

HISTORICIZING SEXUALITY: MATERIALISM, RECENT TRENDS, AND SURPLUS
POPULATIONS

By

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Abstract

Traditional Marxist historical materialism employs a material analysis that privileges how capitalism interacts with subject formation and has been used in recent historicizations of sexuality. This paper understands that line of analysis to be gendering, racializing, and pathologizing and examines LGBTQ history as a starting point to decenter capitalism from the analysis. Using Roderick Ferguson's "queer of color" critique, this paper maintains that more specifically, history should attend to the emergence of surplus populations which capitalism keeps hidden. Under the umbrella of queer of color critique, migration studies, transnational perspectives, and the destabilizing nature of queer theory all have the capacity to provide a fuller view of sexual difference and the histories of LGBTQ and other surplus populations. Furthermore, a legal framework provides an opportunity to take theory into practice by examining legislation with the analytical scope of queer of color and from an anti-capitalist vantage point.

Keywords: historical materialism, queer of color critique, surplus populations

The history of sexuality has largely been charted through a materialist analysis, focused on the ways capitalism interacts with the production of sexualities and identities. In the Marxist narrative, capital disrupted the communal nature of man and permitted the emergence of deviant subjects such as the prostitute. More contemporary discourses on the emergence of new sexual identities maintain this interest in capital as liberating but, in lieu of the pathologizing tendency of Marxist historical materialism, assert that non-normative sexual identities have been permitted and closely managed by state efforts to discipline populations into productive laborers. As Foucault (1990) states, “Our epoch has initiated sexual heterogeneities” (p. 37). In a similar fashion, our epoch has also initiated materialist heterogeneity. Despite their differences, both Marxist and contemporary deployments of historical materialism leave little analytical room to consider social groups whose formations cannot be immediately indexed as products of capitalism. Indeed, liberal capitalism demonstrates the potential to catalyze and enable, to an extent, the emergence of differential subjects and social groups, but to what ends has materialist analysis discarded and neglected the historicization of groups deemed to be in surplus?

In the introduction to his *Aberrations in Black*, Roderick Ferguson (2004) examines this concern as a problem of historical materialism, a mode of critique that privileges materialist analyses of history and marginalizes non-normative subjects whose ties to capital are less transparent and more complicated. In a subsequent paper, Ferguson (2009) employs the concept of “surplus populations” more thoroughly to address these silences. Ferguson’s (2004) analysis of surplus populations operates off a larger framework of “queer of color” critique in which an interest in materiality is maintained alongside an “understanding of nation and capital as the outcome of manifold intersections that contradict the idea of the liberal nation-state and capital as sites of resolution, perfection, progress, and confirmation” (p. 3). As state regulation and

capitalism converge, contradictions occur between individualism and the pressures of state-sanctioned heteronormativity. It is within these contradictions where surplus populations are found. This paper aims to extend the concept of surplus populations as a tool of intervention for documenting sexual history and as a foundation for queer of color analysis.

Marxist Historical Materialism

Historical materialism attends to history by privileging analysis of the material relations of capitalist production. This presents a problem to queer of color critique because queer of color critique attempts to locate emergences of populations deemed, in capitalist terms, to be in surplus to the demands of capital and thus discardable and unknowable. Simultaneously, this presents a problem to how we historicize these emergences because the ideology of historical materialism is rooted in gendering and racializing tendencies. If history can only understand the emergence of sexual difference through capitalist terms, those emergences whose ties to capital are less apparent and more complicated—such as, for example, the immigrant or the single, black, “welfare queen” mother—become more difficult to track as historical subjects. Considering the vectors of difference that far exceed race, gender, and sexuality, historical materialism simply has not offered the capacity to properly historicize and understand the emergences of surplus populations.

A prime concern with Marxist historical materialism is its tendency to offer limited, surface-level observations of the “reality” of capitalism. As Ferguson (2004) argues, in Marx’s historical materialism, “empiricism functions hegemonically, making representations seem natural and objective” (p. 5). If an attention to capital is at the center of these observations, the invisibility of surplus populations is easily deemed natural and objective. This is especially critical because liberal capitalism’s “amoral logic” does not always oblige normative

assemblages of labor; when it does, it is under pressures sanctioned by state normativity (Ferguson, 2004, pp. 16-17). As a problem of history, then, historical materialism cannot attend to the inconsistent assemblages of surplus labor since they are not immediately located at the surface of empirical “reality.”

