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Encounters with the Other

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Aletheia is the first ever peer-reviewed journal that exclusively features the innovative and interdisciplinary work of students from McMaster University's Arts and Science Program. Each year, one to two issues are compiled from research-based papers centering around a selected theme. To make this possible, Aletheia has a dedicated team of student editors, peer reviewers, and artists.

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LETTER FROM THE EDITORS

Welcome to the seventh edition of the *Aletheia*—a student-led, peer-reviewed journal showcasing written works from students enrolled in the Arts & Science program at McMaster University. This edition features the work of students primarily written during the 2024/2025 academic year.

We would first like to thank our Peer Reviewers, and our cover artist, Sunil, for helping us put together such a wonderful edition of the *Aletheia*. This year's journal comes at a particularly tumultuous time in the political climate, which is why we chose "Encounters with the Other" to be this edition's theme. Our intention for this theme is to broadly explore all the ways in which one can be "othered" in society, and how we might become hospitable to other forms of thinking, living, and being. We appreciate how each of our authors interpreted and interacted with this theme in different ways in their respective papers.

As always, we are thankful for the support from Dr. Marquis and the Arts & Science program. Coming next spring, we intend to publish an eighth edition of the *Aletheia* to feature work from the current Fall 2025 semester. Thank you again for everyone who contributed to this edition, and we hope you all enjoy reading!

Sincerely,

Zachary Gan, Hanako Stepanek, and Helen Wu
The Aletheia Editorial Board

BURTYNSKY'S ANTHROPO(S)CENIC VISUALITY AND THE NEED FOR A NEW TRADITION OF ENVIRONMENTAL JUSTICE LANDSCAPE PHOTOGRAPHY

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I attended Edward Burtynsky's Anthropocene Exhibit at the Art Gallery of Ontario (AGO) in 2018. I remember his landscape photographs shaking me to my core; I left the AGO that day overwhelmed, and I felt strangely guilty for being a human in the time of the Anthropocene.

In this paper, I will engage in a critical analysis of Edward Burtynsky's *Anthropocene* project, but I engage in this critique primarily to create an opening and a means to question the current state of industrial landscape photography as a visual representation of the Anthropocene. In the first section I will contextualize Burtynsky's photographic work, particularly in its current relation to the theoretical framework of the Anthropocene as a geologic and theoretical concept. In this first section, I will also provide important context regarding the history of landscape photography and its changing relationship with the sublime. In section two, I will draw on Peeples' *toxic sublime* and Kover's reading of Lyotard's *postmodern sublime* to analyze how Burtynsky's artistic choices create a sense of unimaginable scale that ultimately leads to a restricted and ineffective response in the viewer. Next, I will position this limited viewer response as a necessary result of a) Burtynsky's invocation of the sublime and b) his framing of his landscapes as 'neutral' representations of the Anthropocene, which I argue ultimately fall short in responding effectively to the scale and demands of the current environmental crisis. While I concede that Burtynsky's photographs can prove to do important work to make visible sites of industry and toxicity

that usually remain unseen, I suggest that Burtynsky's (and others') invocation of the sublime and the Anthropocene in industrial photography can work to create individual affective responses that do not lead to true mobilization, threaten to reify the human/environment divide, and problematically strip landscape visibility from its inherent political foundation and implications. Finally, I join with other critical thinkers in voicing my critique of the Anthropocene as an ideology and join the call for activist forms of landscape photography that turn away from the sublime.

Edward Burtynsky, Anthropocene, and the History of the Sublime in Landscape Photography

Canadian photographer Edward Burtynsky's work has been the subject of both high praise and harsh criticism. His *The Anthropocene Project* launched in September 2018 as a collaboration with Nicholas de Pencier and Jennifer Baichwal that included a travelling museum exhibition, numerous photographs, a documentary film, a book, an educational program, and a variety of Augmented Reality (AR) and Virtual Reality (VR) immersive experiences. I will be focusing primarily on Burtynsky's photographs.¹ Burtynsky's landscape photography tends to focus on the bookends of

¹ Given that I do not have permission to include any of Burtynsky's photos in this paper, you can access a small sample of his photos for free on his [website](#).

industry, depicting the landscapes formed by the extraction of raw materials and the subsequent disposal of consumer goods. He produces highly aesthetic, often aerial shots of mines, solar farms, oil fields, deforested areas, tailing ponds, sawmills, as well as landfills and recycling facilities. His most recent project turns its sights to the Anthropocene, which he defines plainly on his website: “The proposed current geological epoch, in which humans are the primary cause of permanent planetary change” (The Anthropocene Project, 2018).

The Anthropocene, initially formulated by Paul Crutzen and Eugene F Stoermer, originated as a suggestion that we have entered a new geological epoch where humans are collectively Earth’s most powerful geophysical force (Kover, 2014)². Since its proposal in 2000, the term has become widely used not only in the sciences but also in pop culture, policymaking, the humanities, the arts, and cultural criticism to indicate the immense impact that ‘humans’ have caused on the environment. Nonetheless, the Anthropocene remains a highly contested concept. I will return to critiques of the term in the third section of this paper.

As Demos (2017) articulates, attempts to visualize the Anthropocene present “major challenges to representational systems” due to its extended spatial and temporal scale (p.12-13). Fittingly, Burtynsky’s photographs are part of—and deeply inspired by—a longstanding tradition of landscape photography that takes as almost its defining quality, its aesthetic ability to capture *scale* so great it is considered *sublime*. Kover (2014) provides a helpful general definition for understanding the sublime: “an aesthetic sensibility or quality evoked by an encounter with an object or phenomenon of such overwhelming power, grandeur, and immensity that it is almost beyond

comprehension. ... borders on the edge of outright terror yet is also combined at the same time with a sense of exhilaration and elation” (p. 125). The sublime, according to philosophical tradition, was often associated with the experience of ‘wild’ nature that often revealed to the observer a sense of the vast power of nature compared to the frailty of human beings (Thompson & Howard, 2019). The sublime response is widely studied in association with landscape photography because it is often the ideal and intended response, at least in reference to the greats of 19th and 20th century landscape photography. Thus, for consumers of popular landscape photography, the sublime can feel almost inseparable from the photographic landscape; when we are placed in front of a landscape photograph, we come to expect that we will be swept away by the aesthetic sense of the sheer, enormous scale of the landscape. It is distinctly because of photography’s ability to elicit sublime responses that photography has the power to confer value upon landscape (Thompson & Howard, 2019). Markedly, the sublime majesty of nature captured in photographs has served the interest of colonial expansion (see Thompson & Howard, 2019), helped conserve natural wonders³ (see Kover, 2014), and has helped draw attention to pressing environmental issues. While in general tradition, its content “lacks any critical intent” beyond the aesthetic (Thomson & Howard), its potential for diverse secondary political effects gives plenty of reason to be highly critical of how landscape (particularly industrial landscape) is represented through photography.

Burtynsky’s Sublime

One of the most popular critiques of Burtynsky’s oeuvre is that his aestheticization of industrial landscapes could work to justify the

² The disembodied voiceover in The Anthropocene Project’s accompanying film, *Anthropocene: The Human Epoch*, eerily states: “Every year humans extract between 60 and a 100 tonnes of material from the earth, and move more sediment than all the rivers of the earth combined” (Baichwal et al., 2018)

³ Carleton Watkins’ photos of Yosemite, for example, famously helped convince President Lincoln to preserve Yosemite as a national park in 1890 (Thomson & Howard, 2019).

industries themselves by suggesting that their impact on the landscape, due to its beauty, could be interpreted as something to admire (see, for example, Kover, 2014; and Peeples, 2011). Granted, the sheer aesthetic power of Burtynsky's work is hard to deny. In her 2011 paper, Jennifer Peeples tracks the history of the sublime in landscape photography from the natural sublime to the technological sublime in order to finally situate Burtynsky's industrial photographs in what she terms the "toxic sublime." This toxic sublime encompasses "the tensions that arise from recognizing the toxicity of a place, object or situation, while simultaneously appreciating its mystery, magnificence, and ability to inspire awe" (Peeples, 2011). Peeples adds that the reaction to the *tensions* in Burtynsky's work leads viewers to contend with their own complicity in creating the toxic landscapes he captures. It is important to note here that the "tensions" Peeples refers to are all the results of artistic and aesthetic choices that Burtynsky makes during the photographic process; the sublime is not something that is inherent to representations of landscape, rather, it is most often specifically and intentionally invoked through careful aesthetic choices. For one, inspired by the natural sublime landscape tradition, Burtynsky's often tries to capture his landscape from high vantage points, often using drones or shooting from helicopters and airplanes 600-1500 feet off the ground (Macfarlane & Burtynsky, 2018). The choice of high vantage point, which allows Burtynsky to create a sense of sublime scale, is another commonly critiqued element of his work: this raised, distanced viewing of industrial landscape is often associated with a colonial mastery of land and superior knowledge (Milliken, 2023). Notably, Burtynsky's "God's eye view" perspective creates a sense of sublime grandeur in his landscapes, such that "any human presence is completely lost and enveloped into the sheer massive scale of the shattered landscape" (Kover, 2014, p.136). It is precisely due to this invocation of scale that Kover (2014) posits Burtynsky's work within a refiguring of Lyotard's postmodern sublime; for Kover, the sublime in

Burtynsky's work lies in the fact that the severity of climate change is "unrepresentable or cannot be adequately captured in terms of our symbolic or narrative frameworks" (2014, p.139). This scale and scope of landscape is so unimaginably large that it feels almost impossible to comprehend, leading to a sublime response from viewers. While this sublime response is undeniably an intense affective response, I question whether high *affect* is truly *effective* in meeting the demands of representing the environmental crisis. Burtynsky notably does not take a distinct political stance on his work.

Burtynsky's political neutrality is somewhat reconciled within the framework of Peeples' toxic sublime. Peeples emphasizes that Burtynsky's work does not depict a clear environmental ethic, but that it does so in order to create *tensions* and *dissonance* that promote individual reflection (2011). Additionally, Peeples admits that the toxic sublime involves, at least in part, a marvelling at human accomplishments paired with an alarm for the immensity of destruction that results (2011). Beyond the tensions between magnitude and insignificance, Peeples also posits that Burtynsky creates an intentional tension between the known and the unknown; he severely limits the text and exposition associated with each photograph, often simply naming the subject of the shot (oil refinery, lithium mine, etc.) and the city where it is located. Burtynsky very rarely includes the effect of the materials shown on humans or non-humans, nor does he name the companies who are in charge of each site. Combined with the fact that the most impacted beings (workers, inhabitants, local animals, non-human life, etc.) are very rarely included within the captured landscape, Burtynsky's work circumvents both the naming of culprit and victim. Peeples, however, suggests that the lack of visible individuals denies the audience the closure of knowing all three elements of a toxic narrative: the contaminant, the victim, and the site (2011), which in turn spurs individual reflection about self-complicity and self-victimhood. Ultimately, though Peeples frames each of Burtynsky's choices as a calculated effort to create a

sense of scale and tension, each of these choices could just as easily be read as an attempt to remain politically neutral⁴. Burtynsky's work does not have a distinct political bend; his work is neither an endorsement nor a condemnation of the industry he photographs (Kover, 2014).

Critiques to the Anthropocene and a Call for Activist Landscape Photography

Burtynsky makes distinct artistic choices in order to create a sense of large scale that, according to Peeples, can have an individualizing effect as viewers compare themselves to the expansive, sublime industrial landscapes. However, Burtynsky's recent association with the concept of Anthropocene creates a simultaneously *universalizing* effect. Many thinkers in the critical humanities critique or dismiss the concept of Anthropocene altogether; it can be interpreted to act as a "mechanism of universalization" that universalizes the blame for climate change onto all humans. This universalizing of blame can prove to invisibilize the culprits —people and systems—of climate change and enable the "military-state-corporate apparatus" to disavow responsibility for the impact of climate change" (Demos, 2017). Thus, Anthropocene acts as a kind of "earth unifying" concept that repudiates the potential for differentiated responsibility and impact and instead homogeneously allocates agency to the generic member of humanity. Thus, a so-called politically neutral treatment of the Anthropocene is "inevitably complicity in the very non-neutrality of the Anthropocene ideology" (Demos, 2017). Mirzoeff (2022) helps to point out the politics of representing industry in his formation of the "aesthetics of the Anthropocene" which represent a kind of "(an)aesthetic" that renders landscapes of industrial extraction and pollution into "comfortably familiar" scenes (Mirzoeff, 2022, p. 222). Inspired by

Mirzoeff's call for counter visualities, I align myself with the growing list of scholars who contest the very basis of the Anthropocene and join Demos (2017) in questioning what visualities could be created "against the Anthropocene." With the severity of the environmental crisis, it is imperative to consider what kinds of representations we create of industrial, toxic, and landfill landscapes. There are many prominent, existing critiques of the Anthropocene from scholars in a wide range of fields. However, I have seen very little scholarly critique aimed towards the *photographic* appeal to the sublime in Anthropocene industrial landscapes, which I argue upholds an *Anthropo(s)centric* ideological foundation; ergo, in the rest of this section, I contend that the sublime industrial landscape—at least in its current formulation—has little to no place in a new contemporary photographic tradition that moves *against the Anthropocene*.

As mentioned earlier in this paper, the natural sublime can be highly effective in creating a sense of reverence toward natural landscapes. In fact, the sublime is so deeply entrenched within the landscape photographic tradition that it is difficult to imagine a landscape photograph without it. Still, I argue that it is imperative that we still do try to imagine it. Both *Anthropocene* and the Western tradition of landscape photography are founded on the basis of a distinct and fabricated divide between humanity and nature. As Mirzoeff reminds us, we therefore require a kind of "countervisuality" that does not include a visualization of the planet as a battlefield —between man and nature or between north and south (2014). One avenue I have identified as a potential opening to begin dismantling the sublime-as-default-aesthetic in landscape photography is to critically consider the aesthetic representation (and exaggerated creation) of scale in the landscape photography tradition. For example, photographing

⁴ Addressing Burtynsky's political 'neutrality', Milliken (2023) contends that it could be a tactical decision in order for Burtynsky to continue gaining access to

industrial sites, why may not be so willing to let a self-proclaimed environmentalist photographer onto their site.

the landscape from a plane creates a sense of environment as distinct and quite literally below humans; the treatment of landscape as “mere backdrop” (Alaimo, 2010). In her book, *Bodily Natures*, Stacy Alaimo provides a potent new way of thinking about humanity’s relation to landscape through her description of *transcorporeality*. She suggests that we can think of human corporeality as a kind of transcorporeality wherein: “the human is always intermeshed with the more-than-human world” and “the substance of the human is ultimately inseparable from ‘the environment’” (2010, p. 2). In this difficult reframing, Alaimo calls us to consider our own materiality to accept that human bodies are highly permeable and thus, to begin to consider ourselves inseparable from the environment; “nature is always closer than one’s own skin—perhaps even closer” (Alaimo, 2010, p. 2). Alaimo’s concept of transcorporeality, and Demos and others’ critique about the universalizing nature of the Anthropocene suggests the need for a visual representation of landscape that reveals the unequal, distributional politics of the environmental crisis and works to break down the human/environment divide to create an environmental justice tradition of landscape photography *against the Anthropocene*.

A Move Towards Activist Landscape Photography

I don’t intend to suggest that Burtynsky’s work is politically wrong, nor do I go as far as some scholars⁵ in dismissing his projects as keys to resignation. However, due to the prominence of his work and his expressed inspiration from the landscape photographic tradition of the 19th and 20th centuries, Burtynsky’s oeuvre is a good

contemporary example of what I call *Anthropo(s)scenic* landscape photography. If we are correct in stating that the term Anthropocene⁶ implicitly involves a reverence and awe towards the singular impact of ‘humanity’ on the planet and a distinct divide between human and environment, then the scale and sublime in Burtynsky’s work are indeed representative of an Anthropocene ideology. However, due to photography’s historical association with realism, Burtynsky seemingly tries to present his photos as both aesthetic works (that could be shown in a gallery as art) while simultaneously suggesting that it is also “neutral” evidentiary photography (that bears witness to human industry⁷). In response to this neutrality, a move towards an anti-Anthropocene tradition of landscape photography could begin with an explicit or implicit acknowledgement of the politics involved in photographic representation of landscape. In fact, in light of the severity of the climate crisis, the political nature of photography, if accepted wholeheartedly, could be integral in the movement towards activist forms of landscape photography.

