



LET IT BURN: REPRESSION, RESOLUTION, REVOLUTION

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**NOW
IS
THE
WINTER
OF
OUR
DISCONTENTS**

It has been a long year from the beginning.

A time of undoing, unapologetic apocalypse unleashing and unraveling, but also of brazen uprising and righteous anger. This special edition of the National Lawyers Guild Review, *Let It Burn: Repression, Resolution, and Revolution*, two volumes in length, is a nonexhaustive ode to the resistance of the anticolonial struggle and a vision of liberation. It is an allegorical reminder that at times things ready to change form combust upon themselves.

I write this preface just following the transition of freedom fighter and Black Liberation Army veteran Assata Shakur. As a Black woman, Assata Shakur is my foremother in this struggle to whom I am grateful. She bravely traversed the Atlantic, a watery grave for so many Africans, to Cuba, itself a bittersweet vision of liberation. She, like the nationstate of Cuba, were perpetually punished and slandered for their resistance as discussed in Volume II of this issue even in death. This American soil could never hold Assata. She departs this earthly plane unconquered, as “our freedom fighter,” as declared by former political prisoner Dhoruba BinWahad, subject of *Revolution In These Times*, by Kalonji Jama Changa, also featured in Volume II of this issue.

This issue, candid but hopeful, endeavors to carve a passage of light envisioning a time “after the winter of our discontent,”- words iterated by Ossie Davis on February 27, 1965, following the assassination of Malcolm X during a similar chaotic time of violence in the United States. At the same time, this issue is not intended to be linear, chronological, nor exhaustive but a kind of rememory, as coined by the late Toni Morrison, of looking at the past and the present together out of time.

Volume II of this issue in part asks what we do following the winter, including the concept of time. As attorney Rashida Philips, author of *Dismantling the Master’s Clock* reminds us in this issue, the concept of linear time and the subversion of it by oppressed people is a form of resistance. The NLG’s national office staff, in striking against working conditions and treatment, reminded us this summer that resistance is a worthy endeavor over productivity or property alone, reflecting that maxim, and that the idea of time theft is indeed a delusional lie manufactured by capitalism. That said, the departure of NLG Director Traci Yoder, a long time Guild employee, will leave a void that will not easily be filled. We are grateful to Traci Yoder for her leadership of the NLGR and wish her every good. We know her work will continue to be powerful.

I welcome Executive Editor scholar Zane McNeill and wish outgoing Executive Editor Michael Drake well as he continues to challenge the state. I am eternally grateful for Olive Gardenia, NLGR Layout Editor, for their brilliant work and patience with my vision for this issue.

Gratitude is fuel.

Hope and the collective are sustenance.

We will not give up the fight.

Let it burn.

Amen.

In Solidarity and Revolutionary
Love,
Jenipher R. Jones, Esq.
Editor in Chief



Dhoruba bin Wahid with Assata Shakur in Cuba, 1991.
Credit: Courtesy Dhoruba bin Wahid

Since January, my transgender community has faced escalating attacks from an increasingly authoritarian and fascist government. Immediately after Donald Trump’s second inauguration, he signed executive orders that stripped transgender people from numerous federal programs, restricted access to lifesaving healthcare, and erased our existence from schools and other public institutions¹. The consequences have been devastating. Dozens of hospitals have stopped providing care to transgender youth², nonprofits have lost millions in federal funding once dedicated to supporting LGBTQ people³, and the government has even shut down LGBTQ suicide hotlines⁴. Simultaneously, federal agencies have halted research and data collection that could expose the full extent of this harm⁵.

Recently, the federal government has also embraced farright conspiracy theories claiming that transgender people commit a disproportionate amount of mass shootings⁶—despite clear evidence showing that trans people are far more likely to be victims of violent crimes than the perpetrators⁷. In reality, the number of transgender shooters is in the single digits, while cisgender men account for thousands of mass shootings⁸. Nevertheless, Vice President JD Vance and other figures in the Trump administration have echoed language from a Heritage Foundation proposal that would label transgender people—and those who support us—as domestic terrorists⁹.

1 Lindsey Dawson & Jennifer Kates, Overview of President Trump’s Executive Actions Impacting LGBTQ+ Health, KFF (Sept. 25, 2025), <https://www.kff.org/other-health/overview-of-president-trumps-executive-actions-impacting-lgbtq-health/>.

2 Jo Yurcaba, At Least 21 Hospitals Ended or Restricted Trans Care for Minors in January, NBC News (Aug. 24, 2025), <https://www.nbcnews.com/nbc-out/out-news/least-21-hospitals-ended-restricted-trans-care-minors-january-rcna226640>.

3 U.S. Government Restores \$6.2 Million in Cut Funding to LGBTQ+/HIV Organizations After Lambda Legal Win, Lambda Legal (July 15, 2025), https://lambdalegal.org/newsroom/us_20250715_government-restores-millions-in-funding-to-lgbtq-hiv-orgs/

4 John Yang, Claire Mufson & Zoie Lambert, Trump Administration Pulls the Plug on Suicide Hotline for LGBTQ Youth, PBS News-Hour, <https://www.pbs.org/newshour/show/trump-administration-pulls-the-plug-on-suicide-hotline-for-lgbtq-youth>.

5 Theresa Gaffney, CDC Will No Longer Process Transgender Data, STAT (Feb. 25, 2025), <https://www.statnews.com/2025/02/25/cdc-will-no-longer-process-transgender-data>; Arla K. Johnson, Trump Administration Cancels at Least 68 Grants Fo-

cused on LGBTQ Health Questions, AP News (Mar. 24, 2025), <https://apnews.com/article/lgbtq-research-grants-terminated-trump-5b2810312de1420ca3df875314b0a1e9>; Hansi Lo Wang, Census Bureau Stopped Work on Gender Identity Data After Trump Order, NPR (Feb. 21, 2025), <https://www.npr.org/2025/02/21/nx-sl-5305265/census-lgbtq-sogi-data-robert-santos>.

6 Jennifer Mascia, Why Does the Right Falsely Blame Trans People for Mass Shootings?, The Trace (July 10, 2025), <https://www.the-trace.org/2025/07/mass-shootings-trans-misinformation/>.

7 Williams Inst., Transgender People Over Four Times More Likely Than Cisgender People to Be Victims of Violent Crime (Mar. 23, 2021), <https://williamsinstitute.law.ucla.edu/press/ncvs-trans-release>.

8 GLAAD, Fact Sheet: Debunking “Trans Terrorism” and Other False Claims in High-Profile Crimes (Sept. 15, 2025), <https://glaad.org/debunking-trans-terrorism/>; Ashley Wang, Few Mass Shooters Have Been Transgender, FactCheck.org (Sept. 17, 2025), <https://www.factcheck.org/2025/09/few-mass-shooters-have-been-transgender/>.

9 John Russell, JD Vance Suggests Trans People Pose a “Domestic Terrorist Threat” & FBI Plans to Target Trans People, LGBTQ Nation (Sept. 19, 2025), <https://www.lgbtqnation.com/2025/09/jd-vance-suggests-trans-people-pose-a-domestic-threat-fbi-plans-to-target-trans-people/>; Ken Klippenstein, White House Eyes Transgender “Terrorist Movement”, KenKlippenstein.com (Sept. 20, 2025), <https://www.kenklippenstein.com/p/white-house-eyes-transgender-terrorism>.

Amid this widespread State violence, many trans people who can afford to have fled the country¹⁰. Those of us who remain live under constant threat of surveillance¹¹, criminalization¹², and pathologization¹³.

Yet, as this issue of the NLGR reminds us, transgender people are not the first—nor the only—community to face such state repression. The authors in this issue show that transgender people’s current struggle can be situated within a long lineage of political activists targeted for dreaming liberatory futures. We can draw strength from our ancestors who resisted and fought the State despite attempts to erase them. It is our refusal to be silent that frightens the State. Fascists gain power through silence—but as the voices in this issue show, our courage to exist and to fight back terrifies them.

In Solidarity,

Zane McNeill

10 Io Dodds, Trump Has Declared War on the Transgender Community, Leaving Americans to Seek Asylum — from America, The Independent (Sept. 23, 2025), <https://www.independent.co.uk/news/world/americas/trump-transgender-laws-asylum-persecution-canada-b2832107.html>.

11 s. baum, DHS Now Allows for Surveillance Based on Sexual Orientation or Gender Identity, Erin in the Morning (Mar. 2, 2025), <https://www.erininthemorning.com/p/dhs-now-allows-for-surveillance-based>.

12 Ken Klippenstein, Trump’s NSPM-7 Labels Common Beliefs As Terrorism “Indicators”, KenKlippenstein.com (Sept. 27, 2025), <https://www.kenklippenstein.com/p/trumps-nspm-7-labels-common-beliefs>.

13 Valorie Van-Dieman, Trump’s Executive Order on Homelessness and Mental Illness Targets Transgender People, Slate (Aug. 11, 2025), <https://slate.com/life/2025/08/trump-homelessness-mental-illness-executive-order-transgender.html>; Evan Perez & Hannah Rabinowitz, Trump DOJ Is Considering Ways to Ban Transgender Americans from Owning Guns, CNN (Sept. 4, 2025), <https://www.cnn.com/2025/09/04/politics/transgender-firearms-justice-department-second-amendment>.

Gaza's Seasons: a poem

by
Julia Wright

Remembering Amilcar Cabral who was an agronomist as well

it is Summer again
scorching Summer again
and the nylon of the tents
melts in the skin

it is foodlessness again
and again
when at dawn
hunger has not gone to sleep

it is thirst always
when
like butterflies
who in our climate change
seek the sweat of humans
children lick
their own perspiration

it is rubble
upon rubble
without interruption
as massacred homes
cry out in human pain

it is genocide still -
genocide
over and over
again -
a fifth season
where bullets rain
and cluster bombs bloom red

against the white and blue
of the flag
held high by warmongers united -
the USA and Israel

but hope
Gaza's sixth season
ever returning
is an eternal
unsilenced
Spring
when the seeds the People planted
row upon row
uprising upon uprising
pierce
Winter's capitalist snow

(c) Julia Wright June 18th 2025. All Rights Reserved to Susan Abulhawa's playgroundsforpalestine.org

THE HEIST



Selassie's Address to the United Nations (1963)

by
Haile Selassie

Twenty-seven years ago, as Emperor of Ethiopia, I mounted the rostrum in Geneva, Switzerland, to address the League of Nations and to appeal for relief from the destruction which had been unleashed against my defenseless nation, by the Fascist invader. I spoke then both to and for the conscience of the world. My words went unheeded, but history testifies to the accuracy of the warning that I gave in 1936.

