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Punishing Assemblages: A Queer, Decolonizing Theory of the American Prison

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Punishing Assemblages:

A queer, decolonizing theory of the American prison

Senior Project submitted to
The Division of Social Studies
of Bard College

By
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Annandale-on-Hudson, New York

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Introduction

“Times are no doubt changing. The consolidation of global capital and the boldness of imperial conquests are rising to new heights. At the same time, the number of people distressed and endangered by these trends grows daily, and with that the potential for victorious resistance. Gender-transgressive people are part of the majority of people worldwide who are disserved and endangered by the economic arrangements designed to siphon resources away from the masses for the benefit of the few.”

- *Dean Spade*

This project develops from a conviction in the principles of critical theory, from the tradition of radical thought in making visible the invisible. We commit ourselves to lay bare unflinchingly. In this endeavor historicity is paramount. The aim is to locate the historic origins of our present social order to find in their historical opening the means to their historical end. Adorno (1951) wrote “The only philosophy which can be responsibly practiced in the face of despair is to contemplate all things as they would present themselves from the standpoint of redemption” (p. 247). This work resists capitalism’s flattening gesture. Diverse individuals are reduced by capitalism to amalgamated entities, instrumentalized as objects to political ends. The liberal discourse affects this gesture in all its logic. “Democratization” is the selling of sameness, the offering of a collective group identity under the umbrella of an empty conceptual entity. We aim to pull apart the elements of an idealized social order to view the material forces of history conspiring to generate particular outcomes fixed in a particular time. The discourse of rationalism has reduced all under its scope to a question of instrumental reason by which the world is viewed as an object of domination. In seeking to know ever more, to fix in the realms of knowledge our power over nature, we have figured the civilizing process as one towards a goal

ascending infinitely before us and have invested that goal with the metaphysical good attributed to this notion of progress.

We have idealized work, have regressed from our humanity in every step towards the unattainable completion of our domination. We seek to instrumentalize and dominate nature, to impose on this world our false chase. We have extended this reason to a total eclipse of our social realm, figuring the human life of society as means to a mere end, an end that cannot be satisfied. We define positivistically to petrify that which is always becoming. This ever forward motion of idealized progress is bound by the operations of power and the movements of history but has obscured in ideology questions of paramount significance. We must ask to what end we make this chase, to what true good can we aspire? Adorno and Horkheimer (1944) write “Adaptation to the power of progress furthers the progress of power, constantly renewing the degenerations which prove successful progress, not failed progress, to be its own antithesis. The curse of irresistible progress is irresistible regression” (p. 28). We must resist the logic of progress.

I engage this broad critique of liberal logic so as to illuminate a perspective which attempts as much as possible to always be outside the totality of domination. We oppose the social logic of the prison on this basis. The prison has been figured as a vehicle of progress, the tool of reform. In the prison we invest the hopes of society, in the domination of the criminal we imagine the reformation of the soul and instrumentalize the bodies of these subjects to progress beyond the social evil of crime. This logic has obscured the violence of its system and has, in the myth of progress, adapted to the aims of power. The character of this power is what I seek to understand. We can acknowledge the contradiction at play, the unstable bounds of a discourse which pursues a social good through ruthless barbarism. But this is precisely the argument that

must be made and the visibility we must lend to the false promise of progress. Historical materialism will produce a radical counter narrative to the idealized notions of civilization's progress and will uncover the aims of power, figuring both a critique of domination in and of itself and a critique of its specific "American" form.

By the principles of this perspective I seek to subvert a linear reading of history and to uncover, critique, and imagine from the point of redemption a power structure which evokes nothing short of despair in its totality and its violence. I insist on moving from a point of negation, of taking from the despair of a fully uncovered reality the possibility of a different world. The conceptual framing of the apparatus and the structural linkage I wish to draw between historically distinct operations of power and their networked function I find necessary to satisfying this aim. I wish to elucidate the function of these distinct historical elements in the preservation of a social order based on the reduction of diverse individuals to generalized categories of inferiority in the fictitious terms of race, gender, class and sexuality and by so doing serve two aims. Firstly, I deploy this frame in order to realize this mechanism of power as the constitutive paradigm of the American state, being the condition of possibility for the realization of that state and guiding its trajectories and interpolations of that order, even through its shifting historical modes. Secondly, I wish to emphasize through the concepts of apparatus and assemblage that the elements in question are not static, that history is not a flat line of progress but that in our society the organization of life around these networks preconfigures the possibilities of human existence in regards to that order of power. That is to say that we must not view history as static but also recognize even in its changing forms an anchoring to the organizing principles within its construction.

How then do we begin to situate the immensity of this age of the American prison, of the microcosmic single prison itself, or the single cell, of what has come to be termed “mass incarceration”? This is a multiplicity, a vast convergence of innumerable lines. To borrow from Deleuze and Guatarri (1987) this is an assemblage, to be understood as an amalgamation of elements, strata and lines, diverse and overarching. Any number of discursive fields may be applied to these phenomena, to enunciate them in a semiotic order with multiple codings: as points in orders of the political, social, economic or other. As elements are brought into this carceral assemblage they necessarily become reconfigured by it. Neither gender, nor race, nor class, originate in the prison but they enter into it and are formed and reformed, re-articulated and emerge as something other. These concepts "exist prior to any assemblage, and are fixed temporarily and spatially by the assemblage" (Haggerty & Ericson, 2000, p. 608). In other words, concepts become events, signifying entirely new constitutions of their affective lines. What this work proposes is a study of these lines and a constitutive drawing of our own, an illumination of the historical, a discursivization in the language of power to unveil the coded strata and their functions and antecedents, to radically dissect the dominant narratives.

To find a point of entry in a nearly impenetrable field of attributed meanings we turn to the historical opening, to frame our study in historicity, to defy essentialism. This work attempts the following: To dissect the history of the prison in America as an institution for the control and confinement of deviant subjects, marked not uniquely or even primarily by “criminality” but as representatives of marginalized social groups and situated by state power in a regime of punishment in the interest of power. To do so entails a broader study of punishment itself, of the mechanisms of social power and of their particular function in the history of the United States. Unavoidable as a focal point will be the racialized body, the history of slavery and its proceeding

formations but equally so the gendered body, the sexualized body, the overlap between the above and the implications of such as an apparatus of power. This work will undertake a study of sexuality within the prison, of how it is formed, how it functions and how variously sexualized bodies are imagined as subjects or situated as objects. This will be an endeavor in understanding sexuality itself, the ways in which gender is naturalized and why the space of the prison presents a site for the exaggeration of these binarized codes.

I situate this work around key theoretical concepts, some of which have been aforementioned, as anchor points to ground the course I have set. As way of introduction to these concepts I will enunciate in brief those that have yet to be prefaced and configure their specific applications and further delineations throughout the body of work that follows. In this aim I begin with a short presentation of the work of Maria Lugones and Anibal Quijano. Their work, the former descending from the latter, posits a theory of capitalist power that situates colonialism as a transformational force in the history of domination. Colonial power deployed heterosexism in a new system of gender and sexuality which arranged the bourgeois settlers of colonized lands in distinct formations from the colonized males and females of indigenous peoples. In introducing gender as a colonial concept and organizational mode, colonial power structured relations of production, property and power in explicitly gendered and sexed terms which were of course, intrinsically, also racialized (Lugones, 2009). As colonialism is also a system of economic relations, we come to see the totality of this system in its multiple ascendancies in what Quijano (1992) calls ‘the coloniality of power.’ Lugones (2009) complicates Quijano’s analysis with an interjection of the sexualizing, gendering forces that operated in tandem with the racializing system of colonialism. Similarly when I turn to my analysis of the racial dynamics of imprisonment and the long history of the oppressive system of race classification and

subordination in the United States I will make certain to interject with a history of the ways in which sexuality and gender have been equally incorporated into the delineation of categories of hierarchical social formations. We borrow a further conceptual lexicon from Quijano (1992) and Lugones (2007) in the term 'axis', which is utilized in their theory to describe the organizing centers of the colonial power structure. These 'axes' are both points of rationale for the system and its categories of arrangement. The idea of race as an axis of colonial power becomes a motivational factor for the subjugation of inferiorized people but is also the mechanism of arrangement around which these peoples are structured in service to the aim of economic supremacy. Capital, as a formation to control wage labor, is the axis around which the organization of all labor, resources, and social life were formed in colonialism (Quijano, 1992). In the proceeding analysis the coloniality of power as a concept will be indispensable to our theoretical praxical frame in the aim of revealing the network of relation that draws distinct systems of classification into one amalgamation of domination.

The overarching frame of the coloniality of power leads us to see the discursivization of identity as a mechanism of power. In service to this understanding we deploy the concepts of racialization, sexualization, and gendering as tools to describe the process of identity formation around the fictitious concepts of race, gender, and sexuality. Implicit in the concepts of both racialization and gendering is a whole host of historically specific cultural ascriptions which persist in imbuing these biologicistic categories with social values. The gendering of humanity is the ideological construction of woman as the negation of man. The racialization of humanity is the ideological construction of the inferiorized racial group as the negation of whiteness. In these constructions the dominating categories inflect the dominated with only extrinsic value. In this way these bodies are already instrumentalized to the aims of their oppressors. We see in the

earliest codifications of the male/female binary the function of this hierarchy in its very definition of terms. By way of example, we may take the word *virtue*. Virtue becomes inextricably linked to ideas of maleness as it derives from *vir*, meaning man, a delineation which categorically excludes women from virtue. Femininity becomes predicated as the absence of maleness, rather than something intrinsic unto itself. In this way the ontological depth of woman's subjugation becomes apparent. Her value is only relative to her purpose in relation to man, her dependency on her oppressor structures her oppression ad infinitum. This binary logic of domination descends in this order, negating in the inferiorized category the metaphysical good attributed to the dominant: woman contrasted to man, active to passive, external to internal, strong to weak, reason to emotion. Racialization follows in the same logic by which the raced subject is constitutively deprived of the imaginary value ascribed to whiteness. The liberal discourse on social justice ascribes to this logic in its claims to equality by assuming that the particular treatment of a race or sex category is based on a differential categorization which assumes that without that assigned category, the base standard of treatment is one of neutrality or fairness. The idea assumes the significance of race or sex only as they disadvantage one, because the privilege afforded an individual because of whiteness and maleness is implicit (Crenshaw, 1993).

Understanding the processes of racialization and gendering as they figure in the maintenance of implicit white male power is to deconstruct the idea of a constitutively neutral social field. That race and gender have been imagined as neutral concepts is a trick of ideology, the obfuscation of their origin in the production of hierarchy. Within the processes of racialization and gendering we will outline the material and cultural ideo-linguistic forces that coincide with their operations. The simultaneous imposition on particular bodies of rigid

identities in terms of both race and gender has resulted in a sexualizing force that produces the ascription of sexual deviance en masse to the dually racialized and sexualized. Sexualization as a concept outlines the ideology that places value on sexual behavior as constitutive of broad racial, gendered character. In other words it fixes the strictly inferior racial and gendered categories of social life with sexual characteristics that stand in negation to the presumed sexual purity of dominant society.

I employ in this work also the Foucauldian concept of biopolitics and the complementary theory of necropolitics from Achille Mbembe to approach power in terms of the sovereign right over life and death. Mbembe (2003) expresses in his novel development of “necropolitics” the presumption that the power of sovereignty, in its “ultimate expression”, rests “in the power and the capacity to dictate who may live and who must die” (p. 11). This idea, that the ultimate limits and essential character of sovereign power are in its capacity to kill or let live, is a summary of Foucault’s concept of biopolitics, by which life becomes the manifestation of power, a process through which the primary realm of that power, while coinciding with the right over death, becomes the maintenance of life. Sovereignty therefore serves to produce generalized norms by which life, not death, may be regulated to its interests. Mbembe (2003) interjects in this theory with the concept of necropolitics precisely to reconfigure the conception of society not as a producer of life, but as a mechanism of instrumentalization, which serves through the material mutilation and destruction of human existence to make the elimination of an otherized enemy its primary objective (Mbembe, 2003). The two concepts are brought into conjunction with one another by imagining the necropolitical functioning of the state as the fuel for its biopolitical aims. These theories will both be developed, with greater attention, as we proceed in relation to the prison.

In utilizing these conceptual frames, the intent is to leverage their insights as crucial frames of reference in the multi-layered deconstruction of American imprisonment. I orient my readers once more to the goal of this work as the argument proceeds to keep my discursive movements centered on their intended effects. I undertake this work to explain the American epidemic of mass incarceration in the context of a global system of power originating in colonialism and developing from the modern mythology of race created therein. I will attempt to trace the deployment of this racial category within the pre-existing binarist sex-gender system of the colonizing society and express its reformation of subjects of power and the whole of human life as bodies marked by sex, gender, race and class. Proceeding from this frame I will anchor a history of the American prison as a functional antecedent of this power structure, tracing its shifting modes as functioning variously in the social order of this particular capitalist political economy. I will attempt to unpack the pieces of this history variously as expressions of necro and biopolitical aims and their positions as elements of an apparatus that conforms to the organizing principles of a unique domination. The prison will be imagined as an “assemblage” and by viewing the concepts deployed therein as events in spatial-temporal frames I will argue that these concepts (of race, gender,... etc.) appear distinctly in the prison as new formations. From this perspective an argument must ultimately be made that the unique vulnerability of trans and gender non-conforming people of color in such an assemblage will be the point of despair from which I attempt to leverage a redemptive praxis. This work is ultimately in service to a mission of radical decolonizing and deconstructive solutions to the problem of mass incarceration through the prism of a radical queer trans activism. It is my sincere hope that the development of this theory will serve in the realization of critical praxis to these ends.

