rape Script

As with any theoretical endeavor, the answers to broad questions about power and dominance do not lie in the act of rape itself, but rather in its construction in the context of existing norms within interlocking systems of power. Before we can even begin to deconstruct our cultural understandings of what 'rape' is, we must first situate the act within identity and sexuality. Dominant discourse about rape is necessarily steeped in the dominant discourse about normative sexuality, which is heterosexual. I will now present a case for why normative heterosexuality in American dominant discourse is necessarily a conversation about whiteness and for white people.

The origins of the feminist rape script go much farther back into the annals of history than the 1950s dating patterns of suburban white teenagers that produced the term 'date rape.' In fact, the very construction of normative heterosexuality in this country began with the era of slavery and the myth of the black rapist (Dorr 28). The trope of the virtuous white women, which stands at the helm of white supremacy, the race hierarchy system, and normative heterosexuality, gave way to racialized stereotypes of sexual danger from black men (Dorr 28). Dorr connects the advent of date rape, or what we would commonly refer to as an earlier form of 'acquaintance rape,' with white masculinity (Dorr 28, 32):

"What made American strong as a superior white nation was its highly distinct roles … of masculinity and femininity, in which women were caretakers of the home and children and men provided financially for their family in the public world, not coincidentally … often roles denied to black families by segregation and economic discrimination. Whiteness, differentiated gender roles in marriage and civilization were indelibly connected … Making men be men and women be feminine became more important than maintaining the supposedly self-evident racial characteristics of white superiority."

In "Women, Race and Class," Angela Davis goes further to implicate racialized fictions and posits that rape was "a weapon of domination, a weapon of repression, whose covert goal was to extinguish slave women's will to resist and, in the process, to demoralize their men" (Davis 23-24). She furthers, "the fictional image of the Black man as rapist has always strengthened its inseparable companion: the image of the Black woman as chronically promiscuous … Viewed as 'loose women' and whores, Black women's cries of rape would necessarily lack legitimacy" (Davis 182).

In this country, incidences of rape are inextricably tied to race because of our history of slavery and Jim Crow and the construction of White American identity against this economic system. The man-jumping-out-of-the-bushes version of the rape script is rooted in this white supremacy, and as such, normative white heterosexuality has been constructed parallel to this myth. The original script has evolved based on empirical findings, and the script in its current form acknowledges the dominance of acquaintance rape. But, in its removal of racialized identities, the modern rape script is racially unmarked and therefore assumes Whiteness. The rape script has undergone an interesting evolution wherein a very racist theorization in its origins has morphed into one that excludes the very identities for which it was created in the first place.

III.   Rape as a 'radical potentiality for all'

Rape prevention has folded into its discourse this normative force that abstracts the intricacies of rape to elide identity and power, thereby undoing the important deconstructive and

scholarly work surrounding normative heterosexuality and race. The framework for queer liberation in its political strategy parallels modern-era feminist activism regarding sexual assault in many ways; however, its caustic critique of radical lesbian feminism more appropriately and troublingly applies to the modern movement as well. Queer liberation functioned on the basis of two models: the liberationist and the ethnic (Jagose 61). While the former was highly concerned with dismantling fundamentally corrupt structures, the latter attempted to secure lesbian and gay rights within these structures (Jagose 61). Annemarie Jagose argues that the ethnic model renders queerness "as analogous to an ethnic minority — that is, as a distinct and identifiable population, rather than a radical potentiality for all" (Jagose 61).

Likewise, the rape prevention model also carves out a space for rape victims as something of a special interest group within the justice system — a minoritized category — without acknowledging the universal vulnerability to rape that exists among all identities. In their activism, feminists have constructed the rape victim as an identity rather than simply the condition of having been violated. However, in their insistence that the identity category of rape victim is universal, they have rendered it unmarked (read: white) and ascribed normative qualities to it. Thus, feminist activism has constituted the rape "victim" as a self-evident status of identity.

Nicola Gavey implicates the everyday practices of normative heterosexuality in the cultural scaffolding of rape. However, neither Gavey nor white queer theorists have done enough to deconstruct rape activism from the perspective of race. While Gavey explicitly knowledges the "blindness to the significance of race in these (white feminist) analyses" and that the "largely white feminist anti-rape movement has frequently been criticised for ignoring the racial politics

that saturate societal responses to rape," her critiques are problematically silent on the ways in which normative heterosexuality is raced as white (Gavey 26).

Gavey's analysis of the origins of the rape prevention movement demonstrate how activists transformed the politics of race that had been so central to the rape myth into a politics of gender, thereby implicating masculinity and heterosexuality in rape culture, while absolving whiteness. Indeed, Gavey attributes the criminal status of rape to "a reflection of the ways in which rape violated male property rights through one man's transgression of another man's ownership of his woman" and yet fails to supplement her discussion of property with the unique racial history of rape wherein white men routinely raped black women (Gavey 30). Gavey does a fine job of implicating normative heterosexuality in rape. However, her analysis A) does not extend far enough to implicate race in normative heterosexuality and B) fails to address how rape prevention tactics themselves function to absolve and mask Whiteness by ascribing normative qualities to a universal rape culture.