Today, I stand before the world organization which has succeeded to the mantle discarded by its discredited predecessor. In this body is enshrined the principle of collective security which I unsuccessfully invoked at Geneva. Here, in this Assembly, reposes the best - perhaps the last - hope for the peaceful survival of mankind. In 1936, I declared that it was not the Covenant of the League that was at stake, but international morality. Undertakings, I said then, are of little worth if the will to keep them is lacking. The Charter of the United Nations expresses the noblest aspirations of man: abjuration of force in the settlement of disputes between states; the assurance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion; the safeguarding of international peace and security.

But these, too, as were the phrases of the Covenant, are only words; their value depends wholly on our will to observe and honor them and give them content and meaning. The preservation of peace and the guaranteeing of man's basic freedoms and rights require courage and eternal vigilance: courage to speak and act - and if necessary, to suffer and die - for truth and justice; eternal vigilance, that the least transgression of international morality shall not go undetected and unremedied. These lessons must be learned anew by each succeeding generation, and that generation is fortunate indeed which learns from other than its own bitter experience. This Organization and each of its members bear a crushing and awesome responsibility: to absorb the wisdom of history and to apply it to the problems of the present, in order that future generations may be born, and live, and die, in peace.

The record of the United Nations during the few short years of its life affords mankind a solid basis for encouragement and hope for the future. The United Nations has dared to act, when the League dared not in Palestine, in Korea, in Suez, in the Congo. There is not one among us today who does not conjecture upon the reaction of this body when motives and actions are called into question. The opinion of this Organization today acts as a powerful influence upon the decisions of its members. The spotlight of world opinion, focused by the United Nations upon the transgressions of the renegades of human society, has thus far proved an effective safeguard against unchecked aggression and unrestricted violation of human rights.

The United Nations continues to serve as the forum where nations whose interests clash may lay their cases before world opinion. It still provides the essential escape valve without which the slow build-up of pressures would have long since resulted in catastrophic explosion. Its actions and decisions have speeded the achievement of freedom by many peoples on the continents of Africa and Asia. Its efforts have contributed to the advancement of the standard of living of peoples in all corners of the world.

For this, all men must give thanks. As I stand here today, how faint, how remote are the memories of 1936. How different in 1963 are the attitudes of men. We then existed in an atmosphere of suffocating pessimism. Today, cautious yet buoyant optimism is the prevailing spirit.

But each one of us here knows that what has been accomplished is not enough. The United Nations judgments have been and continue to be subject to frustration, as individual member-states have ignored its pronouncements and disregarded its recommendations. The Organization's sinews have been weakened, as member-states have shirked their obligations to it. The authority of the Organization has been mocked, as individual member-states have proceeded, in violation of its commands, to pursue their own aims and ends. The troubles which continue to plague us virtually all arise among member states of the Organization, but the Organization remains impotent to enforce acceptable solutions. As the maker and enforcer of the international law, what the United Nations has achieved still falls regrettably short of our goal of an international community of nations.

This does not mean that the United Nations has failed. I have lived too long to cherish many illusions about the essential high mindedness of men when brought into stark confrontation with the issue of control over their security, and their property interests. Not even now, when so much is at hazard would many nations willingly entrust their destinies to other hands.

Yet, this is the ultimatum presented to us: secure the conditions whereby men will entrust their security to a larger entity, or risk annihilation; persuade men that their salvation rests in the subordination of national and local interests to the interests of humanity, or endanger man's future. These are the objectives, yesterday unobtainable, today essential, which we must labor to achieve.

Until this is accomplished, mankind's future remains hazardous and permanent peace a matter for speculation. There is no single magic formula, no one simple step, no words, whether written into the Organization's Charter or into a treaty between states, which can automatically guarantee to us what we seek. Peace is a day-to-day problem, the product of a multitude of events and judgements. Peace is not an "is", it is a "becoming." We cannot escape the dreadful possibility of catastrophe by miscalculation.

But we can reach the right decisions on the myriad subordinate problems which each new day poses, and we can thereby make our contribution and perhaps the most that can be reasonably expected of us in 1963 to the preservation of peace. It is here that the United Nations has served us - not perfectly, but well. And in enhancing the possibilities that the Organization may serve us better, we serve and bring closer our most cherished goals.

I would mention briefly today two particular issues which are of deep concern to all men: disarmament and the establishment of true equality among men. Disarmament has become the urgent imperative of our time. I do not say this because I equate the absence of arms to peace, or because I believe that bringing an end to the nuclear arms race automatically guarantees the peace, or because the elimination of nuclear warheads from the arsenals of the world will bring in its wake that change in attitude requisite to the peaceful settlement of disputes between nations. Disarmament is vital today, quite simply, because of the immense destructive capacity of which men dispose.

Ethiopia supports the atmospheric nuclear test ban treaty as a step towards this goal, even though only a partial step. Nations can still perfect weapons of mass destruction by underground testing. There is no guarantee against the sudden, unannounced resumption of testing in the atmosphere.

The real significance of the treaty is that it admits of a tacit stalemate between the nations which negotiated it, a stalemate which recognizes the blunt, unavoidable fact that none would emerge from the total destruction which would be the lot of all in a nuclear war, a stalemate which affords us and the United Nations a breathing space in which to act.

Here is our opportunity and our challenge. If the nuclear powers are prepared to declare a truce, let us seize the moment to strengthen the institutions and procedures which will serve as the means for the pacific settlement of disputes among men. Conflicts between nations will continue to arise. The real issue is whether they are to be resolved by force, or by resort to peaceful methods and procedures, administered by impartial institutions. This very Organization itself is the greatest such institution, and it is in a more powerful United Nations that we seek, and it is here that we shall find, the assurance of a peaceful future.

Were a real and effective disarmament achieved and the funds now spent in the arms race devoted to the amelioration of man's state; were we to concentrate only on the peaceful uses of nuclear knowledge, how vastly and in how short a time might we change the conditions of mankind. This should be our goal. When we talk of the equality of man, we find, also, a challenge and an opportunity; a challenge to breathe new life into the ideals enshrined in the Charter, an opportunity to bring men closer to freedom and true equality. and thus, closer to a love of peace.

The goal of the equality of man which we seek is the antithesis of the exploitation of one people by another with which the pages of history and in particular those written of the African and Asian continents, speak at such length. Exploitation, thus viewed, has many faces. But whatever guise it assumes, this evil is to be shunned where it does not exist and crushed where it does. It is the sacred duty of this Organization to ensure that the dream of equality is finally realized for all men to whom it is still denied, to guarantee that exploitation is not reincarnated in other forms in places whence it has already been banished.

As a free Africa has emerged during the past decade, a fresh attack has been launched against exploitation, wherever it still exists. And in that interaction so common to history, this in turn, has stimulated and encouraged the remaining dependent peoples to renewed efforts to throw off the yoke which has oppressed them and its claim as their birthright the twin ideals of liberty and equality. This very struggle is a struggle to establish peace, and until victory is assured, that brotherhood and understanding which nourish and give life to peace can be but partial and incomplete.

In the United States of America, the administration of President Kennedy is leading a vigorous attack to eradicate the remaining vestige of racial discrimination from this country. We know that this conflict will be won and that right will triumph. In this time of trial, these efforts should be encouraged and assisted, and we should lend our sympathy and support to the American Government today.

Last May, in Addis Ababa, I convened a meeting of Heads of African States and Governments. In three days, the thirty-two nations represented at that Conference demonstrated to the world that when the will and the determination exist, nations and peoples of diverse backgrounds can and will work together. in unity, to the achievement of common goals and the assurance of that equality and brotherhood which we desire.

On the question of racial discrimination, the Addis Ababa Conference taught, to those who will learn, this further lesson:

that until the philosophy which holds one race superior and another inferior is finally and permanently discredited and abandoned;

that until there are no longer first class and second class citizens of any nation;

that until the color of a man's skin is of no more significance than the color of his eyes;

that until the basic human rights are equally guaranteed to all without regard to race;

that until that day, the dream of lasting peace and world citizenship and the rule of international morality will remain but a fleeting illusion, to be pursued but never attained.

And until the ignoble and unhappy regimes that hold our brothers in Angola, in Mozambique and in South Africa in subhuman bondage have been toppled and destroyed;

until bigotry and prejudice and malicious and inhuman self-interest have been replaced by understanding and tolerance and good-will;

until all Africans stand and speak as free beings, equal in the eyes of all men, as they are in the eyes of Heaven;

until that day, the African continent will not know peace. We Africans will fight, if necessary, and we know that we shall win, as we are confident in the victory of good over evil.

The United Nations has done much, both directly and indirectly to speed the disappearance of discrimination and oppression from the earth. Without the opportunity to focus world opinion on Africa and Asia which this Organization provides, the goal, for many, might still lie ahead, and the struggle would have taken far longer. For this, we are truly grateful.

But more can be done. The basis of racial discrimination and colonialism has been economic, and it is with economic weapons that these evils have been and can be overcome. In pursuance of resolutions adopted at the Addis Ababa Summit Conference, African States have undertaken certain measures in the economic field which, if adopted by all member states of the United Nations, would soon reduce intransigence to reason. I ask, today, for adherence to these measures by every nation represented here which is truly devoted to the principles enunciated in the Charter.

I do not believe that Portugal and South Africa are prepared to commit economic or physical suicide if honorable and reasonable alternatives exist. I believe that such alternatives can be found. But I also know that unless peaceful solutions are devised, counsels of moderation and temperance will avail for naught; and another blow will have been dealt to this Organization which will hamper and weaken still further its usefulness in the struggle to ensure the victory of peace and liberty over the forces of strife and oppression. Here, then, is the opportunity presented to us. We must act while we can, while the occasion exists to exert those legitimate pressures available to us, lest time run out and resort be had to less happy means.

Does this Organization today possess the authority and the will to act? And if it does not, are we prepared to clothe it with the power to create and enforce the rule of law? Or is the Charter a mere collection of words, without content and substance, because the essential spirit is lacking? The time in which to ponder these questions is all too short. The pages of history are full of instances in which the unwanted and the shunned nonetheless occurred because men waited to act until too late. We can brook no such delay.

If we are to survive, this Organization must survive. To survive, it must be strengthened. Its executive must be vested with great authority. The means for the enforcement of its decisions must be fortified, and, if they do not exist, they must be devised. Procedures must be established to protect the small and the weak when threatened by the strong and the mighty. All nations which fulfill the conditions of membership must be admitted and allowed to sit in this assemblage.

Equality of representation must be assured in each of its organs. The possibilities which exist in the United Nations to provide the medium whereby the hungry may be fed, the naked clothed, the ignorant instructed, must be seized on and exploited for the flower of peace is not sustained by poverty and want.

To achieve this requires courage and confidence. The courage, I believe, we possess. The confidence must be created, and to create confidence we must act courageously.