Chapter I: Naturalizing Hierarchy

“Colonial occupation itself was a matter of seizing, delimiting, and asserting control over a physical geographical area—of writing on the ground a new set of social and spatial relations. The writing of new spatial relations (territorialization) was, ultimately, tantamount to the production of boundaries and hierarchies, zones and enclaves; the subversion of existing property arrangements; the classification of people according to different categories; resource extraction; and, finally, the manufacturing of a large reservoir of cultural imaginaries.”

- *Achille Mbembe*

A history of the apparatus of imprisonment and punishment in American society entails two separate and overlapping histories to reveal its function in a biopolitics of control. The regime of punishment present today descends not singularly from slavery and the racialized control of african diaspora populations but also from earlier settler colonialism and its violent enforcement of rigid heteronormativity on native populations. From the moment European colonizers first made contact with the indigenous peoples of what came to be the United States of America, the diverse sexual and gender practices they found were interpreted as a sign of generalized primitivity which marked those populations for death as queer subjects under a colonial necropolitics (Morgenson, 2011). Racial control is therefore inseparable from the policing of sexual “deviance” and queer bodies under the regimes of punishment established by the formative colonialism of early American society. In fact, the argument should be made that colonialism did not simply deploy existing sex-gender relations as a means of control but rather it introduced a gender-binarist system in racialized terms that constitutes a wholly new oppressive organization of life.

In the production of the modern American state, all its apparatuses of power that we will be critiquing through the locus of the prison, the history of settler colonialism is an ontological

center, the origin of that power which is particular to the United States. Our history of the American carceral state will thus begin with a history of this colonialism and its earliest functions in the production of a racialized power structure, a model of punishment and a queer modernity. For centuries before the formation and demonization of gay, lesbian, bisexual, transgender, and queer identities as marked categories, indigenous peoples and enslaved Africans were subject to systematic policing and punishing of perceived or actual sexual and gender “deviance” (Mogul, Ritchie, & Whitlock, 2011). In parsing out the modalities of power in settler colonialism, as shown in the analysis of Lugones (2009), it is insufficient to say that they represent a simple transplantation of latent European moralities; they take on their unique forms, are foundational to the birth of the United States and reverberate still within its current criminal legal structures.

An exhaustive history of the immensity of settler colonialism and its sexual, racial, gender violence would require a far longer text than these pages permit. However, an analysis of this history, with particular attention to its role as antecedent of the carceral regime, will present a compelling opening into the questions of sex, gender, race, class and punishment which are central to this work. The imposition of hierarchies on societies which were not hierarchical is a foundational move for successful colonization and was essential for the formation of the American nation state (Mogul, Ritchie & Whitlock, 2011). As such, one of the first among many acts of colonial control was the enforcement of the binarist sex-gender system on populations whose societies have been widely documented to have allowed for a range of gender identities and expressions. By violently suppressing these practices the colonizers enabled the supplanting of a rigid gender hierarchy through which stratification could be naturalized. Feminist scholarship on the emergence of patriarchy and sexual divisions of labor help illuminate why the

imposition of sex-gender binarist power structures on indigenous societies is essential in naturalizing codes of domination.

Of the various modes of social stratification in European societies predating the colonization of native “American” peoples, the preliminary imposition of patriarchy on those societies points to the deeply naturalized state of this hierarchy. Confounding what the colonizer had constructed as immutable truth was the presence of gender fluidity and non-hierarchical gender relations in indigenous societies. Male power has been entrenched within European societies through the naturalization of a constitutively asymmetrical power dynamic of gender binarism. To say this hierarchy has been naturalized is to elucidate its historical character in the formation of such societies. Because history as a recorded and interpreted past serves as a process of meaning-making and the preservation, by choice of what is recorded and how it is interpreted, of a particular order of social relations, values and discursive operations, it represents not a neutral field but one of deep political significance. As Gerda Lerner argues in her 1986 book *The Creation of Patriarchy*, women’s constant exclusion from the process of historical interpretation and meaning-making in the European system of knowledge production, while having always been agents of that history, shows a deep contradiction. The implication of women’s complicity in their own subordination that this contradiction points to reveals the reification in consciousness itself of those codes which enshrine patriarchy.

Through the work of Lerner (1986) and feminist scholar Maria Mies (1986), we have some critical insights into the formative power of sex-gender binarism in the shaping of our earliest societies to a degree which permeates the very heart of culture and language and even consciousness itself. Philosophical and historical inquiries into the formation of our human consciousness help situate the naturalization of female subordination in the social formations of

an emergent humanity. Georges Bataille (1973) argues that the development of the first tools marked the production of a new mode of servile being in which the creation of tools as objects of extrinsic use value produced the possibility of reducing other beings to a mere use value. While Bataille (1973) does not figure an analysis of female subordination in his work his theory illuminates the potentiality for hierarchical formations of consciousness as factors in the dominant social formations which have come to dictate human history. We see this same logic of instrumental reason being reproduced constantly in the language of power. Its operations are subsumed by the incessant need for use value. Life is reconfigured as a means to satisfy something outside itself, namely that pursuit of progress which redoubles the dominance of work as a supreme good. Mies and Lerner describe the extension of this servile mode of being to the domestication, regulation and control of animals to serve human need, and demonstrate that this capacity of consciousness and its emerging ideology enabled the male of the human species to subordinate the female of the species to their own aims and thereby situate women in the coercive sexual division of labor at the very emergence of language itself. Patriarchy in this analysis as advanced by Mies and Lerner is the earliest form of social domination and inscribes its codes of power into language itself, marking the woman as a servile being valued only extrinsically by her relationship to man.

Essentialist positions on patriarchy consistently deploy the argument that women's absence from history is evidence of their naturally inferior position produced by a "biological" preoccupation with emotionality, child-bearing, nurturance, and domestic work- roles which are deemed insignificant to the progress of civilization. Thus a historical process of subordination is writ backwards by taking as evidence for the "natural" character of this oppressive social organization its persistence through history and its ideological function in structuring thought

and language itself in the patterns of dominance which characterize such a system. Mies (1986) elaborates on this analysis. A sexual division of labor is a formative step in the historical process of patriarchy and has been obscured behind a concept of *nature*, which works to reduce an understanding of those subjects gendered as “women” consigned to exploitative and subordinate social positions as being beyond the influence of social change. Women’s role in production and reproduction is defined as a function of biology and as an extension their role in child care and domestic labor becomes a function of their “nature” and is thus excluded from the very definition of work (Mies, 1986, 45). By being relegated to the realm of “nature” women’s labor goes unvalued and is extrinsically linked to the maintenance of male power. The naturalization of female subordination evident here is in fact the condition of possibility for the development of early societies because these social formations predate the creation of private property and class society. In fact Man’s power over Woman as an institutional force is situated precisely in the codification of patriarchy through the formation of private property and a historical shift in kinship organizations. That is to say that private property emerged precisely through the commodification of women’s bodies. The structuring of these relations as the constitutive arrangements of power for the formation of the early Mesopotamian states is essential to an understanding of the historical process by which this power has been entrenched and institutionalized. It is also essential in marking the structural linkage between class oppression and patriarchal society and points to the tendency in systems of domination to co-opt and reform social categories in networks of power that redouble the markers of inferiorization in continuously evolving intersections.

This is the reason for Lerner’s (1986) investigation into ancient Mesopotamian society of the fourth millennium B.C, which is widely interpreted as the origin point of Western society,

marked by the beginning of the historical record. Lerner, in surveying a vast body of historical scholarship and feminist interjections on the formal narrative surrounding the so-called “rise of civilization,” is able to synthesize a powerful reimagining of that history to describe a systemic shift in power towards male-dominated society. Scattered neolithic villages and agrarian tribal societies had already situated men’s power over women in the practice of exogamy but by the formalization of class structure in the state were able to institutionalize patriarchal social formations. Lerner (1986) outlines the changes in broad strokes as follows: “... female subordination within the family becomes institutionalized and codified in law; prostitution becomes established and regulated; with increasing specialization of work, women are gradually excluded from certain occupations and professions” (p. 54). Women had already been situated as socially inferior by the kinship relations which held them under the control of the males of their family, to be treated as precious commodities that both demanded protection and were to be exchanged like objects to solidify political relations between the men of distinct social groups. With the urban revolution those kin-based relations gave way to formalized class-based society, under which kinship relations were subordinated to more formalized structures of political power but still remained as a private force in the control of women. In characterizing this shift Lerner (1986) emphasizes it as a non-linear progression that happened at varying speeds and to varying degrees across the early Mesopotamian societies. The institution of a monogamous family structure as the private domain of formal state structure allowed male heads of household to exact rights over their female kin in a newly coded (although not always explicitly legalistic) relation of obligation and subservience. Gayle Rubin (1975) expresses the character of such a relation as not only reinforcing the sexual division of labor, under which women’s value is reduced to a biological function which excludes her from the realms of power in the political

cultural process, but as a move entitling men to particular functional control over their female kin. Granting men this power while denying women the same right to their male kin evinces a system in which women lack rights over themselves. Patriarchy's institution by these structures situates it as the wellspring of social hierarchy, naturalizing not only the marginal position of women but allowing for the development of a class based society anchored to the formation of private property. We must define settler colonialism as a unique form of colonization which involves a permanent relocation of the colonizing population in the colonized land and with it the establishment of a new social order in permanent terms on the invaded land that proceeds from the social-cultural values of the colonizer's metropole. The metropole refers to the central territory of a colonial venture, as in the case of a broad understanding of colonialism in the Americas the metropole would be Western Europe. In the history of settler colonialism, that patriarchy exists as the most thoroughly naturalized mode of social domination points to its deeply entrenched position and its structural linkage to diverse formations of hierarchization in Western society. As a centering force of Western power, patriarchy precipitates its own imposition on colonized peoples by the very fact of Western expansion demanding the reification of Western power. In accordance with the very definition of expansion, to be understood not just in material-economic terms as is the tendency in conceptualizing colonialism but in ideology as well, these social forces demand to be implanted in the same way as these imperialist ventures implant the infrastructure of resource extraction, the organizing principle of the historic phenomenon in question. Patriarchy as such mandated its reproduction in native societies so as to facilitate the successful naturalization, through the model hierarchy in rigidly gendered terms of man over woman, the power of colonizer over colonized.

In tandem with the enforcement of the binary sex-gender system on native populations was a queering of native populations that marked them as aberrant sexual subjects under European moral codes. The idea that these native populations were “polluted with sexual sin” (Mogul, Ritchie & Whitlock, 2011, p. 2) was necessary for demonizing them as a justification for sexualized violence used to take indigenous lands and for the wholesale murder or exile of the inhabitants. Colonial authorities drew heavily from religious narratives that framed natives as “sodomites” in biblical terms and enthusiastically expanded the fervor around this “sin” by projecting it on the populations en masse. Colonizers used this categorical ascription of sinfulness as justification for extreme violence as in Peter Martyr’s (1513) account of the Spanish conquistador Vasco Nuñez de Balboa’s conquest in which Spanish soldiers killed natives as though they were animals, to quote: “hewed . . . in pieces as the butchers doo fleshe.” (Morgensen, 2010, p. 111). The moral affront that sodomy represented to European conceptions of sexuality was a convenient pretext for the violent enforcement of normative codes of sexual behavior in facilitating the imposition of hierarchy on native societies.

Projecting fears of sodomy on Indigenous peoples both justified the terroristic violence and death inflicted upon them but was also representative of the challenge these modes of being posed to colonial beliefs about sexual nature upon which colonial hierarchy depended (Morgensen, 2011). Because of the religious significance of sodomy and the concept’s imbuelement with an immutable character as a crime that violated the truth of God, its presentation as a normative behavior in native societies caused a crisis for the colonizers. That such a grave “sin” existed unremarkably among native peoples challenged what was supposedly the essential nature of human sexuality, indeed of God’s essence itself. Because the normative sexual relations of the colonizing society were themselves historically constructed and in no way

immutable but had been imbued with that quality the appearance of a distinct sexual culture in natives revealed the instability of colonizer's own beliefs. If this supposed divine rule of nature could be so easily violated then its position as an essential truth was revealed as unstable. The confounding effect of this rupture was not the transformation of colonial ideology but the production of a demonizing racial narrative that condemned these populations as sinners and savages. The presentation of gender and sexual fluidity in native societies was then appropriately marked for control under a colonial sexual regime reliant on terrorizing methods to enforce assimilation or eradication of the deviant subjects and their "perverse sexuality."

Policing of sexual or perceived gender deviance was "often explicit and harsh" (Mogul, Ritchie & Whitlock, 2011, p. 4). In one oft cited account of early colonialism Balboa, upon encountering among the people of Quaraca in the area now known as Panama, men "dressed as women" and engaged in sexual acts with each other he had forty of them thrown to his hunting dogs to be dismembered to death (Morgensen, 2011). In characterizing the coloniality of power it is essential to realize the ways in which the material goals of colonization came to enforce a discursive regime that would produce and regulate the sexualities of people of color in the United States. It was essential to the settler colonialist mission of resource extraction and land-grabbing that the native populations be removed from the land or murdered. It was also essential to the establishment of a colonial society on seized land that the institutions and power structures of heteropatriarchal European society be enforced in the new colonial society. Because the very source of colonial power was explicitly male and patriarchal, its successful establishment relied on the maintenance and reproduction of those structures. To that aim the material violence of colonialism was equally so a violence of ideology under which not just native bodies but native

thought, native culture, native souls were constrained and malformed under a logic of domination that demanded death or assimilation to the model of colonial power.