Marxist historical materialism also complicates how we chart and understand history by universalizing race and gender. Ferguson (2004) reminds us how Marx conceptualized the prostitute as the defining detriment of capitalism. To Marx, the prostitute represented a departure from a “heteropatriarchal” natural order that characterized man’s natural attachment to “communal essence and identity” (Ferguson, 2004, p.6). Additionally, the prostitute demonstrated to Marx how capitalist relations of production enabled a corrupt self-interest, or egoism, within the laborer (Ferguson, 2004). Since the prostitute was self-interested in commodifying her own body, she was most readily defined as a deviant subject of capitalist development under racial and gendered standards. In the Marxist sense, then, the expansion of capital meant the inevitable transgression of racial and gendered hegemony (Ferguson, 2004). Marxist historical materialism offers limited utility for understanding sexual history because it contradicts its grasp on capitalism as liberating by adhering to universal criteria for how race and gender are ordered under relations of production.

Renegotiating Marx’s formulations, more contemporary historians have employed historical materialism to chart sexual history in less pathologizing ways. Beginning with John D’Emilio and Estelle Freedman’s (1997) *Intimate Matters*, this paper tracks historical materialism as it begins to engage with the history of sexuality to examine how overarching governance over relations of production have historically suppressed non-normative sexualities. This analysis shifts towards an analysis of state governance in D’Emilio’s (1997) essay,

“Capitalism and Gay Identity,” George Chauncey’s (1994) *Gay New York*, and in Susan Stryker’s (2008) *Transgender History*. Although this trajectory of historical materialism suggests a departure from tradition, its focus is still positioned around how capitalist relations of production structure the material reality of sexually differentiated subjects. Inevitably, these discourses still obscure and neglect opportunities to understand and attend to surplus populations whose lives are indirectly shaped by, yet directly discarded by, normative capitalism. This is not to say that these analyses are wrong but to, instead, offer an analysis of surplus populations as an intervention for recent trends in the historicization of sexual history.

Recent Trends in Revaluing Historical Materialism

D’Emilio and Freedman’s (1997) historicization of sexuality in colonial America provides a useful context for thinking about the initial departure from Marxist historical materialism to a more conscious yet limited historical materialism. Prior to the advent of American industrialism, deviance was identified and quickly repressed. D’Emilio and Freedman (1997) examine the repressive nature of colonial America and show how sexual difference in colonial times was, by default, a symbol of deviance and a transgression of a pre-industrial capitalist order. In colonial America, the individual typically carried different imperatives than one would in today’s postmodern world; the colonial family functioned as a single economic unit in an agricultural economy as families acted collectively to consume and produce goods and services. Children were imposed with the obligations of productivity and governmentality as they, too, were utilized for labor. Because labor was so dependent on children, the imperative to reproduce was entirely imbued within the meaning of sexuality—marital procreation effectively sustained the familial and economic structures of colonial America (D’Emilio & Freedman, 1997).

D'Emilio and Freedman (1997) continue to assert that in colonial America, sexual regulation was racialized and gendered. Acts of sexual “deviance” were defined as typically involving adultery or sodomy and were often perceived as a threat to white supremacy, especially in the Southern colonies. As large numbers of Africans were channeled into America as slaves, racial prohibitions were applied to colonial communities, banning interracial sex and marriage while promulgating hierarchal race relations (D'Emilio & Freedman, 1997, p. 35). Sexual offenses were also gendered as men's crimes involved sodomy and rape while women were most likely to be persecuted for marital transgressions (D'Emilio & Freedman, 1997, p. 37). The historical materialism employed by D'Emilio and Freedman's attempt to tell the story of colonial sexuality demonstrates a continued tendency to universalize the pathologization of race, gender, and sexuality as inevitable outcomes of material obligations of capitalist production.

Charting the shift from colonialism to industrialism, contemporary historians have renegotiated historical materialism to attend more critically to the state regulation initiated alongside the emergence of liberal capitalism. At its advent, industrial America witnessed an expansion of capital and a new era of individualism. As capital developed, the hegemony of heteronormative family-based production diminished and the US experienced an increase in non-normative social formations and the development of their own alternative politics and social spaces. These newly articulated histories tell the same story of capitalist inevitability, noting how once industrial America was established through more secular terms, new forms of sexual identity emerged in the public to become players in a historical context of liberal capitalist governmentality.