IV. Normative Rape Culture

The tenets of the feminist anti-rape movement that undergird 'rape culture' follow the normative (white) heterosexual rape script with the advents of the victor/survivor dichotomy, trauma awareness and trigger warnings, affirmative consent, and Title IX compliance. The feminist shift in usage from 'victim' to 'survivor' is an activist move done to decrease the stigma surrounding rape victims and empower them. However, it simply rhetorically underscores the victim status of those who experience rape, perhaps even dramatizing the nature of their experience and equating it to a life-threatening one. Similar phenomena occur through the popularization of trauma awareness, while of course an integral part of recovery, also may serve to universally dramatize and pathologize rape victim's experience.

Gavey goes on to note that "the language of sexual victimization…may…perpetuate images of women as weak, passive, and asexual…enhanced by…women's fears about rape through…warnings about violent sexual attacks which emphasize…vulnerability to rape over …potential for resistance … While it is not inherently the case, in the contemporary context a particular predictable psychological outcome can become preconfigured by calling sexual coercion victimization" (Gavey 174). The trope of the innocent white female victim that we now understand as rooted in American identity and white superiority relates to these methods of rape prevention. In the articulation of rape in both the racialized rape myth of the black rapist *and* in the race-*blind* feminist anti-rape activism, the victim is a traumatized, innocent, possibly virginal, woman — these qualities have historically been and remain coded as qualities reserved for white women.

This rhetoric not only reinscribes white victimhood, but because Black women have been denied this right to victimhood, may also render them 'unrapeable' in the eyes of society (Eileraas). I do not mean to imply that feminist strategies have not made enormous gains in rape awareness, trauma treatment, and victim care. Rather, I seek to expose the ways in which white feminist's tactics are blind to intersectional violent threats, where gender may not be the "motivating factor" behind sexual abuse, such as "in lesbian relationships and among people of color" (Eileraas). The net result is that women who do not appropriately display the rape script version of femininity sorely lose out within the legal system. Thus far in this paper, I hope to have shown that normative heterosexuality assumes whiteness, and the method of feminist rape prevention has adopted these normative qualities as a strategic tool to present a universalizable narrative of rape culture.

V.   Institutionalized Elision Of Non-Normative Identities

Indeed, it is within this historical context and evolving rape script that the last three decades of feminist rape prevention activism is situated. Ilene Seidman and Susan Vickers suggest that rape reform law that centers around "rape shield laws," "eliminat[ion of] evidentiary corroboration requirements," standards of consent, and compliance with federal legislation (Title IX) has done little to deter rape, increase its prosecution or conviction rates, or produce any preventative outcomes (Seidman & Vickers 465-466). Institutionally speaking, most activism has not only been conducted by white women, it has centered around the lives and experiences of them. It is therefore unsurprising that the codification of rape prevention legislation falls prey to the seedy traps of racism masked as women's liberation.

I will now discuss how the evolution of the rape script has established specific legal tenets that assume the victim of a rape is a white, straight woman. Many feminist scholars have provided varied explanations for the elision of non-normative identities in dominant discourse, especially in the realm of rape prevention law and the criminal justice system (e.g. Crenshaw). Thus far, this paper has drawn heavily from poststructural interpretations of feminist theory, and deconstruction would most effectively address my concerns. However, I acknowledge the difficulty of cohering abstract deconstructive notions with the reality and material limitations of social activism, where what is most politically strategic is often still rooted in un-deconstructed notions of normative heterosexuality.

Gavey explains that anti-rape activists 30 years ago, in their attempt at institutionalizing rape prevention, enormously benefitted from an articulation of the race-blind, heteronormative rape script wherein "it [was] in a woman's best interests to be perceived as a victim when she has experiences sexual coercion or violence" (Gavey 175). However, tactics that were strategic 30

years ago based on a race-blind heteronormative rape script are still being employed today, since they have been institutionalized. The lack of reflexivity and raced discourse among anti-rape activists is troubling for many reasons. First, rape laws that only address one rape script have not evolved, and meanwhile the "public rhetoric" of rape and certainly our definitions of the act itself have (Gavey 175). Second, laws that already omit the nuances and multiplicity of rape have been codified into a criminal justice system that cannot read intersectional identities, producing troubling implications for rape cases that do not follow the script.