However, it was not just the colonized who were constrained and restricted under this power. Settler sexuality was realized in tandem with the racializing force that conditioned native sexual and gender deviance as markers for death. If colonizing violence and the spectacular death that was dealt to native society marks it as a necropolitical realm then the settler society that was imposed on native land figures as biopolitical. In necropolitics the right over death which characterizes sovereignty works not as a function of power in the maintenance of life that defines biopolitics but in an opposite capacity. Biopolitics is an expression of state power in determining who is to live and who is to die but its relation to death is in the production of normative subjects of life. The exercise of state power through biopolitics in inflicting death is upheld as a mechanism to ensure the optimal production of normative life. Biopower rests on a relation with death but it functions to control and enforce life. Necropolitics conditions an entirely different manifestation of power in which death is paramount to the creation of social existence that appears as a state between life and death, in which the spectre of death is always apparent and indeed within the realm of life, disfiguring human existence as a death-world.

The extreme mutilation and dehumanization of native societies under colonialism is the production of subjects marked exclusively for a necropolitical existence in which their social world is one of a precarious position between life and death. Settler colonial society appears as a biopolitical realm because the enforcement of a normative sexuality on that population was in the interest of producing a population of life, no less regulated but manifested as life-worlds to administer subjects for life in opposition to the absolute enemy that was native society. There is a deep reciprocal relation between the two expressions of power in the biopolitical and the

necropolitical. The deployment of necropower produces an absolute enemy marked for death and the simultaneous manifestation of biopower in the establishment of a regulated society for life. It is by the very existence of the necropolitical that the biopolitical persists as a coercive force of power, those being marked for life imbued with the knowledge that constrained as they are they lay claim to a social existence that breathes, does not languish in a death-world of pure inhumanity. When I turn to the prison its position as a necropolitical realm will be evidence of this relation: those outside the walls, however deeply in their subconscious it may be, possessing in the security of their life-world the willful disregard and even enthusiastic support for the horrific social death of the imprisoned, seeing in their destruction one's own salvation.

To develop these concepts further colonial studies of biopolitics historicize a discourse of sexuality within Foucauldian understanding of modern state disciplinary power. Foucault's (1977) theory of the transition in punishment between pre-modernity and modernity offered in *Discipline and Punish* is of the shift in modes of punishing from the sovereign right over death to that of a regulatory and controlling apparatus which produced populations for surveillance. Scott Lauria Morgensen (2011), drawing on the work of Ann Stoler, situates modern sexuality in a biopolitics of colonialism which produces subjects of life under state racism defined as separate from populations marked for death. The state's power to enhance a normative sexuality under institutions of power and produce the subjects of that sexuality as subjects of life marks modern sexuality as biopolitics while instituting a necropolitics of regulation for the racialized and sexualized subjects who exist outside of the contours of normative. The coercive and violent reordering of native American societies through sexual conquest acts as the formative series of actions that established this structure. Through the "queering" of indigenous peoples evidenced by the proliferation of derogatory missionary and colonist accounts describing the gender fluid

practices of indigenous peoples and accompanying assumptions of “same-sex” relations as well as the widespread mythologizing of natives as sexually degenerate “sodomites” the religious and colonial authorities of conquest were able to discursivize the subjects of their settler colonialism in distinctly racial and sexual terms. The discursive construction here served the material aims of conquest while laying the groundwork in ideological violence which fed the vicious material horror in the work of punishing deviance (Morgensen, 2011).

The master binary of colonialism makes its key distinction between the civilized and the primitive and frames sexuality and gender in this relationship by marking the indigenous peoples as sexual primitives worthy of death or requiring corrective regulation towards a “proper” sexual expression and identity. It is out of this signifying process that sexuality is discursively produced. In this analysis Morgensen (2011) shows that queer modernities have their origin in the racialized conquest of native populations, therefore making race and sexuality entirely inseparable. Colonial biopolitics must be distinguished from the early iterations of colonial power which relied on the sovereign right over death as exhibited in the atrocities committed by Balboa. The transition to a biopolitical regime makes the right over death complementary to a society of normalization where discipline works to form subjects of life while enforcing the deadly regulation of those subject populations marked by their deviance, educating all in their positionality under colonial power structures (Morgensen, 2011). The framework of biopolitical analysis illuminates the role that sexual colonization plays in the development of a settler sexuality that regulates desire in relation to the domination such a sexuality enforces over the colonized. I use the term sexual colonization in line with Morgensen (2011) to characterize the nature of conquest as a functional rape of native societies. “Linking ascriptions of savagery to transgressions of sexual nature defined European rule as sexual colonization and justified its

violences” (Morgensen, 2011, p. 111). The terroristic quality of colonization and its wholesale demonization of sexual deviance as well as its imposition of racialized sexual morals on native societies is what defines it not simply as colonialism but “sexual colonization”: the colonization not just of a land and peoples for resource extraction but also the colonization of their sexuality.

Colonial power deployed heterosexism in a new system of gender and sexuality which arranged the settlers in distinct formations from the colonized males and females of indigenous peoples. In introducing gender as a colonial concept and organizational mode colonial power structured relations of production, property and power in explicitly gendered and sexed terms which were intrinsically also racialized (Lugones, 2007). As colonialism is also a system of economic relations we come to see the totality of this system in what Quijano (1992) calls “the coloniality of power.” Rather than interpreting racism, sexism, homophobia, transphobia or the oppressive class structure of capitalism as separable we must view these forces in tandem, as having been birthed in global colonial capitalism and maintaining power through racial classification and heterosexuality. Lugones (2007) develops a historicization of gender to complicate and disrupt the political and conceptual barriers which have omitted race and class from the discourse on sexuality and gender relations. In a similar vein analysis of the racial dynamics of imprisonment and the long history of the oppressive system of race classification and subordination in American society has often foregone a consideration of gender and sexuality in its analysis of power. As we develop our analysis of American state power, punishment and imprisonment the coloniality of power will be a central tenet of our theoretical praxical frame in order to leave no aspect of the present organization of life invisible but rather to see its multiplicitous presentations as an *apparatus* of power.

What is to be understood by an apparatus in this sense? It is precisely what has already begun to take shape by an understanding of the interlocked dynamics of hierarchy by which a system of domination does not situate its mode of classification, confinement and control along a single axis. Apparatus is a strategic term we borrow from Foucault's thought and understand through analysis by Giorgio Agamben. Agamben (2009) outlines the character of the apparatus as being the network between a heterogeneous set of elements encompassing virtually anything material or linguo-ideological: discourses, laws, customs, physical spaces etc. The apparatus has a concrete function in the structures of power but intersects with relations of knowledge. We may view the apparatus of colonialism as both producing knowledge of racialized and sexualized classification at the same time as its discursive tools and functioning in the relation of power over the colonized bodies enabled by such a knowledge production. Apparatuses are not any single technology of power or expression of violence, control or hierarchy, nor even the generality we obtain by their abstraction (i.e. "colonialism") they are rather the network that draws these elements together. Therefore when we refer to the apparatus of colonialism we do not mean simply the historic set that characterizes the concept but the full breadth of the multiple patterns, mechanisms and practices by which it achieves a particular effect satisfying particular needs. Put differently, the apparatus is not one element or another nor even the elements viewed in total but the interconnected nature of the elements themselves and those lines which draw them together. To deploy this term unmasks the obscurity to which particular elements may be relegated, abstracted from the others and viewed in a vacuum. Following from Lugones and her novel deployment of an intersectional perspective on colonialism I will produce analysis that uses the concept of apparatus as a tool to reveal an interrelated power structure that contains all aspects of society and all elements of identity. We are unmasking an apparatus through which we

will see the relations of power, production, property, culture, knowledge inscribing bodies as racialized, gendered, sexualized, economized by the historical element of concretizing power in the wiring of these forces to each other.

As we continue to develop the concept of apparatus each consideration of race will necessarily demand consideration of sex and gender and class as being the nature of the network. In furthering a historical trajectory we aim to understand the apparatus which has produced our contemporary organization of life. I have come so far as to understand the coloniality of power which points to the “mechanisms by which heterosexuality, capitalism, and racial classification are impossible to understand apart from each other” (Lugones, 2007, p. 187). Colonialism is the locus of our apparatus because the analysis of its power reveals the contemporary phenomenon of mass incarceration to be not a distinct element but an historical extension or expression of the coloniality of power. The present situation entails a multiplicity understood only by the inseparable nature of its elements. I complicate our history by a genealogical tracing of the subjugation of African diaspora populations in the United States as it evolves within the power relations established by settler colonialism. I maintain always a consideration for, and as such a dual history of, the apparatus which develops methods of definition, confinement, and control for the marked flesh of the sexualized, gendered, racialized, economized other.

We must recognize that race, racialization and racial identities are inventions that require constant perpetuation through delineation and as such represent a set of adaptable socio-political relations operating in institutions, economies, discourses and cultures. The unstable nature of the dialectical cuts which delineate categories of classification demand the unending production of this racializing machine. Because the ideologies of hierarchy demand the naturalization of their formations, the paradox of a historical production that has been subsumed in the discourse of

power as “natural” is satisfied only by reproducing its categories of control in new forms. As with all institutions in the United States the prison is a site of racialized power but its structural function goes beyond the auxiliary reflection of a racial hierarchy. The American prison and all attendant structures of mass imprisonment exist uniquely as the most recent iteration in a lineage of racial domination embodied in an apparatus proprietary to the goal of defining, confining and controlling the African-American population. That is to say that the *carceral apparatus* is a genealogical descendant of slavery.

Chapter II: Confining, Defining and Controlling the “Other”

“If racialization is understood not as a biological or cultural descriptor but as a conglomerate of sociopolitical relations that discipline humanity into full humans, not-quite-humans, and nonhumans, then blackness designates a changing system of unequal power structures that apportion and delimit which humans can lay claim to full human status and which humans cannot.”

- Alexander G. Weheliye

The work of Loic Wacquant (2002) situates a lineage of racialized oppression as the antecedent to the current dominant apparatus of mass incarceration. While Wacquant’s analysis provides a crucial historical framework for the institutional trajectory of the racist apparatus and its shifting political relations we must complicate his work by the interjection of a coloniality of power. Wacquant (2002) situates race as the sole category of inferiority in a theory of social domination while neglecting the network of other categories which find equal position in a history of punishment and biopolitical regulation which forms the modern American prison state. As we outline this development of a racialized and racializing apparatus, we must be sure to uncover how it is equally a sexualizing, gendering, economizing apparatus which forms its subjects through multiple prisms simultaneously. Wacquant (2002) theorizes several “peculiar institutions” in United States history that have operated to “define, confine and control” African-American populations as descendants of chattel slavery (p. 1). He outlines these as slavery, Jim Crow, the ghetto, and the current incarnation of a “novel institutional complex formed by the remnants of the dark ghetto and the carceral apparatus,” meaning of course the phenomenon of mass incarceration and its attendant structures (p. 1). The glaring disproportionality in incarceration rates and severity of sentencing practices for descendants of slaves but also for

those who are marked as marginalized sexual and gender deviants can be understood in the historical character of a coloniality of power as the “extra-penological” function of the prison system. This is to complicate Foucault’s (1977) theory from *Discipline and Punish*, that a historical shift in modes of punishment is not merely a transition from a necropolitical exercise of sovereign power to a diverse regulatory body which seeks to reform the criminal tendencies of its subjects. No, what is meant by “extra-penological” is that imprisonment serves to control and isolate marginalized social groups away from that which constitutes normative society. The prison is not generally interested in reducing the propensity for crime of its subjects nor does it concern itself in any way with their further development. Contrary to it is represented in popular discourse and the prevailing politics of its justification a careful historicization of the American prison yields the vital conclusion that its role is far from rehabilitatory.

Those social groups who have been constitutively stigmatized and experience an attendant lack of marketable social/cultural capital are fated to an expanding system of desocialized wage labor which the least advantaged among them may escape by entering illegal street economies (Wacquant, 2002, p. 2). This dynamic serves as a convenient pretext and impetus for an expanded penal system and its default policy of what Wacquant (2002) deems “carceral affirmative action” towards those marginalized groups (p.1). The social and economic disruptions which result from imprisonment, as well as the contraction or outright elimination of social entitlements and civil rights ensures the self-perpetuation of this dynamic. Like America’s first three “peculiar institutions” the carceral apparatus serves the dual purpose of labor extraction from and social ostracization of the outcast groups it targets. It is not accurate to say that queer people, people of color and women occupy the bottom tier of group ranking in American society but rather that they have been demarcated to realms of exclusion from the

normative space of that society since its inception. That particular construction of dominance which we have uncovered as the coloniality of power molds the very meanings of its institutional categories in the forms of that power. As the folds of citizenship have been expanded to incorporate more and more social categories the forms of that power which are nominally extended still maintain the wellspring of power as explicitly white capitalist and heteropatriarchal. As formalized political capital is granted it does not empower those upon whom it is bestowed so much as it reifies them in the image of their oppressor and strengthens the lines which hold that power together. The *de jure* democratization that has served through American history to broaden the scope of political inclusion for marginalized peoples does not accurately reflect the *de facto* hierarchy of a deeply undemocratic nation (Crenshaw, 1989). What is imagined in discourse or law as one thing is shown by the inescapable totality of an ideology of domination to be entirely different in reality. Subjugated peoples have never been a part of the society of which they may claim citizenship for the very meaning of citizen is corrupted by the power that grants it legitimacy.