This historical analysis surfaces in D'Emilio's (1997) "Capitalism and Gay Identity." D'Emilio's essay asserts primarily that the emergence of gay identity was a direct effect of capitalism. Amidst the development of industrialism and liberal capitalism, individuality became a highly-valued characteristic in America. Gay individuals politicized their lives and formed collectively based on solidarity, socializing in various spaces in the big city, all while inciting a range of political repercussions. This was possible because capitalism weakened the material basis of the nuclear family by giving individuals the means to produce and consume independently (D'Emilio, 1997). Under D'Emilio's (1997) historical materialism, capitalism's convergence with the state also continues to foster competition, hierarchies, and a privatized heterosexist family system. Although D'Emilio's (1997) historical materialism is considerate of an apparatus of state regulation, it still places material analysis at the center of its argument. George Chauncey's (1994) *Gay New York* tells a similar story of the emergence of gay identity in early 1900s New York City.

Chauncey's (1994) *Gay New York* offers a historical materialist viewpoint on the public socialization of gay men in the context of capitalism. Gay men typically lived in cheap rooming houses with small rooms and minimal furniture where there was hardly any supervision imposed. Additionally, these rooming houses were easy to move out of, providing tenants and specifically gay men access to mobility (Chauncey, 1994). Rooming houses served as a form of a base for gay men to develop mobile social networks and, for newcomers, to receive guidance in navigating social life in the city. Concurrently, efforts were made to provide "moral" alternatives for working class migrant men seeking community, such as the YMCA, which eventually developed into gay social centers anyway (Chauncey, 1994).

With the intention of supplying an urban counterpart to the rural family migrant workers left behind, residential hotels like the YMCA's Sloane House and the West Side Y were established in the city. These soon became central to the community of gay men seeking gay social life in the form of simple and casual social hangouts or through discreet sexual contacts. Though intended more for migrant workers, even gay men from NY would frequent these establishments on the weekends using fake names and addresses (Chauncey, 1994). All patrons, however, were still subject to some type of repressive, albeit somewhat lax, regulation. There was an ambiguous sense of authority from the upper management of the YMCA, too; crackdowns on the more obvious floors of the hotels were ordered through proxy employees who, according to Chauncey (1994), may have also been gay themselves.

Soon, apartment homes and hotels were developed as more respectable forms of housing. In a city where inbound migrants were herded into tenements, the bourgeois family's inevitable presence in the apartment home carried classist implications. At this point, a gay middle-class of men had settled with heightened opportunities for privacy and socialization, another component of Chauncey's (1994) historical materialism. Middle class gay men no longer had to assume surveillance by owner-landladies and instead, these apartments were monitored simply by employee-doormen (Chauncey, 1994). Even more importantly, middle-class gay men could entertain company in these private apartments free from police harassment that could happen in public spaces (Chauncey, 1994). The developments of these forms of housing reflect the industrial and capitalist developments in 20th century America. Chauncey (1994) also considers this historical materialism by examining gay socialization around the cafeteria scene.

In early 20th century New York City, cheap restaurants, cafeterias, and other lunch counters such as the Childs cafeteria and the Horn and Hardart automat served as social spaces

for gay men. While Childs cafeteria was generally a white-collar location, the automats catered to individuals in lower classes, specifically gay men. However, they weren't simply attractive to working class gay men for being cheap. The automats' services were carried out by vending machines which meant the automats were not supervised (Chauncey, 1994). Gay clientele could, in effect, express their real selves in these spaces although not entirely without the fear of possible authoritative repression. At these businesses, authority was kept at a distance as gay patrons generated business and were perceived as tourist attractions (Chauncey, 1994). The historical materialism that Chauncey (1994) develops asserts that as capital expanded, so did the opportunities for social space. Chauncey (1994)'s work is much like D'Emilio's (1997) in the sense that in examining how gay identity has been regulated, it privileges an understanding of capitalism as the force behind that regulation.

In the same vein as Chauncey's (1994) and D'Emilio's (1997) historicization of gay identity, Susan Stryker (2008) explores transgender history beginning in the latter half of the 19th century and proceeding throughout the 20th century in *Transgender History*. The 20th century period is critical to Stryker's (2008) historical materialism because, again, it is when liberal capitalism began to proliferate and stabilize itself as part of the "order" of the Western world. This proliferation, much like with the development of gay social worlds, also mobilized these liberating circumstances for people seeking alternative modes of gender expression (Stryker, 2008). Along with these new capitalist opportunities, many social, political, medical, and legal discourses were employed alongside the development of this transgender history, contributing to the general discrimination of transgender people as well as the production of various power structures. Stryker (2008) examines these emergences while still operating from a position of historical materialism as she historicizes the Compton's Cafeteria and Stonewall Inn riots.