The great nations of the world would do well to remember that in the modern age even their own fates are not wholly in their hands. Peace demands the united efforts of us all. Who can foresee what spark might ignite the fuse? It is not only the small and the weak who must scrupulously observe their obligations to the United Nations and to each other. Unless the smaller nations are accorded their proper voice in the settlement of the world's problems, unless the equality which Africa and Asia have struggled to attain is reflected in expanded membership in the institutions which make up the United Nations, confidence will come just that much harder. Unless the rights of the least of men are as assiduously protected as those of the greatest, the seeds of confidence will fall on barren soil.

The stake of each one of us is identical - life or death. We all wish to live. We all seek a world in which men are freed of the burdens of ignorance, poverty, hunger and disease. And we shall all be hard-pressed to escape the deadly rain of nuclear fall-out should catastrophe overtake us.

When I spoke at Geneva in 1936, there was no precedent for a head of state addressing the League of Nations. I am neither the first, nor will I be the last head of state to address the United Nations, but only I have addressed both the League and this Organization in this capacity.

The problems which confront us today are, equally, unprecedented. They have no counterparts in human experience. Men search the pages of history for solutions, for precedents, but there are none. This, then, is the ultimate challenge. Where are we to look for our survival, for the answers to the questions which have never before been posed?

We must look, first, to Almighty God, Who has raised man above the animals and endowed him with intelligence and reason. We must put our faith in Him, that He will not desert us or permit us to destroy humanity which He created in His image.

And we must look into ourselves, into the depth of our souls. We must become something we have never been and for which our education and experience and environment have ill-prepared us. We must become bigger than we have been: more courageous, greater in spirit, larger in outlook. We must become members of a new race, overcoming petty prejudice, owing our ultimate allegiance not to nations but to our fellow men within the human community.

**Nor can
bombs kill
the righteous rebellion of the
people....**

I have not come here as a prophet of revolution; I have not come here to ask for or want the world to be violently thrown into confusion. We have come to speak of peace and collaboration among people, and we have come to warn everyone that if we do not resolve today's injustices and inequalities peacefully and wisely, the future will be apocalyptic. The din of weapons, threatening language, and arrogance on the international scene must cease. Enough already with the illusion that the world's problems can be solved with nuclear weapons. Bombs can kill the starving, the diseased and the ignorant but they cannot kill hunger, diseases or ignorance. Nor can they kill the fair sense of rebellion of the people; and in the holocaust the rich will also die, and the rich are the ones who have the most to lose in this world.

ADDRESS BY COMMANDER IN CHIEF FIDEL CASTRO RUZ, PRESIDENT OF THE COUNCILS OF STATE AND MINISTERS AND PRESIDENT OF THE NON-ALIGNED MOVEMENT (NAM), AT THE 34TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY, IN NEW YORK CITY ON 12 OCTOBER OF 1979

Very esteemed Mr. President;

Distinguished Representatives of the world community:

I have not come to speak about Cuba. I do not come into the heart of this Assembly to air a denunciation about the aggressions our small but dignified country has suffered for 20 years. Nor do I come with unnecessary adjectives to wound our powerful neighbors here in their own house.

We bring the mandate of the Sixth Conference of the Heads of State or Government of the Non-Aligned Movement, to present to the United Nations the outcome of their deliberations and the positions derived from them.

We are 95 countries, from every continent, and we represent the immense majority of humankind. We are united by the determination to defend collaboration among our countries, free national and social development, sovereignty, security, equality and free determination. We are associated in the endeavor to change the current system of international relations which are based on injustice, inequality and oppression. We act in international politics as an independent global factor.

Having met in Havana, the Movement has just reaffirmed its principles and confirmed its objectives. We the Non-Aligned Movement countries insist that it is necessary to eliminate the abysmal inequality that separates the developed countries from the developing countries. We are fighting for that in order to abolish the poverty, hunger, disease and illiteracy that still plague hundreds of millions of human beings. We strive for a new world order, based on justice, equity and peace, that replaces the unjust and unequal system reigning today, in which, as proclaimed in the Declaration of Havana, *"wealth continues to be concentrated in the hands of a*

few powers whose economies, founded on pillaging, are maintained thanks to the exploitation of the workers and the transfer and pillage of natural and other resources of the peoples of Africa, Latin America, Asia and other regions throughout the world.”

Among the problems we have to discuss during this session of the General Assembly, peace stands in the forefront of our concerns. The search for peace is also an aspiration for the Non-Aligned Movement and it has been the object of its attention at the Sixth Conference. But peace for our countries is indivisible. We want a peace which benefits to an equal degree the great and the small, the powerful and the weak, which covers all spheres in the world and reaches all of its citizens.

From its very inception, the Non-Aligned Movement considered that the principles of peaceful coexistence must form the cornerstone of international relations; they constitute the basis for strengthening international peace and security, the reduction of strain and the extension of that process to all the regions of the world and to all aspects of relations, and they must be applied universally in the relations amongst States. But at the same time, the Sixth Summit considered that those principles of peaceful coexistence also include the right of peoples under foreign and colonial domination to independence, sovereignty, the territorial integrity of States, the right of every country to put an end to foreign occupation and to the acquisition of territories by force, and to choose their own social, political and economic systems.

Only in such a manner would peaceful coexistence be able to become the basis for all international relations.

It cannot be denied. When the structure of the contemporary world is analyzed, we can see that those rights of our peoples are still not being guaranteed. We, the non-aligned countries know very well who our historical enemies are, where the threats are coming from, and how we should fight them. For that reason, in Havana we have agreed to reaffirm that:

“The quintessence of non-aligned politics, in accordance with its original principles and fundamental nature, allies the struggle against imperialism, colonialism, neocolonialism, apartheid, racism including Zionism and any form of aggression, occupation, domination, interference or foreign hegemony, as well as the struggle against the policies of great powers or blocs. We also understand that the Declaration of Havana associated the struggle for peace with “the political, moral and material support for movements of national liberation and the realization of joint actions to abolish colonial domination and racial discrimination.”

We, the Non-Aligned Movement countries, have always granted great importance to the possibility of and the necessity to ease tension among the great powers. Thus the Sixth Conference would indicate, with great concern, the fact that after the Colombo Summit a degree of stagnation was produced in the process of this easing of tensions, which has also been limited *“both in its scope and in geographical terms.”*

On the basis of this concern, the Non-Aligned Movement countries who have made disarmament and de-nuclearization one of the permanent and most outstanding objectives of their struggle and who had the initiative for the calling of the Tenth Extraordinary Session of the General Assembly on Disarmament, examined the results of the negotiations on strategic arms in their conference, along with the SALT-II agreements. They believe that those agreements constitute an important step in the negotiations between the two principal nuclear powers and that they could prepare the way for the broader negotiations that lead to general disarmament and to decreased tensions. But for NAM these treaties are nothing more than one part of the move forward towards peace. Even though the negotiations between the great powers constitute a decisive element in the process, the non-aligned countries reiterated once again that the endeavor to consolidate the easing of tensions, by extending it to all parts of the world and by preventing the nuclear threat, the accumulation of armaments and, finally, war, is a task in which all peoples should participate and exercise their responsibility.

Mr. President:

Basing ourselves on the conception of the universality of peace, and the necessity of associating the search for peace, extended towards every country, with the struggle for national independence, full sovereignty and equality among States, we, the Heads of State or Government who met at the Sixth Conference of Havana, are devoting our attention to the most pressing problems in Africa, Asia, Latin America and other regions. It is important to underline that we are coming from an independent position, one that is not connected to the policies that could derive from the contradictions between great powers. If despite this objective and apolitically committed approach, the review of international occurrences turns into an anathema against those who support imperialism and colonialism, that does nothing more than reflect the essential reality of the contemporary world. Thus, upon beginning their analysis of the situation in Africa and after viewing the recorded advances in the struggle of African peoples for their emancipation, the Heads of State or Government emphasized, as the region's fundamental problem, the need to rid the continent of colonialism, racism, racial discrimination and apartheid, especially in southern Africa.

It was indispensable to stress that the colonial and imperial powers were continuing in their aggressive policies for the purpose of perpetrating, recovering or broadening their domination and exploitation over the African nations.

This and nothing else marks the dramatic situation of Africa. The Non-Aligned Movement can do nothing but condemn the attacks on Mozambique, Zambia, Angola, Botswana, the threats to Lesotho, the permanent destabilization attempts in that region, the role played by the racist regimes of Rhodesia and South Africa. The need to urgently achieve the full liberation of Zimbabwe and Namibia is not only a cause for NAM or the more progressive forces in our era, these days it constitutes international community agreements through the United Nations, and it involves unavoidable duties the violation of which also presupposes the need for international denunciation. Therefore, when the Heads of State or Government approved in the Final Declaration to condemn by name a group of western countries, in the first place the United States, for their direct and indirect collaboration in the maintaining of the racist oppression and criminal policies of South Africa and, when on the other hand they recognized the role played by NAM countries, the United Nations, the African Unity Organization, the socialist countries and the Scandinavian countries and other democratic and progressive forces in support of the peoples of Africa, in all of this there is minimal manifestation of ideological inclination; it is simply the true expression of objective reality. To condemn South Africa without mentioning those that made its criminal policy possible would have been incomprehensible.

Out of the Sixth Summit, with more force and urgency than ever before, arises the necessity to put an end to a situation which involves not only the rights of the peoples of Zimbabwe and Namibia to their independence and the unpostponable requirement for black South African men and women to attain the status that considers them to be equal and respected human beings, and which also assures the conditions of respect and peace for all the region's countries.

The continuing support for national liberation movements, the Patriotic Front and SWAPO, was a decision that was as unanimous as it was predictable. And let us make it perfectly clear: this is not a matter of expressing the unilateral preference for solutions through armed conflict. It is true that the Conference entrusted the people of Namibia and SWAPO, its authentic and only representative, with having intensified armed struggle and moving forward with it, and it asked for total and efficacious support for that form of combat. But that is due to the racist South Africans having closed off any road for true negotiations and for attempts at negotiated solutions which went no further than mere stratagems.

The attitude in the face of Commonwealth decisions in their meetings in Lusaka last August, oriented towards calling for a conference by the British Government as the authority in Southern Rhodesia to discuss the

problems of Zimbabwe, served to confirm that the non-aligned countries are not opposed to solutions that may be achieved without armed struggle, provided that they are able to arise from a true government of the majority and in these independence is attained in a form which satisfies the combatant peoples, and that this is done according to the resolutions of agencies such as the AUO, the United Nations and our Non-Aligned Movement.