As Demos points out, visual representations of the Anthropocene often neglect “bottom-up” kinds of change and instead fall into a reliance on geoengineering solutions to climate change (2017). If an *Anthropo(s)scenic* aesthetic involves the separation of humans from the “backdrop” of nature and a tendency toward “neutral” political narratives, *what would a distinctly political, transcorporeal reimagining of landscape look like?* One example forwarded by Demos involves the work of Andrea Liggins⁸, a photographer and landscape photography researcher who takes landscape photos from the “bush or shrub layer” (2017). Rather than

⁵ Kover (2014) describes Burtynsky’s work as “less a call to arms and more an invitation to sit back and enjoy the environmental apocalypse as an aesthetic experience.”

⁶ Many scholars have suggested alternative namings or critical reimaginings of the Anthropocene that are sadly

beyond the scope of this paper (see: Demos, 2017, Haraway, 2018)

⁷ The subtitle of Edward Burtynsky’s website reads: “Over 40 years of bearing witness to the impacts of human industry on the planet” (Edward Burtynsky, 2025)

⁸ See some examples of her work on her website [here](#).

shooting from a God's eye perspective, Liggins "looks out of the landscape rather than at it" and aims to "find an alternative photographic aesthetic to promote environments that do not conform to picturesque ideals" (Liggins, 2018). Liggins' landscapes, granted, do not elicit a sublime response in viewers and look nothing like what one might imagine landscape photography to look like; Liggins' work has blurry horizon lines and limited scale, as opposed to Burtynsky's style that favours "an elevated perspective so that the foreground begins quite far away, and the scene unfolds as the eye moves into mid-aspect and on into infinity" (Edward Burtynsky, 2025). What results in Liggins' work is a sense of being *within* or *of* the landscape. While Liggins' work is not of industrial sites, her photos spur us to consider how a bush-level photograph of a toxic or industrial site would feel next to Burtynsky's God's eye perspective of the same scene. The awareness of the landscape's toxicity would perhaps be brought to the forefront as the viewer contemplates the safety of the photographer, and the scene would prompt the viewer to imagine what it would feel like, affectively, sensuously, and corporeally, to witness the landscape with boots on the ground. Alternatively, though, what might be discovered is that those sites are not visually remarkable at all, nor would the danger or toxicity be particularly visible; as Peebles admits, toxicity is often invisible and reveals itself slowly in the bodies of those who live in close proximity (2011). Burtynsky himself concedes that many of these sites are not sublime for those who witness them from the ground⁹.

Another move away from traditional landscape photography can be seen in the collaboration between Misrach and Orff on their project, *Petrochemical America* (2013). The project combines aerial photographs of "Cancer Alley"

(stretching from Baton Rouge to New Orleans), overlaid with text and graphic design to show the presence of invisible pollutants—polycyclic aromatic hydrocarbons (HPAHs) that are carcinogenic (Scott, 2022, p. 160). Her work lies in distinct contrast to Burtynsky's non-didactic approach to landscape as Orff directly "encourages viewers to participate in the growing opposition to fossil fuel extractivism" (Scott, 2022, p. 71). Scott advocates for this kind of use of augmented reality in photography to align the ethical values of photography with environmental activism, wherein the artist has an obligation to inform the audience about the environmental issues affecting the landscape they are representing (2022). Indeed, this shift to challenge traditional notions of the sublime and the picturesque in landscape could reveal a new kind of activist photography that views environment as intricately intermeshed with our permeable human bodies and treats landscape as a distinctly political concept. Returning to Alaimo, in doing so we may let go of our sense of mastery (fueled by enlightenment thinking) *over* the landscape and instead find ourselves "inextricably part of the flux and flow of the world" (2010, p.17) and be willing to "name the culprits" (Demos, 2017, p. 54) behind climate change.

Burtynsky's Anthropocene aesthetic involves an invocation of the sublime that positions the viewer to look at landscape from a planetary scale rather than at a bodily scale or at a scale of localities. While I have explored how this can, in some cases, be effective as a form of (albeit aestheticised) evidence of human impact, it is limited in its neutrality and in its separation of the viewer from the landscape. I argue that a literal and figurative environmental justice *reframing* of landscape photography against the Anthropocene would involve a movement away from the sublime

⁹ In an interview Burtynsky states: "I walk into a mine company and I start wandering around, looking and wondering at this chaos, and a place that's by and large pretty ugly and boring. Most people would walk into a

mine and just walk right out again and say "Jesus, that's pretty grim, visually." I walk in there and say, I'm not going to give up." (Macfarlane & Burtynsky, 2018)

and towards an overtly politicized photographic practice. My critique of Burtynsky is not intended to be an indication that it is impossible or immoral to try and visually represent ‘human’ impact on the landscape. In fact, I hope my critiques have instead pointed to the immense importance of critically considering representations of ‘human’ impact on the planet, especially given its potential to rouse people to join mobilized collective action networks against extractivism, colonialism, capitalism, and various other sources of environmental injustice. I have positioned Burtynsky's work as simultaneously individualizing—due to his invocation of scale and the sublime—and universalizing—due to his association with the Anthropocene. Throughout this critique, I question, though do not claim to definitively answer, whether the traditional aesthetics of nature-based landscape photography that rely on a sense of reverence and sublime are up to the task of representing, witnessing, or even creating an e/affective response to the devastating environmental crisis. Finally, I join contemporary visual culture scholars and photographers in calling for a *non-anthropo(s)centric reframing* of landscape photography towards activist and transcorporeal reimaginings of humanity's relationship to landscape through a relinquishing of the longstanding dedication to the sublime in contemporary industrial landscape photography.

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A KANTIAN ANALYSIS OF THE SRI LANKAN CIVIL CONSTITUTION AND MILITARY: THE FORESTALLING OF PEACE IN SHRINKING DEMOCRATIC SPACES IN TAMIL CIVIL SOCIETY

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Immanuel Kant's 1795 text, *Toward Perpetual Peace*, provides a series of preliminary and definitive articles in the form of a peace treaty, outlining the conditions necessary to transition our world into one of 'perpetual peace'. The text was published amidst immense warfare in Europe, as colonial expansion developed alongside the professionalization of the standing army. Accordingly, Kant's third preliminary article addresses said armies and calls for their abolition as a preliminary step to achieving perpetual peace.¹⁰ Kant's framework for peace is grounded in jurisprudence and underscores the axiomatic civil constitution and the civil contracts arising from its formation. Within this system, standing armies serve the civil constitution of their respective state and accordingly profit from the 'reason of state.' In this framework, Kant's third preliminary article warns against structuring of standing army into the constitution of the state to avoid the remittance of the reason of state to the military apparatus.¹¹ In democratic forms of government—which Kant argues to be despotic—I contend that the army shrinks democratic spaces allotted for civil society,

exemplified in the case of Sri Lanka and its Tamil ethnic minority.

Democratic spaces for civil society refer to the environment and framework which "enable civil society to contribute to the political, economic and social life of our societies," and are examined through the relationship between repressive government methods and political struggle.¹² The Democratic Socialist Republic of Sri Lanka is an island nation situated in the Indian Ocean. In 1948, after 179 years of British rule and a cumulative 450 years of European colonization, the island gained independence and became the Dominion of Ceylon.¹³ Twenty-four years later, the state switched to a republican constitution which was replaced in 1978 with the current constitution of the Democratic Socialist Republic of Sri Lanka.¹⁴ In the formative period of state-building following independence, "monolithic, unitary and indivisible sovereignty" became the "raison d'être of [the Sri Lankan] 'nation-building' enterprise," as politicians frequently resorted to Sinhala-Buddhist nationalist policies.¹⁵ In the decades that followed, the government's failure to unify the island into a state resulted in the creation of two separate nations: a Sinhala-Buddhist nation and a Tamil nation.¹⁶ The

¹⁰ Immanuel Kant et al., "Toward Perpetual Peace: A Philosophical Sketch," in *Toward perpetual peace and other writings on politics, peace, and history*, ed. Pauline Kleingeld (Yale University Press, 2006), 69.

¹¹ Kant, "Toward Perpetual Peace," 69.

¹² UN General Assembly, Human Rights Council, Civil Society Space: Report of the United Nations High Commissioner for Human Rights, A/HRC/57/31, (Jul. 4, 2024), <https://undocs.org/en/A/HRC/57/31>; Ben Hayes et al., On "shrinking space" a framing paper, (Transnational Institute, 2017), 3,

https://www.tni.org/files/publication-downloads/on_shrinking_space_2.pdf.

¹² Kant, "Toward Perpetual Peace," 69.

¹³ Hubert G. Peiris and Sinnappah Arasaratnam, "Sri Lanka," in *Encyclopedia Britannica*, 2024, Encyclopedia Britannica.

¹⁴ Peiris and Arasaratnam, "Sri Lanka."

¹⁵ Sumantra Bose, *States, Nations, Sovereignty: Sri Lanka, India and the Tamil Eelam Movement* (Sage Publications, 1994), 44.

¹⁶ Bose, *States, Nation, Sovereignty*, 46.

Sri Lankan population is comprised of predominantly Buddhist Sinhalese, making up 74.9% of the population, while the predominantly Hindu Sri Lankan Tamils form 11.2% and the remaining belongs to other minority ethno-religious groups.¹⁷ As a result of these entrenched divisions, the state plunged into a civil war in 1983 between the Sri Lankan military and the Liberation Tigers for Tamil Eelam (LTTE) and ended in May 2009 with the Mullivaikal massacre, where the Sri Lankan government killed tens of thousands of Tamil civilians in a designated no-fire zone and ‘defeated’ the LTTE.¹⁸ The Sri Lankan state’s actions in the civil war are classified by the United Nations as war crimes, human rights violations, and genocide.¹⁹

Firstly, although the Sri Lankan constitution is *prima facie* republican, its emphasis on a monolithic and unitary Sinhala-Buddhist nation contradicts Kant’s first definitive article of perpetual peace which establishes the civil constitution of every state to be republican.²⁰ Republican constitutions are the only ones derived from the concept of right and based on the original contract in which citizens consent to governance. However, in the Sri Lankan context, the state violates this contract—upon which the civil constitution rests—in its targeting of the ethno-religious Tamil minority.²¹ Kant’s conception of

ideal republican governance requires constitutions which are also founded on the principles of freedom of civil society, the dependence on legislation, and the equality of all citizens of the state—each of which are violated by the suppression of the rights of minorities.²² Consequentially, the Sri Lankan state merely adopts the language and authority granted to republican forms of government but is not a true republic. The Sri Lankan state more aptly reflects Kant’s view of democracy; “an executive power, whereby ‘all’ [the Sinhala-Buddhist majority] make decisions over, and if necessary, against one [the Tamil minority]”.²³ Therefore, Sri Lanka’s majoritarian governance illustrates Kant’s fears of democracy causing the tyrannous rule of the majority and an exclusive ‘all’ which hinders perpetual peace and results in despotic governance.²⁴ Furthermore, I assert that the Sri Lankan state’s undertaking and nurture of Sinhala-Buddhist nationalist ideologies have removed Tamils from the civil constitution—outside of the juridical condition.²⁵ The relegation of Tamils outside of the civil constitution positions them as a threat to the Sinhala-Buddhist nation.

In the absence of a civil contract, Kant outlines how hostilities are justified between two parties if they are in a position to affect one another.²⁶ Under a civil constitution, both parties are provided with security, as the government has

¹⁷ Department of Census & Statistics Sri Lanka; Census of Population and Housing, Table A3: Population by district, ethnic group and sex; <<http://www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/Population/Table%20A3.pdf>> (2012); Shyamika Jayasundara-Smiths, “From Nationalism to Ethnic Supremacy,” in *An Uneasy Hegemony: Politics of State-Building and Struggles for Justice in Sri Lanka* (Cambridge University Press, 2022), 76, <https://doi.org/10.1017/9781009199230.004>.

¹⁸ UN General Assembly, Human Rights Council, Written statement submitted by ABC Tamil Oli, a non-governmental organization in special consultative status, A/HRC/47/NGO/128, (Jun. 17, 2021), <https://undocs.org/en/A/HRC/47/NGO/128>.

¹⁹ UN G.A. HRC, Statement by ABC Tamil Oli.

²⁰ Kant, “Toward Perpetual Peace,” 74.

²¹ Kant, “Toward Perpetual Peace,” 74-75.

²² Kant, “Toward Perpetual Peace,” 75.

²³ Kant, “Toward Perpetual Peace,” 76.

²⁴ Kant, “Toward Perpetual Peace,” 76.

²⁵ In this essay, I do not go into depth into the significance of the Tamils’ separation from the civil constitution, other than as a framework to understand the shrinkage of democratic spaces for Tamil civil society. I lend onto Bose’s framework on Tamils’ place in civil society as separate from the civil constitution on every level but the formal juridical, as Tamils remain subject to Sri Lankan civil and criminal law, hold Sri Lankan passports, etc. Notably, Tamils are covered under their own traditional law regarding property, land, marriage, etc. in the Thesawalamai.

²⁶ Kant, “Toward Perpetual Peace,” 73.

power to enforce law over all.²⁷ In the relegation of Tamils outside of the civil state, Tamils exist outside of the juridical condition and in the ‘state of nature’ with respect to Sinhala-Buddhist society.²⁸ Since the Tamil nation is neighbouring to the Sinhala-Buddhist nation, Tamils deprive the Sinhala-Buddhist nation of their security and threaten the nation by means of their proximity. However, the Sri Lankan state professes itself to be cosmopolitan and promotes a unified ‘Sri Lankan identity’ comprising of citizens from all ethnicities and religions, ostensibly evidence of a unified nation with equal rights for all.²⁹

Furthermore, the Sri Lankan state’s calls for unity more accurately exemplify the relationship between host and guest under Kant’s conditions of universal hospitality. The Sinhala-Buddhist nation expects its ethno-religious minorities to adhere to the conditions of universal hospitality which do not include the acceptance of guests, ethno-religious minorities, into the host’s, the Sinhala-Buddhist nation’s, civil society.³⁰ According to Sinhala-Buddhist nationalist ideologies, the Sinhalese are “a chosen race” with a duty to “safeguard the Buddhist religion in Sri Lanka long after the Buddha’s passing.”³¹ The Sri Lankan Constitution relays these nationalist sentiments in Article 09 of the current Sri Lankan constitution which outlines the state’s role in “giv[ing] Buddhism the foremost place” and its “duty to protect and foster the Buddha Sasana.”³² Such homeland discourses leave little room for pluralism or a diverse civil society and cause ethno-religious minorities to be seen as invaders rather than active members of civil society. To the Sinhala-Buddhist nation, the Tamil ethno-

religious minority violates the conditions of universal hospitality through participation in democratic spaces and civil society—norms for citizens belonging to the state but not for guests. Consequently, violations of the conditions of universal hospitality further classify Tamils as threats and merits hostilities. The Sinhala-Buddhist nation desires the subordination of minorities under the benevolent control of the Sinhalese rather than true unity in a pluralist state whereby all citizens are equally able to partake in civil society.³³ Fundamentally, Sinhala-Buddhist nationalist ideologies provide sustenance for Sinhalese hegemony and politics of othering, fostering a “culture of security predicated on politics of fear,” which translates to the state’s role in shrinking democratic spaces for Tamil civil society.³⁴

Secondly, the dangers of the Sri Lankan state-military nexus underlie Kant’s theoretical argument behind the third preliminary article outlining the abolition of standing armies.³⁵ Kant’s framework regards the civil constitution as sacrosanct—an agreement where original contract and legislation coalesce—wherein the development of a standing army would threaten perpetual peace. He further tells us that warfare is often used to adjudicate conflict.³⁶ This external court cannot exist, as a state—considered to be a moral being—carries its own internal mechanisms for adjudication via its sacrosanct constitution, otherwise known as the reason of state.³⁷ Standing armies also profit from the reason of state, and may evade accountability for injustices committed on behalf of their respective civil constitution, greatly impeding perpetual peace. Thus, Kant warns

²⁷ Kant, “Toward Perpetual Peace,” 73.

²⁸ Kant, “Toward Perpetual Peace,” 73.

²⁹ Harini Amarasuriya, “Sri Lanka’s COVID-19 Response Is Proof That Demonisation of Minorities Has Been Normalised,” *The Wire*, May 30, 2020, <https://thewire.in/south-asia/sri-lanka-covid-19-demonisation-minorities>.

³⁰ Kant, “Toward Perpetual Peace,” 82.

³¹ Harshana Rambukwella, “The Protean Life of Authenticity: History, Nation, Buddhism and Identity,”

in *Politics and Poetics of Authenticity: A Cultural Genealogy of Sinhala Nationalism*, (UCL Press, 2018), 37, <https://doi.org/10.2307/j.ctv3hh4f7.5>.