The Compton's Cafeteria riot was a highly unnoticed riot that occurred on a summer night in 1966. Frequented by drag queens, hustlers, and others, Compton's Cafeteria in the Tenderloin neighborhood was a self-proclaimed space for its patrons where they could socialize and, in some cases, engage in sex work in a seemingly safe environment (Stryker, 2008). Regardless, the establishment was still subject to authoritarian oppression. Following conflict between a drag queen and a police officer, a riot ensued one night at the cafeteria that reinforced the constituted social space for the trans and gay population in the Tenderloin neighborhood. The militant response to their oppression did not solve the daily issues of transgender people, but out of it developed a higher visibility of the trans community in San Francisco that called for an improved relationship between the city and its transgender citizens (Stryker, 2008).

The Stonewall Riots were another instance of collective resistance to oppression by sexual minorities that took place in 1969 outside of the Stonewall Inn in New York City, a bar that tended to nonconformists of a variety of types. In the middle of a summer night, squad cars arrived at the Stonewall Inn and began to arrest workers and other patrons, provoking violent resistance. By the next night, thousands had gathered outside of the Stonewall Inn to protest the injustice (Stryker, 2008). These riots signaled a growing collective of political action amongst gay and lesbian, transgender, and other nonconformist communities but also demonstrated the capitalist governmentality of social spaces and the hierarchized and oppressive response by authorities to social formation. Commonly mistaken as solely an event of gay liberation, conceptions of these riots generally only involve the heroic cisgendered white gay male despite the diverse composition of Stonewall's patrons. Thus, the Stonewall Riots established political opposition by transgender people and queer people of color.

Stryker's (2008) historicization of transgender emergence in the US still functions as historical materialism but her account of the Compton's Cafeteria and Stonewall Inn riots approaches a queer of color analysis considerably more evident than in Chauncey's (1994) and D'Emilio's (1997) work. Although Stryker attributes transgender emergence largely to capitalist progression, her work also details how trans and queer presence were rearticulated amidst the complicated power structures that have historically regulated them. This is crucial because transgender individuals easily slide into surplus roles amidst the liberal landscape of capitalism. Trans activists continue to seek more transformative social change aside from the mere enumeration of the letter "T" in LGBTQ and the life chances of transgender individuals continue to be among the lowest. As the argument of this paper maintains, an analysis of surplus populations is necessary to critique the concurrent emergences of their subjectivity and their struggles.

Surplus Populations and Queer of Color Critique

Telling the history of LGBTQ formation through capitalism makes less visible the intersecting power relations that structure the lives of surplus populations. While Stryker's (2008) *Transgender History* nears a queer of color critique, it nonetheless mirrors a trend in historical materialism, much like D'Emilio (1997) and Chauncey (1994), that places the emergence of capital at the center of analysis. Capitalism does not simply produce identities and encourage social formation; concurrently, it produces surplus populations which, through the exercising of various power structures, are then discarded as such. Ferguson (2004) employs this analysis as a component of queer of color critique which "build[s] on the idea that capital produces emergent social formations that exceed the racialized boundaries of gender and sexual ideals, [which] can help explain the emergence of subjects like the drag-queen prostitute" (p. 11).

Thus, a conscious method of historicizing current LGBTQ emergences involves recognizing how state and capital converge to perpetuate and universalize the racialization of surplus populations while promoting individualism and the liberation of “difference.”

In this vein of analysis, queer of color critique questions whose “difference” is supposedly being liberated and recognized by liberal capitalism. In his later essay, Ferguson (2009) asserts that, since surplus populations consist of heterogeneous formations, queer of color critique should be constantly adjusted based “on the historical and social particularities” of the subject or subjects being analyzed and “the competing narratives that frame those particularities” (p. 163). By “competing narratives,” Ferguson (2009) is referring to the histories of social formation that compose the sociological canon. For the case of this paper, the sexual histories examined above serve as such competing narratives and effectively shroud the histories of surplus populations.