VI.   Non-normative Rapes in the Criminal Justice System

Moreover, since a preponderance of institutionalized rape prevention tactics have involved the criminal justice system in some capacity or another, an already racist political strategy has been reinforced by the oppressive systems of power that works within our justice system itself. Here, feminist legal theory is useful in explaining the elision of race (especially as it relates to Black women) in certain articulations of normative heterosexuality. Since marked identity categories are simply unpalatable to the American justice model, feminist activism's commitment to legal solutions to rape have also been unable to access marked categories for the same reasons that formal equality fails to address the material inequality resulting from interlocking oppressions. If the CJS is unable to read intersecting identities and codes the only legitimate victims of rape as white, the centrality of Whiteness in the rape script underscores White supremacist attitudes. Since anti-rape activism advances the notion that we should always believe the victim, we are once again elevating whiteness as the arbiter of truth. Scholar Ofelia Schutte describes what she refers to as 'colorblind intersectionality' in regards to whiteness in the legal system:

> "One rough way to estimate the many normative constraints our society and culture apply to
> sexuality is to consider how many spoken or unspoken "rules" a hypothetical sexual practice

might break as well as the status of such rules. For example, how would the status of sexual rules vary according to a person's class, race, sex, age, sexual orientation and preference, religious beliefs, and so on? … when analyzing issues of sexual normativity in masculine dominant societies, let feminist theory call normative sexuality that type or form of sexual activity that is marked by a coincidence between socially privileged sexual acts and privileged gender constructs. Under these stricter criteria heterosexual activity, though socially privileged, need not necessarily be regarded by feminists as normative … unless the sexual activity is marked at the symbolic (social, cultural, linguistic) level by an interaction between a man and a woman that fits the dominant gender constructs of masculinity and femininity, together with the way their engendering is defined or limited by their class, race, color of skin, nationality, age, or other significant variable" (Schutte 43).

The implication of Schutte is that the rape script renders non-normative permutations of rape incomprehensible in the CJS, especially since whiteness is masked as a racial identity also capable of producing intersections. Schutte's analysis can be applied to non-normative heterosexuality in other ways. If my argument that normative heterosexuality assumes whiteness holds true, then an instance of non-normative heterosexual rape, the criminal justice system will necessarily have difficult adjudicating the guilt of the perpetrator. The instance of a white woman accusing a Black man is particularly complicated, since it follows the normative heterosexual rape script in the presence of a white, passive victim and is reminiscent of the origins of the rape script, but at the same time non-normative in the sense that it encounters a justice system that views racial difference as incidental at best and immaterial at worst. Furthermore, while reports of rape by women are routinely dismissed, the "relative exception…is…when the accused rapist is a Black or indigenous man," where Black men accused of raping white women have been more likely to face more serious charges, and they have received harsher punishments than other groups of men charged with rape" (Gavey 18).

My earlier discussion about the limits of societal perceptions of Black femininity parallel with the justice system's perception of Black men. Returning to the Scottsboro boys trial, we begin to see the racialized rape script evolving over time from the era of slavery to the mid-20th

century and its real effects on trial outcomes. Without deconstructing historical norms, which I have so far demonstrated that neither the justice system nor feminist activists have comprehensively done, if Black women are seen as unrapeable in the eyes of society, it may follow that Black men are seen as rapists. Indeed, a report in 2012 from the National Registry of Exonerations found that of roughly 2,000 exonerated prisoners, 93 percent were men, 50 percent were Black, and 35 percent were sexual assaults (Smith). It is commonplace for Black men to be wrongfully accused of crimes as the result of "white victims falsely identifying [B]lack defendants" (Smith). Meanwhile, perpetrators of rape who occupy unmarked categories and generally privileged stations in society slide through the loopholes of the criminal justice system. The burden of proof for a rape conviction for white men is evidently remarkably higher than that of Black men, the latter of which appears to be nonexistent.

The last 30 years of feminist rape prevention activism by way of the criminal justice system begs the question: to what extent have these tactics meaningfully combatted the institutional racism within the justice system, and in what ways have they inadvertently adopted them? To what degree have Black Americans achieved formal and material equality in this country, and is feminist activism up to speed with these goals? Taken together, the lack of rape prevention can be explained by a criminal justice system that is to this day steeped in prejudice and anti-rape activism that does not take to task the attitudes toward Black masculinity and femininity deeply ingrained within the legal process. Taken together, it picture begins to look bleak, wherein the criminal justice system wantonly prosecutes Black men for rape with unyielding sentences, and white men too often get away scot free.