³² The Constitution of the Democratic Socialist Republic of Sri Lanka, chap. 2, art. 09.

³³ Amarasuriya, “Demonisation of Minorities.”

³⁴ Hayes et al., *On “shrinking space,”* 9.

³⁵ Kant, “Toward Perpetual Peace,” 69.

³⁶ Kant, “Toward Perpetual Peace,” 70.

³⁷ Kant, “Toward Perpetual Peace,” 68.

against the embedding of the army into the state's civil constitution. When applied to the Sri Lankan context, the military—as an agent of the civil constitution—shrinks democratic spaces for Tamil civil society through the extended use of state of emergency regulations, their normalization in Tamil civilian life, and extrajudicial conduct. Authoritarian governance and militarization have become normalized in Tamil areas through the prolonged use of state of emergency regulations, which have remained in effect almost continuously since 1971, spanning the civil war and continuing until 2011.³⁸ The *Public Security Ordinance of 1947* (PSO) provides the President of Sri Lanka with the power to enact a state of public emergency in which the military and police are granted broad and discretionary powers.³⁹ Furthermore, in states of emergency, fundamental rights are restricted in the interest of national security. The provisions outlined in the PSO may override anything “inconsistent therewith or contrary thereto contained in any other law.”⁴⁰ Sri Lanka has experienced more years of authoritarian governance under PSO regulations than democratic governance alongside a wide normalization and acceptance of militarization.⁴¹ During the civil war, the military established camps and seized civilian land in the predominantly Tamil Northern and Eastern provinces. Although the civil war ended in 2009, these areas continue to be heavily militarized, with current figures estimating one security personnel

for every six civilians.⁴² Even in the absence of official state of emergency measures, the Sri Lankan military invokes the power of emergent conditions to restrict Tamils' rights. For instance, a 2020 vigil commemorating International Day of the Victims of Enforced Disappearances was dismantled by a court order as police argued the vigil would lead to the revival of the LTTE.⁴³ Although the civil war ended over a decade before, the threat of the revival of the LTTE remains a valid reason to quash Tamil civic activism and democratic rights to freedom of assembly.

The normalization of authoritarian governance and militarization contradicts the principles of republicanism as the military assumes an expansive role in the state's functioning. The use of PSO regulations allows the military to take on an enlarged presence in civilian life, resulting in the normalization of executive overreach and the curtailment of civil rights.⁴⁴ When measures under the PSO are enacted, the executive takes control of the legislative and the president is granted legal immunity for any act conducted in good faith.⁴⁵ However, a functional republic insists upon the separation of the executive from the legislative—a distinction that has long been violated by PSO measures. The Sri Lankan state more accurately resembles Kant's definition of democracy, as under its current form of governance, the “public will is treated by the monarch as his individual will.”⁴⁶ In ethnic regimes, nationalist state policies begin to

³⁸ Australian Government, Department of Foreign Affairs and Trade, *DFAT Country Information Report Sri Lanka*, (Australian Government, 2024), 19, <https://www.dfat.gov.au/sites/default/files/country-information-report-sri-lanka.pdf>.

³⁹ Public Security Ordinance No. 25 of 1947, ch. 40, art. 12(2), http://www.commonlii.org/lk/legis/consol_act/ps51233.pdf, [hereinafter PSO].

⁴⁰ PSO, *supra* note 16, § 22.

⁴¹ Radhika Coomaraswamy and Charmaine de los Reyes, “Rule by Emergency: Sri Lanka's Postcolonial Constitutional Experience,” *International Journal of Constitutional Law* 2, no. 2 (2004): 272–73, <https://doi.org/10.1093/icon/2.2.272>; Ambika

Satkunanathan, “Sri Lanka: Minority Rights within Shrinking Civic Space,” in *South Asia State of Minorities Report 2020: Minorities and Shrinking Civic Space*, (The South Asia Collective, 2020), 200, [/https://thesouthasiacollective.org/wp-content/uploads/2022/01/SASM2020.pdf](https://thesouthasiacollective.org/wp-content/uploads/2022/01/SASM2020.pdf).

⁴² Australian DFAT, *Sri Lanka Information Report*, 20.

⁴³ Satkunanathan, “Minority Rights within Shrinking Civic Space,” 227.

⁴⁴ Satkunanathan, “Minority Rights within Shrinking Civic Space,” 220.

⁴⁵ Coomaraswamy and de los Reyes, “Rule by Emergency,” 277; PSO, *supra* note 16, § 2.

⁴⁶ Kant, “Toward Perpetual Peace,” 76.

reproduce and entrench themselves in non-state actors, which include the military.⁴⁷ Since independence, the development of the Sinhala-Buddhist nation has worked to instill Sinhala-Buddhist nationalism into the military.⁴⁸ The Sinhalese comprise nearly the entirety of the Sri Lankan military; the armed forces are a major source of jobs for many Sinhalese communities and military personnel are often seen as war heroes.⁴⁹ The combination of Sri Lanka's exclusionary civil constitution and militarization results in the subjugation of ethnic minorities.⁵⁰ For instance, the UN reported 21 extrajudicial killings and the abduction, detention, and torture of Tamils by Sri Lankan armed forces between January 2023 and March 2024.⁵¹ As such, the military's proclivity to act independently violates the principles of republicanism and aligns with Kant's definition of despotism, as the military executes actions "on its own authority, [] that it has itself made."⁵² By contrast, in a functional democracy, nonstate actors like the military must be subordinate to civilian authorities.⁵³ In the Northern Province, the military occupies private Tamil land to supposedly 'maintain national security;' however, the occupation extends the military's influence into nearly all sectors of civil life.⁵⁴ These settlements impede Tamil livelihood as they restrict access to private land, obstruct agricultural and fishing

practices, and increase market-entry barriers due to military competition—just a few examples to illustrate the military's goal of uprooting Tamil sovereignty.⁵⁵ ⁵⁶ Tamil civilians carry no authority regarding the military's presence, as its presence is clearly not for their benefit.

Lastly, the actions of Tamil civil society actors (CSAs) are restrained by the Sri Lankan state and military in the increased securitization, militarization, and de-legitimization of Tamil civil society. CSAs play a large role in fostering civic engagement, a necessity amongst Tamils who are separated from the civil constitution and whose presence in civic life is equated to terrorism.⁵⁷ CSAs include civil society organizations (CSOs), which must be registered with the Sri Lankan NGO Secretariat—placed under the Ministry of Public Security in 2022.⁵⁸ Tamil CSAs in the Northern and Eastern provinces are closely monitored by the military and intelligence services which constrain the political spaces in which Tamil CSAs operate, restrict their rights to freedom of association, and permit intimidation and attacks by Buddhist conservatives.⁵⁹ Sri Lanka's culture of hyper-securitization has thus resulted in the normalization of a military vastly deployed in Tamil areas in the name of 'maintaining national security'—a pretense for the restriction of Tamil's democratic spaces. Tamil spaces are further de-legitimized as

⁴⁷ Şener Aktürk, "Dynamics of Persistence and Change in Ethnicity Regimes," in *Regimes of Ethnicity and Nationhood in Germany, Russia, and Turkey*, (Cambridge University Press, 2012), 266, <https://doi.org/10.1017/CBO9781139108898.012>.

⁴⁸ Neil DeVotta, *Sinhalese Buddhist Nationalist Ideology: Implications for Politics and Conflict Resolution in Sri Lanka* (East-West Center, 2007), 36, <https://www.files.ethz.ch/isn/45634/ps040.pdf>.

⁴⁹ DeVotta, *Sinhalese Buddhist Nationalist Ideology*, 36.

⁵⁰ Neil DeVotta, "Sri Lanka: The Return to Ethnocracy," *Journal of Democracy* 32, no. 1 (2021): 104, <https://dx.doi.org/10.1353/jod.2021.0003>.

⁵¹ Satkunanathan, "Minority Rights within Shrinking Civic Space," 200; UN General Assembly, Human Rights Council, Situation of human rights in Sri Lanka: Comprehensive report of the United Nations High Commissioner for Human Rights, 7, A/HRC/57/19, (Aug. 22, 2024), <https://undocs.org/en/A/HRC/57/19>.

⁵² Kant, "Toward Perpetual Peace," 76.

⁵³ Satkunanathan, "Minority Rights within Shrinking Civic Space," 216-217, 220.

⁵⁴ Piratheeca Vimalarajah, "Post-War Ground Realities of Dissolving Territories and Protracted Displacement of Eelam Tamils in Sri Lanka: An Analysis of the Militarization and Land Confiscation under the Lens of Persecution and Forcible Displacement as Crimes Against Humanity," *PKI Global Justice Journal* 28, (2018), <https://globaljustice.queenslaw.ca/news/analysis-post-war-ground-realities-of-dissolving-territories-and-protracted-displacement-of-eelam-tamils-in-sri-lanka>.

⁵⁵ Vimalarajah, "Eelam Tamils in Sri Lanka."

⁵⁶ Vimalarajah, "Eelam Tamils in Sri Lanka."

⁵⁷ Vimalarajah, "Eelam Tamils in Sri Lanka."

⁵⁸ UN G.A. HRC, Human Rights in Sri Lanka, 6.

⁵⁹ Hayes et al., *On "shrinking space,"* 3-4.

their attempts to take part in Sri Lankan social and political life are attacked by the state, particularly among Buddhist conservatives. For instance, in October 2023, Tamil journalists with IBC Tamil and Maddu News were covering a protest against state-sponsored land occupations in eastern Batticaloa district.⁶⁰ The journalists were questioned by authorities and forced to relinquish footage showing a Buddhist monk threatening violence against Tamils.⁶¹ As Tamils exist outside of the civil constitution, the Sri Lankan state handles Tamils as enemies or imposing guests—resulting in the deployment of the military to restrict spaces for civil society and confirming Kant’s warning that standing armies preclude the attainment of perpetual peace.

Democratic spaces for Tamil civil society shrink in the relationship between the repressive methods utilized by the military and the Tamils’ political struggle.⁶² However, Tamil civil society responds in various ways to reclaim space. As of 29 November 2024, Tamil families have marked their 2839th day of continuous protest against the Sri Lankan government regarding their forcibly disappeared relatives.⁶³ Tamils’ desire for change and larger spaces for civil society was expressed through the large number of Tamil participation in the 2024 Sri Lankan Parliamentary elections which saw 800 candidates from hundreds of political parties vying for 12 seats in the Northern Province and more than 1200 candidates for 16 seats in the Eastern Province.⁶⁴ Furthermore, the Tamils’ political struggle continues to unite ethno-religious minorities across Sri Lanka as they are subject to

analogous structures which limit democratic spaces for civil society. For instance, the Sri Lankan military—which also has a large presence in Muslim areas—was accused of colluding in the anti-Muslim riots following the 2019 Easter bombings due to their inaction.⁶⁵ United by a shared experience of state violence, activism by any minority community, such as Tamil CSAs, assists all Sri Lankan minorities. Kant aspires for the creation of “cosmopolitan right,” due to the interconnected nature of the world community—as it would tie the world community under a code of civil law, thus moving the world community out of the state of nature and into the juridical condition. In the Sri Lankan context, perpetual peace can be attained by similarly returning the Tamils to the juridical condition through meaningful incorporation in the civil constitution, meaning to expand democratic spaces for Tamil civil society. Alternatively, the aspirations of the Tamil nation could be fulfilled, and peace can be codified between the two nations under international law and cosmopolitan right. Tamils’ struggle for political recognition reverberates across the cosmopolitan as the “the violation of right at any one place on the earth is felt in all places.”⁶⁶

To conclude, Tamil civil society is subject to vast militarization, securitization, and delegitimization from the Sri Lankan state and military. Sinhala-Buddhist nationalist ideologies were engrained into the Sri Lankan civil constitution during the formative years of state-building, resulting in the creation of a distinct Sinhala-Buddhist nation. Tamils became separate

⁶⁰ UN G.A. HRC, Human Rights in Sri Lanka, 6; Committee to Protect Journalists, “Two Sri Lankan journalists questioned, harassed following protest coverage,” *The John S. and James L. Knight Foundation Press Freedom Center*, Nov. 8, 2023, <https://cpj.org/2023/11/two-sri-lankan-journalists-questioned-harassed-following-protest-coverage/>.

⁶¹ UN G.A. HRC, Human Rights in Sri Lanka, 6.

⁶² Hayes et al., *On “shrinking space,”* 3.

⁶³ Tamil Guardian, “Still no answers for Tamil families of the disappeared in Vavuniya as they mark 2804 days

of protests,” *Tamil Guardian*, Oct. 25, 2024, <https://www.tamilguardian.com/content/still-no-answers-tamil-families-disappeared-vavuniya-they-mark-2804-days-protests>.

⁶⁴ Tamil Guardian, “Sri Lanka’s NPP secures record ‘super majority’ in parliament,” *Tamil Guardian*, Nov. 14, 2024, <https://www.tamilguardian.com/content/sri-lanka-s-npp-secures-record-super-majority-parliament>.

⁶⁵ Satkunanathan, “Minority Rights within Shrinking Civic Space,” 202.

⁶⁶ Kant, “Toward Perpetual Peace,” 84.

from the civil constitution and were placed outside of the juridical condition—becoming an enemy to the state and relegated to the temporal status of guests. Any attempt at fruitful civic engagement by Tamils violate the conditions of universal hospitality expected by the Sri Lankan state. Furthermore, the Sri Lankan military acts as an agent of the civil constitution to target the Tamil minority and gains immunity for any crimes through the reason of state allotted. However, the military's enlarged presence in the state takes on extrajudicial authority, often disregarding the crucial democratic relationship between civilians and the military. In this context, democratic spaces

for Tamil civil society disappear and the relationship between the Sri Lankan state, military, and Tamil minority becomes a compelling case study of Kant's warning: The embedding of standing armies into the civil constitution of a state quashes republican principles and thwarts perpetual peace. Despite this, Tamils continue to resist and work to expand democratic spaces to impact the social and political lives of their society. Perpetual peace can be attained through the expansion of democratic spaces for Tamil civil society or the creation of a Tamil nation-state with cosmopolitan right assuring peace between the two nations.

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NEGOTIATING WITNESSING AND ONTIC INJUSTICE IN VIEWING PHOTOGRAPHY OF DEATH AND VIOLENCE

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Much work has been done on photography as an artistic medium and political call-to-action; oftentimes, photography is seen as carrying a revolutionary capacity in its ability to bear witness and to elicit witnessing in audiences. This function is especially emphasized in instances where photography memorializes and preserves scenes of atrocity, acts of violence, and the *subjects* subjected to both. However, the role of photographs of death and violence in witnessing, affective politics, and revolutionary capacity are largely contested in the literature due to a wide variety of reasons (Foliard and Willcock, 2023; Freeman, 2022; Holert, 2019; Maliszewska, 2023; Nakamura, 2020; Razack, 2007; Rushohora 2023; Sontag, 1977; Sontag, 2003; Turner, 2004). Now more than ever, the current political moment begets constant witnessing in online spaces; we are confronted with violence and must consider the choice to look at, or look away from (Foliard and Willcock, 2023; Maliszewska, 2023; Razack, 2007; Sontag, 2003) photographs of death and atrocity. This is especially true with the proliferation and (re)circulation (Foliard and Willcock, 2023; Maliszewska, 2023) of photos and videos of police brutality against racialized Black and brown bodies (Clark et al., 2017), for example. Indeed, the photographs of death and atrocity which grip the *Zeitgeist* often depict structural, racialized, and gendered forms of violence (Holert, 2019). As is largely the case in this era of *digital photojournalism* and *citizen photography* (Möller, 2017), “civilian smartphones have become the eyes and ears of professional war crimes investigators” (Freeman, 2022, p. 105-106). With all of this in mind, the ambivalence towards photographs of death and violence is increasingly

relevant. As such, this paper concerns itself with the tension between witnessing, and what Katharine Jenkins (2020) has coined as *ontic injustice*—the process wherein individuals are “wronged by the very fact of being socially constructed as a member of a certain social kind” (p. 2), and are thus subjected to social constraints and enablements that result in treatment that is in “contravention of the individual’s moral entitlements” (p. 4). The guiding research question for this body of work is: how do we engage in an *ethical* (Foliard and Willcock, 2023) witnessing of photographs of death and violence? In answering this, I explore a variety of perspectives on the capacity for the witnessing of death and violence in photography, and of photography as a form of violence. To do this, I draw on Sontag’s *photography as violence* (1977), and Saidiya Hartman’s (1997) assertion of the *slipperiness of empathy* as articulated by Sherene Razack’s (2007) description of *stealing the pain of others*. Ultimately, I present and articulate my own conclusions on how we engage with photographs of death and violence. I wager that individuals captured in photography as *subjects* of an act of violence that results in injury or death are subjected to moral injury as a kind of ontic injustice, in that they are wrongfully constructed as a certain social kind—victims. Specifically, I further the framework of ontic injustice and justify its application to the deceased in what I dub *posthumous* ontic injustice. Further, I will describe the ontological category of ‘victim’ and will describe the moral injury that occurs as a result of being socially constructed as victim. Notwithstanding this, one must negotiate ontic injustice with the call to witness atrocity, and so, I point towards the question: how do we

acknowledge suffering without reducing the subjects of violence entirely to victims of violence?