As explored throughout this paper, historical materialism is not a single strain of discourse. Employed first by Marx, traditional historical materialism pathologized the differential subject as a racialized corruption to nature enabled by capitalism (Ferguson 2004). In the works of D’Emilio (1997), Chauncey (1994), and Stryker (2008), this historical materialism is reconfigured and the pathologized figure of difference is revalued; D’Emilio (1997) and Chauncey (1994) revalue the figure as the homosexual and its variants while Stryker (2008) revalues the figure as the transgender individual. Again, these historicized reconfigurations are not inaccurate or incorrect but rather, by placing capital at the center of history, effectively keep hidden the histories of surplus populations.

The conception of the immigrant, more specifically, the “illegal immigrant,” is a critical place to begin examining surplus populations. Ferguson (2009) addresses the construction of the

“illegal immigrant” as “another instance in which what appears most immediate and ‘true’ is, in fact, the contrivance of power” (p. 164). This “contrivance” of power can be indexed from the harmful rhetoric employed by the state as an attempt to discard and obscure the heterogeneity of migrant populations deemed instead to be in surplus. For example, immigration policy imposed on gay, lesbian, and transgender migrants creates structural barriers that effectively strip migrants of their gender and sexuality (Ferguson, 2009). Additionally, neoliberal ideology casts the migrant as simply “abusing the system” as opposed to a subject to the colonialist legacy of the US (Ferguson, 2009). Recent historicizations of migrant struggles also provide an adequate analysis of surplus populations.

Martin Manalansan’s (2003) *Global Divas* provides a strong analysis of gay Filipino migrants in line with a surplus population-centered queer of color critique. *Global Divas* examines modern gay Filipinos migrants, the complex race relations they face in the supposedly liberating city of New York, and their experiences with western narratives of homosexuality. Manalansan’s (2003) assertion is that Filipino culture conceptualizes gender and homosexuality on different terms. For example, the Tagalog term, Bakla, is used to signify both a gay man as well as an effeminate man who may possibly identify as a third gender (Manalansan, 2003). Furthermore, Baklas don’t adopt the narrative of “coming out” and see their sexuality as something more private and silently maintained (Manalansan, 2003). In this sense, since their non-western histories are often silenced and not part of mainstream LGBTQ discourse, gay Filipino migrants are better understood as members of a surplus population.

Manalansan’s (2003) scholarship challenges historical materialism by examining the intersections of Filipino migrant struggles that are not immediately indexed as capitalist consequence while also challenging its racializing tendency. First, the Filipino emergence of the

Bakla is not one necessarily enabled by liberal capitalism but rather by non-western configurations of gender. As migrant Bakla's attempt to fit into the US, they easily slide into surplus as the state is already notorious for structuring the lives of migrants. Second, gay Filipino migrant's non-western status leads them to reject western homosexual norms. This is not necessarily a material condition of their experiences: for example, while D'Emilio (1994) challenges the myth of "coming out" as part of his historical materialism, gay Filipino migrants challenge that myth as part of their own history and culture. Both instances challenge western notions of gay essentialism—in the sense that "coming out" depicts the western homosexual as a permanent fixture of humanity—but Manalansan's (2003) ethnography does so intersectionally, not completely focused on the material conditions of migrants. In effect, *Global Divas* offers a useful perspective on surplus populations that exceeds the capacity of historical materialism.

Nicola Mai and Russell King's (2009) essay "Love, Sexuality, and Migration" maps out a queer analysis of migrant mobility that can extend an analysis of surplus. Addressing the field of migration studies, Mai and King (2009) argue that sexuality and emotion be considered more as factors of migrant mobility. Since the two are typically denied to migrants, much like how Ferguson (2009) argues, racist state regulation generates influential affect that can't be quantified solely through material analysis. Furthermore, love, sex, and emotion should be viewed as intersecting influences in framing behaviors of mobility, an analysis conscious of not only "outbound" queer mobility but also "inbound" practices in the reproduction of homes beyond borders and into destinations (Mai & King, 2009, p. 298). As Ferguson (2009) writes, the fiction of the "illegal immigrant" shrouds these kinds of analyses as it groups migrants into an entirely homogenous population. Mai and King's (2009) analysis of surplus populations critically expands those categories to carefully consider their intersections in a more nuanced and less

materialist framework.