VII.   Cohering Theory and Activism

Theoretical discussions and deconstructions of normative (white) heterosexuality need to be had in activist spaces. We must reconfigure political strategy to align it with what is most advantageous today rather than what was advantageous 30 years ago. Feminist activism must acknowledge its own shortcomings and the ways in which it continues to reinscribe racist attitudes toward Black men and women, particularly in the criminal justice system as it relates to rape conviction and sentencing. Before continuing on the path of rigid legal standards and persistent legislative action, we must consider the areas we have neglected as a result of our own blindness to intersections. Further research needs to be done on the incidence of intra-racial versus interracial rape, male rape, rape in queer relations, and in general the ways non-normative rape result in miscarriages of justice in the legal system. It is not the case that we should abandon the existing rape script, as it may be appropriate for normative situations. Rather, there is more work to be done. We must populate our rape 'script' with more narratives and rigorously engage in feminist reflexivity throughout this process.

Bibliography

Alcoff, Linda. "Sexual Violations and the Question of Experience." *New Literary History.* 45.3: 2014, pp. 445-462. Online.

Alcoff, Linda. "Survivor Discourse: Transgression or Recuperation?" Linda Martin Alcoff Website. Online.

Alcoff, Linda. "When Culture, Power and Sex Collide." *The New York Times.* June 8, 2011. Online.

Borgida, Eugene; Frazier, Patricia. "Juror Common Understanding and the Admissibility of Rape Trauma Syndrome Evidence in Court." *Law and Human Behavior.* 12.2: 1988. pp. 101-122. Online.

Bryden, David. "Redefining Rape." *Buffalo Criminal Law Review.* 3.2: 2000, pp. 317-479.

Bryden, David. Lengnick, Sonja. "Rape in the Criminal Justice System." *The Journal of Criminal Law and Criminology.* 87.4: 1997. pp. 1194-1384. Online.

Burgess-Jackson, Keith. "Rape and Persuasive Definition." *Canadian Journal of Philosophy.* 25.3: 1995, pp. 415-545

Carbado, Devon W. "Colorblind Intersectionality: Theorizing Power, Empowering Theory." *Signs,* 38.4: 2013, pp. 811-845. Online.

Chan. Sewell. "'Gray Rape': A New Form of Date Rape?" *The New York Times.* October 15, 2007. Online.

Crenshaw, Kimberle. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." Online.

Davis, Angela Y. "Women, Race and Class." New York: Vintage Press (1983). Online. 15 Dec. 2015.

Dorr, Lisa. "The Perils of the Back Seat: Date Rape, Race and Gender in 1950s America." Coursepack, 2008. Print.

Eileraas, Karina. "The Brandon Teena Story: Rethinking the Body, Gender Identity and Violence Against Women." *Michigan Feminist Studies* 16 (2002). Online.

Gavey, Nicola. *Just Sex?: The Cultural Scaffolding of Rape*. New York: Routledge (2005). Print.

Giacopassi, David. Wilkinson, Karen. "Rape and the Devalued Victim." *Law and Human Behavior.* 9.4: 1985, pp. 367-383. Online.

Haidt, Jonathan; Lukianoff, Greg. "The Coddling of the American Mind." *The Atlantic.*
        September, 2015. Online.

Heer, Jeet. "Stress Test." *The New Republic.* May 20, 2015. Online.

Herman, Judith. "Trauma and Recovery: The Aftermath of Violence — From Domestic Abuse to
        Political Terror." Basic Books: 1992. Print (from coursepack).

Hesford, Wendy. "Reading Rape Stories: Material Rhetoric and the Trauma of Representation."
        College English. 62. 2: 1999, pp. 192-221. Online.

Jagose, Annamarie. *Queer Theory: An Introduction.* New York: New York University Press,
        1996. Print.

Jones, Owen. "Sex, Culture, and the Biology of Rape: Toward Explanation and Prevention."
        California Law Review. 87.4: 1999, pp. 827-941. Online.

Lisak, David. "Repeat Rape and Multiple Offending Among Undetected Rapists." *Violence and
        Victims,* 17.1 (2002). Online.

Lisak, David. "Understanding the Predatory Nature of Sexual Violence." Middlebury College,
        2002. Online.

Marcus, Sharon. "Fighting Bodies, Fighting Words: A Theory and Politics of Rape Prevention."
        Columbia University Academic Commons, 2002. Online.

Mardorossian, Carine. "Toward a New Feminist Theory of Rape." Coursepack. *Signs,* 27.3
        (2002), pp. 743-775. Print.

Neff, Blake. "Major Study on Campus Sex Assault Debunked." *The Daily Caller.* July 28, 2015.
        Online.

Reitan, Eric. "Rape as an Essentially Contested Concept." *Hypatia.* 16.2: 2001, pp. 43-66.
        Online.

Schutte Ofelia. "Response to Alcoff, Ferguson, and Bergoffen." *Hypatia.* 19.3: 2004, pp. 182-
        202. Online.

Schutte, Ofelia. "A Critique of Normative Heterosexuality: Identity, Embodiment, and Sexual
        Difference in Beauvoir and Irigaray." *Hypatia.* 12.1: 1997, pp. 40-62. Online.