Numerous scholars have articulated the capacity for photojournalism to bear witness to human suffering (Foliard and Willcock, 2023; Turner, 2004; Möller, 2017). For some, photographic images have always been carriers and mediators of claims of knowledge, evidence, and truth (Holert, 2019). This function is emphasized in the context of war, famine, and genocide, where photojournalists have been thought to play crucial roles in bearing witness to human suffering, by providing an evidentiary record of crimes against humanity that Turner describes as a “sordid visual chronology of violence” (2004, p. 82). In the context of conflicts such as those in Vietnam, Rwanda, and Bosnia, this visual chronology functions to generate public support for conflict intervention (Turner, 2004). The capacity for photographs of death and violence to bear witness is heightened by their ability immortalize to an event—in the words of Sontag, the photographer creates “the image-world that bids to outlast us all” (1977, p. 8).

While Möller (2017) agrees with the political potential of photojournalism, he places an important distinction between different photographic processes when considering photography as a medium for witnessing. Namely, he believes that photojournalism and citizen photography perform discrete functions when photographically representing death and violence (Möller, 2017). Möller asserts that photojournalists have a tendency to document and inform—to showcase the actual *event* (e.g., war, genocide, violence) *as it is* (2017). Conversely, Möller believes that citizen photographers show us what this event *feels like* (2017). Consequently, Möller asserts that photojournalists serve as political witnesses to structures of evil, dedicated to factual truth, and that citizen photographers act as moral witnesses, depicting affective knowledges through an acquaintance with suffering (2017). Altogether, the function of photography as witnessing to death,

violence, and atrocity is especially important in modern times, as we are constantly asked to continuously witness atrocity in online spaces (Foliard and Willcock, 2023; Maliszewska, 2023). In describing the current digital moment, Foliard and Willcock (2023) write that “the pace of our collective looking at images of pain has never been faster” (p. 39). In other words, we are constantly being called to witness in an era defined by the *hyper-proliferation* of violent images (Foliard and Willcock, 2023). With this in mind, the question of whether to witness, or if witnessing is even occurring, becomes more relevant. This latter question is pronounced when one considers the Western and colonial lens through which witnessing often occurs.

While photojournalism and other forms of photographic witnessing often make appeals to objectivity, numerous scholars have pointed to the subjectivity of photographic representations of violence in contributing to *epistemic violence* (Holert, 2019; Maliszewska, 2023; Nakamura, 2020; Razack, 2007; Rushohora, 2023; Sontag, 1977). The claimed objectivity of photographs of death and violence is called into question by Holert (2019), who thinks of photographers as those with authorial positions that enable them to represent their own ideologies. In line with this, Holert (2019) invokes Spivak (1988), by articulating the ways that photographs of death and violence engage in colonialist subject production and epistemic violence. In Holert’s (2019) view, these photographs “enact ideology, as they exemplify, codify, and translate written and unwritten laws and social hierarchies, as they bestow or remove citizenship, as they exert epistemic violence” (p. 3). In a similar vein, taking Holert’s view into account, historic photographic depictions of death and violence from the colonial era act as a form of epistemic violence used to subjugate racialized photographic subjects (Rushohora, 2023). Rushohora articulates how visual records of death and violence committed by white colonizers against Black bodies serve to shape long-term perceptions

and imaginings of African pasts/future (2023). Razack (2007) believes that photographic depictions of violence against Black subjects serve as vehicles for white enjoyment; in invoking the image of spectacle, wherein “slaves [dance] for the master’s enjoyment ... [or] a black man [stands] on trial for murdering his white wife” (p. 378), photographic depictions of violence provide white audiences with racial pleasure. In other words, through epistemic violence, white and Western superiority get (re)affirmed through images of Black suffering (Razack, 2007). Maliszewska (2023) echoes these concerns in relation to Holocaust photographic archives of violence, which she believes leave subsequent generations doubtful on “how to read those archives and give justice to the dead” (p. 90), and altogether contribute to epistemic violence.

To sum up, returning to the words of Holert: photography has served and continues to serve the interests of the state and of capital, of state-bounded knowledge systems, of disciplinary, racialized regimes embodied in the apparatuses of science, education, and police, of the social control of minorities and the racializing orders of colonialism outside and inside the West. (2019, p. 5)

These aforementioned forms of epistemic violence can be further elucidated through an understanding of Susan Sontag’s work around photography as violence; Sontag believed that photography has a predatory function, in that the camera will “presume, intrude, trespass, distort, exploit, and, at the farthest reach of metaphor, assassinate” its subjects (1977, p. 9). In this way, photographers and photographs “[teach] us a new visual code” (Sontag, 1977, p. 1), (re)affirming and altering our notions of what is true and worth witnessing. In a similar fashion to Rushohora and Razack, Sontag wrote that “[p]rotected middle-class inhabitants of the more affluent corners of the world—those regions where most photographs are taken and consumed—learn about the world’s horrors mainly through the camera” (1977, p. 85);

the reproduction of white and Western epistemologies from afar contributes to the violent *misconstruction* of racialized subjects of violence. Möller (2017) understands this effect to be worsened in digital settings; as he describes it, the digital witness is a distant one, and is thus physically and temporally disconnected from the time and place in which the photo was taken (2017). As Sontag (1977) asserts that the *truth-telling* abilities of photography depend on the sociocultural context in which photographs are seen, geographic and temporal distance can make epistemic violence more likely.

Elsewhere, Sontag (1977) questions the use of seeing photographs of death and violence; she believed that the incessance of these images desensitize us to their atrocity—violence becomes banal, the horrible becomes ordinary, and the conscience *deadens*. Similarly, the affective function of photographs of death and violence have been questioned by Razack and Nakamura. For Razack, moments of witnessing and their accompanying emotional responses are often consumptive in nature and involve white audiences “stealing the pain of others” (2007, p. 375). In describing this process, Razack (2007) invokes Saidiya Hartman’s (1997) concept of the slipperiness of empathy, wherein the suffering of Black bodies only becomes legible when vicariously experienced and ‘witnessed’ by the white body. Subsequently, through ‘witnessing’ the pain of others, the subject becomes occupied, and the viewer’s privilege and complicity becomes obscured (Razack, 2007). In the words of Sontag: “[t]o photograph is to appropriate the thing photographed” (1977, p. 2). Consequently, ‘witnessing’ the bodies of racialized subjects in photography primarily serves to (re)affirm the humanity of white people (Razack, 1977). Writing on virtual reality, Nakamura (2020) explains that “the desire to experience empathy for the sufferings of black people while leaving structural racism in place has long underwritten pleasurable forms of cultural appropriation and projection” (p. 56).

These voyeuristic and perverse elements are a common facet of white witnessing of Black suffering—as Sontag describes it, audiences indulge in “[t]he pleasure of flinching” (1977, p. 41).

With a background in the arguments for and against photography as witnessing established, we turn towards ontic injustice. First established by Jenkins (2020), ontic injustice describes the harm caused when individuals are wronged by the *very fact* of being socially constructed as a member of a certain social kind (e.g., wife, Black person). When this status is conferred onto an individual, they receive socially determined constraints and enablements, which alter their social location, making some outcomes inaccessible (Jenkins, 2020). Under the framework of ontic injustice, these constraints and enablements are wrongful, “in the sense that they are in contravention of the individual’s moral entitlements” (Jenkins, 2020, p. 4). To be clear, the harm described by ontic injustice is not the harm that occurs when individuals act in accordance with or are psychologically affected by inappropriate constraints and enablements, and is rather the harm caused by the *mere fact* of an individual being allocated as a certain kind of social being (Jenkins, 2020). To further the framework of ontic injustice, Jenkins draws on *diminishment* from Jean Hampton (1991), the process in which a person’s moral value appears to be lowered due to *humiliating* violence which conveys the impression that the subject of violence lacks the value that people are normally deserving, resulting in an apparent reduction in moral worth. Specifically, the diminishment of moral worth causes damage in the realization or acknowledgment of a person’s moral value, or in Jenkins words, being subject to an act of violence “conveys the impression that this form of treatment would have been appropriate, and hence [the individual] has a lower moral value than [they] in fact ha[ve]” (2020, p. 8). All of this culminates in a *moral injury* against the subject of violence (Hampton, 1991; Jenkins, 2020).

While Jenkins did not directly extend her

framework to individuals after their deaths, wherein the harm of ontic injustice occurs *posthumously*, I assert that her framework is useful for understanding the construction of the social kind of *victim* after injury or death. To support this claim, it’s necessary to extend the use of ontic injustice to those who have died. As Jenkins describes ontic injustice as pertaining to either a failure to realize or acknowledge a person’s moral value, then it follows that the failure of others to acknowledge a person’s value alone, constitutes a moral injury and is thus ontic injustice, regardless of self-realization. Moreover, if ontic injustice does not require the *actual* imposition of constraints and enablements, then it reasons that ontic injustice can occur against individuals after their deaths.

Through photographs of violence and death, we see the subjects of violence forever frozen in a moment of fixed and concentrated pain and suffering (Folliard and Willcock, 2023); through photography, “the moment [is] made eternal” (Sontag, 1977, p. 50). Witnessing or not, I believe that when viewing this moment, we unsurprisingly see the subject primarily as a victim of violence as opposed to the vast plurality of identities the subject could possess beyond the moment of the photograph. Throughout the body of work presented above, those thinkers who believe in photography’s capacity to witness and those who assert that photography is a form of violence assume the notion that the subjects of violence are victims. The sole exception lies in Rushohora’s (2023) description of the process wherein a photograph of a Tanzanian prisoner of war was socially re-constructed; in moving away from the status of racialized victim, the subject of the photo was re-defined as a heroic figure enacting agency and resisting oppression. Drawing from Rushohora, from the white and Western standpoint, we see the photographic subjects of death and violence as victims first and foremost, especially when the subjects are racialized. Altogether, when we see images of death and violence immortalized online, we understand the subjects entirely as victims.

In line with the framework of ontic injustice, being constructed as a victim and defined by being an individual subjected to an act of violence resulting in injury or death, inherently diminishes the recognition of one's moral worth by suggesting that the humiliating violence they have been subjected to is a defining part of their identity. And so, as the social kind of victim becomes all-consuming, constraints are imposed in that the impression that one is deserving of this violence becomes affirmed by the fact that they experienced it. Moreover, I assert that when one views the subjects of violence as victims, all other provided context to their lives appears to become explanatory for the circumstances of their death—*who they were, what they've done and experienced leading up to, during, and after the moment of violence* all become context to suffering and victimhood. More often than not in online spaces, this context accompanying photographs of death and violence functions to exonerate the victim, or justify the violence enacted against them. In this way, their life-story and personhood become defined entirely by their status-as-victim. As such, we fail to acknowledge their full humanity, and so, ontic injustice has occurred. However, even within victimhood, additional permutations of ontic injustice exist depending on the *type of victim* that one is defined to be.

Drawing from Dignan's (2004) work on victimology in relation to restorative justice, the status of *the ideal victim* is defined by six attributes of the victim and offender, which itself come from Nils Christie (1986). To be the ideal victim, one is usually: weak in relation to the offender (e.g., female, sick, very old or young); either virtuous or not wrongdoing; blameless; and unrelated to the enactor of violence; with the offender being "unambiguously big and bad" (Dignan, 2004, p. 17). Finally, the ideal victim "has the right combination of power, influence or sympathy to successfully elicit victim status" (Dignan, 2004, p. 17). With this in mind, Lacerda describes Hannah Arendt's (1951) conception of victim as one defined

by a lack of agency; victims are often affirmed "absolute innocence" (Lacerda, 2015, p. 183), which thus denies any potential responsibility or ability to act on the part of the victim, and thus renders the victim an object, rather than subject. When one is socially construed as a *violated object*, they become "paralyzed in the position of an object of the actions of others" (Lacerda, 2015, p. 185). Here, the ontic injustice lies in the constraints and enablements pertaining to the social kind of the ideal victim. As the ideal victim, one receives constraints and enablements related to their supposed blamelessness, weakness, and virtuosity—therefore limiting their capacity to be understood as agents capable of taking action. In this way, the ideal victim lacks agency, and so, the ideal victim is one who does not exist politically or resist the violent acts being committed against them. Under ontic injustice, the ideal victim suffers a moral injury in that they do not have their agency acknowledged. Moreover, if there is a socially conferred *type of person* whose traits (i.e., weak, woman, old) make up the ideal victim, then that implies these individuals are socially conferred to be legible as receiving violence. As a result, these individuals are more readily understood as being subjected to violence, which can serve to enable others to commit acts of violence against them.

If one fails to conform to the social kind of the ideal victim, they become what I dub *the unideal victim* wherein their suffering and pain becomes potentially legitimized or justifiable. Much like the ideal victim, the unideal victim is seen as a legible victim of violence, but for different reasons—usually due to their ability to express agency or being not-weak, not-male, etc. What's more, is that the unideal victim is more likely to have the violence committed against them be legitimized in accordance with their assertion of agency (i.e., 'fighting back'), often along racial and gendered lines. As a result, they fail to have their moral worth acknowledged and are thus subjected to moral injury through ontic injustice.

While there are evident harms in defining

individuals subjected to violence solely as victims, there are additional harms if one fails to acknowledge the violence these individuals have been subjected to. Drawing from Judith Butler's (2006) *Precarious Life*, some lives are not considered lives whatsoever, their deaths not real deaths, and their lives not grievable. Butler asserts that one's *grievability* in the eyes of the public exponentially diminishes along the intersection of race, ethnicity, gender, and sexuality (2006). When one's status is dehumanized, violence becomes justified, which further enacts the dehumanization upon which the violence is founded (Butler, 2006). When one fails to recognize the harm that has been enacted against a person, or when they acknowledge suffering only on the basis of the omission of non-grievable characteristics from that person's obituary (Butler, 2006), you commit ontic injustice in failing to acknowledge the full context of their lives and humanity.

In sum, it is clear that being socially conferred as victim carries numerous apparitions of ontic injustice, which permutate depending on the life-context surrounding the subject of violence. In this digital age, the living and the dead coexist online through a novel visual landscape (Widmaier, 2023). As such, negotiating how to view photographs of death and violence, and the subjects depicted within them, becomes altogether more relevant. Across the literature, the answer to the question of whether we appropriately bear witness to suffering through photography is an ambivalent one. Indeed, while some hold the importance of witnessing death, violence, injury, and atrocity in photography, others believe that these processes are

inextricably tied up in white, Western, and colonial forms of epistemic violence, and gendered and racial forms of looking. What few scholars have yet contended with is the way that ontic injustice operates through the viewing of photographs of death and violence in turning the subjects of harm entirely into victims. I assert that reducing the subjects of violence to victims alone creates a moral injury, in that we fail to see their humanity beyond their status as victim—in ways that often map onto race and gender. I extend the framework of ontic injustice to the posthumous subject and believe that the moral injury of victimhood is applicable to both living and non-living subjects. That being said, ontic injustice and harm also persist if one fails to acknowledge the violence committed against the subject. As a result, we must find our way to a novel form of ethical ~~witnessing~~ of ~~victims~~ through photography; in the face of seemingly innumerable amounts of violence and photographs of that violence, how do we appropriately honour those who died? Others still, have questioned the political function and effectiveness of empathetic reactions to photographs of death and violence (Arendt, 1951; Foliard and Willcock, 2023; Hartman, 1997; Nakamura, 2020; Razack, 2007). How do we develop an active ethical ~~witnessing~~ that does not rest in the passive, solely affective realm? How do we move beyond the empathetic moment? The answers to these questions are unfortunately beyond the scope of this paper. What I can say, is that in the face of these considerations, we must turn effigies into monuments, grief into action, and to paraphrase a classmate in ARTSSCI 3B03: in witnessing, our *tears* are not the end goal, and *justice* is.