Utilizing a critique of surplus populations, we may find more expansive and inclusive ways to chart sexual history and understand the emergence of those discarded by liberal capitalism, such as the “illegal immigrant.” Ferguson (2009) reiterates a call to “be fluent in each other’s narratives,” (p. 166) which is to say that Ferguson’s use of queer of color critique is not only conscious of traditionally “liberated” sexualities and identities, but is also focused on a transnational analysis that recognizes the formation of non-Western sexualities and identities. Although this paper is not necessarily negating a material analysis on LGBTQ formation, queer of color critique functions to create more space for communities to be recognized and understood. Doing so means to recognize the “extraordinarily different histories and intersections of race, gender, and sexuality” (Ferguson, 2009, p. 166) that construct these populations. Elizabeth Povinelli and George Chauncey (1999) demonstrate this line of thinking by extending a transnational perspective to theorizing and historicizing the ongoing emergences of surplus sexuality.

Povinelli and Chauncey (1999) examine how global and transnational perspectives can affect the study of sexuality and understandings of its heterogeneous global circulations among surplus populations. Forms of culture, embodiment, and desire are globally mobilized in the context of advancing information technologies, meaning that national spaces potentially have access to those forms at transnational distances (Povinelli & Chauncey, 1999). At the same time, however, these developments are uneven as Anglo-centric medias persist and as local inequalities are intensified across the globe (Povinelli & Chauncey, 1999). Povinelli and Chauncey (1999) present a challenge to understanding how globalization complicates the historicization and theorization of sexuality. The study of sexuality needs to simply be attended

to more dynamically and on global and transnational terms. This conceptualization rejects an overly-limited materialist analysis to examine and narrate the formations of surplus populations whose sexualities have been marked as non-normative and, through processes of globalization, as surplus.

Queer theory offers “destabilization” as a tool for navigating interlocking complicated networks of identity categories. Cathy Cohen (2005) warns that identity categories can be sticky and easily become the hegemon and should thus be destabilized though not completely abandoned. This exception is because Cohen (2005) also recognizes the liberatory potential in locating shared and interlocking oppressions through identity categories. To destabilize something is to cause it not to function in its “normal” sense—in a world where the norm is the focal point of all politics, this tool of destabilization in the face of interlocking oppressions could be profoundly valuable. For example, and as highlighted in Cohen’s (2005) work, destabilizing the category of “heterosexual” so that it is not hegemonically represented by white marital standards opens a dialogue that also critically considers heterosexual individuals living on the periphery of the norm, such as poor women of color living on welfare, while still being conscious of that norm and its social implications. Not surprisingly, poor women of color living on welfare easily slip into surplus status as liberal capitalism and state regulation continues to structure and perpetuate their poverty. By strategically destabilizing the categories that construct notions of surplus, our analyses gain the capacity to document their intersections and the resulting production of diverse power relations.

Both Ferguson (2009) and Cohen (2005) are committed to intersectional analysis, conscious of how complicated sexual politics can be for people of color living in and out of the realm of normalcy. Foundationally, a queer of color critique must be able to adapt to these

complications to locate more discreet and racialized distributions of power within communities. Additionally, queer of color critique can make use of a surplus population-centered analysis that is consistently reflective of a transnational perspective. These varied analyses do not always look the same and may not always work. However, as efforts continue to chart LGBTQ emergences and histories, intersectional critiques not solely attentive to capital have generated and continue to generate more nuanced and expansive perspectives on the presence of surplus populations in the US's neoliberal landscape. The law, in these instances, operates as a recent site for the task of decentering materialism in our understandings of social injustice.

Legal Perspectives: Surplus Populations and the Law

In the preface to *Normal Life*, Dean Spade describes the beginnings of the Sylvia Rivera Law Project, a nonprofit law collective that extends legal services to queer and trans identifying individuals who are low-income and/or people of color. The case of one of his first clients, Bianca, a transwoman, demonstrates the various vulnerabilities that trans people are subject to on the grounds of gender presentation. As a transwoman and sex worker outed and abused at several corners of her transition, Bianca's life chances are statistically slim due to the administration of state violence which bars her from receiving the proper medical treatment necessary for her survival. Spade explains how Bianca has a high rate of contracting HIV given that she has no alternatives to engaging with high-risk "underground economies" to obtain income and medication/hormones. Furthermore, her criminalized status in this political economy exposes her to higher rates of police violence and incarceration. As she stands at the junctures of multiple sites of violence—many perpetrated by the state—Bianca's life is structurally high-risk and is hardly protected by law. In fact, she is explicitly criminalized by it. These processes of gendered

and racialized criminalization effectively cast her off as part of a population deemed in excess, or, in surplus and thus as a problem with no apparent solution.