Enslaved Africans arrived in bondage to “the land of the free” and were deprived in the self-appointed fountainhead of democracy of the right to vote. They, along with the constitutively queer and sexually immoral indigenous peoples, were robbed of an identifiable national affiliation and subjected to a societal order of a wholly separate design than that of the normative settler society. All of this is to say that the peculiar institutions which we will outline do not constitute for their inhabitants a function of the society which produces them but of a social order to which they alone are consigned. Slavery in America was formulated as property-in-person for the provision and control of labor. Introduced in the Chesapeake, Mid Atlantic and Low Country regions of the United States in the 17th century, slavery regulated the bonded

workforce that had been forcibly imported from Africa and the West Indies to sustain the agricultural economies of the colonial societies (Wacquant, 2007, p. 3). The earlier subjugated indigenous peoples were excluded from slavery because of their greater capacity for resistance and the risk of exhausting a limited labor supply. Additionally the demarcation of those populations as wholesale “sodomites” situated their sexuality as a marker for death and positioned them ideologically as unsuitable to slavery. Their racialization inscribed them with the categorical marker of savagery to an extent that imagined them incapable of performing the “civilizing” labor that slavery required as a mechanism of “progress.” It must be noted that as with the earlier queering of native peoples deviant sexualities were similarly ascribed to Africans to facilitate the colonization of the continent, the transatlantic slave trade which supplied the American society with bodies for unfree labor, and the institution of chattel slavery (Mogul, Ritchie & Whitlock, 2011).

The mythologization of abnormally voracious sexual appetites among those who would later be labeled “blacks” placed them in the emergent discursivation of a normative sexual politics as hyperactive uncontrolled heterosexuals. The myth of the Black male rapist preying on the “purity” of white women was used to justify all manner of violence and torture, while typically functioning in reality as an act of punishment against free or unsubmitive Black men and enforcing their degraded social status regardless of particular legal status. Black women were framed in a similar manner by the “jezebel” stereotype which paints a picture of unrestrained sexual aggression, even predatory behavior, particularly towards white men who were seen as helpless to resist. (Collins, 2000). Patricia Hill Collins (2000), a black feminist scholar and activist analyzes the reproduction of these racialized images in pornography in ascribing black women with the outward appearance of idealized passivity ascribed to women in

general and the inward character of a racialized projection of insatiable sexuality. She writes “the ideal African-American woman as a pornographic object was indistinguishable from a White woman and thus resembled the images of beauty, asexuality, and chastity forced on White women. But inside was a highly sexual whore, a “slave mistress” ready to cater to her owner’s pleasure” (p. 135). This image provided a cover for the systemic rape inflicted on black women by slavers who sought to increase their wealth through the forced reproduction of slaves: a practice known as miscegenation. The jezebel image has been reproduced and expanded throughout the history of America and ascribes all manner of deviant female sexualities to black women, whether it be engaging in sex for money, having sex with other women or performing oral or anal sex, characterized as indicative of an excessive sexuality (Collins, 2000). African-descended men in America were not excluded from projections of homosexuality either as the same sodomite narratives marking indigenous peoples was attributed to North African cultures by European Christians. When Blacks are marked as queer these early colonial sexualizing discourses resurface and enhance the imaginary spectre of predatory and insatiable queer people of color (Mogul, Ritchie, Whitlock, 2011).

In addition to the controlling image of the Jezebel, Collins produces analysis of several archetypes of Black womanhood that serve in controlling them through a reduction of their sexuality. The systemic oppression of Black women through an intersecting marginalization of their racial, sexual, gendered, and class identities could not be achieved without powerful ideological justification. The controlling images of Black women take on special significance in the ideology of racial, sexual domination as being the direct intersection of two categories of explicit inferiority. Collins (2000) writes “Even when the initial conditions that foster controlling images disappear, such images prove remarkably tenacious because they not only subjugate U.S.

Black women but are key in maintaining intersecting oppressions” (p. 69). The binary structures of power that this work is so concerned with are structured in the opposition of two distinct categories wherein one represents a constitutive good with intrinsic value and the other becomes an objectified other, to be used and valued only extrinsically in relation to the positive half of the binary. This series of interconnected binaries converge by several counts as the negative half in black womanhood to render a uniquely dominated position (Collins, 2000).

Emerging from slavery, Black women were already inescapably bound to the archetypal images of that social formation, firstly in that of the mammy: the docile, loyal, subservient caretaker. This image served as a simple justification for the economic exploitation of house slaves and engendered a persistent relegation of Black women to domestic service while “represent[ing] the normative yardstick used to evaluate all Black women’s behavior” (Collins, 2000, 72). The mammy is indelibly linked to slavery but in contrast to the image of jezebel ascribes largely “virtuous” (albeit infantilizing) traits of idealized patriarchal womanhood as passive, caring and faithful. “By loving, nurturing, and caring for her White children and “family” better than her own, the mammy symbolizes the dominant group’s perceptions of the ideal Black female relationship to elite White male power” (Collins, 2000, 72). The character of deference inscribed in the mammy image would aim to inculcate all black people, under the tutelage of this maternal figure, in the proper place of subservience to a white power structure. The image serves additionally as a surrogate in its asexual devotion to motherhood to hold back the spectre of black sexuality and as a neat division of patriarchal expressions of womanhood (Collins, 2000, 72). This analysis by Collins follows the feminist theory that patriarchy insists on the division of fertility and sexuality in distinct categories of womanhood.

Once slavery had been established in America it quickly became self-reproducing and expanded into the southern interior, from South Carolina to Louisiana, where it provided a highly profitable labor organization for the production of cotton. It is in this context, during the 18th century, when the institution of slavery developed into a plantation society marked by its particular feudal-like culture, politics and psychology. While it is clear that peoples of African descent were both raced and sexed as soon as they were inscribed within the classificatory system of knowledge operating in the coloniality of power the development of a discourse around racial inferiority was developed substantially by the systemic enslavement and dehumanization of these peoples. The racializing apparatus expanded accordingly and became codified in a racial caste system with its own particular methodology. The American ideology of race can be characterized by its pseudo-scientific presumption of a biological division demarcating the boundary between “blacks” and “whites.” A similar biologicistic configuration persists throughout the various strata of the colonial apparatus whereby physical differences were projected also as representative of sexual deviances. The racialized hypersexualized African subject was examined for physiological differences such as abnormally large penises or deformed female genitalia to serve in the colonial imaginary as material manifestations of inherent traits (Somerville, 1994). The methodology of racism marked sexualized racialized subjects along “scientific” lines and developed a system of classification precisely to circumvent the deep contradictions between democracy and human bondage. This methodology is embodied historically in the rigid “one-drop” rule and the principle of hypodescent. Under these codes the dominant racial group assigned mixed children to the subordinate group, sustaining the growth of economic assets that these children represented as live property and maintaining “racial purity”

in the dominant class through the assured phenotypic assignation of inferior social status to the subordinated.

The infamous three fifths clause of the constitution enshrined in legal discourse the subhuman status of slaves and made explicit the principles of power that permitted such pernicious cognitive dissonance embodied in the discourse of emergent American liberal ideology. While racial dominance was being codified so too, by inseparable linkage, were the regulation of sexualities assuming regimented forms. Systems for the control and social denigration of subordinated sexualities worked in tandem with the structures preserving racial, gender, and class dominance. It is crucial to defy a framework reliant on mutually exclusive categories of either people oppressed by their inferior racialized status or people oppressed as queers. Doing so falsely opposes the two categories, thereby erasing queer people of color, and deterritorializing how the one serves the other, marking queer issues as distinct from issues of racism and failing to see the two for what they are: functions of the same apparatus of power. This is a particularly insidious narrative surrounding sodomy laws in the United States which we will resist by the historicization of such laws as being selectively enforced along economized racial lines and as representative only of one paradigm in the policing of sexual gender deviance.

Sodomy laws obviously predate American colonialism and diverse sociocultural practices, if not explicit legal codes, have certainly prohibited homosexual and non-procreative sex for as far back at least as the time of the early Israelites in 400 BCE. Jewish law, as recorded in the Hebrew bible famously forbids same-sex relations in Leviticus 20:13 (Mogul, Ritchie & Whitlock, 2011). In the century preceding the first European contacts with America there was an overall reinforcement and consolidation of anti-sodomy laws. A history of Christian intolerance

of homosexuality put forth by David F. Greenberg and Marcia H. Byrstryrn (1982) recounts the period of European history directly predating colonialism in which widespread condemnation of sodomy saw a profound increase. They write that “after a period of comparative acceptance, repression began again in the 13th century as an unanticipated consequence of organizational reforms in the church and of class conflict associated with the commercialization of medieval society” (p. 542). In this period there are numerous examples of punishments for sexual and gender transgressions growing harsher, an indication of the role policing of homosexuality served in strengthening a patriarchal order predicated on stringent male social and sexual roles. In the colonial era sodomy laws were widespread but as a legal construction they were notoriously imprecise and only selectively enforced. By the time a racial caste system was plainly established in chattel slavery sodomy laws marked a site for the construction of an explicitly inferior legal status for Blacks (Lugones, 2007). Although sodomy law was reformed to remove the death penalty for Whites separate legal codes maintained capital punishment for blacks, applied with particular vigor toward sexual relations between Black men and White women (consensual or not) as but one testament to the ruthless violence visited upon the imaginary Black male rapist.

The manifold horrors of chattel slavery and its long survival as the central institution of a racializing apparatus produced a distinct social power over inferiorized subjects predicated on confining, controlling and *defining* them as vehicles for capital production. As race and gender and sexuality all find their meanings in a structure of Euro-centered capitalist power the production of sexualities and races in that model serves a configuration of those resources for maximizing the profit mandated by capitalism. Power is structured in relations of domination and exploitation and the coloniality of power organizes the struggle for control over the realms of

human existence in the terms that serve its aims. Under capitalism human life is organized under relations of domination as objects of production to be exploited. With the pivotal turn of colonialism a fictionalized conception of human relations in biologicistic terms through the loci of race sex and gender reformed the capitalist model around these new classifications and produced a discursive force that made the simple classification of subjects as inferior complementary to an oppressive class relation.

Once so established an ideology of power looks to present these classifications as metaphysically prior to the apparatus which consumed the entire realm of social existence in their production. Their existence is historical and their totality represents the particular axes around which a coloniality of power seeks to shape the resources and products of human sex, labor, collective authority and subjectification to the aims of capitalist economics (Quijano, 1992). With the end of the American civil war and the emancipation of enslaved peoples American society was faced with the task of reconstructing a system of control to facilitate the oppressive relations introduced by the coloniality of power. Southern White society in particular, as the proprietor of chattel slavery, needed to “secure anew the labour of former slaves, without whom the region’s economy would collapse, and... to sustain the cardinal status distinction between whites and ‘persons of colour,’” (Wacquant, 2002). Within a model of superiority and inferiority it had become symbolically and socially essential to maintain a strictly codified distance between those inferior racialized sexualized subjects and the normative white, heteropatriarchal society. This crisis of control permitted a brief period of relaxed racial strictures during which Blacks were allowed a degree of symbolic civil power by voting and holding public office and a leniency towards social intermingling of Whites and Blacks. It is significant that the deep contradictions and imaginary force of the coloniality of power

necessarily creates a cognitive dissonance in its processes of subjectification whereby the intergroup intimacy of plantation society obscured in consciousness to some degree the material relations of power. The ideology of paternalism present among some Southern slaveholders points to the moral contradiction induced by a deeply intimate relationship between oppressor and oppressed.

The pathologies of a colonial consciousness illuminate the structural monstrosity of this domination and rather than point to some moral character in the beneficiaries of this hierarchy they reveal the historical character of an imagined and constructed mode of life. The historical character shapes its subjects in its forms and demands their perpetuation. The solution to the White crisis of control took shape in the Jim Crow regime by an amalgamation of social and legal codes that prescribed the division of the races relegating Black Americans by use of legal coercion and terroristic violence to a wholly separate society still inseparably bound in a relation of submission and exploitation to White society. Separation was mandated in all public spaces, housing was limited for Blacks to slum conditions, and schools and hospitals, where there were any, were also separated and to be staffed only by others of the inferiorized racial category. In the outlawing of interracial marriage, cohabitation, or even mere sexual contact the twin functions of racialized and sexualized inferiority were joined to further cement the coloniality of power and uphold the law of racial self-preservation and the lie of innate White heterosexual superiority. The plantation society remained virtually unchanged by the persistence of white land ownership and the systems of sharecropping and debt peonage which reformed the conditions of slavery for the nominally free Black population as former slaves remained a dependent, propertyless, peasant class entrapped by poverty, ignorance and social marginalization.

The convict lease and debt peonage systems became massively prevalent in the landscape of the post-reconstruction South as functional modes for the exploitation of the productive assets of recently freed slaves and majority Black incarcerated populations. The history of convict leasing in particular is a striking point in the genealogical lineage between slavery and imprisonment and as an antecedent model to the system of privatized prison labor existing under the mass carceral regime. Convicts were leased from Southern prisons to individuals or corporations charged with their supervision as a captive labor force (Pruitt, 2013, 49). The paternalistic attitudes engendered by the racial caste system and the attendant characterizations of racialized sexualized deviance led White society to perceive the Black population in need of wholesale tutelage to avoid falling into the idleness and crime prescribed by the myth of their “nature”. Convict leasing and the prescriptive imprisonment of free peoples of African descent for even the most minor offenses predated slavery but took on a renewed vigor in its abolishment. White judges in service to the mandate of a renewed control of the racialized inferior “found themselves dealing with a range of behaviors (ranging from genuinely criminal acts to mere rudeness) that once would have been handled extralegally by plantation discipline. In the post-Reconstruction world, such offenses were punished by hard labor for the state or county” (Pruitt, 2013 50). Under this model racist ideology and law converged for the benefit of Southern industrialists and the continued ascendance of a profitable white supremacist capitalist heteropatriarchy.