Seidman, Ilene. Vickers, Susan. "The Second Wave: An Agenda for the Next Thirty Years of
        Rape Law Reform." Coursepack, 2005. Print.

Shapiro, Joseph. "Myths That Make It Hard To Stop Campus Rape." *National Public Radio.*
        March 4, 2010. Online.

Smith, Sharon. "Capitalism and sexual assault." *International Socialist Review* 96 (2015). Online.

Weiner, Richard. Feldman Weiner, Audrey. Grisso, Thomas. "Empathy and Biased Assimilation of Testimonies in Cases of Alleged Rape." *Law and Human Behavior.* 13.4: 1989, pp. 343-355. Online.

The Divide: Racism verses Free Speech

Fiona Zhao

On November 9, 2015, the University of Missouri football team made national headlines. It was not for a historic win in football, but for a historic win in civil rights. The entire Mizzou football team had threatened to boycott until President Wolfe was forced out[1]. For years, the lack of response to escalating racial tensions at Mizzou sparked outrage, hunger strikes, protests, petitions, and more. On November 9th, Wolfe finally resigned, and Mizzou thought that was the end of the nightmarish controversies. Not 24 hours later, university police sent out a school wide e-mail asking students to report "incidents of hateful and/or hurtful speech or actions", punishable by the Office of Student Contact[2]. Outcry ensued. Scholars and news reports lamented the loss of our first amendment rights. Just a month prior, the same debate arose at Yale University when two faculty members suggested that students "look away" if they had a problem with culturally offensive or historically inaccurate Halloween costumes[3]. Even on our own Emory campus, the recently proposed ban on Yik-Yak, a smartphone application that allows users to post anonymous messages, has sparked controversy amidst allegations of racist hate speech[4]. These incidents have sparked nationwide debate over whether or not it is appropriate to curtail one's free speech in the interest of the equal protection of civil rights liberties. Through an

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[1] Elahe Izadi. "The incidents that led to the University of Missouri president's resignation", *The Washington Post,* November 9, 2015, https://www.washingtonpost.com/news/grade-point/wp/2015/11/09/the-incidents-that-led-to-the-university-of-missouri-presidents-resignation/.

[2] David A. Graham, "When Campus Hate-Speech Rules Go Further Than the Law", *The Atlantic,* November 10, 2015, http://www.theatlantic.com/politics/archive/2015/11/hate-speech-on-campus/415200/.

[3] Hillary Hanson, "Yale Admins' Comments On Offense Halloween Costumes Spark Protest", *The Huffington Post,* November 7, 2015, http://www.huffingtonpost.com/entry/yale-halloween-costumes-offensive-free-speech_563e3f9ce4b0b24aee4a8fef.

[4] Julia Glum, "Yik Yak Ban At Emory University Proposed After Racist Messages, Shooting Threat", *The International Business Times,* December 11, 2015, http://www.ibtimes.com/yik-yak-ban-emory-university-proposed-after-racist-messages-shooting-threat-2221839.

assessment of historical definition of equality and pragmatic considerations, it is clear that the claims of civil rights advocates justify a redefinition of free speech and equality. Given racial tensions over the last 50 years, a return to equality as antisubordination to give priority to minority interests would be the most effective policy to help the powerless fight against the powerful.

In *Equality Talk*, Reva Siegel discusses how the Courts' interpretation of the Equal Protection Clause of the 14th amendment in the decision *Brown v. Board of Education* has transformed over time. The principle of equal protection depends on two distinct definitions of equality; anticlassification verses antisubordination. Equality defined as anticlassification gives priority to protecting individuals' interests over group concerns. Antisubordination, in contrast, condemns any practice that harms the social status of historically oppressed groups (1472-3). Siegel highlights how these shifts in equality principles have produced historically changing notions of equal protection itself and impacted society today. The Court's historically evolving definition of equality directly shapes how we evaluate contemporary civil rights in the modern debate of free speech.

The Court's primary reason for invoking equal protection in *Brown vs. Board of Education* was that segregation produced negative social and psychological effects of inferiority to the hearts and minds of blacks (1481). Since segregation inflicted psychological harm from feelings of inferiority to African-American students, it violated the civil rights of a single race group and was thus unconstitutional. Southerners immediately rejected this decision over the argument of harm. They asserted that the definition of harm was difficult to quantify and limit, and questioned the social science studies of segregation's harm on a group of people.