Spade provides a mode of analysis that sets up the range of queer of color critique from an anti-capitalist vantage point, making possible a more critical perspective that is concerned with the structural conditions of law and the power-laden forces it generates around surplus populations. While Spade is concerned with the material conditions of Bianca's life, capitalism is not at the center of his critical methodology. Instead, Spade operates from a more structurally-minded position understanding Bianca's sociopolitical status as a culmination of multiple sites of state violence. Like queer of color critique, these sites are first recognized as products of gendered racialization. It is not simply a matter of Bianca being subject to structural disadvantages because she is poor. Spade is more concerned with the limits of neoliberal lawmaking and the limits of a state apparatus that operationally functions to mark the life limits of bodies and populations. Bianca's poverty is only one aspect of what contributes to her reduced life chances; one belonging to a network of structural disadvantages largely administered by state forces.

To see things this way, Spade theorizes law reform through a Foucault-inspired understanding of power that operates on both micro and macro levels. Spade's work makes an intervention in the rights-centered model of legislation that categorizes discrimination through a victim/perpetrator model. Victim/perpetrator understandings of discrimination only serve to deter direct instances of racism and supplement an already failing penal system (Spade, 2015, p. 50). Instead, a power analysis reveals the state's implication in disciplinary and population level schemas of corporeal and behavioral governance. Since these power structures are prevalent in the structuring of the lives of individuals like Bianca and others belonging to a surplus

population, Spade's legal language works to open critical dialogue for understanding the positions of those neglected yet necessitated by the state.

Additionally, this legal position decenters capitalism by indexing uneven power dynamics at the level of state governance, not always as a byproduct of capital relations. Specifically, Spade (2015) defines disciplinary power as manifest in "[n]orms of good behavior and ways of being" (p. 52). These norms are often racist, transphobic, and all-around exclusionary of those whose identities inherently violate the ways people think they "should" embody. Consider Bianca again, the trans sex worker whose incriminating positionality in the US leaves her highly susceptible to HIV. Bianca is caught in a structural paradox as she is penalized for possibility of HIV contraction made possible by the material conditions she is forced to live under. Historical materialism would only be able to account for half of that problem set, Marx having already disparaged the prostitute as a negative consequence of capitalism. Since Bianca is commodifying her sexuality, any sex she has is inherently not considered "safe sex," implicating her as a threat to public health and, at the population-level, a problem to be dealt with systematically. Bianca's humanity is thus caught in a structural pathologization which leaves her with very slim life chances in the US.

These disciplinary dynamics issue into the daily lives of other marginalized groups such as gay men, black people, trans people, etc. at the levels of population management and the distribution of life chances. Spade identifies this as a consequence of national technologies such as the welfare state, immigration policy and enforcement, and criminal punishment systems (p. 57); these technologies anchor off legal systems that cannot attend to the heterogeneity of surplus populations. This apparatus of management and total governance thus maintains the state of

surplus populations and continuously sets the stage for the contradiction of the cultural production of surplus.

In this paper, I have already considered the failures of historical materialism to accurately historicize sexual difference, suggesting that Roderick Ferguson's (2009) reconfiguration of surplus populations in the context of queer of color critique makes visible a fuller picture of regulated state violence. Critically approaching the historical materialism embedded in recent sexual scholarship further suggests that a decentering of capitalism from the cultural production of difference helps make more visible vectors of oppression and inequality. The scholarship around global migration and transnationalism, queer theory, and most critically, queer of color critique contributes to this framework at a highly theoretical level. On a more practical level, Spade (2015) uses the law as the starting point for resisting state violence; through law, disciplinary governance and management operate to reduce the life chances of select populations. What Spade (2015) provides is a realistic vision of what placing a queer of color critique into an anti-state politics looks like.

It seems that to this day, despite progressive advancements of sexual politics, the US is still structured by complicated race relations as institutionalized racism persists in convergence with liberal capitalism. As we continue to chart and learn from histories, queer of color critique and an attention to surplus populations may serve to create more space to document the emergence of sexual difference and to challenge the ongoing development of racist and capitalist power structures. For the problem of historicizing cultural difference, queer of color critique can make necessary adjustments that stray from a capitalist analysis. This analysis focuses on the production of surplus populations and the contradicting ways state capitalism maintains their sociopolitical/economic position. While Spade allows space to ask fundamental questions of the

utility of law and its administration of state violence, it also makes possible a dialogue around the law and its place in the production and management of surplus populations.

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