A parallel regime of debt peonage survived on the economic dependence of freed Black sharecroppers to their former masters who paid the landowner half their crops and the value of received supplies whereby the yearly decline of staple crop production yielded ever accumulating debt for the sharecroppers. Regional contract labor laws forbade breach of contract

so that when a plantation owner demanded sharecroppers to resolve their debt and they were unable they could be arrested for defaulting on their obligations. Once arrested and fined on charges the landowner would arrive to pay the fine and then be granted custody of the peon to oversee the working off of the fine and his outstanding debt under the threat of further arrest and prosecution. This system served to both reconstitute the bonds of master and slave and functioned in the capitalist myth of the lazy poor, under which the impoverished are conceived as inherently lazy to obscure in a moralizing narrative of personal failure the inherently stratified nature of capitalist economies.

Under these systems of labor exploitation and the unforgiving social and legal codes marginalizing people of color a brutal and explicitly unequal social organization flourished as the next peculiar institution in the history of the American apparatus of racialized heteropatriarchal power. Under Jim Crow any crossing of the “color line” was met with savage retaliation in myriad forms. Ritualistic caste murder in the tradition of lynching formed a cultural cornerstone of the regime in conjunction with or facilitated by Klu Klux Klan and vigilante raids and public beatings of any transgressors. Such violence ensured the maintenance of hierarchy by inscribing in materiality the designated position of inferiority and marking the flesh of the unfree as the tormented incarnations of power. In the courts “Negro Law” prevailed as a system of designated lesser legal protection for the inferiorized population than they had been afforded even under slavery where the dual status of personhood and property allowed some of all the rights they lacked as people to be extended by function of their belonging to the privileged class.

In the early 20th century the model of racial dominance again faced a crisis. The instability inherent in a self-naturalized system of deeply historical origin and function insists on the constant reproduction of its modes to obscure its historical element and ensure its survival.

With the sheer brutality of caste oppression becoming intolerable to its sufferers and morally indefensible in America's complicit liberal ideology the structures of domination adapted in service to the preservation of power, while accommodating the historical conditions making the current regime untenable. The decline of cotton agriculture due to floods and Boll Weevil which had sustained the economy of the Jim Crow South and the labor shortage facing Northern factories after the outbreak of the First World War spurred mass migration to the industrial centers of the Midwest and Northeast (Wacquant, 2002, 5). A new system of racial enclosure awaited and with it the same inferiorized status and degree of material suffering but under aesthetically and symbolically better conditions which served to further entrench the coloniality of power as the principle of social organization while making it more invisible. Northern life for Black people allowed freedom in public spaces, access to commercial establishments, absence of prohibitory racial signage, equal legal status, renewed voting rights, at least in theory the possibility of limited economic advancement and alleviation from the constant threat of white violence and the demeaning culture of constant personal subservience. However, restrictive structures comprising housing discrimination, economic barriers and discriminatory hiring practices all conspired to force congregation in the so-called "Black Belt" which quickly became overcrowded, underserved and afflicted by crime. In the inner cities of the industrial North the ghetto was born as the newest model for the simultaneous extraction of labor and alienation of black bodies outside of and in service to the symbolic and economic benefit of White society (Wacquant, 2002, 5). A lack of upward mobility consigned Black populations to the most dangerous and menial labor jobs in both service and industry and these roles formed their value as a cheap surplus labor force within their marginalized corner of the economy. The ghetto as a social space represents the perpetuation of a parallel subordinate society for the marginalized

subjects of a gendering, economizing, racializing, sexualizing apparatus, wholly dependent on and yet distinctly formed from the normative society enclosing it.

Wacquant (2002) observes that the era of the ghetto as a dominant institution of racial control opened with the urban riots of 1917-1919 and closed with the looting and burning of numerous American cities throughout the second half of the 1960's from the Watts uprising in 1965 to the riots in the wake Martin Luther King's assassination in 1965 (p. 5). These violent outbursts signaled the end of the ghetto's efficacy as a vehicle for racial enclosure and labor extraction. The decades long protest against caste exclusion which culminated in the Civil Rights movement coinciding with mass protests against the Vietnam War and the unavoidable atmosphere of mass social unrest forced the federal government to de-legalize the explicit mechanisms of racial oppression. With the transition from an urban industrial economy to a suburban service economy and the Black population's acquisition of the full rights of citizenship they would no longer be contained to the ghetto en masse. White society was forced to nominally accept this transition on principle but in actuality readjusted the means of control to maintain the social, economic, political divisions between themselves and black society. There was a mass turn towards privatization with the abandonment of public programs and the disavowal of the social safety net which would be the tool of advancement for Black people under their newly gained rights and a championing of "Law and Order" policies which would signal the newest system of racialized (and thereby sexualized, economized, gendered) control.

During the 20th century the shifts in modes of control facilitating racialized hierarchy were accompanied by a fundamental restructuring of the configurations of sexuality that had begun in the late 19th century. What had already been produced as a classification and demarcation was restructured as constitutive of an immutable identity category. Foucault and

particular but other historians of sexuality as well have characterized the shift from a policing of sexual acts, although demonstrative of the characterization of marginalized peoples as inherently aberrant, to a policing and regulation of sexual identities as we now come to understand them. It is crucial to view this shift in a continuum of subjectification by which certain sexual acts were prohibited along the lines of demarcation which form categories of control for the stratified bodies of colonial power. However it is indicative of a new order of operations in this discursive apparatus that these acts came to define the identity of those they were ascribed to as not just inclined towards deviance but embodying that deviance itself in rigid queer identity categories. Sexual acts and desires became constitutive of identity and the aberration represented by individual acts was writ across the bodies of the actors so that queer identity itself became subject to punishment above and beyond any individual performance of a punishable offense. Queer subjects were thusly substituted for acts of queerness and were now subject to the construction of archetypal narratives facilitating the criminalization of a whole identity category. Rooted in the historical mythologization of the racialized, sexualized, economized inferiority ascribed to indigenous peoples, Black Americans, and poor people the criminalization of sexual and gender nonconformity was now rooted in the demonization and stigmatization of newly realized queer identities.

Within the structural linkage of ghetto to prison in facilitating the enclosure, control and extraction of material and symbolic benefit from the inferiorized classes in a coloniality of power the prison in its ubiquity under mass incarceration serves as the focal point of the racializing, sexualizing apparatus we have so far uncovered. As always the apparatus as a network of elements can not be understood in the context of one expression. The coloniality of power is a total structure forming the possibilities of all human existence under its modalities. But in the

locus of the prison, its symbiosis with the ghetto and all its attendant structures, we see an apparatus of particular force serving the aims originating under colonialism to define, regulate, dominate and arrange in order for the maximum benefit of a capitalist power those subjectified in a regime of sexuality, race, gender and class. As we extend our analysis towards the modern phenomenon of mass incarceration we will situate our understanding always in the theoretical-praxical frame that shows the historical function of the patterns of power we have so far outlined. From a history of the racializing, sexualizing, gendering, economizing apparatus embodied in colonialism, racial caste and the policing of gender and sexual nonconformity to the most prevalent current iteration of that power, the phenomenon of mass incarceration and its surrounding elements is only one point in a historical continuum originating in the formative dominations of American society.

Chapter III: The Prison as Assemblage

“Collective assemblages of enunciation function directly within machinic assemblages; it is not impossible to make a radical break between regimes of signs and their objects. Even when linguistics claims to confine itself to what is explicit and to make no presuppositions about language, it is still in the sphere of a discourse implying particular modes of assemblage and types of social power. “

- Gilles Deleuze and Felix Guattari

The American prison appears before us now as a figure of innumerably vast delineations, having been configured in multiple converging discursivizations as a product of material history, the site of deep social significance, emerging in its current presentation as the unique consolidation of many particular elements arranged in a particular spatial-temporal position. This is a fine opening to the concept of assemblage, an idea which is itself difficult to fully locate. This is the poetic expression of the idea in its very articulation. Because an *assemblage* is constituted by, in the words of Gilles Deleuze and Felix Guattari themselves, “a multiplicity- [in which] we don't know yet what the multiple entails when it is no longer attributed, that is, after it has been elevated to the status of a substantive” (1987, p. 4). A multiple is always being fixed by order into an objectifiable substance, one of decipherable positionality. This theory of assemblage defies rigidity. The assemblage both explains strata and resists the movements of classification it forms. “A book is an assemblage of this kind, and as such is unattributable” (Deleuze & Guattari, 1987, p. 4). The multiple, without the defining force of whatever particular machine it is plugged into, that of language, discourse, under the logic always of dichotomy, of dialectical cuts that freeze a liminality and attribute it, is a multiple of limitless potential fixtures. It is without doubt that Deleuze & Guattari (1987) undertake in their writing a bold departure

from the instrumentalized linear *progress* of conventional argument, argument which is bound in its structure and language to the kind of petrifying force which the idea of assemblage resists. How exactly do we understand an assemblage so as to attribute it to the questions of this work?

I will attempt to retain in my analysis and application of assemblage as a concept its resistance to totality. There must remain the organic character in which the freedom from ideology comes closest to being realized. An assemblage is confronted by the impossibility of multiplicity in language, which predicates its order on distinction. One thing is drawn out against the other in order to say that it is something. When two things are one they are *confused*, and neither is itself. Language, discourse, literature, systems of thought in general, any number of “machinic assemblages” are constituted in these terms, requiring “a strong principal unity” (Deleuze & Guattari, 1987, p. 5). There is domination in the logic of a discourse or a book, in the subordination of the multiple under the unity of a grander gesture. Deleuze & Guattari (1987) write “the binary logic of dichotomy has simply been replaced by biunivocal relationships between successive circles” (p. 5). They mean by “biunivocal” the coupling of two under the domination of one, as in the linkage of the signifier and the signified. That which represents the other becomes the other itself. Ideology works much in this way, being both not real in the sense of its imaginary order but being also the projection of a fictitious order of reality in such total terms as to be reality itself. Nevertheless we persist in putting one foot forward, while keeping one within, these ossifying movements. We must open our eyes, in direct contact with the glaring immensity of it all precisely not to be frozen within it. By *it*, we might mean ideology, a structure which configures in total domination an order that endures through internal logic, by the value it has given itself. We could mean the ideology of a system of domination that commands the world. I deploy the idea of an assemblage, which constitutes always the multiple but begins with

the enunciation of the specific, to envision networks of elements as conditional events. In the case of the prison as a point of specificity, we are constituting also the machines in which it is agglomerated. But we are permitting ourselves the greatest degree of abstraction possible to figure analysis as a decentering force, which does not close in upon itself but treats in its granting of a substantive to the multiplicity, a way by which we might measure its “determinations, magnitudes, and dimensions” (Deleuze & Guattari, 1987, p. 8). That is to say that while granting a character of substance, the conceptual application of assemblage does not diminish the multiple.

I want to understand heterogeneity and connectivity, the way elements are singular but remain affixed to each other. In this way an assemblage is like an apparatus but remains still as a distinct concept. The apparatus is a large relational structure, or rather it is the relations themselves. The assemblage is deterritorialized, it is a topography of the multiple. The multiplicity “never allows itself to be overcoded, never has available a supplementary dimension over and above its number of lines, that is, over and above the multiplicity of numbers attached to those lines. All multiplicities are flat, in the sense that they fill or occupy all of their dimensions...” (Deleuze & Guattari, 1987, p. 9). I deploy the apparatus in order to see the lines of connection which characterize a higher dimension of order to the various movements within. I deploy “assemblage” to see a different character, in which the becoming of a line is the point of inquiry, seeing not the line as it is affixed under the domination of a greater line but its presence in a plane of consistency. “Each of these becomings brings about the deterritorialization of one term and the reterritorialization of the other” (Deleuze & Guattari, 1987, p. 10). When we look at the becoming moment of a singular element, the ways in which our interpolation of it makes a new becoming, there is a break in constancy of the multiple. When I look at the apparatus of

imprisonment I am looking to see the relational structure of its various forms, its actions and components, being tied to the motions of power, of subjectification by which identities are formed and bodies are instrumentalized. When I say the prison is an assemblage I ask what is in the becoming of these lines when they are fixed by the assemblage. This assemblage may constitute some of the lines of the apparatus but its operation demands a new imagining, in which the substantive form we grant its multiplicity asks how we measure the moment of becoming.

Gender becomes in the prison. Race becomes in the prison. Class becomes in the prison. What is formed and reformed when we ask what constitutes these lines of meaning in the moment of rupture. They are placed outside of the multiplicity of their signification by the inquiry only to form a “line of flight” which is both of and simultaneously redraws the assemblage. There is, in the becoming, a moment of capture, the coding and valuation of a moment that increases its combinatory significance as an element of the multiple without decreasing the element as a heterogeneous singular. There is no way to analyze the multiple without the analytic gesture that births a moment of rupture. However by situating the multiple in the concept of the assemblage the moment in which our interpretive gesture breaks the plane of consistency shows the moment of breaking as being itself a part of the assemblage. I take the moments of rupture to be the moments in which the assemblage redraws itself through a line of flight, in which the elements are reconfigured and emerge in a moment of becoming as new forms. We proceed from this premise to look at the moments of rupture where the elements of a colonial assemblage, a necro-political assemblage, a bureaucratic assemblage, a machine of history are broken from the multiple and become in new ways as lines of various velocities and dimensions in an ever shifting relational structure.

The racializing system of domination which constitutes an assemblage contains in its very logic the constant rupture of its elements, redrawing the attributions which define the racial category, rupturing in every moment of definition, rupturing in its changing modes of control, redrawing itself in every spatial-temporal interpolation of its elements. The same is true for the assemblages of gender, sexuality, and class. Any assemblage in which you may situate these elements finds new significations of them in vastly different attributions. When gender, for example is fixed by an economic assemblage the relegation of women to the domestic realm of work attributes the feminine category as a productive mode for the accumulation of capital. The element of gender in capitalism becomes configured in the interests of that assemblage, namely producing profit. But gender as an element may be interpolated differently in overlapping assemblages, as a marker for sexual and other violence, fixed not by economic interests but by the imperatives of control, degradation, and dehumanization that develop in the ideological assemblage which predicates its order on the devaluation of women.