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LABELLING HUMANITY: HOW PSYCHIATRIC LABELS WORK TO DEHUMANIZE

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Labels are society's attempt to explain a person's identity. Whether gender, sexual orientation, job position, or relation to loved ones, labels categorize people into measurable groups. As the field of psychiatry has expanded in the 21st century, there has been an increased use of labels to categorize people into certain diagnoses of mental illnesses. Although these labels can assist in delivering to patients the necessary treatment for their mental illnesses, the larger function of a label must be examined by society. In particular, schizophrenia is a diagnosis with immense social stigma, and thus its label is of great significance when attributed to a person. I will be using Michel Foucault's theory of biopower to discuss how psychiatric diagnoses such as schizophrenia categorize people so that they can be surveilled and controlled. In turn, categorization establishes a hierarchical system of humanity, where schizophrenia is deemed inferior, or less important, than others. In Foucault's theory of biopower, a hierarchy of this kind allows for certain populations to be optimized, while others ignored. Psychiatry then acts as a powerful tool that can be used as a weapon for the dehumanization of certain groups of people. An important aspect to note regarding the way I discuss schizophrenia in this paper is that I am not discussing the disorder and those who have the disorder, but rather focusing on the *label* of schizophrenia and those labelled to have schizophrenia. Labels must be reevaluated, as they have the power not only to categorize people, but to degrade the humanity of specific groups of people.

The schizophrenia spectrum of mental disorders is used in the Diagnostic and Statistical Manual of Mental Disorders to describe disorders involving psychosis (Nolen-Hoeksema 248).

Psychosis is a group of symptoms mainly involving "losing touch with reality" through abnormalities in thoughts and perceptions (Nolen-Hoeksema 248). Symptoms of psychosis include hallucinations, delusions, disorganized thinking or speech, uncoordinated or catatonic movement, and loss of ability to express emotion, socialize, or experience pleasure (Nolen-Hoeksema 248). The symptoms of psychosis are present in all disorders across the schizophrenia spectrum (Nolen-Hoeksema 248). Psychosis is not a disorder itself, but a group of symptoms often used to explain disorders on the schizophrenia spectrum.

The classification of schizophrenia includes both positive symptoms and negative symptoms. Positive symptoms can be described as behaviors in addition to a person's expected behaviors, and include delusions, hallucinations, disorganized thinking or speech, and uncoordinated or catatonic movement (Nolen-Hoeksema 241, 246). Positive symptoms must be present for at least six months for a person to be diagnosed with schizophrenia (Nolen-Hoeksema 248). Negative symptoms are defined as a loss of certain expected behaviors, and can include restricted affect, inability to experience pleasure, and avolition (Nolen-Hoeksema 241, 246). Negative symptoms do not need to be present for a diagnosis of schizophrenia, but they often occur alongside positive symptoms (Nolen-Hoeksema 248). The positive and negative symptoms of schizophrenia must cause significant distress and dysfunction in the patient's everyday life to qualify for a diagnosis (Nolen-Hoeksema 248). Modern treatment for schizophrenia involves antipsychotic medications alongside psychotherapeutic approaches like cognitive behavioral therapy (Patel).

Michel Foucault discusses the emergence of disciplinary power in the eighteenth century, describing various techniques of power that emphasized the individual (Foucault 242). These techniques include the organization, surveillance, and maximizing the efficiency of people in the workplace (Foucault 242). Foucault also discusses how biopower evolved in the second half of the eighteenth century, growing out of disciplinary power to organize and survey not just bodies, but populations as a whole (Foucault 242). Adopting Foucault's biopower model in relation to schizophrenia diagnoses, individuals labelled as schizophrenic become part of a population that can easily be surveilled and controlled by governmental forces. People with schizophrenia are organized as such, as they do not fit the social norm of how a person should behave and act. The state uses the label of schizophrenia to distinguish people as abnormal and to justify their surveillance and subsequent control. For patients diagnosed with schizophrenia, their surveillance often includes placement into psychiatric facilities and institutions, as well as the administration of medications to ensure they are adhering to norms and government systems. Surveillance serves to control those with schizophrenia, forcing them to abide by social norms through medications or hiding those who cannot adjust within the confines of a mental institution.

Foucault distinguishes biopower from disciplinary power by stating that in biopower, individuals become part of the mass, indistinguishable from one another (Foucault 242). The people within the category of schizophrenia are indistinguishable from one another in the eyes of the government. The state does not view individuals with schizophrenia as unique persons, but rather as a collective group marked by the same label. Using a label to diagnose someone with schizophrenia implies that they will become a part of the mass of those already diagnosed with the disorder and will immediately be treated and perceived as a person

with schizophrenia, even if this is not the case. Since schizophrenia lies within a spectrum, each person labelled with schizophrenia will experience symptoms with varying severity. Situating those with the label of schizophrenia under a single, massifying label, causes the experiences of those with less severe symptoms to be perceived as the most severe version of schizophrenia. The popular Rosenhan Experiment is a prime case of how these labels stick with a person. In the Rosenhan experiment, twelve patients feigned schizophrenia-like symptoms to a doctor: all were admitted to a psychiatric facility and diagnosed (Navidad and McLeod). Even after exhibiting "normal" behaviors within the facility, the diagnosis of schizophrenia was not removed, and the patients remained admitted (Navidad and McLeod). The Rosenhan Experiment explores an interesting aspect of psychiatry; once labels are applied to individuals, they are very hard to remove. The individual is seen not as a person or identity, but as the label itself. To remove a label like schizophrenia from a person forces society to reevaluate its entire understanding of that person. Society rejects this process due to how it challenges the concept of labels as a whole, showing that labels are not effective as a descriptor of one's identity. As described in Foucault's theory of biopower, labels such as schizophrenia go beyond allowing one to be organized and surveilled within a psychiatric facility but also force one to exist among a population in which they become their label, no longer able to be distinguished as an individual.

The diagnosis of schizophrenia categorizes people in a massifying way, while also situating schizophrenia within a hierarchy. In any categorization system, there is a creation of status in the public sphere between those categorized. The label of schizophrenia often has more severe stigma than other mental disorders due to symptoms of psychosis. As one of the most prevalent disorders with psychosis symptoms, schizophrenia is associated with "craziness" or "insanity". There is also an association between schizophrenia and

violent tendencies, creating the misconception that schizophrenia means a person has a “split personality”, or that “craziness” causes murderous behavior (Nolen-Hoeksema 247). These beliefs work to diminish and confine those labelled with schizophrenia to these stereotypes. People with schizophrenia are viewed as “crazy”, and thus their beliefs, actions, and emotions are all associated with these perceptions. The mere *label* of schizophrenia is associated with stigma, and like the biopower that Foucault mentions, it is massifying. Any person with schizophrenia, no matter how their behaviors manifest, is perceived as “crazy” by society. Those with schizophrenia are situated within a hierarchy of mental disorders through the labels’ categorization, and they are seen as less important to treat than other mental disorders. Although other mental disorders have stigma, the stigma associated with schizophrenia deems people inferior to others because of their supposed “insanity”. “Insanity” strays further from expected social norms than traits such as hysteria, sadness, or neuroticism. Thus, schizophrenia is situated in a hierarchy of mental disorders where it is inferior to most.

Michel Foucault discusses the effect of biopower on populations under its influence, and how biopower works to “optimize” certain populations while ignoring others. Biopower aims to control not just individual people of society, but their relations and environments; thus, biopower attempts to control life itself (Foucault 245). When biopower optimizes certain populations, statistical measures such as birth rate or life expectancy are manipulated to control how society lives (Foucault 246). These populations are being “optimized” to become more productive, live longer, and reproduce (Foucault 246). In this process, Foucault argues that biopower is “making live and letting die” (Foucault 247). What is meant here is that while biopower optimizes populations, it does so according to normative standards, and the hierarchy of categorization according to social norms is followed. Those who are superior in the hierarchy are optimized, or able to “let live”, while

populations deemed as inferior are not optimized, or are “left to die” (Foucault 247). When biopower “makes live and lets die”, certain inferior populations in the hierarchy are dehumanized. The populations that are not optimized are left without improvement, and the disparity between them and the optimized populations increases as the optimized progress. Schizophrenia is treated with harsh medications such as clozapine and often involves hospitalization or institutionalization (Patel). The population of people with schizophrenia are deemed inferior, and so they are separated from society and left stagnant, to not be “cured” or treated. In contrast, mental illnesses such as depression or anxiety receive more research, treatments, and mostly involve outpatient therapies. These populations are being optimized, as the treatments and “cures” for these disorders only progress. Although some may argue that schizophrenia is more severe than disorders such as anxiety or depression, severity is a concept subjected to normative standards. Is schizophrenia perceived as more severe because it involves more drastic distress, or is it because schizophrenia strays further from normative standards than most? Since schizophrenia strays further from normative standards than other mental disorders such as anxiety or depression, the population of those with schizophrenia are often “left to die”; their treatment is stagnant and often involves institutionalization—taking them out of society so that they are not a burden.

People diagnosed with schizophrenia are dehumanized by a social construction of them as inferior beings. The population of people labelled schizophrenic are perceived as “crazy” due to the situation of schizophrenia within a hierarchy, and their values and beliefs are discredited as being irrational. A person diagnosed with schizophrenia whose beliefs are not seen as valid or rational extends to the whole being; if the beliefs of a person are disregarded, the person themselves is disregarded. The dehumanization of people with schizophrenia was prevalent in the Soviet Union’s

authoritarian regime in the 20th century (van Voren). People who dissented to communist leadership were deemed “crazy” and involuntarily taken to a mental institution (van Voren). Beliefs that go against the norm, the norm in this case being the authoritarian government, can be labelled as schizophrenia, thus immediately discredited because of that label. During this time, the Soviet Union used the label of “sluggish schizophrenia” to diagnose populations that resisted the communist regime (van Voren). Sluggish schizophrenia was a label used to define cases with milder symptoms of schizophrenia and broadened the horizons of who the Soviet Union could label with schizophrenia (van Voren). The creation of sluggish schizophrenia served the function of diagnosing even more people with the label, discrediting their beliefs, and using the “craziness” associated with schizophrenia to justify their detainment (van Voren). Using the label of schizophrenia to suppress political dissenters was powerful, as it symbolized that beliefs against the authoritarian regime were “crazy” and powerless (van Voren). Labelling political dissenters with schizophrenia in the Soviet Union allowed the label to dehumanize populations. Even though many of these people did not exhibit symptoms of schizophrenia, the label alone discredited everything they said as “crazy” and justified their imprisonment within a mental institution.

The label of schizophrenia can also work to dehumanize people by creating a scientific justification for the inferiority of the population. People who are diagnosed with schizophrenia often have cognitive and behavioral deficits due to structural or functional abnormalities in the brain (Nolen-Hoeksema 248). Some biological factors of schizophrenia include genetic inheritance, excess dopamine, structural abnormalities of the brain, and prenatal exposure to viruses or birth complications causing abnormalities in brain development (Nolen-Hoeksema 257). The fact that people with schizophrenia have biological abnormalities, often more drastic than other mental disorders, is used to

justify the dehumanization of those labelled with schizophrenia. These abnormalities are used to justify the idea of schizophrenic people being “crazy”. Those with schizophrenia do not fit the norm of how a brain should function, but the social stigma associated with schizophrenia deems this abnormality inferior, rather than different, from the norm. People with schizophrenia are then seen as a biologically inferior population. The suggestion of a biological inferiority is extremely dangerous, as it suggests that people with schizophrenia are objectively inferior on account of their flawed brain structure and function; however, the scientific justification to make schizophrenia appear inferior is not objective. Although those with schizophrenia differ in their brain structure and function, it is society that deems their brain functioning to be inferior, rather than different, than “normal” brain functioning. The scientific justification dehumanizes the community of those with schizophrenia, since many of these people have such severe cognitive deficits that they are seen as incapacitated and helpless. Many people with schizophrenia are hospitalized or institutionalized; since they are not what a human should look like or function as according to the norm, they are put under the control of the government.

Psychiatry is a tool to subjugate those with schizophrenia, leaving them to be unoptimized in Foucault’s words, while continuing to optimize those who are more “human”. Psychiatry also functions as a tool of Foucault’s biopower, used to classify and monitor masses of people under different categories. Psychiatric labels have grim implications for the humanity of certain groups. Labels such as schizophrenia constitute populations meant to be controlled and institutionalized by the state. Once categorized, a social hierarchy of mental disorders is established, and biopower serves to optimize certain populations while those with the label of schizophrenia are “left to die” or dehumanized. Psychiatry has the power to dehumanize through the system of labelling and the function it serves to uphold biopower. We must

think carefully about society's current method of psychiatric diagnoses and ask ourselves how these labels serve a larger state function in surveillance and control.

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WHEN CITIZENSHIP IS INCOMPATIBLE WITH CAPITAL: THE CASE OF THE CITY OF TORONTO'S DISPLACEMENT HOMELESS ENCAMPMENTS

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Homeless encampments have a significantly positive impact on those who do not or cannot access housing services. Recent literature on houselessness asserts that encampments can be important sites of autonomy for the most vulnerable amongst those experiencing houselessness—people of color, women and gender diverse peoples, and people who use drugs—providing them with a sense of safety and belonging, as well as stable access to social services and healthcare (Yakubovich et al. 2025; Zwick et al. 2025; Boucher et al. 2022; Martin 2022; Cohen et al. 2019). However, encampments are systematically and repeatedly being displaced by both local law and municipal by-law enforcement officers in Toronto, Ontario, Canada, frequently stripping inhabitants of their possessions, community, and access to outreach services (Martino et al. 2025; 2024; Rady and Sotomayor 2024; O'Grady et al. 2013). Furthermore, the City of Toronto's increasingly displaces encampments near neighborhoods undergoing gentrification; where the population of a space shifts from being predominantly working-class to middle- and upper-class (Rady and Sotomayor 2024; N. Smith 1982).

In this paper, I argue that this pattern of displacement is telling of a broader story. Since Toronto's amalgamation in the 1990's, the city has been politically restructured around neoliberal ideals. These ideals center the individual; how individual freedom is of the utmost importance; how the individual possesses sole responsibility over their own well-being; and how capitalism provides the means for complete freedom and self-reliance (Harvey 2007; Larner 2000). The role of the state following these ideals, such as the City of

Toronto, is to maximize opportunities for capital accumulation and economic development (Sager 2011; Harvey 1989; Kipfer and Keil 2002). In Toronto, these opportunities for economic development have coalesced into the creation of the "competitive city," in which the city itself became a commodity (Kipfer and Keil 2002, 234). This commodification occurs through gentrification, wherein the state dispossesses land from the working class and advertises it towards the more affluent middle class to turn a profit (N. Smith 1982; 1979). Because people experiencing houselessness are heavily stigmatized by dominant social norms, their existence in city spaces threatens its commodification (Wacquant et al. 2014; Wacquant 2007). Therefore, the removal of those experiencing houselessness from the 'public' view is seen as necessary by the neoliberal state. The displacement of encampments represents the City's prioritization of capital over the well-being of those experiencing houselessness, demonstrating that those with capital experience the benefits of the state and those who lack it experience the consequences.

Situating Toronto's Accumulation Through Dispossession

Gentrification is more than an economic process. Critical literature surrounding gentrification asserts that it cannot be reduced to rising-rent environments and market-induced displacement, as many often do (Kallin 2017). Rather, gentrification is a deliberate action by the state to attract capital and development to the city (Kallin 2017). This perspective stems from viewing gentrification and urban renewal within the context

of neoliberalism, in which the state's goal is attracting capital towards itself.

During the industrialization of North American cities, factories, manufacturing plants, and related services were located in urban areas due to the proximity of labor (Albet and Benach 2017). Thus, Toronto attracted capital as it became a space where goods could be manufactured. However, during the de-industrialization and urban sprawl of North America cities, those factories that made urban land valuable began to leave, bleeding the City of its source of capital (Taft 2018).

Thus, the City had to find new ways to attract capital, culminating in *accumulation through dispossession*, making Toronto, and the ability to live in it, a commodity (Harvey 2003; 1989). As outlined by urban geographer David Harvey, *accumulation through dispossession* is the continuance of primitive capital accumulation practices. These practices include the commodification and privatization of land and forceful expulsion of its inhabitants, conversion of various forms of property rights into exclusive private property rights, and the monetization of exchange and taxation (Harvey 2003). Accumulation through dispossession most commonly occurs when something of value, often land, is acquired cheaply and sold back to users at a higher price (Harvey 1989). Herein lies the ability to profit from the commodification of the city. This is critical for the economy of the post-industrial city as it creates new value for the space it occupies. Therefore, the state has a vested interest in furthering accumulation through dispossession (Kallin 2017; Harvey 1989).