Landmark Supreme Court decisions are susceptible to change by evolving social conditions. *Brown* was no exception. The Court's decision in *Brown* defined equal protection as "concerned with group inequality or associated concepts of subordination of status". Over time, this antisubordination claim of equality became difficult to justify without "positive and normative claims of a politically provocative sort" (1545), which drew ire and societal contempt from scholars and experts. In response, the Court's definition of equality began to take a new direction to disguise antisubordination with anticlassification principles. Although judges still defended equal protection, they simultaneously needed to prove its neutrality to boost the legitimacy of the Supreme Court. Justifying claims as anticlassification made the Court's decisions seem like non-partial, value-neutral jurisprudence. According to Siegel, "courts have employed claims about the wrongs of racial classification to express and to mask constitutional concerns about practices that enforce second-class citizenship for members of relatively powerless social groups" (1475). This clearly shows that principles embedded in Brown have transformed from group concerns over the sociological harm of the powerless, to value-neutral concerns of legitimacy and protecting individualism.

A return to equality defined as antisubordination in the free speech debate will allow us to help minorities combat the historical and social harm of institutional racism. In *Brown*, this claim was used to prevent harm done to minority students and protect encroachment on their civil rights. When applied to the debate of free speech, the weight of hate speech and racist comments clearly can be defined as group harm similar to that of *Brown*. The gravity of the comments and instances of racism should not be taken as one-off events. Instead, these concerns should be anchored in the historical understanding of the oppression and stigmatization blacks have faced over time. Group harm is a legitimate government concern for its psychological and

social impact on a part of society. When a university allows for such racist comments to be spread, or simply encourages students to look away, it violates the minority's civil rights because it creates a hostile and unwelcoming environment. Hate speech on campus is not as simple as abstract words and expressions. They are statements made from a history of racism and oppression. Concerns about the effects of subordination, as discussed in *Brown*, have been shown to cause deleterious effects on students' education. Even more importantly, the negative social and psychological effects inflicted by hate speech and racist comments build a campus-wide sentiment of fear and intimidation. Minority students are disproportionately affected by this loss of educational quality. The harm inflicted by hate speech alone should justify a return to antisubordination in order to combat group harm for the benefit of society as a whole.

Invoking antisubordination principles in political discourse also has legal precedent. According to Siegel, in the 1960s judges were very willing to employ antisubordination principles of equality in jurisprudence to combat group harm of the powerless by constraining voluntary governmental efforts in order to rectify racial imbalance (1530). In the first decade after the Court decided in *McLaughlin* that Equal Protection included state action, judges used antisubordination principles to exercise "a race-asymmetric constraint: courts wielded the principle to protect blacks against status-enforcing harm" (1518). Similarly, today's political discourse should revisit the antisubordination claims of *Brown* to admit to treating traditionally disadvantaged groups differently in order to rectify the racial tensions of today. The principle of restraining governmental efforts in the 60s, when applied to universities, highly suggests that administrators should actively take steps to prevent group harm and racial discrimination. Just as courts constrained state actions, university administrators would benefit minority groups by employing principles of antisubordination to add heightened protection of their civil rights.

Instead of ignoring claims of violating civil rights, or turning a blind eye to student's protests and demands, university administrators should understand equality not as neutrality. Equality defined as antisubordination demands that we resolve historical harms and foster democratic discourse that gives priority to vulnerable minority voices. By incorporating this definition of equality, and the voices of minority students, schools can bring students and administrators together to create new student policies to protect and defend the interests of the historically weaker in context of free speech. Public acknowledgement by school administrators to prohibit practices that unjustly disadvantage groups or establish inferiority would lead to the best amelioration of this conflict. Treating the student body neutrally does not do away with inequality. Treating certain powerless groups with greater weight and consideration, given the historical harm, will allow for the best way to redress their concerns and strengthen their claims against harmful speech.

The reason the courts shied away from subordination discourse was not because of improving social conditions. Harm still, and continues to exist. Since the Court "needed an account of the Constitution that could command allegiance" and withstand criticisms of "illegitimacy and group partiality" (1544), it masked group harm commitments with classification discourse. By stripping away this requirement of justifying principles in the abstract, we allow the Courts to return to equality defined as antisubordination without the masks and disguises. An open embracing of these subordination principles, as applied to the equal protection law, will allow us to redress problems of civil rights in the free speech debate. The right to free speech is also the right to offend and perpetuate racist and harmful treatment. The freedom to offend should not be equivalent to the freedom to further oppress the powerless. Political discourse should admit to use group partiality, and have no problem justifying its differential treatment to the disempowered. This type of protection of civil liberties should give

priority to minority and marginalized students because the resulting feelings of inferiority have a significant impact on their education and quality of living. A revival of the antisubordination principle will finally allow it to complete its purpose; to end group harm of the powerless at the hands of the powerful.

In a way, Southerners' concerns in *Brown* were not incorrect. The definition and boundaries of "harm" is exactly the point of contention today. Harm, as defined by civil rights advocates, is the hostile environment created by the hate speech and racist comments rampant on college campuses. Contemporary debate centers on the very same problem of defining group harm. However, it is clear that group harm is inflicted when hate speech is not denounced by university administrators. Death threats made against black students[5], school-shooting threats[6], and odes to lynching[7] are all examples of active incitements on college campuses to use violence against blacks. This kind of harm should not go unaddressed. While the definition of harm should be debated, the limits of free speech should also be subjected to scrutiny in light of these violent and specific attacks. Given the imminent and violent nature of these incidents, it is clear that both harm and free speech boundaries should be redefined to give weight to subordination claims.