We can fit different multiplicities in the terms of different assemblages to attempt to understand them but the application of this theory is to show the elements of an assemblage as mechanisms. They are not parts of a unified whole but perform as machinic events, a multiple of contingencies. I say contingencies because the function of these elements in the order they do belies not an essential character of the assemblage they are figured in but rather the historical element that actualizes its operations. The assemblage is a historical machine, one comprised of heterogeneous elements that are fixed in relation to the processes and conditions that surround them. Thus the exploitation of women's productive capacity under a sexual division of labor is an event granted meaningful relation to the surrounding structure of capital. Violence against women is a concrete multiplicity of events that exists as a conjunction of the elements that are

conditioned by the assemblage of patriarchy. But it would be false to represent patriarchy as an immutable category. The representation of patriarchy as an assemblage must be complicated by the understanding of the machine that conditions its elements, a machine of relational networks that are singular and conditional. To name patriarchy, in essential terms as a singular would amount to its categorization as an essential principled unity of elements. Patriarchy is rather fixed by ever changing sets of elements within ever changing sets of relations such that it is a series of machines in a reciprocal movement between the changing of the elements and the changing of their conditions. The presentation of this multiplicity of patriarchy as one machine dissolves to appear in the next moment as a different machine. This idea defines the assemblage theoretically as a constructive process that always constitutes itself anew, expressed in one of three distinguishing features of assemblages that Deleuze & Guattari (1987) call the “Abstract Machine” (p. 11). A body conceived as an assemblage is a multiple, depending not on an essential truth of itself but on its relation with other assemblages, with the sets of conditions shaping its elements.

Through the abstract machine, the assemblage is understood as such also through its concrete elements and its agents. To state again the abstract machine is the relational network, the external conditions of its arrangement that guide the elements within, not as expressions of principled unity but as the multiple of localized possibilities, wherein the elements are given meaning by relation. Different sets of relations define different assemblages and the relations constitute the interpolation of the elements in an always singular abstract machine which does not direct the elements but rather supports the concurrence of all its elements with each other (Nail, 2017 25). In other words the Abstract Machine describes the relation of the elements as they occur in space-time, the way they are conditioned by their specific occurrence. The concrete

of the assemblage is its particular embodiment, the coalition of elements that lend consistency to the abstract machine. The concrete assemblages are the mechanistic expression of the abstract. In Wacquant's (2002) theory of racial domination the assemblages of slavery or Jim Crow or Mass Incarceration are all swept up by the abstract machine that conditions them. However these expressions of racial oppression are not preordained by the construction of the machine but are rather the elements of construction that constitute the assemblage. One does not transcend the other. The abstract relations and the concrete elements transform each other. The shifting historical modes of racial injustice in America are inseparably and reciprocally tied to the relations of dominance they are configured by. The domination itself is equally so configured by the historical modes, the concrete assemblages of its elements. Each instance is radically new.

Within and a part of both the abstract and the concrete are the agents of an assemblage, whose actions connect the concrete with the abstract machine that conditions it. They are immanent to the assemblage, do not create it nor direct it and remain presupposed by while simultaneously presupposing the assemblage. These figures are not the rational, autonomous actors of liberal doctrine nor are they fractured subjects caught up only by movements of history that transcend them. These actors are not imagined by Deleuze and Guattari as the first-person self-conscious subject. The agents of an assemblage act in roles, as intercessors to the relation of the concrete and the abstract, embodying a collective subjectivity of this multiple. In Thomas Nail's (2017) analysis of the assemblage theory he writes "No one is subject to themselves alone; they are part of a larger third-person assemblage that arranges the conditioning relations and concrete elements in which the world of the agent is meaningful" (p. 27-28). The agent's actions are only meaningful in relation to the mechanisms of the assemblage, but the assemblage is only

given meaning by the actions of the agent. The three features of an assemblage exist immanent to one another and exist as a multiplicity of the radically heterogeneous elements within.

Take the abstract machine of a racist assemblage as an example. Racism does not exist essentially in humanity. It did not cause the phenotypic diversity of the human population. It did not bring into existence the violence inflicted by some people onto others. It is the name for a set of relations between social groups, ideo-linguistic structures, discourse, material arrangements of power and privilege, violence and confinement. Without all of these elements there is no racism but without racism there is only a heterogeneous collection of historical moments: a lynching or a rape or an arrest, each as a singular event. The abstract machine is the relational structure that gives these events meaning in connection to one another and the concrete assemblage is the singular events themselves. Since these events always occur anew, each one a singular moment in history, and because they end and are born again and change position always within a racist machine, racism has no permanent essence or defining character. Racism is an event, changing its relations as the elements change and changing the elements as the relations change.

Paisley Currah and Tara Mulqueen engage the theory of assemblage in their 2011 essay “Securitizing Gender: Identity, Biometrics, and Transgender Bodies at the Airport” to understand the interpolation of gender as an event in the assemblage of a security state. Their analysis proves useful to this work as a guidepost of sorts for the praxical investment of this theory in the scrutiny of material politics. By engaging the arguments of Currah & Mulqueen (2011) the assemblage of incarceration will present itself to my analysis as a phenomenon with traceable points of entry, situated by this perspective as a site for the attribution of its elements in entirely new forms. Currah & Mulqueen’s (2011) argument begins with a salient point about gender that reverberates within the space of the prison as much so as it does in the airport security apparatus.

They write that “gender has been so deeply naturalized—as immutable, as easily apprehended, and as existing before and outside of political arrangements—for so long that its installation in identity verification practices is taken for granted” (p. 558). This work has already made an argument that demonstrates the naturalization of gender but Currah & Mulqueen’s observation is crucial to an understanding of securitized spaces, of which the prison is one. The role that identity traits play in systems of security is quite different from how those perceived identities function outside of those systems. Security apparatuses demand the classification of knowledge in rigid terms to reduce the risk of the unknown by as much as possible. The unknown represents a threat to a system that bases its effectiveness on the ability to predict and prevent all potential transgressions on the basis of pure breadth of information (Currah & Mulqueen, 2011). The more such a system knows and is able to affix with meaningful relation by its assemblage the more prepared it is to maintain its mandates of control.

Currah and Mulqueen (2011) seek to understand how the particular security apparatus of the U.S. Transportation Security Administration (TSA) “operationalizes” gender. The appearance of oppositional gender presentations become, like the colonizer’s encounter with the deviant sexuality and gender of native peoples, a rupturing moment for the assemblage. With the appearance of divergent “epistemic sources of knowledge about gender—individual narrative or gender presentation, the classification as M (male) or F (female) on the document one carries, and one’s body” (Currah & Mulqueen, 2011, p. 558) confront in their liminality the immovable face of a classificatory structure. Security is about “hard facts.” The security apparatus belies the possibility of a mutable category, even when that category is directly shown to be an unreliably constructed and essentially unstable, moveable element. The rupture that occurs in the apparent conflict between the two is not sufficient to change the abstract machine. This becoming of

gender in the assemblage causes its rupture but not the disintegration of the assemblage itself and only the reterritorialization of the element in a new line of flight. Hence, the individual whose gender conflicts with the relational structure of the assemblage faces the violence of this rupture and not the other way around. The assemblage is relational, conditioning the elements within it in particular ways, such that what may be constituted as confrontational from one perspective is merely adapted within the assemblage without shattering the consistency of the machine. “When meanings are contested, as Hobbes says, it is authority, not truth, that makes the law” (Currah & Mulqueen, 2011, p. 558).

What is epistemically constructed by the state, by the power of sex-gender binarism as easily apprehended, as a simple either-or question is confounded by the sheer diversity of gendered expression. Gender and sexuality theory has long held that gender is “performed rather than expressed,” produced through social relations and the conditioning networks it enters (Currah & Mulqueen, 2011, 572-573). When that performance encounters the conditioning force of a particular assemblage the burden to navigate such an interaction causes a redoubling of the performance of that element, of gender. Transgender individuals in securitized spaces must perform the performance of gender to appear as normative as possible. The prison, as one of the most intensely securitized spaces imaginable requires the greatest possible performative gesture of gender in its space. How gender is actualized in the space of the prison “depends not on what one might think gender is, but on what it does in that context: there is no unitary notion of gender to which an individual simply does or does conform” (Currah & Mulqueen, 2011, p. 574). In the assemblage there is no essence to a concept, elements are realized as events by the virtue of the space they have entered. In quoting Deleuze from Currah & Mulqueen (2011) we must direct our questioning along the lines of “in what situations, where and when does a particular thing

happen, how does it happen, and so on?” (p. 574). The contingency that gender is, being by its construction an unstable and conditional category, sees itself deployed normatively particularly in spaces of overt state control as a tangible fact. Gender enters this stratum as a force that becomes reconfigured by the assemblage as something new. Currah & Mulqueen (2011) describe this “something new” in the context of the airport security apparatus as gender’s “securitization (p. 576). By securitization gender becomes an object of the state, is operationalized as a substantive that makes it subject to “forms of control associated with sovereign power—barriers, bans, prohibitions, punishments, searches by uniformed personnel, interrogations. But identity in general and gender in particular are also securitized in another sense— as a form of risk management” (Currah & Mulqueen, 2011, p. 576).

While Currah & Mulqueen develop their theory in the context of the airport the assemblage of the prison conditions the same securitizing effect. In attempting to wrest control over an uncertain future security aims to turn future promises into commodities of the guaranteed present. Transgender bodies are operationalized by this assemblage as spatial entities, not temporal and mutable, but as static and therefore understandable and capable of being “correctly” placed within the apparatus in question. While prisons and airports both feature their own unique security apparatuses the way gender is realized in these spaces is distinct in many ways. Securitization is but one aspect of gender’s temporal-spatial flow in the prison. Security for the state is expressed sometimes in what could be perceived as a contradictory manner. However, the fact that different state actors perform unique operationalizations of gender, or any other category is indicative of divergent state projects and of a general truth of assemblages: that the unstable bounds of multiplicity make all categories contingent. In the airport security rests on recognition for the reduction of threats while still allowing the “maximum flow of

commerce” (Currah & Mulqueen, 2011, 575). In the prison commercial flow is not a factor and its securitization of gender demands a different orientation of gendered bodies while still depending primarily on the spatial dimension of that category.

Spaces of imprisonment are always binarily gendered, requiring neat separation of “men” and “women.” The impetus for this separation, besides the ideological assumption of two simple gender categories, is in the interest of security. Because of the deeply naturalized assumption of heteronormativity the normative problematization of mixed-gender prisons would be one of two things: either an unacceptable sexual intimacy between incarcerated individuals or the vulnerability of the heteronormative standard of womanhood as submissive, passive and in need of protection. Sex segregation is, by the valuation of women’s weakness, seen as inalienable from the control of a prison space where cultural lore and indeed reality permeates a perception of extreme violence as the norm. This segregation also entails a forced celibacy for many prisoners would enshrine their sexuality, as with all other aspects of their personhood in a cage of control, forcing its diversion into a myriad of survival strategies which almost always entail a hyper-masculine performance. Even among women prisoners there is an adapted performance of masculinity dictated by the prison’s overarching relational forces which persist even beyond its distinctly gendered iterations. Even with the traditional masculine order and its reproductions serving the victimization of women and the category of woman being reified as one of inherent subservience the gendering force of the prison is more complex. Although patriarchy’s normative code enforces heterosexuality and the infantilization of the feminine there are some contradictions and nuances present with other narratives of the prison’s abstract machine: namely, the widely known and seldom acknowledged phenomenon of prison rape between men, the racializing effect that masculinizes women of color, and the not unrelated general

prescription of criminality which produces a negation of the normative values ascribed to women. These contradictions are yet another instance of the ungroundable frame of ideology and an indication of the assemblage's conditioning effect on its elements. What appears as a contradiction is in fact merely a revelation of the contingency of relational forces and again demands that we ask what exactly happens to these concepts of race, gender and class in the spatial-temporal plane of the prison.

When interrogating the gender segregation of prisons gender-transgressive individuals, particularly those of color, appear as the most vulnerable category in that assemblage, both in their risk of being incarcerated and the risk of violence they face once in prison. Gender-transgressive poor people, particularly people of color who are as a whole- regardless of their gender- disproportionately impoverished, are confronted at every turn by systems of social control that figure gender segregation as a primary force. Prisons, according to the activist and scholar Dean Spade (2006), "for the most part... recognize only birth gender, or rely on identity documents such as birth certificates to determine gender. In every state in the United States that allows people to change their gender markers on their birth certificates, evidence of sex reassignment surgery is required" (p. 227). Notwithstanding the massive class barriers to sex reassignment surgery combined with the low-class status of the majority of prison populations overall and transgender people of color more specifically, this requirement presents a grave danger to the individuals whose gender presentation diverges from their assigned gender. Before attempting to unpack the way in which gender and gender transgression is actualized in this space respectively as a marker for, or protection against violence one must accurately characterize the space of the prison as deeply violent.