Another critical geographer, Neil Smith, argues that accumulation through dispossession occurs in cities through gentrification, or more specifically, through the closing of the rent gap (Slater 2017; N. Smith 1982; 1979). To make the largest profit off land, real estate developers search for where the value of land is lowest and accumulate it at a low cost (Slater 2017; N. Smith 1982; 1979). Then, in tandem with city government, they

increase the value of the land through renovating existing housing stock, increasing local amenities, and building public infrastructure to create a more desirable neighborhood to live in (Slater 2017; Smith 1982; 1979). Once this is complete, they then rent out the land at a higher price to newer, wealthier tenants (Slater 2017; Smith 1982; 1979). Smith notes that the state is the instigator of closing rent gaps, as it makes the land more valuable through promising investment in public transit near gentrifying areas, offering incentives to developers, and removing zoning regulation and rent control (Slater 2017; Smith 1982; 1979). However, the literature presented by Smith, Slater, Harvey, and others suggests that a critical part of the state's involvement in closing the rent gap is through dispossessing the land from previous inhabitants, who often possess little capital, or, worse, are weakening the value of the land through societal stigmatizations (Horgan 2018; Albet and Benach 2017; Mazer and Rankin 2011; Slater 2004; Harvey 2003; 1989; Hackworth and Smith 2001). This paper emphasizes the state's role of dispossession in closing the rent gap, specifically, through the displacement of those experiencing homelessness from public spaces.

Homelessness as Cause for Dispossession

Homelessness is a long-standing social issue in the city of Toronto. Starting in the late 1990s, Toronto experienced—and continues to experience—a housing affordability crisis as a result of the federal and provincial governments' discontinuation of public and non-public housing programs, ongoing gentrification, and the financialization of all forms of housing (Kipfer and Sotomayor 2024; Suttor 2016). With housing becoming unaffordable and the city's population increasing, the number of people experiencing homelessness has only increased within the city (Quayum et al. 2024). Furthermore, the city's shelter system is continually oversaturated, with May 2023 seeing an occupancy rate of 99.9% (Rady and Sotomayor 2024). All of this has resulted in

visible homelessness (i.e., homelessness on streets, in parks, and other public spaces) being at an all-time high at a time in which the city has been emboldened to displace them (Quayum et al. 2024).

In Toronto, the displacement of people experiencing homelessness out of the 'public' view is a common and systemic phenomenon, often in the interest of dispossessing public land from previous inhabitants and repurposing it for a perceived higher and better use (Martino et al. 2025; 2024; Rady and Sotomayor 2024; Gordon and Byron 2021). For example, in 2019, an urban revitalization project, The Bentway, sought to “transform nearly two kilometers under the Gardiner Expressway into a new gathering place for [the] city’s growing population (Gordon and Byron 2021, 855)” However, the land under the Gardiner Expressway, which is publicly owned, was by no means a new gathering place. Historically, informal encampments have inhabited the area, providing shelter for those experiencing homelessness (Gordon and Byron 2021). Thus, constructing The Bentway required the removal of people experiencing homelessness and consequently, the disposing them of their access to the city. This dispossession of people experiencing homelessness by the City of Toronto was achieved by utilizing public by-laws and ordinances stating that constructing a tent on city property was not permitted (Gordon and Byron 2021). In mid-March, city staff arrived with heavy machinery, destroying the encampments and seizing residents’ belongings (Gordon and Byron 2021).

It is important to note that the dispossession and displacement of those experiencing homelessness occurs not only because they occupy space but also because of the effect they have through occupying visible space. Stigma, rudimentarily defined, is the symbolic designation and meaning attached to a person (Goffman 1963). The stigmatization of those experiencing homelessness occurs through multiple dimensions, including functionality (functional individuals being more widely accepted within society),

aesthetics (visibility and social acceptability of appearance), personal culpability (the perception of an individual’s responsibility for becoming homeless), and unpredictability and dangerousness (Takahashi 1997). Thus, those who are housed often affront feelings of a lack of security and safety in the presence of those experiencing homelessness, even if they present no criminal threat to the community (Martino et al. 2024; 2025; Hodgkinson et al. 2024). Recent literature asserts that this designation of meaning also attaches to space. In a theory of territorial stigmatization put forth by Loïc Wacquant, he posits that people’s perceptions of the symbolic character of space create and shape social relationships with that space (Wacquant et al. 2014). And, over time, particular social and spatial conditions, or persons and places, are mutually tied through stigma (C. B. R. Smith 2010; Takahashi 1997). While territorial stigmatization may enable revanchist attitudes towards specific neighborhoods, perceived as needing revitalization, the persistent presence of heavily stigmatized social conditions may scare off investors or middle-class consumers who possess capital, which is antagonistic towards the state’s goal (Horgan 2018). Therefore, displacing people experiencing homelessness is integral to the state’s function.

The City of Toronto’s ability to dispossess people experiencing homelessness’ access to the city, is to portray them as non-citizens. In Toronto, the social categories of *taxpayer* and *citizen* have been mutually constitutive (Rady and Sotomayor 2024). Because the citizen-taxpayer category functions to exclude the “non-taxpaying other” who is “implicitly less entitled to protections and rights” (Rady and Sotomayor 2024, quoting Walsh 2018, 4). This framework is critical because it shapes why decision makers feel greater responsibility to city residents who pay taxes and are more civically active than those experiencing homelessness (Rady and Sotomayor 2024). Thus, unhoused people are denied the same access to city councilors, the mayor, or other city officials, compared to their housed counterparts (Rady and Sotomayor 2024).

Therefore, when it comes to policy solutions, unhoused people are seen as a problem to the city's value, rather than constituents in need of support (Rady and Sotomayor 2024).

Overall, the stigmatization of people experiencing homelessness leads to their dispossession by the state. Because of the feelings of insecurity and lack of safety they evoke in the middle class, the existence of people experiencing homelessness in public spaces produces negative territorial stigmatization. Their presence scares away potential investors and harms the images of gentrifying areas, inhibiting the state's goal of accumulating capital. Furthermore, the stigmatization of the unhoused leads to their lack of political representation in the city's decisions, making their marginalization either warranted, as viewed by the middle class, or simply irrelevant.

Social Regulation and Displacement

The stigmatization of people experiencing homelessness, and their lack of perceived citizenship, provides the means and the motive for the City of Toronto to displace and dispossess them. Most often, the City of Toronto utilizes by-laws and similar measures to displace people experiencing homelessness, especially where it is most intensified—in encampments (Rady and Sotomayor 2024; Martino et al. 2025; 2024). Threats by the state notwithstanding, encampments can be important sites of autonomy, dignity, and identity production for those who inhabit them (Yakubovich et al. 2025; Zwick et al. 2025; Boucher et al. 2022; Martin 2022; Cohen et al. 2019). Furthermore, encampments offer a sense of security and community for those experiencing homelessness, providing them with stable access to outreach workers and resources (Yakubovich et al. 2025; Zwick et al. 2025; Cohen et al. 2019). And because occupying public space is not itself a crime, the state is forced to criminalize behaviour adjacent to homelessness, manifesting in the use of nuisance laws and statutes criminalizing social disorder, making encampments illegal in all but name

(Martino et al. 2025; Rady and Sotomayor 2024; O'Grady et al. 2013).

One of the most prominent statutes used by the City of Toronto is the Trespass to Property Act, enabling municipal administrators to displace those whose conduct allegedly disturbs the quiet enjoyment of property (Rady and Sotomayor 2024). As nuisance complaints are inherently indeterminate as they are context-specific and tied to dominant discourses of acceptable conduct, they are inherently tied to stigmatization (Rady and Sotomayor 2024; Graziani et al. 2022). In one Toronto neighbourhood, when asked about their view of homelessness encampments, one housed neighbour was quoted to say, "There were over 100 tents in the park ... there's a lot of drinking, fighting, screaming. Just not really something I want to [deal with] around lunchtime (Laurie 2021, para. 10)." Thus, nuisance complaints are just one tool for the city to justify its dispossession of public space from those experiencing homelessness (Rady and Sotomayor 2024).

Targeting the criminalization of social disorder, the City of Toronto also utilizes legislation that targets specific actions related to vulnerable and disadvantaged communities, most prominently the Ontario Safe Streets Act (O'Grady et al. 2013). This act criminalizes specific actions of "disorderly/anti social behaviour," categorizing them into three offences, including panhandling, solicitation of an audience, and the unsafe disposal of needles, condoms, and glass (O'Grady et al. 2013, 542). This legislation renders people experiencing homelessness at risk of further penalties following the initial infraction, such as increased fines, warrants, and incarceration (Martino et al. 2024).

The criminalization of homelessness in Toronto is inherently tied to accumulation through dispossession, due to its temporal and spatial attributes (Rady and Sotomayor 2024). Both encampments and laws criminalizing nuisance and social disorder have existed for a long time (Rady and Sotomayor 2024; Flynn et al. 2022). However,

it is only recently that the City of Toronto has used those laws to displace encampments. Furthermore, the displacement of encampments is most prominent in areas undergoing gentrification (Rady and Sotomayor 2024). Thus, the city's discretion in using these laws points toward their motivations in doing so: to promote gentrification and accumulation through dispossession (Rady and Sotomayor 2024).

Therefore, criminalizing actions of social disorder—actions that are not inherently criminal yet are perceived by the public as a nuisance or harmful—is routinely used by the City of Toronto to dispossess people experiencing homelessness from the city they inhabit. This criminalization is temporally and spatially specific to areas experiencing gentrification, emphasizing how the displacement of those experiencing homelessness in public space is a direct result of the City of Toronto's goal of promoting capital and investment.

Summary and Discussion

Through analyzing the actions of Toronto's city government in the broader context of neoliberal governance, this paper examines the role of capital in the city's regulation of space. Examining the process of gentrification as something more than an economic and social phenomenon the active role of the state becomes more apparent. Governing according to neoliberal ideals, the City of Toronto

must attract wealth towards itself to function, create jobs, and boost the local economy. In the aftermath of deindustrialization, this need for capital resulted in gentrification and accumulation through dispossession through the closing of rent gaps, in which the municipal government created profit opportunities for developers in disinvested land and thus, created value.

For gentrification to fully actualize, the city must present its public spaces as safe, culminating in the spatial sanitization of anything, or anyone, that would suggest otherwise. Thus, in the face of increased homelessness in visible spaces, the municipal government forcefully displaces encampments situated within public areas through the manipulation of existing ordinances and legislation. The criminalization of homelessness in Toronto's public spaces critically affects state-society relationships, specifically, the practice of urban citizenship and the question of who the city perceives as their constituents. Through prioritizing the accumulation of capital, the city demonstrates that those with capital, and thus those who own property, are considered citizens, and those who lack or cannot afford housing are considered nuisances. In conclusion, the example of the violent displacement of those experiencing homelessness in Toronto's gentrifying neighborhoods shows that a state that relies on the valuation of land will, if necessary, use force to create that value.

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THE WORLD GOES BLIND: THE NEED FOR IMAGINATION IN CANADIAN ABOLITION

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In a study by Weinrath and Ricciardelli (2023) on Canadian prison environments, inmates reported concerns on food quality, quantity, and affordability; harassment and assault from staff and inmates, solitary confinement, lack of healthcare, rehabilitative programming, and unaffordable phone systems. According to a 2014 statistic, prisoners were eight to nine times more likely to end their lives than other Canadians (Mallea, 2017, p. 76).

Rather than reforming prisons or enforcing systems of retributive justice, scholars and abolitionists propose a future without prisons. They understand that prisons are part of the larger social fabric and present the framework of the prison industrial complex (PIC). The PIC is the array of relationships that link corporations, government, and correctional communities, used to contest the assumption that increased crime is the cause of mounting prison populations (Davis, 2003, p. 84). Abolitionist futures eliminate policing, imprisonment, surveillance, and any expansion and legitimization of these punitive practices (Kaba, 2021).

In this paper, I argue that dismantling Canada's prisons and building an effective practice of justice requires a reimagining of structures of neoliberal capitalism that entrench and interlink incarceration within Canada's neoliberal practice and ideology. This includes challenging individualist rhetoric that excuses systemic harm, restructuring current neoliberal economic policy that decreases access to critical aid, and envisioning a future for our shared space, away from private property and into the commons. This understanding of neoliberalism is informed by David Harvey (2007) which states that human well-being is best

advanced through maximizing corporate freedoms, centering private property, individual liberty and free markets.

Individualism and Systemic Analysis

Incarceration Targets Marginalized Communities

Individualist rhetoric is coupled with tough-on-crime policies to mask the ways incarceration asymmetrically targets marginalized and poor communities. Abolitionists like Toronto-based Rinaldo Walcott (2021) provide evidence that neoliberal individualism increases criminalization and incarceration of the marginalized. He states that the remaking of the post-industrial economy in Canada from the mid-1980s begot cultural changes, including a heightened sense of individualism (2021). Indeed, neoliberalism as an ideological project celebrates "individual responsibility" (Wacquant, 2009).

Despite the focus on individual actions, these policies have created demographic disparities in incarceration rates. Data from 2017 shows that Indigenous peoples make up 26.4% of the total federal prison population and that Indigenous women comprised 37.6% of the federal women prisoners (Chartrand, 2019, p. 4). The 2016 census shows that Indigenous populations represent 4.9% of the entire Canadian population (Government of Canada, 2017). In some provincial prisons, Indigenous incarceration rates are as high as 80-90% (Chartrand, 2019, p. 4). In 2018/2019, Black people accounted for 7.2% of federal offenders while comprising 3.5% of Canada's population (Owusu-Bempah et al., 2023, p. 533). When considering historical context, scholars propose that this disparity stems from the many arms of the state—incarceration, policing, social work—being

used as systems to control marginalized communities (Alberton et al., 2021; Kaba, 2021; Walcott, 2021). Canada's history of segregation in sectors like education, employment and housing (Owusu-Bempah et al., 2023), and its ongoing colonial relationship (Chartrand, 2019) have caused an overrepresentation of Black and Indigenous populations in Canada's penitentiaries. Therefore, neoliberal framing capitulates that crime, violence, and incarceration is an individual evil, masking the asymmetrical nature of criminal punishment.

This centering of individual responsibility coupled with Canada's punitive criminal system excuses systemic harms propagated by its settler colonial past (and present). The role of the state, introducing tough-on-crime policies and reforms, expanded lengths of incarceration and made prisons a permanent element in how society "manages targeted populations" (Walcott, 2021, p.72). Often, these reforms increased the severity of punishments for crimes associated with poverty, meaning these targeted populations would consist of Canada's most marginalized. Because of this reality, abolitionists push back against the prevailing assumption that prisons are useful in curbing violence. In an interview with Dean Spade and Rachel Herzing, Spade emphasizes that "it would be impossible to resolve violence while the punishment system is in place since *it is violence*" (Ansfield et al., 2023, p. 190). This notion of systemic violence does not exist within neoliberal conceptions of individual responsibility and is indicative of its failings when imagining new, effective practices of justice. To capitulate to this framing cedes ground to continued structural violence (Ansfield et al., 2023).

Abolition frameworks allow us to consider a larger context when conceptualizing prisons. Reports have shown the roots of youth violence in Ontario to be intimately tied to anti-Black racism and zero-tolerance policies in schools (Owusu-Bempah et al., 2023). Tough-on-crime rhetoric eliminates the context of structural violence that affects the criminalization of Indigenous youth,

whereas community-based organizations (CBOs) directly challenge these narratives in order to refuse criminalizing logic (Dobchuk-Land, 2017). These institutional barriers, colonizing logic and ongoing state violence lead to increased poverty, criminalization and incarceration. In essence, the causes of "crime" are left unaddressed by maintaining the posturing of "individual choice" in the face of clear systemic harm that overwhelmingly affects marginalized communities (Chennault & Sbicca, 2025).

Abolitionist Conceptions of Violence

Abolitionists imagine different approaches to addressing violence, beyond incarceration and the neoliberal posturing of "individual responsibility" (Wacquant, 2009). American organizer Mariame Kaba (2021) goes to great lengths to prove that retributive systems are insufficient in addressing systemic harms and breed a culture of punishment that will never address its root causes. As she explains, caging individuals is not an answer to the questions of *why* a harm could occur, why it keeps happening, and what can be done for an act of violence becomes inconceivable in the first place (p.21). This practice would create true transformation in societal approaches to harm and be a practical way of approaching justice. None of which is possible under the proposed "sacrosanctity" of individual thought (Harvey, 2007, p. 24).