The Court's application of anticlassification as equality has, and will continue to, result in detrimental effects on American society. Disguising antisubordination as anticlassification suggests that the racial climate of America has simmered down from the 1960s. It paints a picture of America as a post-racial society no longer as weighed down by harms of race and

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[5]Jelani Cobb, "Race and the Free-Speech Diversion", *The New Yorker,* November 10, 2015, http://www.newyorker.com/news/news-desk/race-and-the-free-speech-diversion.
[6] Glum 1-2.
[7] Noah Feldman, "Balancing the First Amendment vs. racist chants at the University of Oklahoma", *The Chicago Tribune,* December 14, 2015, http://www.chicagotribune.com/news/opinion/commentary/ct-oklahoma-university-frat-free-speech-sigma-alpha-epsoilon-perspec-0312-20150311-story.html.

discrimination as we once were. Abandoning principles of antisubordination from *Brown* presumes that subordination and its effects of group harm have been resolved. However, subordination is not just about *de jure* segregation. It is a combination of aggression and differential treatment and historical harms over time. From a scan of today's news headlines, it is clear from instances at Yale, Mizzou, and Emory that differential treatment still exists today. At these institutions, defining equality as anticlassification negates discussion of harm to powerless social groups. It effectively subverts the concerns of group harms and justifies a detached way of talking about the term equality by evoking abstract principles of free speech. This simply avoids the difficult discussion of civil rights values and pragmatic application of these meanings. In the debate of free speech verses racism, to avoid discussion of harm is to eliminate an entire definition of equality. Allowing proper discussion of subordination principles at universities will shed light on the severity of claims from civil rights advocates of the free speech debate. By giving proper consideration to the historical and social concerns that have evolved over time, debaters on both sides the free speech argument can engage in more productive conversation through heightened awareness of the historical context of subordination.

The Court's evolving definition of "equality" directly impacts how we understand and enforce the equal protection of the liberties today. The point at issue is that invoking free speech principle allows us to essentially avoid conversations of racial tensions in today's society. Often times, campuses and universities are ill equipped to engage in civil discussion of differential treatment and racial micro-aggressions of *de facto* segregation. In practice, the normative implications of avoiding subordination results in much more harm to society than good. Escalating racial tensions point to the fact that there needs to be a definition of equality in

schools and in politics that allow us to discuss free speech infringements in context of the discriminatory treatment suffered by blacks.

Political pragmatism further demonstrates that the return to antisubordination will result in the best possible resolution to the free speech debate. In *Radical Pragmatism*, Dr. Michael Sullivan and Daniel Solove argue that the best approach to political issues is to employ classical pragmatist as defined by Dewey. Classical pragmatism involves efforts to "explore empirically the results of our social practice" and to understand the consequences of theoretical definitions and abstract principles in practice (5-6). Dewey argues that pragmatism is both a philosophy and an empirical study because it provides "tools to reconstruct the meaning of terms [such as equality and justice] by giving priority to experience" (7). It is a study based on the effects of the past and the consequences in the future, the practical and the theoretical, the facts of the case and the latent values. To understand theory, one must understand practice. Thus, one cannot understand the principles separate but equal unless one knows the history of slavery. In order to understand the impact on tomorrow, we need to first investigate how the current conditions came out from the past, and look to experience of past practices for the definition of equality.

Equality and freedom of speech, according to pragmatists, are not objective values insulated from critical assessment. Rather, they are values and principles that are drawn from our own lived experiences as individuals and as a collective society. It is not enough to simply invoke freedom of speech as an abstract principle that must be defended and protected over all other considerations. The principle of free speech itself rests on the experiential account of society's members, and should be subjected to pragmatic inquiry to see if it should be favored. In the debate of free speech, experience shows time and time again that the right to expression results in negative discourse that violates civil rights. At Emory, anonymous Yik-Yak users told

black kids to go back to Africa and accused all black people of selling crack and running from the police[8]. Racist, homophobic, and misogynist "Yaks" have generated controversy at many other universities, including Clemson, Colgate, and the University of Texas[9]. At the University of Oklahoma, two members of the fraternity Sigma Alpha Epsilon were expelled for singing an ode to lynching in March 2015[10]. The predominant defense for free speech is to foster an open environment for freedom of expression. This is an abstract right. When employed on college campuses, and defended against staunchly without consideration of the harm done to minorities, it leads to a hostile environment of fear and terror. Weighing the practical considerations and the effects on social practice, it is clear that the boundaries of free speech need to be abstractly and practically redefined to address the real harms and results on universities.