In *Prison Masculinities*, Don Sabo, Terry A. Kupers, and Willie London make a compelling case for the prison as a site for the exaggerated performance of hegemonic masculinity which, as has been shown, is inextricably tied to domination and violence. Not only is masculinity violent simply by the relational schema it operates within, as a social production achieved only by the subordination of the feminine category but also by the values that condition it to perform dominance, violence, ruthless competition and heterosexism as the ideal expression. Sabo, Kupers & London (2001) write “The prison system, though it isolates prisoners from mainstream society, is not an isolated institutional element within that society” (p. 5). In fact, it is just the opposite of isolated. The heightened stakes of the criminality ascribed to prisoners, the violence of the surrounding apparatus itself, the intensely homosocial contact of a segregated space and the facilitation by prison officials of the already present tendency towards violence demands an emphasized masculinity. The concept of maleness is actualized throughout society in line with its contingency as an expression of power because it exists only through a construction of power. Maleness is nothing without dominance, conceived of and realized through this paradigm. In addition to its role in the maintenance of a male-female hierarchy it serves also to enforce intermale hierarchies, particularly under a coloniality of power as the expression of white straight cisgender male superiority.

The effect of masculinity performed as such in the exclusively homosocial space of the men’s prison is that the outside perception of one’s “manliness” is the only recourse to power in an environment that constitutively denies self-actualization, freedom, or power in any other form. Masculinity is reproduced in the fiercest incarnation again and again in the prison because to relinquish that performance would entail the same violence from others that one performs himself. Men’s prisons are patriarchal institutions and exhibit hallmark characteristics of

patriarchal social relations. They are homosocial spaces, with all male prisoner populations and majority male staff and corrections officers. Even female guards adopt a masculine performance, much the same as those in women's prisons when the element of their gender is conditioned in the machinic assemblage of incarceration. Sex segregation figures unavoidably in this patriarchal space because of, among the reasons cited above, the fear that "sex integration would make it impossible to control the prisoners... The system of repression, alienation, and oppression is partly rationalized by and reinforced through, and therefore simply would not work without, sex segregation" (Sabo, Kupers & London, 2001, p. 8).

Sabo, Kupers, and London (2001) further explicate the notion of prison's patriarchal character by its reliance on hierarchy and violence. Hierarchy exists on multiple levels throughout the social schema of the prison with the more effeminized placed lower than the more masculine and those normatively gendered as women occupying the absolute lowest order. This hierarchy is inextricably linked to racializing forces and also, in line with the subordination of homosexuality as an extension of the feminine, expresses a deeply homophobic culture. This, at first glance, presents another contradiction: that prison culture is intensely homophobic while being also a resoundingly queer space in which the reality of rape but also consensual homosexual relations permeate everywhere. The nuances of the prison assemblages interpolation of sexuality and gender bares further inquiry. In many ways the relational network of prison's concrete elements reveal just how conditional the conceptual grounds of these categorizing notions really are. Violence in prison reflects larger relational structures of violence that pervade patriarchy generally. The threat and practice of physical and sexual assault is used to secure and maintain the hierarchy of the prison space even while the majority of incarcerated individuals are jailed for non-violent crimes (Sabo, Kupers & London, 2011).

From a lecture delivered at Columbia University in 1993 Stephen “Donny” Donaldson, a renowned prison reform and gay rights activist, outlines the subculture of prisoner social relations, in which sexuality is fused with social hierarchy. Donaldson (1993), who writes from his personal experience with incarceration, communicates the nuanced experience of gender and sexuality in the prison. The relational forces interpreting these elements exist beyond the walls of a prison but find themselves in a distinct machinic arrangement on the inside. The binary gender system employed in prison culture is an interpretation of the patriarchal order that persists outside but subsists, in the absence of “women”, on a distinction between active and passive roles that defines one gendered positionality. The top of the social order “consists of the so-called ‘Men’ and they are defined by a successful and continuing refusal to be sexually penetrated. A single instance of being penetrated, whether voluntary or not, is universally held to constitute an irreversible ‘loss of manhood’” (Donaldson, 1993, p. 118). Under these terms one’s status of dominance or subordination, whether he is sexually involved or not is always sexually defined because sexuality is the relational force that defines elements of power in prison. This power dynamic is adaptive of the traditional binary distinctions of patriarchal power between active and passive but the long-standing vilification of acts of sodomy against both penetrator and penetrated do not signify as they do outside. The problematization of sexual identity that lends a discursive force to male-on-male sexual relations outside of prison is lacking its conditioning capacity within the assemblage of the prison.

Men in prison almost always identify as heterosexual, sometimes bisexual, and for the large majority behave as heterosexuals before and after imprisonment. The sexual penetration of another male prisoner by a man is “sanctioned by the subculture, is considered a male rather than a homosexual activity, and is seen as a validation of the penetrator’s masculinity” (Donaldson,

1993, p. 119). The unstable position of one's manhood require a constant maintenance of that position through the demonstration of power, for fear of losing it to another more aggressive or powerful man. As sexual conquest is the primary expression of that power the social order demands that men at the top perpetuate a culture of violent rape and coercive pressure to settle in dominating sexual partnerships. It is important to note that these social orders are in no way ironclad but that, barring small exceptions, the variation from institution to institution is expressed in degrees rather than entirely separate paradigms of sexuality. If masculinity is affirmed through power over others that power must certainly include also the free exercise of will and control over one's own life. In the prison men are constitutively deprived of control and power over almost every aspect of their lives. As such, the only recourse they have to affirming their masculine identity is in the dominance of others where they may create and sustain an identification of agency and control that is otherwise lacking in their experience of bondage (Donaldson, 1993).

It may be speculated that the unique phenomenon of prison rape is one resulting solely from the sexual deprivation most imprisoned Americans are subject to, given that only four states allow conjugal visits, often blocked through an application process, and those visits are absent entirely from the Federal system. This speculation would attempt to distinguish rape in the outside world from rape within the prison on the basis that its unique appearance between men somehow demands a separate contingency. However, such an argument rests on flawed concepts of rape: primarily that it figures rape, although forced as being still an expression of sexuality and intimacy, when it functions much more accurately as an expression of power. Such a hypothesis also locates its logic in the presumed heterosexuality of the general population, assuming that only with the absence of women would men so readily engage in homosexual acts.

This is simply false. It is in fact the particular assemblage in which an element finds itself that may interpret its concrete action, showing that element to lack essential character and to instead remain always contingent. The contingency figures sexual relations on both sides of prison walls. The nature of a man's perceived and experienced identity as heterosexual does not preclude his homosexual experience in prison but outside of prison his sexuality is no more stable but only inflected with the ideological dominance of heterosexism. In reality, both identities are ungroundable and conditioned only as they are in response to whatever relational network they find themselves in. Prison rape functions primarily, although certainly not without some degree of relation to the denial of normative sexuality in that space, as an expression of autonomy on behalf of the rapists, establishing masculinity through domination and also generally being a rebellious act of self-affirmation against the institution's denial of self and its blanket prohibition of sexual acts (Donaldson, 1993).

The ubiquity of queer experiences in prison confounds the supremely homophobic culture that prevails within but it is revealing of the machinations that render identity as an immutable commodity. The re-conceptualization of traditional signifying forces of sexual and gender identity in the assemblage of imprisonment is indicative of a threat to the static and essential character of heterosexism. Prisoners who have engaged in homosexual acts while incarcerated reject the institutional ascription of their actions as emblematic of a queer identity. Prison officials and the dominant power structures that pervade American society similarly reject the notion of the prison as being queer. With no options for "normal" sexual expression there is the assumption of a situational homosexuality, a misnomer indicative of the conditional aspect of sexuality in general. Because of this the majority of prison sexual experiences appear as brutal, mechanical figures of domination and one-dimensional gratification. Intimacy would connote

open queer expression and as such is dramatically opposed by staff and prisoners alike even while prison authorities comfortably preside over an environment of endemic sexual violence between men. Because manhood and heterosexuality has been reconfigured in the space of the prison the mere act of sexual engagement with another man loses its significance and the paradigm shifts. Consensual, loving, sexual partnerships and deep friendships do appear in prisons but they along with openly, or widely perceived identifications with queerness in every form are violently subjugated (Mogul, Ritchie & Whitlock, 2011).

Imprisonment is itself an act of sexual conquest in which even the prison rapist is subjected to a constant denial of free sexual expression or intimacy, in which almost every incarcerated person is subject to, from one side or the other, an experience of barbarity and a powerful mutation in the alienated, performative, deeply violent normalization of sexual violence. The reality of prison queerness deeply threatens the dominant narrative of heterosexuality as an immutable concept by the appearance of homosexual activity among supposedly heterosexual people. As such prisons, already established as punitive spaces with vast mechanisms of security and control, become primary sites for the policing of sexual deviance (Mogul, Ritchie & Whitlock, 2011). This policing is targeted not at the epidemic or the perpetrators of prison rape but at the obvious exemplars of perceived deviance. Prisoners and prison officials alike maintain this order and prison officials even use the threat of sexual violence from other prisoners as a mechanism of punishment, while simultaneously upholding the stereotype of gay men as predators and insisting that they would enjoy sexual assault by other men on the basis of their identity.

As illustrative of prison's function as an institution of sexual domination and gender-sexuality repression, in line with the maintenance of a heterosexist order and a racializing

apparatus is the story of Roderick Johnson. Mogul, Ritchie, & Whitlock (2011) recount Johnson's experience as a Black gay man in a Texas prison in 2000. Johnson was originally sentenced to a low-security prison in 1999 for possession of cocaine while he was on probation and upon arrival was placed in "safe housing" for his "feminine" appearance and sexual orientation. He was later transferred in 2000 for disciplinary violations to the Allred Unit, a maximum-security prison. Johnson requested safe housing after arriving at Allred but was met with denial by prison officials who told him "We don't protect punks [gay men] on this farm" (Mogul, Ritchie & Whitlock, 2011, p. 92). Johnson was raped shortly thereafter, denied medical attention and an investigation of his rape. Over the next eighteen months he was raped constantly, transferred as a sexual slave between different men and physically assaulted whenever he refused the sexual activity that was forced upon him.

Johnson reported his assaults but received no support even after his repeated filing of Life Endangerment Claims with the Unit Classification Committee (UCC), appearing before that same committee no less than seven times to request administrative action that would remedy his situation. He was denied every time and returned to his torturers again and again while officials often belittled his pain and openly laughed at him while he cried and pleaded for help. On one occasion a UCC member told Johnson "I personally believe you like dick," implying that he should be content or even happy with his situation. His attempts to get help earned him the label of "snitch" and made him vulnerable to even greater violence and grave threats against his life. In one instance, as an expression of the prison's simultaneous deep intolerance for homosexuality and its sanctioning of male-on-male sexual violence, he was even disciplined for violating the prison's ban on sexuality, despite the fact that his sexual act was forced. Johnson's case is indicative of a prevailing racialized perception of black men (and women, for that matter)

as hypersexual, sexually degraded and incapable of being raped. Rape has been ideologically constructed as applicable only to the idealized category of pure white womanhood. Johnson's case is also exemplary of the overwhelming pattern of punishment of gender and sexuality nonconformity that permeates the prison assemblage.

The prison's assemblage can and should be characterized as one which figures the elements of gender and sexuality in a unique formation of power and subjugation. Markers of gender and sexuality enter the prison's abstract machine and are reconfigured in novel ways, the normative role of homosexual acts as signifiers of queer identity adapting to a different performance of heterosexual masculine identity centered on the act of sexual penetration as the validation of subjugating power entrenched in a notion of manhood. In an overwhelmingly queer space the borders of queer identity are shifted to target different categories of deviance and perceived inferiority in the explicitly effeminate or openly nonconforming. Sodomy loses its discursive force as an ascription of deviance but other markers persist and despite a pervasive queerness the prison functions as the most obviously egregious and brutal example of racialized gender-sexual subordination. Black and brown bodies are disproportionately represented in prison and the element of race is itself reconstituted by this assemblage's relations. Donaldson (1993) relates that the seizure and sexual domination of a rival gang or ethnic group's member represents a symbolic attack on that social group's manhood, with the most common occurrence being done by blacks against whites. With the majority prisoner population being people of color the dynamics of racial hierarchy become reconfigured. While prison staff maintain the codes of white supremacy and the larger apparatus serves to funnel black and brown people into incarceration the social dynamics of prisoner subculture figure race in an entirely new way. Racializing narratives are reinforced substantially in the prison assemblage with the

victimization of whites by black fueling the narrative of black male predators and the victimization of blacks by whites fuelling the archetype of sexually degraded blackness while simultaneously justifying the action that fuels the archetype in a sort of reciprocal feedback loop. However intraracial sexual assault is by no means uncommon and sees race being conditioned in new forms to the maintenance of masculinity demanded by the social structure of prison.

The prison assemblage conditions elements around a network of punishment that is served by the aim of imprisonment in wholly subjugating its population. In this abstract machine all elements become configured in varying velocities as markers for inhuman experiences of barbarity, isolation and suffering. That sexual violence is the primary social expression of prison life is undeniably indicative of the way its machinic movements condition its occupants as inhuman objects to be held up as direct targets for violence in service to the order of power that inferiorizes them all to varying degrees beyond the walls of the prison. Who ends up in prison and how they end up there is directly reflective of the intersections of inferiorized categories of identity which fuel the perpetual oppression of the poor, black, brown, sexual and gender non-conforming peoples of the United States. What happens to these people in prison is reflective of that assemblage's interpolation of those elements in a relation subsisting on a language of outright, cruel and merciless violence as contingent vectors of harm. In such an assemblage the greatest intersection of inferiorized identifications and the resulting decrease in potential for self-actualization results in the greatest risk for incarceration and the more severe the experience of punishment once inside. The assemblage of the prison is a necropolitical realm that subjugates life to death, deploying all its weapons not in the maintenance of life but the making of a "death-world" which confers on its subject an experience as "living dead" (Mbembe, 2003, p. 41).