Mr. President:

The Sixth Conference once again had to lament that Resolution 1514 of the UN General Assembly on the granting of independence to colonial countries and peoples had not been applied to the Western Sahara. We must remember that the decisions of NAM and UN Resolutions such as No. 331 of the General Assembly in particular, have reaffirmed the inalienable right of the people of the Western Sahara to free determination and to independence. In this problem Cuba feels a special responsibility because it had been member of the United Nations Commission that carried out the research on the Western Sahara; this permitted our representatives to verify the total decision of the Saharawi people for self-determination and independence. We reiterate here that the NAM position is not a position of antagonism towards any country. In the salute to the agreement reached between the Republic of Mauritania and the POLISARIO Front, and to the Mauritanian decision to withdraw their forces from the territory of the Western Sahara, and in the fact of deploring the extension of the armed Moroccan occupation in the southern sector of Western Sahara previously administered by Mauritania, this should be seen as the application of our principles and of the UN agreements. Therefore, the Conference expressed its hope that the ad hoc AUO Committee would permit assuring the peoples of the Sahara that they would exercise their right to free determination and independence within the shortest time possible.

The same principle and the same position determined the agreements on Mayotte and the islands of the Malgache Archipelago and their necessary reintegration, respectively, to the Comoros and to Madagascar.

Mr. President:

There is no doubt that the problem of the Middle East has become one of the most worrying in contemporary times. The Sixth Summit examined this problem in its dual dimension. On the one hand, the Conference reaffirmed that the determination of Israel to continue its policy of aggression, expansionism and colonial settlement of the occupied territories, with the backing of the United States, constitutes a serious threat to world peace and security.

At the same time, the Conference examined the problem from the angle of the rights of the Arab countries and of the issue of Palestine.

For NAM, the issue of Palestine lies at the core of the Middle Eastern problem. Both make up a comprehensive whole and cannot be solved separately.

The basis of just peace in the region commences with the total and unconditional withdrawal of Israel from all occupied Arab territories and it presupposes, for the Palestinian people, the return of all their occupied territories and the recovery of their inalienable national rights, including the right of returning to their homeland, to free determination and the establishing of an independent State in Palestine, in accordance with Resolution 3236 of the General Assembly. That implies the illegality and nullity of measures adopted by Israel in the occupied Palestinian and Arab territories, as well as their establishing colonies or settlements on Palestinian land and on the lands of other Arab territories, the immediate dismantling of which is a requirement for the solution to the problem.

As I stated in my speech at the Sixth Summit: *"...we are not fanatics. The revolutionary movement has been brought up in the hatred of racial discrimination and pogroms of any kind, and from the depths of our*

souls, we repudiate with all our strength the ruthless persecution and genocide which, in its time, Nazism unleashed against the Jewish people. But I can find nothing more similar to that in our contemporary history than the eviction, persecution and genocide that is being carried out today against the Palestinian people by imperialism and Zionism. Stripped of their lands, driven out of their own homeland, dispersed throughout the world, they are an impressive example of abnegation and heroism, and they are the living symbol of the greatest crime of our times." (APPLAUSE)

Can anyone be surprised then that the Conference should be obliged, for reasons not arising from any political prejudice but from the objective analysis of the facts, to point out that United States policy plays a fundamental part in preventing the establishment of just and complete peace in the region, by allying itself with and backing Israel and by working to obtain partial solutions favoring Zionist aims and ensuring the fruits of Israeli aggression at the cost of the Arab peoples of Palestine and of the entire Arab nation?

The facts, and only the facts, led the Conference to condemn US policies and maneuvers in the region. When the Heads of State or Government came to consensus in the condemnation of the Camp David Agreements and the Egyptian-Israeli Treaty of March 1979, behind these formulations were long hours of careful examination and useful exchanges that allowed the Conference to consider those treaties, not just as the total abandonment of the Arab countries' cause but as an act of complicity with the continued occupation of Arab territories. The description is harsh, but it is truthful and fair. It is not the people of Egypt which were submitted to the opinion of the Movement's agencies. The Egyptian people have the respect of each of our countries and the solidarity of all our peoples. The same voices that were heard denouncing the Camp David Agreements and the Egyptian-Israeli Treaty praised Gamal Abdel Nasser, founder of the Movement and carrier of the combative traditions of the Arab nation. Nobody can claim not knowing about the historical role played by Egypt in Arab culture and development, or about the country's merits as founder and promoter of non-aligned countries. The problems of Southeast Asia also occupied us at the Conference. The growing conflicts and tensions that have been taking place there are a threat to peace and this needs to be avoided.

Similar concerns were expressed at the Sixth Summit on the situation in the Indian Ocean. The declaration of this area as a zone of peace, approved eight years ago by the UN General Assembly, has not achieved its objectives. Military presence is not being reduced in that zone, it is being increased. Military bases are now stretching over to South Africa and they additionally serve to be vigilant on African liberation movements. Talks between the United States and the Soviet Union are still suspended, in spite of recent agreements between the two countries to discuss taking them up again. As a result of all this, the Sixth Summit proffered an invitation to all interested States to work effectively for the objectives of the declaration of the Indian Ocean as zone of peace.

The Sixth Summit analyzed other problems of regional and world interest, such as those affecting security and cooperation in Europe; the problem in the Mediterranean where tension persists, is now increased as a result of Israel's political aggression and the backing given them by certain imperialist powers. We took time to study the situation in Cyprus, still partially occupied by foreign troops, and Korea which is still divided in spite of the wishes of the Korean people to peacefully reunite their homeland, something that led NAM to reaffirm and broaden resolutions in solidarity, directed towards the realization of the aspirations of both peoples.

It would be impossible to refer to all the political decisions of the Sixth Summit. To carry that out would prevent us from dealing with what we consider to be one of the most fundamental aspects of our Sixth Summit: its economic projection, the clamor of developing peoples who are tired of their backwardness and of the ills leading to that backwardness. Cuba as the host nation will deliver the Final Declaration to all the member countries of the international community along with the additional resolutions of the Conference. But before communicating to you how the non-aligned countries view the world economic situation, and what their demands and

hopes are, I am permitted to take up some more minutes to inform you of the Final Declaration's approach in regards to the Latin American issues of the moment.

The fact that the Sixth Summit took place in a Latin American country gave the Heads of State or Government meeting there the opportunity to remember that the people of that region commenced their efforts for independence at the beginning of the nineteenth century. Nor have they forgotten that, as the Declaration states: *"Latin America was one of the regions in the world that had historically suffered most by the aggression of imperialism, colonialism and neocolonialism of the United States and Europe."* It was necessary to stress to the Conference participants that the remnants of colonialism, neocolonialism and national oppression are still in place in that land of struggles. Therefore the Conference issued pronouncements in favor of the eradication of colonialism in all its forms and manifestations, it condemned the existence of military bases in Latin America and the Caribbean, such as those in Cuba and Puerto Rico, and once again it demanded that the parts of their territories occupied by those bases against the will of their peoples should be returned to them by the Government of the United States and the other colonial powers.

Experiences in other areas led the Heads of State or Government to reject and condemn the attempt to create a so-called *"Security Force"* in the Caribbean, a neocolonial mechanism incompatible with the sovereignty, peace and security of the countries.

Upon asking that the Falkland Islands be returned to the Republic of Argentina, upon reiterating its support for the inalienable right of the people of Belize to their free determination, independence and territorial integrity, the Conference corroborated once again what its Declaration defined as the quintessence of being non-aligned. Pleased, it confirmed the fact that as of the first of October the treaties on the Panama Canal, signed between the Republic of Panama and the United States, gave full backing to those treaties, demanding that they would be respected in their wording and in their spirit, and it called on all the States in the world to adhere to the treaty protocol concerning the permanent neutrality of the Panama Canal.

Despite the pressures, the threats and the praise given, and the stubbornness of the US government in insisting that the problems of Puerto Rico should be considered domestic American problems, the Heads of State or Government reiterated their solidarity with the struggle of the people of Puerto Rico and with their inalienable right to the free determination of independence and territorial integrity and they urged the Government of the United States of America to abstain from all political or repressive maneuvers tending to perpetuate the colonial situation of that country. (APPLAUSE)

There is no more honorable homage than this to the liberating traditions of Latin America and to the heroic Puerto Rican people who in these days are celebrating the *"Grito de Lares"* which almost 100 years ago expressed their indomitable call for liberty.

In referring to the Latin American reality, the Heads of State or Government, who had already analyzed the significance of the liberating process occurring in Iran, could not abstain from referring to the revolutionary overturning of Grenada and the extraordinary victory of the people of Nicaragua and its vanguard, the Sandinista National Liberation Front (APPLAUSE), and to emphasize the enormous historical significance this event has for the peoples of Latin America and the world. The Heads of State or Governments also underlined something that is becoming a new occurrence in Latin American relations and which serves as an example for other regions in the world: the way that the governments of Panama, Costa Rica and Mexico work together in solidarity, as do the countries of the sub-regional Andean Pact (Bolivia, Colombia, Ecuador, Peru and Venezuela) to attain the just solution for the Nicaraguan problem, as well as the solidarity Cuba has been historically providing for the cause of that people.

I must confess that those approaches on Latin America would have been enough for the Cuban people to justify all the efforts and hard work done by hundreds of thousands of men and women from our country in their endeavor to make it possible for Cuba to welcome with dignity all the brother and sister countries of the Non-Aligned Movement at the Havana Summit. But there was much more for Cuba. There is something which we would like to thank you for right here, on the podium of the United Nations, on behalf of our people. In Havana the Cuban people received support for their right to choose the political and social system upon which they have decided, in their claim for the territory occupied by the Guantánamo Base and in the condemnation of the blockade that the US Government still would like to use to isolate us and with which it hopes to destroy the Cuban Revolution. (APPLAUSE)

We appreciate in its profound sense and universal resonance the denunciation which the Movement has just made in Havana against the acts of hostility, pressures and threats of the United States against Cuba, describing them as a flagrant violation of the UN Charter and of the principles of international law, as well as a threat to world peace. Once again we respond to our brothers and sisters and we assure the world community that Cuba shall continue being faithful to the principles of international solidarity.

Mr. President:

History has taught us that access to independence of a people who have freed themselves from the colonial or neocolonial system is the final act of a long struggle and at the same time the first act of a new and difficult battle. Because the independence, sovereignty and liberty of our peoples, apparently free, are under continuous threats by the external control of their natural resources, by the financial impositions of official international agencies and by the precariousness of their economies depleted of sovereign plenitude. Therefore, at the very beginning of their analysis of world economic problems, on the one hand the Heads of State or Government:

“Once again solemnly underlined the supreme importance of consolidating political independence via economic emancipation...and they reiterated that the existing international economic system went against the basic interests of developing countries, that it was profoundly unfair and incompatible with the development of non-aligned countries and other developing countries and did not contribute to the elimination of the economic and social ills afflicting those countries...”

And on the other hand, they emphasized:

“The historic mission that the Non-Aligned Movement should be undertaking the struggle for achieving the economic and political independence of all developing countries and their peoples; to exercise full and permanent sovereignty and control over their natural resources and of every kind over their economic activities; and to promote deep-rooted restructuring by the establishment of the New Economic Order .”