Even when harm is extremely personal—like domestic abuse, or gender-based violence—abolitionists argue that a true transformation of the harm is impossible within the dichotomy of criminal/victim. Punishing an individual offender, in the case of sexual violence, cannot create accountability and fails to consider the larger systems that interact with said violence: power dynamics, financial incentives, patriarchal structures, the intersectionality of identities, and the poor treatment of victims (Kaba, 2021). Kaba holds that the "root causes of violence are masked by the carceral state" (Kaba, 2021, p.92) and that an

abolition politic insists on imagining and organizing outside of this dichotomy. This framework provides a holistic view of violence and the positionality to address harm in all its complications.

Additionally, Kaba (2021) addresses the shortcomings of neoliberal frameworks of individual responsibility: it masks violence caused by systems that serve capital, such as the inordinate harms involved in the pollution of local rivers and wildlife because of corporate interest. Incarceration is poorly equipped to deal with larger, more substantial harms as they are not deemed violent, lacking a clear perpetrator and victim, since the harm is diffused through systems rather than bodies. In Canada, over two hundred lawyers misappropriated \$160 million dollars belonging to victims of residential schools—taking money belonging to the estates of the deceased, stealing trust funds and overcharging the government—and were simply allowed to pay the money back (Mallea, 2017, p.37). This same treatment of amnesty is offered to wealthy Canadians who have used offshore accounts but is unavailable to marginalized and poorer Canadians who have stolen much less (p. 37). Thus, punishment is dished out unequally and is unable to manage and transform violence outside of the individual.

An individualistic approach to harm and justice is insufficient, as it could only conceive of incarceration and the violence *of* incarceration as singular points of contention rather than an expression of state-sanctioned violence. Other forms of violence, like gender-based violence in American prisons, are critiqued by abolitionists through a framework of intersectionality as an extension of patriarchy (Davis, 2003) and are often perpetrated within Canada's prisons (Mallea, 2017). Creative systems of accountability include uncomfortable consequences and address harms in their greater contexts, whereas current systems of retributive 'justice' are propagators of cruelty by the state, further harming individuals and communities alike. This alternative practice of justice cannot exist devoid of any systemic analysis, which

directly opposes the individualistic ideology of neoliberalism.

Free Markets and Economic Reform

"Small Governments" Cannot Serve Justice

The practice of justice proposed by abolitionists are fundamentally at odds with neoliberal economic practices. Buitenhuis (2013) explains how prisons help the state manage neoliberal capitalism. The Keynesian state would use welfare systems to dissuade tensions between capital and labour, where the neoliberal state has set aside this priority. Neoliberal "small governments" decrease welfare spending while increasing funding for prisons (Buitenhuis, 2013). Instead, they use the prison to manage labour issues, especially with marginalized groups (Buitenhuis, 2013). Wacquant (2009) discusses how the penal state grows and is deployed in order to manage the disorder caused by a loss of welfare services and increased poverty. Herzing also stated the PIC is less about managing violence, but about "managing bodies," suppressing dissent and managing poverty (Ansfield et al., 2023, p. 190). Walcott (2021) reinforces this in the Canadian context, stating that the government's withdrawal of social services is part of the process of ongoing criminalization.

A necessary part of creating practical modes of justice is tackling economic priorities of the state in order to increase the population's safety. When state resources are overwhelmingly allocated to "security" measures, this does not necessarily make a population safer (Kaba, 2021). Using scholarly conceptions of the PIC, abolitionists understand that prisons are embedded in our economic systems, such that the organization of our economy is crucial to furthering a practice of justice (Walcott, 2021). According to Harvey (2007), the role of the neoliberal state is to preserve and maximize freely functioning markets. This could include creating new markets in sectors where they do not exist, but state interventions in markets (after creation) should be minimized (p.23). Alternatives proposed by the

abolition movement include a divestment in resources used for incarceration into social goods, like education, health care, employment opportunities, housing and social services (Walcott, 2021, p.76-77). These economic burdens have been offloaded onto families and individuals during the neoliberal era of welfare state reduction (p.77). While funding the physical “security” of the state, neoliberal economic policies reduce economic security (Wacquant, 2009).

Abolitionist justice through economic reform in Canada is necessary, as conditions in prisons continue to worsen and spending on correctional services continue to increase (Mallea, 2017). The federal government spends \$2.4 billion annually on managing the prison system, with its spending increasing by over 20% over the past 5 years (Walcott, 2021, p. 70). Provincial costs, which are mainly spent on remand, are around \$2.45 billion (Walcott, 2021, p. 70). Remand prisoners are people who have yet to be convicted but are confined while awaiting trial (Mallea, 2017). In 2022/23, remand accounted for 73% of provincial incarceration (Statistics Canada, 2022). Under the framing of PIC abolition, a divestment of these resources into caring for the vulnerable would be necessary for justice. Restructuring the economic responsibilities of government is one way abolition imagines just futures.

Creating Abolitionist Systems of Care

Under neoliberal economic policy, which demands the creation of markets in all facets of life, a reorganization of economic priorities would be impossible. Abolition does not solely require dismantling oppressive systems, but also a construction of extensive infrastructures for economic and social repair (Reinhart, 2023). It requires us to build and invent novel systems that do not currently exist (Ansfield et al., 2023). This includes basic infrastructure like housing, childcare and food for everyone, “not based [on] profit or domination” (Ansfield et al., 2023, p.189).

Greater economic instability motivates abolitionists to pursue a practice of justice steeped in an ethic of care. This ethic of care includes organizing with “economically abandoned” (Reinhart, 2023, p. 563) communities and disrupting dependence on the carceral system. This perspective regards solidarity with teacher unions, as they are an integral part of community work and belonging, and can directly intervene with cycles of youth incarceration and disrupt the pervasive school-to-prison pipeline prevalent in the States and Canada (Kaba, 2021).

An abolitionist ethic of care would tend to society’s most vulnerable and disrupt carceral logic. In 2011-2012, Canada spent about 1.1% of GDP (20.3 billion) on its criminal punishment, but only \$12 billion on Indigenous Affairs and Northern Development (Walcott, 2021, p. 61). This same trend of economic priorities exists in its municipalities: Toronto’s policing budget alone accounted for the same combined budget allocated for employment services, financial assistance and social supports, becoming its largest publicly funded item in its budget (p.60-61). Instead of overcrowding prisons (Mallea, 2017), these funds would be better spent addressing the root causes of harms, building better infrastructure and supporting the public. These sorts of initiatives would be a better practice of justice that disregards “free market” interests.

Furthermore, care systems intervene in cycles of rearrest associated with high rates of poverty, mental illness, addiction, and disability, and offer a route to rebuild structures of community solutions (Reinhart, 2023). Organizations like generationFIVE, led by survivors of child sexual abuse, present an alternative response to interpersonal violence because of their understanding of the punitive environment that perpetuates its harm and leads to violent cycles (Kim, 2021). This same disruption of carceral logic is present within Hollow Waters First Nations Community Healing Circles: organizers who understand the environment and history that

perpetuated generational trauma and sexual abuse inside their community have seen much success in reducing recidivism rates (Mallea, 2017). Similar efforts have been done with Indigenous CBOs in Winnipeg, where there is the highest per-capita number of police in any Canadian city (Dobchuk-Land, 2017). Harm does not exist in a vacuum: “no one enters violence for the first time by committing it” (Kaba, 2021, p.146). These practices of justice would become a holistic response to harm within a community, empowering their abilities to care for their members and environment (Kaba, 2021).

Kaba (2021) speaks on advocacy for prison reforms that diminish the punitive practice as part of an effective practice of justice. The Canadian state’s recourse to its carceral arm leads to fatalities like those in 2020: all nine police interventions that started as wellness checks led to shootings and were ultimately fatal (Walcott, 2021, p.62). Reinhart (2023) discusses the role of public health as justice, a framework equally applicable in Canada. Mental health issues are two to three times more common in prison, psychotropic drugs are prescribed for 30% of the incarcerated population (compared to 8%), and self-harm incidents in the federal system have tripled in the last decade (Mallea, 2017, pp. 101-102). In 2017, the College of Family Physicians of Canada (representative of thirty-five thousand doctors) called for an all-out ban on segregation practices in prisons (Mallea, 2017). The lack of healthcare for prisoners struggling with mental health issues, addictions, and physical ailments within Canada’s prisons (Weinrath & Ricciardelli, 2023) provides evidence that current institutions do not participate in a practice of justice that cares for its population nor improves upon harm. Robust healthcare systems are required to care for these communities and the currently incarcerated individuals. Reforms like these stand in direct opposition to current neoliberal structuring of the economy, as it emphasises communal participation rather than placing the burden of healing and transformation on individual agents.

Private Property and the Commons

Accumulation by Dispossession

Privatizing space is at the center of the carceral logic. Walcott (2021) states that our current society places private ownership at the center of success, and that property-related crime such as break and enter, vehicle theft, arson, shoplifting and vandalism are coupled with street crime as the apparatus that targets poor and Black people. Within a larger discussion of carceral logic, Harvey’s theory of neoliberal “accumulation by dispossession” (2007, p.34) provides a framework for understanding neoliberal modes of criminalization. This includes, amongst other things, converting various forms of property rights (common, collective, state) exclusively into the private sphere, suppressing the rights to the commons and imperial processes of appropriating assets (2007).

The commodification of space in Canada exists to protect property, not people. This is seen in an increase in urban renewal and gentrification-related projects (Chesnay et al., 2013) and anti-homeless infrastructure like fences, bars and spikes (Walcott, 2021). Parks, reserves and public spaces are being handed over to developers and corporations, creating a state of “organized abandonment” (Walcott 2021, p.84). Yet, our fear of the “other”, of those in our public spaces who have been cast away by current neoliberal policies, stems from our subconscious acknowledgment of social insecurity (Wacquant, 2009). This can be understood as an extension of our communal dispossession of the public space.

Transformative Nature of the Commons

Herzing and Spade discuss how public infrastructure and space is necessary to transform relationships in a communal abolitionist practice (Ansfield et al., 2023). City infrastructure like free reliable public transportation, functional street lamps, and community spaces provide the safety necessary for the difficult work of transformative justice (2023). To end the criminalization of

homelessness, build transformative relationships between communities, and as Walcott (2021) argues, to complete the abolition of slavery, requires a return to the commons—a shared ownership between people and land.

The increased privatization of space defines our understanding of criminalization. The precarity produced by the housing crisis leading to homelessness and “antisocial behavior” can result in someone meeting the carceral arm of the state (Walcott, 2021). Canadian legislation like the *Safe Streets Act* in Ontario and British Columbia (BC) have attempted to regulate urban disorder and target the growing homeless population (Chesnay et al., 2013). Furthermore, crimes like theft highlight that other kinds of property are part of what must be protected from those who cannot afford to own such property (Walcott, 2021). Abolition of property means “creating new meanings” (Walcott, 2021, p.86) and necessitates a transformative shift in how we understand and interact with life.

Challenging the organized abandonment of the state’s most vulnerable populations is at the heart of PIC abolition (Kaba, 2021). According to a 2008 statistic, 23% of charges in Canada were property offences whereas only 12% were considered violent (Mallea, 2017, p. 124). Under a neoliberal framework, the sanctity of private property means that a successful society is one that is organized around private ownership (Walcott, 2021). These priorities coupled with the punitive structures of “justice” leads to innumerable harms to poor and marginalized communities who are ultimately viewed as an “outsider” who did not belong in the space they occupied (2021).

Under an abolitionist ethic of care, we could shift and transform how we interact with these harms. A return to the commons would allow an expansive vision of our ethic of care, including the earth itself (2021). Shared ownership of the earth leads to its stewardship, and becomes a framework to addressing the harms that we cannot conceive as violent—such as Kaba’s example of river pollution—under our current punishment model (Walcott,

2021). In addition to environmental justice, this framework gives room to conversations of Indigenous sovereignty and practices of justice that are conducive to their histories and identities. A return to the commons would transform our current relations with our surroundings and create an effective practice of justice.

Here and Now, Abolition is Progress

This paper discusses the underlying systems that perpetuate carceral logic and punishment within Canadian society and imagines an alternative future for addressing harms. One might deem this vision to consist solely of ideological criticism that ignores present material realities. However, an abolitionist praxis is incomplete if it fails to address the current individuals and communities affected by incarceration (Kaba, 2021). Indeed, Kaba (2021) argues that direct actions that focus on individual cases, such as participatory defense campaigns, organizing for bail reform, support for those on parole, court watches etc., are equally important as they pressure local authorities and tend to specific individuals who have been harmed by the carceral state. As Davis (2003) comments, prisons have become part of our ideological landscape, an abstraction to remove society’s undesirables, relieving our need to inquire deeper into the causes of harm and violence—effectively rendering prisoners invisible “others.” To favor a systemic approach without tending to those communities behind bars concedes to this framing.

Abolitionist Dean Spade explains that prisons will not disappear quickly, yet abolition is a tool for discerning the directionality of current reforms (Ansfield et al., 2023). There is valid advocacy for *non-reformist reforms*: policy and actions that decentralize state power and deinstitutionalize prisons from our collective consciousness (Kaba, 2021). Within Canada, reformist reforms that legitimize imprisonment are best exemplified in the Gladue reports. In order to curb the overincarceration of Indigenous peoples, a Gladue report—a shortened life story that details the

effects of colonialism and its link to the criminalized Indigenous person—is brought before the courts and must be taken into consideration when sentencing (Oudshoorn, 2024). Since its inception in 1999, Indigenous mass incarceration has risen from 15% to 30% in 2020 (Oudshoorn, 2024, p. 245). The lackluster success of this recourse demonstrates how reformist reforms, those who reinforce state power without addressing the state's role in oppression and violence, are not viable solutions to longstanding change.

In contrast, the Hollow Water First Nation (in so-called Manitoba), has found alternative, community-based approaches to justice that address the very specific history and context within which this violence has occurred (Mallea, 2017). In the 1980s, alcohol use was nearly 100%, unemployment at 70%, and three generations of residents had suffered from sexual abuse, had perpetrated sexual abuse, or both (Mallea, 2017, p.164). At the time, about 70% of the community had experienced this harm, and 50% had caused it (Mallea, 2017, p.164). When it comes to interpersonal harms, such as sexual violence, it is difficult to imagine what community-based organizing can achieve. Yet, a group of community leaders established the Community Holistic Circle Healing Program (CHCH) and revived their traditional recourse to interpersonal violence. Instead of going through the Manitoba court system, individuals who faced enough evidence to be convicted were delegated to a period of four months to traverse “four circles” that included CHCH workers, family members, victims, and community members (Mallea, 2017). The details of their healing process was attuned specifically to their community needs, outside of the colonial relationship between the Hollow Waters

community, the RCMP and Manitoba courts. By 2001, only two of 107 individuals had reoffended—six times less than the national average of recidivism for sexual abuse cases (Mallea, 2017, p.165). This is but one example of Davis' (2003) call to imagine a “constellation of alternative strategies...[to remove] the prison from the social and ideological landscapes of our society” (p.107).

Conclusion: Prisons in the Global Context

Prison abolition is a refusal of the normalization of the present organization of human life (Walcott, 2021). Historically, Canada's carceral system has been a vehicle of settler state building (Chartrand, 2019). Dismantling Canada's prisons and building an effective practice of justice requires a reimagining of the methodologies that entrench incarceration within neoliberalist practice and ideology. This includes challenging individualist rhetoric that excuses systemic harm, neoliberal economic policy that worsens the population's safety, and moving from private property into the commons.

Global abolition means imagining a new world. Prisons have become a symbol of state legitimacy even though its reality is devoid of any semblance of justice (Drake, 2018). As an ideal of Western of democracy, prisons have been “exported” through the globalization of neoliberal thought (Drake, 2018). Currently, prisons detain refugees in the Global North (Mallea, 2017), subjugate populations under colonial and apartheid regimes (Qafisheh, 2016) and create modern-day concentration camps (Alemn & Cano, 2025). Prison abolition creates an opposing praxis that demands an imaginative and revolutionary approach to justice.

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BIOPOWER, WOMEN'S SPORT, AND TRANS PANIC: WHAT DOES IT TAKE TO MAINTAIN GENDER?