Transgendered identity is one which bares special consideration in the dominant power structure of the American state and particularly in the carceral apparatus. Transgender, is in the strictest sense of the word, transgressive, and is marked by the threat it poses to the immutability of heterosexism a consignment to the exercise of necropower in its fullest capacity. Transgendered life is situated everywhere as a category deserving of death and its treatment in the prison, as a prime example of the necropolitical realm is only a reflection of this broader pattern of dominance that constricts trans individuals to the most marginal social life possible. Additionally because of the strict code of masculinity enforced in prison and the assignation of transgendered people to prison on the basis of their legalized “sex” situates trans women at the absolute bottom of prisoner hierarchies which mark femininity for subjugation. Being marked by fellow prisoners as objects for sexual domination while being marked by the agents of a machinic assemblage of necropower for punishment by every coded facet of their sexualized, racialized identity trans women of color in prison are fully robbed of humanity and are reduced to a pure other that serves only to reify the categories of power through their suffering.

Dean Spade (2012) writes in *What's Wrong with Trans Rights* about the unique positionality of gender-transgressive identity. While any slight deviance in the normative codes of being which uphold power will be met with a wide range of coercive force towards compliance trans positionality is uniquely deviant to the discourses of heteropatriarchy. Unlike other marginalized groups the trans identity does not represent the conceptual opposition necessary to uphold a category of power. In questions of women's rights, the group gendered as women continually affirms, by assertion of gendered identity the construct of gender -binarism even when challenging it, or revealing its performative nature. Similarly the identity of

homosexual is a required category through which one constructs, by binarism, the meaning of heterosexual. The criminalization and stigmatization of the subordinated halves of a discursive system is necessary to reinforce the normative categories of power. The homosexual is reified in discourse as unnatural so that heterosexuality can be discursively realized as “natural” and therefore as an immutable category. The transgendered identity is the ultimate representation of a deviant identity as being a category which does not in the hegemony of a sex-gender binary exist discursively as the opposite of another category (Spade, 2012). There is, to the discursive regimes of power, a fundamental and unchangeable link between sex at birth and the assigned gender category. It follows that non-binary gender identities represent a profound existential threat to the masculine order which depends on the positive definition of male to the subjugated negative of the female.

Being in such a position means being in the greatest intersection of harm that a violent state order is capable of inflicting. Everywhere the forced compliance with a gendered system renders trans bodies ineligible to receive public assistance, cut off from the possibility of insured medical care, and rendered invisible in anti-discrimination legislation, consigned to perpetual poverty by family abandonment, violence-related trauma, potential employer discrimination and the effects of unmet medical needs. All of these effects are amplified in the assemblage of the prison which represents a pinnacle of oppressive force in the state power apparatus. In this way the discursive boundaries of sexual difference breed the systematized regulation of gender expression which we see working to coercively conform trans people. The discourse which produces prescriptively gendered bodies is a social order which refuses to recognize transness in any capacity. Trans and non-binary people in this binarist sex-gender system may either accept the extreme emotional trauma of living their prescribed birth gender or in affirming their

transness may find themselves subject to the horrible violence such a system weaponizes in the interest of forced compliance.

Because having the means to self-actualize a gender identity contrary to assigned gender and live comfortably as a trans person is a function of privilege the most marginalized of people face the greatest violence in their transness. These people are poor trans women of color who very often occupy, as a massively unemployed population the necessary lowest level of a capitalist economy which serves to keep wages low and profits high. This class has been unfailingly vilified by the welfare systems which ostensibly serve them in order to ensure the continued faith in an economic system which produces poverty by conceptualizing poverty as a moral failure. To this end welfare systems have been categorically moralistic in their conceptions of family economics in order to conscript hopeful recipients to hetero-sexist notions of womanhood. Given that trans women of color are more likely than any other group to be subject to this class position and given that they are subject to the simultaneous intersections of racism, sexism and transphobia they are particularly vulnerable to the worst implications of such a moral frame (Spade, 2012). The highly regulated surveillance of the punitive systems in social services create drastically limited options for gender expression and sexuality for any individual who depends upon these services for survival in an already punishing economy. The choice is often whether to forgo these services altogether or to be violently conformed to a discursive regime which devalues and dehumanizes “deviant” identities. Additionally because the regimes of male dominance operate in the private sphere through the patriarchal family structure many women seeking freedom from economically dependent relationships with men through relief systems will find in the public sphere the same patterns of domination. All these facts coincide to funnel trans women of color into the prison system in massive disproportion where the violence,

inequities, and punitive surveillance structure of social services only become all the more horrific (Spade, 2012). And because the gender-transgressive category does not fit neatly with a binarist system, because it confounds and reveals that system as unstable gender-transgressive individuals of color, like the native cultures that preceded them, are marked for death, consigned to the machinic exercise of necropower against the amalgamated group en masse.

Often discourses of trans or other activism advocate for change in ways that end up reinforcing these same paradigms of dominance. Focusing movements for liberating action on inclusion of transness in rights-affirming antidiscrimination law conceives of oppression through the so-called perpetrator perspective which acts by seeking out and punishing obviously biased individuals who act maliciously to discriminate against marginalized peoples. Because such a conception relies on individualizing oppression it will always ignore the larger systems at play. Because prosecuting acts of discrimination under such a conception operates by revealing the perpetrator's consideration of a category not-to-be-considered the logic can and has been reversed to strike down attempted remedies to systemic issues such as affirmative action policy. Because the perpetrator perspective de-contextualizes oppressive acts from histories of oppression, attempting to gain rights under such a conception necessarily affirms the status quo as inherently just and reduces patterns of domination to punishable offenses by individuals impinging on an otherwise neutral playing field. The breadth and complexity of the discursive systems we have been engaging with reveals the inadequacy of antidiscrimination law in addressing the life-threatening conditions of marginalized peoples.

The inclusion focus of antidiscrimination law resigns effective strategies in this model to deploying the very discursive constructions which marginalize those for whom advocates seek to gain rights. The rhetoric of these strategies relies on continually affirming the imagined social

norms of society in arguing that “we are just like you.” The “you” presented here is inevitably an image of white heteronormative maleness, an image which reifies the price for inclusion in systems of power in terms of that identity category. Political action which enforces discursive structures of oppression is ultimately limited in its effective scope. We can see the effect of this marginalizing force in the social hierarchy of the prison itself, where the reification of domination that has consigned the whole prisoner population to a position of subjugation produces new categories of inferiority even among those already deeply oppressed (Puar, 2006).

Our understanding of meaning through the exclusive-inclusive model reveals the stakes presented by a rhetoric stressing rights through inclusion. Being included in systems of power carries the price of a dialectical cut which redraws the line of exclusion to the detriment of other marginalized people. Discursivizing the category of a normalized gay identity acceptable to white supremacist patriarchy entails the exclusion of a now further stigmatized non-normalized gayness. Jasbir Puar (2006) in *Mapping US Homonormatives* unpacks the discursive tactics at play in the normalizing project of Gay and Lesbian rights movements for the ways they serve through “domesticated” LGBT bodies contemporary nationalist projects interested in projecting the US as nominatively straight and yet still sexually liberated and tolerant. Rendering in discourse the visibility of perverse queer identities for the aim of positively affirming, by contrast, a status quo of heterosexuality but in the same turn mobilizing the socially normative homosexual as evidence of a free society is a clear paradox. The instability of mutually dependent and yet simultaneously paradoxical meanings produces the constant need to produce new definitions of the categories of meaning. This is what Deleuze & Guattari (1987) mean when they declare that the abstract machine is always redrawing itself. As such the homosexual is continually re-positing within the discursive field of a nationalist project built on the exclusion of

otherized bodies. This is a machine which produces meaning to satisfy its foundational paradox. To do so its conceptual births must always project and affirm the power structures they serve, even while they reimagine the contours of homosexual.

As Allan Berube (2001) writes in “How Gay Stays White and What Kind of White it Stays”, this project of homonationalism serves the status quo by mandating in the production of the normative homosexual an image of whiteness that renders invisible the experiences of the non-white. Because the projected image of gayness stays white the experiences of white gay men amongst each other come to reify gay experience as non-racialized and thus leave race as an unremarkable category. The invisibility of non-white homosexuals exacerbates the problems of the reliance in anti-discrimination discourse on projected images of “normal” subjects around whom successful claims to protection can be made. This strategy posits claims to equal protection by presenting images of the discriminated factor as a small deviance in the context of an otherwise entirely normalized and positively rendered subject identity.

The coloniality of power conditions all of its subjects under a machine of domination, in which identity is commodified as an exploitable category for the social organization of human life around an axis of capital. With the phenomenon of mass incarceration the prison assemblage has been reoriented as a model of capital production and a site for the punishment of deviance and inferiority which continually reifies the status of American power. In order to meaningfully oppose this system one must orient the struggle against its barbarism in terms that would deny its structural force. Trans women of color, as being representative of the most marginalized and most horrifically, continually violated category of social life, particularly through the assemblage of incarceration, represent also the point of despair from which we may imagine a redemptive turn. It is only in direct confrontation with the full machinic force of this assemblage and its

concrete actualization of its elements as relations of domination that we will be able to transform it completely. Change must rest on principles of abolition that acknowledge and confirm the fullness of this power structure in its racializing, sexualizing, gendering and economizing force in conscripting the possibilities of human life, happiness and self-realization to the maintenance of white supremacist, queerphobic heterosexist capitalism. The prison as an exemplary assemblage of these forces is a site for the targeted dismantling of all that is so deeply, inhumanly oppressive in this order of American dominance.

References

- Adorno, T. (1978). *Minima moralia: Reflections from damaged life*. (E. F. N. Jephcott, Trans.) London: Verso. (Original work published in 1951)
- Agamben, G. (2009). *What is an apparatus? And other essays*. (Kishik, D. & Pedatella, S., Trans.) Stanford, CA: Stanford University Press. (Original work published 2006).
- Bataille, G. (1989). *Theory of Religion*. (R. Hurley, Trans.) New York: Zone Books. (Original work published in 1973)
- Berube, A. (2001). How gay stays white and what kind of white it stays. In B. B. Rasmussen, E. Klinenberg, I. J. Nexica, & M. Wray (Eds). *The Making and Unmaking of Whiteness* (234-265). Durham, NC: Duke University Press.
- Collins, P. H. (2000). Black feminist thought: Knowledge, consciousness, and the politics of empowerment. New York: Routledge.
- Crenshaw, K. (1993). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, D. K. Weisberg (Ed.) *Feminist Legal Theory: Foundations* (383-395). Philadelphia, PA: Temple University Press
- Currah, P. & Mulqueen, T. (2011). Securitizing gender: Identity, biometrics, and transgender bodies at the airport. *Social Research*, 78(2), p. 557-582. Retrieved from <http://www.jstor.org/stable/23347190>
- Deleuze, G. & Guatarri, F. (1987) *A thousand plateaus: Capitalism and schizophrenia*. (B. Massumi, Trans.) Minneapolis: University of Minnesota Press. (Original work published in 1980).
- Donaldson, S. (1993). A Thousand Jockers, Queens and Punks.). *Prison masculinities*.

Philadelphia: Temple University Press. P. 110-132.

Foucault, M. (1977). *Discipline and punish: The birth of the prison*. (Sherdian, A., Trans.) New York: Random House. (Original work published in 1975).

Haggery, K. D. & Ericson, R. V. (2000). The surveillant assemblage. *British Journal of Sociology*, 51(4), 605-622. doi: 10.1080/00071310020015280

Horkeimer, M. & Adorno, T. (2002). *Dialectic of enlightenment: Philosophical fragments*. (E. Jephcott, Trans.) Stanford, CA: Stanford University Press. (Original work published in 1944)

Lugones, M. (2009). Heterosexualism and the colonial/modern gender system. *Hypatia Journal of Feminist Philosophy*, 22(1), 186-219. <https://doi.org/10.1111/j.1527-2001.2007.tb01156.x>

Lerner, G. (1986). *The creation of patriarchy*. New York: Oxford University Press.

Mbembe, A. (2003). Necropolitics. (L. Meintjes, Trans.) *Public Culture*, 15(1), 11-40. Retrieved from https://warwick.ac.uk/fac/arts/english/currentstudents/pg/masters/modules/postcol_theor/mbembe_22necropolitics22.pdf

Mogul, J., Ritchie, A. J. & Whitlock, K. (2011). *Queer (in)justice: The criminalization of LGBT people in the United States*. Boston: Beacon Press.

Morgensen, S. L. (2011). *Spaces between us: Queer settler colonialism and indigenous decolonization*. Minneapolis: University of Minnesota Press.

Nail, T. (2017). *What is an Assemblage?*, *SubStance*, Volume 46, Number 1, 2017 (Issue 142), pp. 21-37 (Article)

Puar, J. K. (2006) Mapping U.S. homonormativities. *Gender, Place & Culture*, 13(1), p. 67-88.

<http://dx.doi.org/10.1080/09663690500531014>

Quijano, A. (1992) *Coloniality of Power, Eurocentrism, and Latin America*. North Carolina: Duke University Press

Sabo, D., Kupers, T. A. & London, W. (Eds.) (2011). *Prison masculinities*. Philadelphia, PA: Temple University Press.

Spade, D. (2012). What's Wrong with Trans Rights?. *Transfeminist Perspectives in and beyond Transgender and Gender Studies*. Ann Enke (Ed.) Philadelphia: Temple University Press

Spade, D. *Compliance is Gendered: Struggling for Gender Self-Determination in a Hostile Economy*. Minneapolis, MN: University of Minnesota Press

Wacquant, L. (2002) From Slavery to Mass Incarceration. *New Left Review*, 13 (1),

<https://newleftreview.org/II/13/loic-wacquant-from-slavery-to-mass-incarceration>