To conclude with these words:

“The struggle to eliminate the injustice of the existing international economic system and to establish the New International Economic Order is an integral part of the struggle of the people for political, economic, cultural and social liberation .”

It isn't necessary to demonstrate here up to what point the existing international economic system is profoundly unfair and incompatible with the development of underdeveloped countries. The figures have already been so highly publicized that we don't have to do that. It is being discussed whether the number of malnourished persons on our planet is only 400 million or whether it has gone up again to 450 million, depending on the information in certain international documents. Four hundred million starving men and women is already a

terribly accusatory number.

What nobody questions is that all the hopes that were unfurled before developing countries appear failed and cancelled at the end of this second decade of development.

It has been acknowledged by the Director General of the FAO Council that *“progress continues being deceptively slow when compared to the long term development objectives agreed in the International Development Strategy, in the Declaration and Action Plan on the Establishment of the New International Economic Order and in the Resolution of the World Food Conference and at several subsequent conferences .”* In these last 10 years, the modest average annual increase of 4% that was proposed to resolve some of the most urgent problems of world hunger and to bring us closer to still reduced levels of consumption is far from having been achieved in agricultural and food production in the developing countries. As a result of this, according to FAO developing country imports of foods which now constitute an aggravating element on their balances of owed payments, will very soon reach such proportions that they will become unmanageable. Faced with this, the official commitments of foreign aid for the agriculture of developing countries are decreased.

This panorama cannot be made to look any better. Sometimes certain official documents show circumstantial increases in the agricultural production in certain areas of the underdeveloped world, or they emphasize temporary increases in the prices of some agricultural articles. But these are a matter of transitory advances and ephemeral advantages. Revenues for the agricultural exports of developing countries continue being unstable and insufficient when compared to their needs for importing food, fertilizers and other consumables in order to increase their own production. The production of food per inhabitant in Africa during 1977 was 11% less than it was 10 years ago.

Backwardness is constant in agriculture and the industrialization process isn't moving forward either. And it cannot move forward because for most of developed countries the industrialization of developing countries is seen as a threat.

In 1975 in Lima, the World Conference for Industrialization proposed that we, the developing countries, have the goal of reaching the year 2000 contributing 25% of all manufactured products in the world. But progress since Lima, right up to today, has been insignificant, since if we don't accept the measures proposed by the Sixth Summit Conference and we don't put into practice an urgent program for rectifying the economic policies of most developed countries, that goal will also remain unfulfilled. We are barely at the point of producing 9% of all manufactured products in the world.

Our dependence is once again expressed in the fact that we, the countries of Asia, Africa and Latin America, import 26% of the manufactured products entering into international commerce and we only export 6.3 %.

One would say that there is a certain process of industrial expansion, but it isn't happening at the pace needed or in the key industries of the industrial economy. The Havana Conference indicated that. World distribution of industry, the so-called industrial re-deployment, cannot consist of a new confirmation of the profound economic inequalities which originated in the colonial era of the nineteenth century. At that time we were condemned to be the producers of raw materials and cheap agricultural products. Nowadays they want to use the abundant labor force and the extremely low salaries of the developing countries in order to transfer the industries involving lesser technology to them, the industries with the lowest productivity rates and the ones polluting the air the most. This is something we categorically reject.

The market economy developed countries today are absorbing over 85% of the world's manufactured products, including industrial production using the highest technology. They also control over 83% of industrial exports: 26% of these exports are going to the developing countries whose markets they monopolize. The most serious aspect of that dependent structure is that the things we import, in other words not just the capital assets but also consumer articles, are being produced according to the demands, needs and technologies of the countries having the greatest industrial development, and the patterns of consumer society which, in this manner, are brought in through the cracks in our trade, infect our own societies and thereby a new element is added to the already permanent structural crisis.

A result of all this, as the Heads of State or Government in Havana stated, is that the existing breach between the developed and the developing countries not only survives but has substantially increased. The relative participation of developing countries in world production decreased considerably during the last two decades, and this has even more disastrous consequences on the phenomena of malnutrition, illiteracy and unhealthy conditions.

There were some who wanted to resolve the tragic problem of humanity with drastic measures to reduce population. They remember that wars and epidemics helped reduce populations in other eras. They want even more: they want to attribute underdevelopment to the demographic explosion.

But the demographic explosion is not the cause; it is the consequence of underdevelopment. Development shall act at the same time as it brings solutions for poverty and contributes, through education and culture, to our countries achieving rational and proper growth rates.

In a recent report, the World Bank points to an even more serious prospect. It is said that it is possible that when we arrive at the year 2000, we will have 600 million inhabitants continuing to live on the Earth in absolute poverty.

Mr. President, Representatives:

The situation of backward agriculture and industry, a situation which developing countries haven't been able to escape, is without a doubt the result of unfair and unequal international relations, as the Sixth Summit points out. But now, as the Declaration of Havana also points out, we have to add the prolonged international economic crisis.

I won't be dwelling on this aspect very much. We will specify now that we, the heads of State or Government, have considered that the crisis of the international economic system is not temporary but it constitutes a symptom of structural maladjustments and an imbalance that are a part of its very nature; that imbalance has been aggravated by the refusal of developed market economy countries to curb their external imbalances and their high inflation and unemployment levels; that inflation has precisely happened in those developed countries which are now resistant to applying the only measures that could eliminate it. Furthermore, because it is something to which we must refer later and which was also recorded in the Havana Declaration, we point out that this crisis is also the result of the persistent lack of equity in international economic relations; therefore if this imbalance is resolved, as we propose, it would contribute to easing that crisis and move it further away. What are the principal determinations that the representatives of the Non-Aligned Movement had to formulate in Havana?

In Havana we condemned the persistent rerouting of human and material resources towards the non-productive and wasteful arms race so dangerous for humankind (APPLAUSE). And we demanded that a considerable part of the resources now being used for weapons, particularly by the principal powers, be directed towards economic and social development.

We have expressed our serious concerns about the insignificant progress in negotiations directed to the application of the Declaration and Action Plan on the establishment of the New International Economic Order. We point to the fact that this is due to the lack of the political will of most developed countries, and we expressly censure the dilatory, diversionist and divisive tactics adopted by those countries. The failure of the Fifth Session of UNCTAD served to demonstrate that situation.

We confirmed that the unequal exchanges in international economic relations, enunciated as an essential characteristic of the system, have become even more unequal, if that is even possible. While prices for manufactured goods, capital assets, food products and the services we import from developed countries are continuously increasing, in exchange they come to a standstill and are submitted to the never-ending fluctuations of prices of the primary products which we export. The relationship of exchange has worsened. We put special emphasis on the fact that protectionism, which was one of the elements aggravating the Great Depression of the 1930s, has again been inserted into a number of developed nations. The conference expressed regret that in the GATT negotiations, the developed countries belonging to it didn't take into account the interests and the concerns of the developing countries, especially of the least developed countries.

The Conference also denounced how certain developed countries are intensifying the use of domestic subsidies for determinate products to the detriment of productions that are of interest for developing countries. The Conference deplored the deficiencies in the scope and functioning of the Generalized System of Preferences and in this vein it condemned the discriminatory restrictions in the US Foreign Trade Act, as well as the inflexible position of certain developed countries which prevented the reaching of an agreement on these problems at the Fifth UNCTAD Session.

We expressed our concern on the constant deterioration of the international monetary situation, the instabilities in the types of exchange among the principal reserve currencies and inflation which accentuate the imbalance of the world economic situation, create additional difficulties for developing countries, diminish the real value of their export revenues and reduce that of their foreign currency reserves. We indicate as a negative factor the disorganized growth of international monetary resources, basically through the use of devalued US dollars and other reserve currencies. We note that, while the imbalance in international monetary relations increases accumulated foreign debt of developing countries up to over 300,000 million dollars, international financial bodies and the private banks raise the interest rates, shorten the amortization periods for loans and thereby financially suffocate developing countries; all of this constitutes a coercive element in negotiations, as the Conference denounced, something that allows them to obtain additional political and economic advantages at the expense of our countries.

The Conference took into account the neocolonial endeavor to prevent developing countries from permanently and effectively exercising their full sovereignty over their natural resources, and it reaffirmed that right. For that reason, it supported the efforts of developing countries producing raw materials to get fair and profitable prices for their exports and to improve their export revenues in real terms.

Furthermore, the Conference paid more attention than ever on the strengthening of economic relations and to the scientific-technical and technological transfers of developing countries amongst each other. The concept of what could be called "*collective self-support*", in other words mutual support and the collaboration among developing countries so that they could depend, in the first instance, on their own collective strengths, takes on substance in the Declaration of Havana, something it never had before. Cuba, as the President of the Movement and the coordinator-country, proposes to carry out, along with the Group of 77, all the necessary efforts in order to give impetus to the Action Plan outlined by the Conference, in matters of economic cooperation.

However, we do not conceive of that “*collective self-support*” as anything resembling autocracy; we see it as a factor in international relations that puts into play all the possibilities and resources of this considerable and important part of humanity, we the developing countries, in order to incorporate it into the general stream of resources and the economy which, for its part, could mobilize both in the capitalist bloc as in the socialist countries.

Mr. President:

The Sixth Summit rejected the attempts of some developed countries that would like to use the energy issue to divide the developing countries.

The energy problem can only be examined in its historical context, taking into account on the one hand how the consumer models of some of the developed countries led to the dilapidation of hydrocarbons, and at the same time alerting about the role of plunderers played by the transnational enterprises, beneficiaries until recent times of the supplies of cheap energy, the ones who were using it irresponsibly. Transnationals simultaneously exploit producers and users, obtaining extraordinary and unjustified benefits from both of them, while at the same time wanting to blame developing countries, the oil exporters of the current situation.

Allow me to remind you that in my inaugural words at the conference I indicated the agonizing situation of non-oil-producing developing countries, especially those that are less developed, and I expressed the certainty that oil-producer non-aligned countries would find formulae to contribute to the mitigation of the unfavorable situation of those countries being hard hit today by world inflation and by exchange imbalance, who suffer from serious deficits in their balance of payments and considerable increases in their foreign debt. But that does not exclude the central responsibility of the developed countries, their monopolies and their transnational enterprises.

After considering the problem of energy with this approach, the Heads of State or Government highlighted that it should be the subject of discussions within the context of world negotiations taking place in the United Nations, with the participation of every country and relating the energy problem with all the problems of development, with financial and monetary reform, world trade and raw materials, in such a manner so that a global analysis is done on all aspects associated with the establishment of a new international world economic order.