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Sport has become the site of focus for attacks on trans rights, where people's support for trans rights weakens and where transphobic rhetoric comes out in full force because it is "unfair" for 'biological men' to compete in women's sports. Politicians are hyper-fixated on trans women athletes and their alleged threat to women's sports. Consequently, all women athletes are hyper-examined. Are they really women? Do they seem feminine enough? In the 2024 Paris Summer Olympics, several women athletes had their womanhood denied because they performed too well in their respective sports. Imane Khelif, an extraordinary boxer who identifies and has always identified as a woman, won a gold medal at the 2024 Olympics. Many vocal anti-trans propagandists, including JK Rowling and Elon Musk, challenged her sex and gender because her performance was perceived as too impressive to be a woman.⁶⁷ The underlying assumption behind the inquisition into Khelif's sex was that sex determines ability; men are assumed to be universally superior to women, making it an unquestionable fact that men are stronger than women and women will never be able to reach their level of expertise in sports. Thus, people question whether any high-performing woman might *actually* be a man in disguise. Khelif was unmade as a woman because she presented too masculinely and performed in ways people did not believe a women could. If these traits are as inherent and fixed as we are constantly reminded, they are, why do social groups and institutions put such force into maintaining them,

and how can they be unmade so easily? The very process of unmaking Khelif's gender emphasizes how gender is shaped by social and cultural beliefs, rather than existing as an inherent and fixed thing. Khelif's case and the increased politicization of sports calls into question the work that goes into creating sex and gender. This paper examines how sport has become the site where binary gender and sex are heavily produced, regulated, and maintained.

Michel Foucault's "*Society Must be Defended*" lectures offer a useful model to trace the power effects underlying the trans panic in sports and subsequent regulation in women's athletics.⁶⁸ Foucault describes biopower as a regulatory power which seeks to monitor, control, and regulate biological functions.⁶⁹ I argue that biopower is employed through discussions of fairness in sport to maintain heteropatriarchal social values and beliefs, specifically notions of biological essentialism, male superiority, and the gender binary. Through discussions of protecting women in sports, women become biopolitical and highly regulated subjects rather than high-performing athletes. Using biological sciences, Foucault asserts that the state seeks to regulate and stabilize things like reproduction rates, mortality, and longevity using the biological sciences.⁷⁰ From a biopolitical lens, sex and gender become important phenomena to strictly regulate in relation to reproduction, a function the state is deeply invested in. Heteronormativity becomes valuable to the state as a way of regulating human reproduction. While

⁶⁷ Brock Wilson, "Misinformation persists online after super-brief Olympic boxing bout," *CBC News*, August 3, 2024, <https://www.cbc.ca/news/world/imane-khelif-algerian-boxer-gender-1.7283949>.

⁶⁸ Michel Foucault, "*Society Must Be Defended*," (Picador: 2003).

⁶⁹ Ibid.

⁷⁰ Ibid.

hormones like testosterone have become standardized for average men and women, human biology cannot be so neatly and meaningfully categorized into those who have a penis and those who have a vagina. Yet, biopolitical mechanisms ignore this reality to order people in ways that simply categorize individuals by their reproductive capabilities into distinct biological categories and capabilities.

Sport has become a site where biopower is exercised in full force to categorize sex and gender. Trans rights have become the hot topic of political debate, and sport is an area where people have the most difficulty accepting trans rights because questions of fairness come into play. How can a 'biological male' play in women's sports when men have so many biological advantages over women? The underlying assumption here is that men are fundamentally superior to women, and biopolitical mechanisms come out in full force, sorting individuals by biological generalizations to easily regulate populations on the basis that women are weaker than men. New policy proposals to inspect women before they are allowed to compete to ensure they are 'actually women' highlight the pervasiveness of biological surveillance and regulation of gender and sex in sports.⁷¹ Invasive hyper-surveillance is repackaged as protecting women's opportunities in sport. Such biopolitical mechanisms are on full display in Donald Trump's America. On February 5, 2025, Trump passed an executive order to protect women's sports by keeping 'men' out.⁷² He claimed that allowing trans women into sports ignores "fundamental biological truths between the two sexes" and "denies women and girls the equal opportunity to participate and

excel in competitive sports."⁷³ To his second point, it is worth noting that there are fewer than ten trans women athletes in America's National Collegiate Athletic Association (NCAA), out of 235,735 total women athletes.⁷⁴ Therefore, we must question whether the motive of these policies is actually to protect women's sports, or if it serves another agenda: reinforcing again and again that men and women are entirely separate and could not possibly compete together or be equal, as is highlighted in his first quote. Trump's political agenda does not aim to protect women's sports opportunities. Instead, it creates and reinforces binary gender and sex divisions. Trump's order creates a political panic which justifies the biological regulation of women and individuals deemed outside the gender binary.

Trump's idea of "fundamental biological truths" asserts a dangerous and violent generalization which subjugates diverse gender identities and sex variability. In Foucault's first lecture, he cautions that scientific knowledge production is used to obscure and subjugate knowledge that others would wish we ignore.⁷⁵ Science as a field seeks to generalize and universalize information through the "objective" scientific method. In reality, scientific inquiry can instead obscure certain types of knowledge. For example, the knowledge of binary sex, which many people accept as fact, is produced and maintained through the false application of scientific inquiry. Identities outside the binary become a subjugated knowledge. They were made unreal by "fundamental biological truths" and repackaged as a novel fade created by the woke left. *Men are men and women are women, and these are fundamental*

⁷¹ Eddie Pells, "Track's proposed eligibility, transgender rules would completely ban Semenya and others," *CBC News*, February 10, 2025, <https://www.cbc.ca/sports/olympics/summer/athletics/track/track-transgender-eligibility-rules-1.7455213>.

⁷² Donald Trump, "Keeping Men Out of Women's Sports," *The White House*, February 5, 2025, <https://www.whitehouse.gov/presidential-actions/2025/02/keeping-men-out-of-womens-sports/>.

⁷³ Ibid.

⁷⁴ Brooke Migdon, "NCAA president says there are 'less than 10' transgender athletes in college sports," *KGET*, December 18, 2024, <https://www.kget.com/sports/ncaa-president-says-there-are-less-than-10-transgender-athletes-in-college-sports/>.

⁷⁵ Foucault, *Society*.

biological truths that have existed since the beginning of time. Anyone who says otherwise denies science, the absolute marker of true knowledge. These arguments ignore a true biological reality: human biology does not only recognize two binary sexes. Intersex individuals—meaning individuals with sex characteristics outside the traditional male/female binary—make up approximately 1.7% of the population.⁷⁶ Yet, politicians aren't interested in this biological reality. Instead, they mobilize the panic around fairness in sport to regulate men and women as distinct entities. Anti-trans, biological essentialist rhetoric obscures the reality of sex diversity. Sex is naturalized and essentialized to fit into the frame of reproduction. Through this rhetoric, sex determines one's ability in sport and performance is limited by one's female sex. High-performing women are unmade as women because they fail to behave in the ways the fundamental truth of the male/female binary demands.

I would like to briefly turn to Mary Wollstonecraft's *Vindication of the Rights of Women* to examine the parallels between her arguments and arguments against transphobic and gender-essentialist rhetoric—parallels which trace a history of feminist fights against knowledge subjugation and biopolitical power achieved through biological determinism. Wollstonecraft, a feminist thinker from the 1700s, wrote at a time when women were denied education because it was a biological fact that women were rationally inferior to men and that they could not possibly learn to the extent that men do. She argued that women are only rationally inferior because they have not been given the same opportunity to learn as men.⁷⁷ Her essay provides an argument against the biological

essentialism and determinism of sex and gender. Women's rational inferiority was a biological truth and common-sense social reality in the same way that women's physical inferiority is a biological truth and common-sense reality. Gender was and is essentialized as a biological phenomenon. Women were and are consequently oppressed based on their biological reality. While it is now a (hopefully) accepted fact that women are more than capable of learning to the same extent as men are, it remains, in the eyes of most, a delusional fantasy that women are capable of the same level of competition that men are.

What facts about sport are concealed by the base assumption that women are biologically inferior? How are the stereotypes about women's biology made real? The National Collegiate Athletic Association in the United States invests almost twice as much money in its male athletes than in its women athletes.⁷⁸ Would men and women perform equally if they received equal investments? Sport participation rates for boys and girls are also vastly different. One in three girls in late adolescent sport drop out, compared to one in ten boys.⁷⁹ Are we driving talented women athletes away while retaining and investing in the athletic abilities of men? Can we really say women are inferior if they aren't given the opportunity to be equal, as Wollstonecraft argued over 200 years ago? Biopolitical power exercised through sport reproduces ideas of common-sense sex divides. The attack on trans women in sports reinforces women's inferiority through the common-sense logic of fundamental biological truths due to the almost universally accepted fact that 'biological men' are stronger than 'biological women.' The political focus on whether trans women should compete in

⁷⁶ Office of the United Nations High Commissioner for Human Rights, "Intersex people," *United Nations*, n.d., <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/intersex-people>

⁷⁷ Wollstonecraft, *Vindication*.

⁷⁸ Jaclyn Diaz, "The NCAA's focus on profits means far more gets spent on men's championships," *NPR*, October 27,

2021, <https://www.npr.org/2021/10/27/1049530975/ncaa-spends-more-on-mens-sports-report-reveals/>.

⁷⁹ Alex Grey, "Canadian Girls Are Dropping Out of Sport According to National Study," *Canadian Women & Sport*, n.d. <https://womenandsport.ca/canadian-girls-dropping-out-of-sport/#:~:text=Among%20girls%20who%20have%20participated,is%20only%201%20in%2010.>

women's sports obscures the real debate we should be having: how have we come to believe so definitively and without question that women are weaker than men? Ability in sports is determined exclusively by biology, so we ignore the other social factors that might limit a woman's ability to excel in sport. Biopolitical mechanisms in sport regulate women's bodies, reduce them to biological subjects, and unmake women as women when they defy gender norms under heteropatriarchal assumptions of gender and ability.

The story of Caster Semenya, an incredible South African runner and athlete, demonstrates how women can be unmade through biopolitical processes. Her story highlights the fragility of the sex binary and the social limitations imposed on women. In 2009, Semenya won an extraordinary race. Due to her incredible performance and masculine appearance, people began to question her womanhood.⁸⁰ She was forced to undergo "gender verification tests" to ensure she was a woman.⁸¹ The very existence of these tests highlights how gender is so severely essentialized in the context of sports; however, these tests concluded that she had three times as much testosterone as the 'average' woman,⁸² meaning she was not a real enough woman to continue competing. Semenya was forced to take a series of medications to reduce her testosterone to more acceptable levels for a woman to have to continue to be an athlete.⁸³ She was labelled intersex, and therefore unmade as a woman. Proposed track regulations would restrict Semenya, and other women deemed non-women, from competing because of their higher-than-average testosterone levels,⁸⁴ highlighting how women athletes are seen as biopolitical subjects who must fit within narrow biological definitions of

womanhood to compete. These narrow definitions of womanhood also strictly align with Western, white definitions of a woman and further marginalize racialized women, such as Caster Semenya. Women's biology is weaponized against them, all in the interest of protecting opportunities for women in sports. Importantly, strict regulation and monitoring exist only for women. Exceptional women are subjected to heightened regulation and surveillance because of their biological advantages, whereas men are celebrated for their exceptional athletic abilities, even with biological advantages. Michael Phelps, regarded as one of the best swimmers of all time, has numerous biological abnormalities, such as his webbed feet and ability to produce half the lactic acid of a "normal man," which do not disqualify him as a man.⁸⁵ No one would ever even consider unmaking him as a man, because within a heteropatriarchal framework, men can excel without limits; yet, Semenya's advantages disqualify her as a woman. The contrast in treatment between Semenya and Phelps demonstrates the way biopower is employed under heteropatriarchal assumptions of male superiority. Only women athletes are biologically monitored and regulated, justified by the panic that trans women might be stealing opportunities from women athletes. Men are not thought of as inferior and can therefore benefit from any number of biological advantages. Through biopolitical surveillance and regulation, women athletes are limited to social assumptions of their biology or else they are unmade as women. The heteropatriarchal belief is that a woman athlete must either be inferior to male athletes or must not be a real woman.

Semenya released a memoir titled "The Race to be Myself." In this book, she describes

⁸⁰ Tshepo Mokoena, "Caster Semenya: 'How would I label myself? I'm an African. I'm a woman. I'm a different woman,'" *The Guardian*, October 28, 2023, <https://www.theguardian.com/sport/2023/oct/28/athlete-caster-semenya-interview-im-a-woman-im-a-different-woman>.

⁸¹ Ibid

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ellis, "Track's Proposed Eligibility."

⁸⁵ Colleen de Bellefonds, "Why Michael Phelps Has the Perfect Body for Swimming," *Biography*, May 14, 2020, <https://www.biography.com/athletes/michael-phelp-perfect-body-swimming>.

herself as a different woman, rejecting the intersex label imposed on her.⁸⁶ Semenya asserts that “I’m a different woman. That’s the only term I can use.”⁸⁷ This testimony demonstrates how categories of men, women, and other—where Semenya is placed in the ‘other’ category—are ignorant of the lived experiences of real people. Foucault challenges fields that attempt to universalize knowledge without regard for how it is individually applied.⁸⁸ Applications of biological sciences attempt to say there are only two sexes, or that we can assign people labels of male, female, and intersex based purely on sex characteristics. Semenya’s story demonstrates how the biopolitical athletic regulations, which make overarching generalizations about what a woman can and cannot be by essentializing gender to a biological phenomenon, fail to capture what a woman actually is. Biopolitical rhetoric declares that all women must behave in certain ways and cannot possibly excel in other ways. Semenya’s hormone levels are unnatural, and therefore, she is not a woman. Her personal experiences, however, reject this notion of strict womanhood. Biopolitical processes function on a macroscopic level, ignoring the experiences and reality of the individual. Semenya is a phenomenal athlete whose strength is seen as too good for her to be a woman, despite how she understands and has always understood herself. Semenya’s testimony uncovers the exceptions to biopolitical rigid regulations of sex and gender and emphasizes the need to abandon current categories and regulations of gender in sport.

Why have politicians invested so much time, money, and energy into attacking trans athletes and ‘protecting’ women’s sports? This political focus invokes Foucault’s idea of state racism.⁸⁹ The biopolitical state’s political structure and entire reason for being is now to make live.⁹⁰ That is to say, the role of the state is to prolong the

life of those it considers state members. The state incorporates state racism into its political toolbox to distinguish between members of the state and threats to the state to avoid its mandate of protecting life.⁹¹ Transgender and gender non-conforming people threaten how the state has organized society and ordered people neatly into male and female categories; they challenge the heteropatriarchal mission of ordering people according to reproductive capabilities. Therefore, the state’s goals are at odds; it struggles to make members of the state live, while the very existence of certain members of the state threatens the social order. State racism directed toward trans and gender non-conforming individuals solves this contradiction by denying transgender and gender non-conforming people the right to live. Instead, the state attempts to erase them from existence. Sport provides the perfect venue for state racism to be hyper-focused. Sport is where people often draw the line for trans rights because “fundamental biological truths” are easily weaponized. Sport is one site where the gender and sex binary becomes most pronounced, because, of course, women are biologically inferior to men, and it is simply unfair for biological men to compete in women’s sport. This rhetoric is continually fed to us through debates about fairness in sport. Whereas social acceptance has increased for trans people in some areas of society, and it is a somewhat more widely accepted truth that gender is a social construct and not a biological reality, sports re-essentialize gender and sex as strictly biological facts that have no nuance or opportunity for debate. People who try to advocate for the inclusion of trans women in women’s sports deny “fundamental biological truths.” Through sport, state racism can be violently mobilized, “derealizing” people who do not fit within norms of gender and sex and excluding them from social rights and protections beyond sport.

⁸⁶ Mokoena, “Caster Semenya.”

⁸⁷ Ibid.

⁸⁸ Foucault, *Society*.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

Trans-exclusionary political rhetoric drives biopolitical regulations in sport. It fuels the notion that men and women are distinct categories of being. Biopower is thoroughly exercised in sport to drive heteropatriarchal ideas of male superiority. Through heightened regulation and surveillance, the state dehumanizes people who do not fit the gender binary or challenge heteropatriarchal notions of gender and sex. Sport is a site where gender and sex are hyper-essentialized as strictly biological phenomena. Anyone who dares suggest women and men might not be as distinct as we make them out to be, or that a woman can excel in sport to the degree that men can, denies fundamental biological truths. The fear that trans women might be stealing opportunities from 'biological women'

has enabled widespread transphobia to be exercised in conversations of sport, mobilizing the state mandate of neatly ordering people into biopolitical subjects of male and female. As a result, people constantly buy into the idea that gender and sex determine ability is unquestionably a fact. These mechanisms naturalize and produce sex and gender as binary realities, subjugating the knowledge of any sex or gender diversity. This political rhetoric unmakes high-performing women as women and suggests they are something Other to maintain heteropatriarchal values across society. We must question the common-sense reality of sex in sport and de-essentialize gender and sex as a biological reality that determines what women can or cannot achieve.

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A L E T H E I A