Free speech cannot be accepted uncritically without exceptions. In order for a particular abstract principle to be favored, it must be favored "because of its past consequences and in light of its anticipated future consequences" (8). Antisubordination is clearly a principle that should be favored in light of its positive consequences on the American education system and its potential benefits that it can contribute to the free speech debate. By adopting political pragmatism to the debate, it allows us to engage with those who defend freedom of speech as simply an abstract right that cannot be violated. It challenges the assumption and status quo of insulating free speech as an accepted end. Freedom of speech has never been an ahistorical end that was blindly defended. In fact, legal precedents in *Hazelwood School District vs. Kuhlmeier* (1988) allowed prevention of free speech in schools because the 1st Amendment does not require schools to

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[8]Glum 1-2.

[9] Jonathan Mahler, "Who Spewed That Abuse? Anonymous Yik Yak App Isn't Telling", *The New York Times,* March 8, 2015, http://www.nytimes.com/2015/03/09/technology/popular-yik-yak-app-confers-anonymity-and-delivers-abuse.html.

[10]Feldman 1-2.

promote any type of speech. In fact, the Court in *Hazelwood* asserted that schools must set high standards for what is spread on campus, and have the right to refuse to promote speech that is inconsistent with civilized social disorder. The fear fostered by the hate speech at Yale, Mizzou, and countless other universities clearly meet these requirements of being inconsistent with civilized social disorder, and thus should be banned and denounced by school officials. Similarly, in *Bethel School District vs. Fraser* (1986), the court allowed schools to prohibit use of vulgar or offensive language that was inconsistent with the fundamental values of public school education. Clearly, the violent hate speech on college campuses violates values of college campuses to provide a safe and protected educational environment. Court precedents that have limited free speech in the interest of preserving civilized social disorder and promoting campus values should similarly be applied to the subordination claims of civil rights advocates in the free speech debate. The origins of free speech are certainly important and considerable. It requires the government to protect free expression, one of the most basic and fundamental rights. However, in light of the long history of asymmetric harm to minorities, the commitment to free speech does not warrant allegiance in this case. Since it stifles the realization of student's capabilities (15), and prevents the growth of education and learning (15), the boundaries of free speech should be reevaluated in context of subordination and historical harm claims.

The unrest from University of Missouri, Yale University, and Emory over censorship of racist speech has invoked the principle of free speech that few would argue in the abstract. From a historical investigation of equality and application of pragmatic inquiry, it is clear that we need a redefinition of equality and the boundaries of free speech. Freedom of speech should not be uncritically accepted, especially in face of America's race history and today's escalating racial tensions. Political pragmatism encourages us to challenge old habits, entrenched definitions, and

political institutions in order to critically examine the social impact of our values. The principle of free speech has resulted in significant social harm and discrimination when unfettered. Antisubordination provides the most productive resolution to the free speech debate. A return to this view of equality will result in democratic discourse to give weight to minority interests and redress historical and institutional harms of minorities in America. As individuals on college campuses, we need to take a good hard look at how we define equality in everyday speech because it reflects what we acknowledge of the past, and how willing we are to change in the future.

Bibliography

Cobb, Jelani. "Race and the Free-Speech Diversion." *The New Yorker.* 10 Nov. 2015.

Feldman, Noah. "Balancing the First Amendment vs. racist chants at the University of

    Oklahoma." *The Chicago Tribune.* 14 Dec. 2015

Glum, Julia. "Yik Yak Ban At Emory University Proposed After Racist Messages, Shooting

    Threat." *The International Business Times.* 11 Dec. 2015.

Graham, David A. "When Campus Hate-Speech Rules Go Further Than the Law." *The Atlantic.*

    10 Nov. 2015.

Hanson, Hillary. "Yale Admins' Comments On Offense Halloween Costumes Spark Protest."

    The Huffington Post. 7 Nov. 2015.

Izadi, Elahe. "The incidents that led to the University of Missouri president's resignation." *The*

    Washington Post. 9 Nov. 2015.

Mahler, Jonathan. "Who Spewed That Abuse? Anonymous Yik Yak App Isn't Telling." *The*

    New York Times. 8 Mar. 2015.

Siegel, Reva B., "Equality Talk: Antisubordination and Anticlassification Values in

    Constitutional Struggles Over Brown" (2004). Faculty Scholarship Series. Paper 1102.

    http://digitalcommons.law.yale.edu/fss_papers/1102

Sullivan, Michael and Solove, Daniel J., Radical Pragmatism (2013). THE CAMBRIDGE

    COMPANION TO PRAGMATISM pp. 324-344 (Alan Malachowski, ed. 2013) ; GWU

    Law School Public Law Research Paper No. 2014-39; GWU Legal Studies Research

    Paper No. 2014-39