In the review of the principal problems affecting developing countries in the world economic sphere, it was necessary to examine the functioning of the transnational enterprises. Once again their policies and practices were declared as unacceptable. The search for benefits was ascribed to be responsible for the depletion of resources, upsetting the economy and violating the sovereignty of developing countries, that it infringed on the rights of the peoples to free determination, interfering with the principles of non-intervention in the matters of the States and frequently recurring to blackmail, corruption and other undesirable practices by which they wished to subordinate, by which they are subordinating the developing countries to the industrialized countries. Faced with insufficient progress in the United Nations in the task of preparing the Code of Conduct which regulates the activities of transnational enterprises, the Conference reaffirmed the urgency for this matter to be concluded rapidly, for the purpose of providing the international community with a juridical instrument that would serve, at least, to monitor and regulate transnationals' activities, in accordance with the objectives and aspirations of developing countries.

Upon recording all the overwhelming negative aspects of the economic situation of developing countries, the Sixth Summit drew special attention to the problems accumulating over the lesser-developed developing countries which are in disadvantageous conditions, without seacoasts and others in isolated inland areas, and the Summit asked for the adoption of urgent and special measures to mitigate these conditions.

Mr. President and Representatives: such is the not very optimistic and rather bleak, dark panorama which the member countries of the Non-Aligned Movement faced in their meeting in Havana. But the Non-Aligned Movement did not succumb to frustration or exasperation, something that would be explainable. At the same time as they drew up strategic conceptions that would let them move forward with their struggle, the Heads of State or Government reiterated their demands and defined their positions. The first fundamental objective in our struggle lies in reducing, to the point of elimination, the unequal exchange prevailing today, which converts international trade into a profitable vehicle for the additional pillaging of our resources. Today we exchange one hour of work of developed countries for 10 hours of work of the underdeveloped countries.

The non-aligned countries demand that serious attention be paid to the Integrated Program for Basic Products which, up until now, has been manipulated and covered up in the so-called North-South negotiations. Likewise they ask that the Common Fund, planned as an instrument for stabilization in order to establish permanent correspondence between prices received for their products and prices for their imports and which have barely been able to be integrated, receives a real boost. For non-aligned countries this correspondence which permanently associates the prices of their exported goods with the prices for basic equipment, industrial products and technological raw materials being imported from developed countries, constitutes an essential pivot for all future economic negotiations.

The developing countries demand that the countries which have generated inflation and which stimulate it with their policies adopt the necessary measures to control it, thereby ceasing the aggravation of the results of non-equitable exchange.

The developing countries demand, and they maintain their struggle to obtain this, that the industrial articles from their incipient economies have access to developed country markets; that the dissolute protectionism reintroduced into the international economy and which threatens to lead us again into a disastrous economic war is eliminated; that Generalized Preferential and not Reciprocal Tariffs are applied across the board, without deceitful lies, as a manner of permitting the development of their young industries, without their being smothered in the world market by the superior technological resources of the developed economies.

The non-aligned countries believe that the negotiations which are about to culminate on the Law of the Sea cannot serve to ratify the existing imbalances in marine resources, as certain developed countries would like to see, but instead they have to be the vehicle for equitable rectification. The Conference on the Law of the Sea has served once more to highlight the imperial arrogance and decision of some countries that, placing their technological possibilities above the spirit of comprehension and agreement being asked for by the developing countries, threaten to proceed unilaterally to carry out mining operations on the seabed.

The debt of developing countries has now reached the figure of 335,000 million dollars. It is calculated that the total payment for services on the foreign debt amounts to over 40,000 million every year, representing over 20% of their annual exports. Moreover, average per capita incomes in the developed countries are now fourteen times greater than those in underdeveloped countries. This situation is untenable today.

The developing countries need the establishment of new financing systems which would give them the necessary financial resources for the continuous and independent development of their economies. This financing should be long-term and charge low interest. The use of these financial resources must be at the complete disposition of the developing countries so that they may establish in their economies the system of priorities corresponding to their industrial development plans and so that these financial funds should not be absorbed by the transnationals, as it occurs today with the transnationals reaping additional benefits by taking advantage of the supposed financial contribution to development in order to aggravate the deformation of their economies and to obtain maximum profits from the exploitation of resources.

The developing countries, and the Non-Aligned Movement on their behalf, demand that an important part of the immense resources being squandered today on the arms race should be devoted to development; at the same time this would contribute to pushing back the dangers of war and it would facilitate improving the international situation.

The non-aligned countries, expressing the positions of all developing countries, demand a new international monetary system that would block the disastrous fluctuations being suffered today by currencies prevailing in the international economy, especially the US dollar. This financial disorganization additionally strikes at developing countries that aspire to the creation of a new world monetary system where they would be able to speak and make decisions as the representatives of the greatest number of countries in the international community and of over 1,500 million men and women.

In short Mr. President and Representatives:

Unequal exchange is the ruination of our peoples. And it must end!

The inflation being exported to us is the ruination of our peoples. And it must end!

Protectionism is the ruination of our peoples. And it must end!

The imbalance existing in terms of the exploitation of marine resources is abusive. And it must be abolished!

The financial resources being received by developing countries are insufficient. And they must be increased!

The weapons expenditures are irrational. They must end and those funds must be used to finance development!

The international monetary system predominating today is bankrupt. And it must be replaced!

The debts of the countries which are relatively less-developed and in disadvantageous situations cannot be supported and have no solution. They must be cancelled! (APPLAUSE)

Indebtedness is economically overwhelming the rest of the developing countries. And it must be alleviated!

The economic abyss between the countries which are developed and those wishing to be developed, instead of diminishing, is growing in size. And it must disappear!

Such are the demands of the underdeveloped countries.

Mr. President, Representatives:

Attention to these demands, some of which have been presented systematically by developing countries at international forums, through the Group of 77 and NAM, would permit changing the path of the international economic situation, something that would offer developing countries the institutional conditions to organize the programs that would place them finally upon the road to development.

But even though all of these measures were brought into practice, even if the errors and vices of the present system of international relations were to be rectified, underdeveloped countries would still be lacking one decisive element: foreign funding.

All the domestic efforts, all the sacrifices that the peoples of developing countries make and are willing to make, all the opportunities to increase their economic potential that would be attained when the inequalities between export and import prices would be eliminated and the conditions under which their foreign trade would be improved, would of course not be enough. In the light of their real and current financial situations, they also need resources in such amounts that they would allow them to pay their debts at the same time and to undertake the enormous expenses which are required to make the leap to development on a world scale.

Here, as well, the figures are known much too well, and we don't need to repeat them. The Sixth Summit concerned itself not only with the debts of the underdeveloped countries being practically untenable, but also that this debt would grow every year at a pace we could call "*galloping*." And the information recently provided by the World Bank report, issued during the same days we were holding the Havana Conference, confirm that the situation grows more serious by the day. Just in 1978, the public foreign debt of 96 countries increased by some 51,000 million dollars. This rhythm raises the debt to the abovementioned astronomical figures.

Mr. President: we cannot resign ourselves to such a bleak scenario!

The most reputed economists, both in the West and those subscribing to Marxist concepts, admit that the form in which the international debt system of developing countries functions is completely irrational and that maintaining it threatens to bring on a sudden interruption which would endanger the entire precarious and unstable world economic balance.

Some have tried to explain the surprising economic fact that international banks continue supplying funds to countries which are technically bankrupt, furnishing the argument that this is a matter of making generous contribution to help those countries withstand economic difficulties. But that's not the way it is. In reality it is a salvage operation of that same international capitalist order. In October of 1978, the European Communities' Commission admitted in an enlightening manner:

"The current balance of the world economy depends to a considerable degree on the fact that the stream of private loans to non-oil-producer developing countries continues...at a scale unprecedented prior to 1974, and any impediment to this stream endangers said balance."

World financial bankruptcy would be very tough, first of all for the underdeveloped countries and for the workers in developed capitalist countries. It would also affect the most stable socialist economies. But it is doubtful that the capitalist system could survive such a catastrophe. And it wouldn't be difficult to assume that the resulting terrible economic situation would inevitably spawn a world war. They are already talking about special military forces that would occupy oil fields and the sources of raw materials.

But if concern for this bleak panorama is the duty of everyone, first of all it is the duty of those who possess the greatest amount of wealth and material wellbeing.

For us revolutionaries, in the long run, the prospect of a world without capitalism doesn't scare us that much. (APPLAUSE)

It has been proposed that instead of the spirit of confrontation we use the sense of the interdependence of the world economy that allows us to combine the forces of all the economies to obtain common benefits; but the concept of interdependence is only acceptable when it is based on admitting the intrinsic and brutal injustice of current interdependency. Developing countries reject what is being proposed to them as "*interdependency*", the acceptance of the unfair and arbitrary international division of labor that modern colonialism imposed upon them starting with the English Industrial Revolution and subsequently intensified by imperialism.

If one wishes to prevent the confrontation and fighting, something that seems to be the only road open for developing countries, a road that offers long and difficult combat and whose proportions nobody could predict at this time, it is necessary that we all look for and find collaboration formulas to resolve the huge problems

which, although they affect our peoples, cannot be resolved without affecting the more developed countries in some form or another.

Not so many years ago, we expressed that the irrational waste of material assets and the subsequent squandering of the economic resources of developed capitalist society was now unsustainable. If that is not so, what then has been the cause of the dramatic energy crisis we are experiencing? And who if not the non-oil producing underdeveloped countries are the ones that must withstand the worst consequences? These opinions about the need to put an end to the squandering of the consumer societies are now generalized.

A recent UN document on Industrial Development states that:

“The forms of current life, especially in the industrialized countries, must perhaps have to experience a radical and painful change.”

It is clear that the developing countries cannot expect (nor are they expecting) that the transformations they would like to see happen and the financing they require would reach them as a gift derived from the mere analysis of international economic problems. In this process, a process involving contradictions, struggle and negotiation, the non-aligned countries must depend first on their own decisions and efforts. That conviction clearly emerged from the Sixth Summit. In the economic section of the Final Declaration, the Heads of State or Government recognize the need to carry out in their countries the necessary economic and social structural changes, considering that this is the only form to eliminate the vulnerability present today in their economies and to convert simple statistical growth into true development. Only in that way, and so the Heads of State acknowledge, would the peoples be willing to pay the price being demanded of them as the main protagonists of the process. As we once stated: *“If the system is socially fair, the possibilities of survival and economic and social development are incomparably greater.”*

The history of my country is an irrefutable example of that.

The emerging and unpostponable necessity of providing a solution to underdevelopment, Mr. President, makes us return to the problem that we were dealing with just now, and we would like it to be the last one I present to this United Nations Thirty-Fourth General Assembly. I am referring to international funding. We would say that one of the most serious phenomena accompanying the accelerated indebtedness of developing countries is constituted by the fact that the greatest part of the moneys that those countries receive from abroad have to be used to cover trade balances and negative current accounts, renewing debts and paying interest.

If we take the non-oil-exporting developing countries as an example, a situation I referred to at the Havana Conference, just in the last six years they have accumulated deficits in their balance of payments which surpass 200,000 million dollars. Against all that, the investments truly needed by developing countries are enormous. And they need them precisely and in the first place almost without exception, in the least profitable branches and productions which do not attract private foreign investors and moneylenders.

In order to increase food production, for the objective of eliminating malnutrition in those 450 million people we have mentioned, we would have to provide new land and water resources. According to the calculations of experts, the total area of cultivated land in developing countries would have to increase by 76 million hectares in the next 10 years, and irrigated land would have to increase by over 10 million.

The rehabilitation of irrigation works requires looking after 45 million hectares. For that reason, the most modest calculations admit that international financial aid (and we refer to aid and not to the total flow of resources) has to increase annually to 8,000 or 9,000 million dollars in order to achieve the objective of having agriculture grow at a pace of between 3.5 and 4% in developing countries.

If we examine industrialization, calculations go far beyond those parameters. When the UN Industrial Development Conference drew up the goals we mentioned at its Lima meeting, it determined that funding should be at the heart of the international development policy and that by 2000 this should reach levels of 450,000 to 500,000 million dollars per year; of these, one third, or 150,000 to 160,000 million, will have to be funded from foreign streams.

But, Mr. President, development is not just agriculture and industrialization. Development is chiefly attention to human beings, human beings who have to be the protagonists and the final point for any effort involving development. Taking the example of Cuba, I would indicate that in the last five years our country has used an average of almost 200 million dollars per year in construction investments for education. Construction investment and equipment for public health is developed at an annual average of over 40 million. And Cuba is just one of the almost 100 developing countries and one of the smallest in terms of geography and population. Therefore one can estimate that in investments, in educational and public health services, the developing countries would need tens of thousands of millions of dollars more per year to overcome the results of backwardness. That is the huge problem we are looking at.

Gentlemen: this problem of countries that are the victims of underdevelopment and insufficient development is not just our problem. It is a problem which affects the entire international community. More than once it has been said that we have been forced into underdevelopment by colonization and imperialist neo-colonization. The task of helping us to come out of underdevelopment is then, in the first place, a historical and moral obligation of those who reaped the benefits from pillaging our wealth and exploiting our men and women for decades and centuries. (APPLAUSE) But at the same time, it is the task of humanity as a whole, and is what the Sixth Summit has placed on the record.

The socialist countries did not participate in plundering the world nor are they responsible for the phenomenon of underdevelopment. But they understand the obligation to help overcome it and they take on the task starting with the nature of their social system where internationalist solidarity is a premise.

Likewise, when the world waits for the oil-producer developing countries to also contribute to the universal stream of resources that must nourish foreign funding for development, it doesn't do so for the historical obligations and duties cannot be imposed by anybody, but with hope and a duty of solidarity among underdeveloped countries. The great oil-exporting countries have to be aware of their responsibility.

Even the developing countries with a higher level must make their contribution. Cuba which isn't speaking here on behalf of its interests and doesn't defend any national objective is ready to contribute in the measure of its strengths, with thousands or tens of thousands of technicians: doctors, educators, agricultural engineers, hydraulic engineers, mechanical engineers, economists, middle technicians, skilled workers, etc.

For this reason, it is time that all of us join together in the task of taking entire peoples and hundreds of millions of human beings out of backwardness, poverty, malnutrition, disease, illiteracy, so that they can fully enjoy dignity and the pride of being called men and women. (APPLAUSE)

Therefore we must organize the resources for development, and that is our joint obligation.

Mr. President:

There are so many special funds, multilateral, public and private funds, whose objective is to contribute to one or another aspect of development, be it agricultural, industrial, or dealing with compensating the deficits in payment balances, something that doesn't seem very easy to me, bringing to the Twenty-Fourth Assembly the economic problems we discussed at the Sixth Summit, to formulate a concrete proposition for the establishing of a new fund.

But there is no doubt that the funding problem needs to be discussed profoundly and fully, in order to find a solution. Besides the resources that are already organized through various banking channels, by concessions organizations, international agencies and private financing bodies, we need to discuss and decide on the way that, at the beginning of the next decade for development, its strategy would include the additional contribution of at least 300,000 million dollars at the real 1977 values, distributed in yearly amounts that should be at least 25,000 million right from the first years, to be invested in the underdeveloped countries. (APPLAUSE)

This aid should be in the form of donations and long-term soft loans at minimum interest.

It is vital to mobilize these additional funds as the contribution of the developed world and countries with resources to the underdeveloped world in the next 10 years. If we want peace, we need these resources. If there are no resources for development, there will be no peace. Some will think we are asking for too much; I think the figure is still a modest one. According to statistics, as I stated at the Sixth NAM Summit inaugural ceremony, the world invests over 300,000 million dollars in military expenses every year. With 300,000 million dollars, in one year we could build 600,000 schools for 400 million children; or 60 million comfortable homes for 300 million persons; or 30,000 hospitals with 18 million beds; or 20,000 factories capable of generating jobs for over 20 million workers; or we could set up irrigation for 150 million hectares of land which with the proper technical level could feed 1,000 million people. This is what humanity squanders every year on the military. Besides, just consider the enormous amount of human resources, the youth, scientific and technical resources, fuel, raw materials and other assets. This is the fabulous price for there to be a climate of confidence and peace in the world.

The United States alone will be spending six times that figure on military activities in the ten year period of 1980 to 1990. For 10 years of development, we're asking for less than what is being spent today in one year by the Ministries of War and much less than one tenth of what will be spent in 10 years for military purposes. Some may think the demand is irrational: what is truly irrational is the craziness of today's world and the risks threatening humanity.

The enormous responsibility of studying, organizing and distributing that amount of resources must entirely be in the hands of the United Nations. The international community itself should be administering those funds, in conditions of absolute equality for each of the countries, be they contributors or beneficiaries, with no political conditions and with the amount of the donations having no bearing on the power of the vote to decide the opportunity for loans and the destination of funds.

Even though the flow of resources should be evaluated in financial terms, it shouldn't just rely on that. It could also take the form of equipment, fertilizer, raw materials, fuel and complete plants, evaluated in terms of international commerce. Also, the assistance of technical personnel and the training of technicians should be considered as contributions.

Mr. President and Representatives:

We are certain that if the UN Secretariat General, assisted by the Assembly President with all the prestige and weight of this organization, supported at the beginning as well by the influence given to this initiative by the developing countries and especially the Group of 77, the various factors we have mentioned would be called up to begin talks that would have no room for North-South antagonism or for what is called East-West antagonism; instead all the forces would come together in one common task, as a common duty and common hope. This idea that we are presenting now to the General Assembly could be crowned with success.

Because this is not a project that benefits only the developing countries; it would benefit every nation. As revolutionaries we are not put off by the confrontation. We have faith in history and in the people. But as spokespersons and interpreters of the feelings of 95 countries, we have the responsibility of struggling for collaboration among the peoples. And that collaboration, if it were achieved on new and just bases, would benefit all the countries that today make up the international community. And it would especially benefit world peace.

In the short term, development can be a task that entails apparent sacrifices and even donations that seem irrecoverable. But the vast world living today in backward conditions, lacking acquisitive power, extremely limited in their capacity to consume, will incorporate with its development a flood of hundreds of millions of consumers and producers, the only thing capable of rehabilitating the international economy including that of the developed countries which are generating and suffering from the economic crisis today.

The history of international trade has shown that development is the most dynamic factor of world commerce. The greatest part of commerce in our day and age is carried out between fully industrialized countries. We can be certain that while industrialization and progress spreads more and more in the world, so too will trade exchanges grow and this is beneficial for everyone.

It is for that reason, on behalf of developing countries, that we ask for and advocate the cause of our countries. But we aren't asking for any gifts. If we don't find the proper solutions, we shall all be victims of the catastrophe.

Mr. President, distinguished Representatives:

Human rights are spoken about frequently, but we also have to talk about the rights of humanity. Why do some people have to be barefoot while others drive around in luxury vehicles? Why do some people live to the age of 35 and others live to 70? Why do some have to be miserably poor while others are exaggeratedly wealthy?

I speak on behalf of the children of the world who don't even have a crust of bread (APPLAUSE); I speak on behalf of the ill who have no medicine; I speak on behalf of those who have been denied the right to life and human dignity.

Some countries have the sea, others do not; some have energy resources, others don't; some possess abundant land to produce food, others don't; some are so saturated with machinery and factories that one cannot even breathe the polluted air (APPLAUSE), while others only possess their scrawny arms to earn their daily bread.

In short, some countries possess abundant resources and others possess nothing. What is the fate of these? To die of starvation? To be eternally poor? What good is civilization then? What good is man's conscience? What good is the United Nations? (APPLAUSE) What good is the world? One cannot speak of peace on behalf of the tens of millions of human beings who die each year of starvation or of curable diseases

throughout the world. One cannot speak of peace on behalf of the 900 million illiterate.

The exploitation of poor countries by rich countries must cease!

I know that in many poor countries there are also the exploiters and the exploited.

I address the rich nations so that they will contribute. I address the poor countries so that they will distribute.

Enough of words! We need deeds! (APPLAUSE) Enough of abstractions, we need concrete actions! Enough of talking about a new international economic order that no one can understand (LAUGHTER AND APPLAUSE); we have to talk about a real and objective order that everyone understands!

I have not come here as a prophet of revolution; I have not come here to ask for or want the world to be violently thrown into confusion. We have come to speak of peace and collaboration among people, and we have come to warn everyone that if we do not resolve today's injustices and inequalities peacefully and wisely, the future will be apocalyptic. (APPLAUSE)

The din of weapons, threatening language, and arrogance on the international scene must cease. Enough already with the illusion that the world's problems can be solved with nuclear weapons. Bombs can kill the starving, the diseased and the ignorant but they cannot kill hunger, diseases or ignorance. Nor can they kill the fair sense of rebellion of the people; and in the holocaust the rich will also die, and the rich are the ones who have the most to lose in this world. (APPLAUSE)

Let's bid farewell to weapons and let us devote ourselves in a civilized fashion to the most exhausting problems of our era. That is the most sacred responsibility and duty of every statesman in the world. Besides, that is the indispensable premise for human survival.

Thank you very much!



**34th SESSION OF THE
GENERAL ASSEMBLY OF THE
UNITED NATIONS**

**Fidel Castro
October 12, 1979**

Revolutionary Notes From The Western Front

Shaka A. Shakur

Amerika has never dealt with its original sins of colonial genocide and structural settler racism; instead it has moved to placate, to pacify and coopt New Afrikan/Black folks into its own structural system of oppression and neocolonialism.

New Afrikan people represent an oppressed nation, an exploited nation—where the means of production and the ability to produce and sustain itself, the ability to meet the needs of its people and community—seized by a foreign entity. This genocidal seizure was to be in the interest of creating the amerikan settler state that later, on the surface, created this false impression of a multicultural democracy.

You don't get to impose a constitution upon a conquered people. You do not get to amend a people into a constitution that you once deemed as 3/5th human. You do not get to impose a secondclass citizenship upon a people and call it "*freedom*", as if all has been forgiven and forgotten.

What Is Freedom For New Afrikan People?

Freedom for New Afrikan people represents Independence, Land, Autonomy, and the ability to be SelfDetermining in creating its own destiny and National identity. It means being able to dictate and sustain the quality of life for our people. It means being able to not only govern Ourselves but create institutions that meet the needs of Our people, Our children, and have a direct impact upon Our material world/existence and the quality of Our lives.

Freedom means being able to reverse some of the negative social ills impacting Our community in the areas of healthcare, economic empowerment, and economical independence, where We are no longer contributing trillions of dollars into an economy that is controlled by a government that has proven not to function in Our collective best interest, A government where We see very little of those trillions reinvested back into Our community or Our people, especially Our children or youth.

Freedom means being able to put a stop to a lot of the reactionary and homicidal violence that exist in Our community. It means being able to stop and reverse the chemical and biological warfare being visited upon Our communities. It means ending and reversing the mass incarceration and current practice of harvesting and ethnic cleansing of Black and Brown bodies out of Our communities and processing them into the Prison Industrial Complex.

"We Are Revolutionary Nationalists"

We are not separatist, We are revolutionary nationalists, which is different and distinct from Black nationalism or reactionary nationalism. As an enslaved people once deemed chattel slaves by the u.s. government, as a conquered and neocolonized people based on international law, We were never allowed to declare Ourselves free and independent. We have never been allowed, through a legal entity or democratic process, to declare our Nationality and National Identity and have it recognized and binding on this government. Nor have we been afforded reparations to make up and atone for the 400 plus years of bondage, servitude, exploitation, and genocide perpetrated against New Afrikan people by this neofascist and neocolonial government.

Therefore, We continue to wage the struggle of war and resistance for Land, Independence, and Socialism first begun by Our ancestors when the first settlers stepped off the boats and arrived on the shores of Afrika. We salute, champion, and continue that tradition from one generation to the next.

As I tune into the corporatecontrolled media and I see all of these young people and others who have suddenly discovered that genocide not only exists, but is being perpetrated against the Palestinian people by Israel, I can't help but ask: Do you not see the genocide that has been and is being carried out against New Afrikan/Black folks in modern day Babylon?! Genocide that is being carried out on the shores of the North American Continent?

We are ProPalestine liberation as We are ProHaitian, ProDarfur, and ProSudan liberation. But We are also ProNew Afrikan Liberation. You do not have to look outside of the u.s. borders to denounce genocide. You have wars and struggles of National Liberation right here on this north amerikkkan continent. The thousands upon thousands of native and indigenous people being wiped off of this earth, the womyn being disappeared and slaughtered from their communities that no one wants to acknowledge or talk about, for example. The tens of thousands of Black and Brown bodies being fed into the Prison Industrial Complex that prevent Our ability to reproduce or serve Our people and/or communities.

Revolution Starts At Home!!!

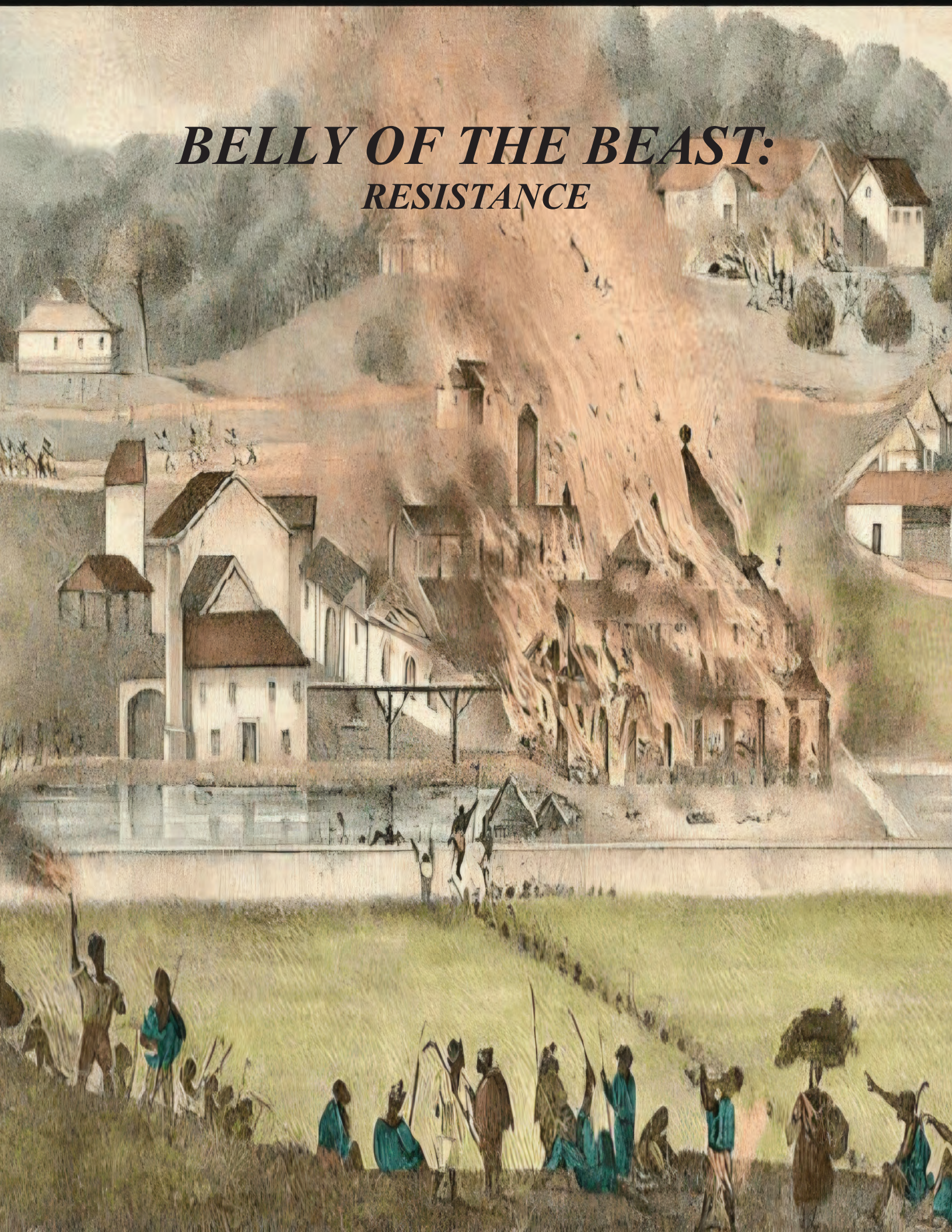
We Challenge You To Broaden The Struggle!!!

FREE ALL POLITICAL PRISONERS!!!

FREE THE LAND!!!

Shaka Shakur

BELLY OF THE BEAST:
RESISTANCE





“Gloucester’s Rebellion”
September 1663

Moving Beyond Cop Cities: A Review

by Riley Clare Valentine

Beyond Cop Cities: Dismantling State and Corporate-Funded and Prisons edited by Joy James is a collection of essays and interviews largely pertaining to the Atlanta Stop Cop City movement.¹ The Atlanta city government decided to spend nearly \$90 million dollars to develop a military and police training facility in a “minicity” which would destroy a forest in the process of its construction. In response, Atlanta organizers gathered to protest its construction, using numerous methods of resistance including treesitting, in which protestors “sit” trees which are meant to be cut down. One of these protestors, Tortugueta was shot 57 times by the police as they were sitting with their hands held up. For many people unconnected or unaware of Stop Cop City, this act of violence and murder galvanized them to protest and also to support the Stop Cop City protestors. This support led to the targeting of activists who helped to organize a bail fund for protestors, those activists are facing RICO charges. The Stop Cop City movement in many ways stands out, not necessarily because it is unique, these types of protests have occurred in the past, but in the fact that in the era of social media, the State’s direct forms of violence became visible in a way it may not have been prior.

Joy James’ anthology encourages us to make connections across struggles, and to also think about how to possibly change our being. Beyond Cop Cities is an anthology that uplifts voices that are critical of State violence and provides actionable tasks. The essays and interviews are earnest and vulnerable. They broach subjects which often run the risk of providing no possible alternative or visions for the future. In light of this, this anthology is refreshing. We find not only salient critiques of prison and thinking through police violence but also steps for how to systematically and personally advocate for alternatives to these forms of violence. James has cultivated an anthology that is much needed, one that provides guidance and analysis.

The collection coalesces around the theme of power and violence. The State has a monopoly on violence. The State may shoot unarmed protestors and go unprosecuted. It may levy charges against activists so as to make their work more difficult. The usage of violence by the State as opposed to violence used by the people is inherently disproportionate. Reverend Johnson and Joy James in their essay “Letter on Concern to Black Clergy Regarding ‘Copy City’” focus upon the ways in which the Clergy abscond their moral authority by siding with power and acknowledging unjust State violence when it behooves their political interests. This chapter critically examines how despite the State’s monopoly on violence, protestors have an undue burden of passivity put upon them, while militarized police are not expected to refrain from usage of violence.² Protestors are placed in a morality test, in which they ultimately will fail. Johnson notes that these expectations are normalized whereas politicians are not held to the same standards. He points to politicians such as Senator Warnock who spoke movingly on the violent deaths of Black people at the hands of police, but did not speak in the same manner on Tortugueta. Johnson’s essay asks us to listen to the silence, and to recognize this as a statement. He pushes us to question who the moral authorities are, and to consider the protestors as those authorities, “if a pastor is qualifying what he/she/they say about injustice to accommodate the powers that be from the pulpit, they already lost the Church of Jesus Christ and their moral authority. Let us honor Atlanta’s Prophet, Tortugueta, and the Savior of the World by joining the fight to Stop Cop City.”³ Johnson’s approach, grounded in Protestant Christianity, challenges the Clergy to denounce violence, including when it is not personally beneficial.

I am a Catholic whose activism is based in Catholic Social Teaching. I was raised in a Church that

¹ For full disclosure, I am good friends with the organizers of Atlanta Bail Solidarity Fund who are discussed frequently within the collection.

² “Letter of Concern to Black Clergy Regarding ‘Cop City,’” by Reverend Matthew V. Johnson and Joy James, 38.

³ Ibid., 44.

⁴ “Urban Warfare and Corporate-Funded Armies: Cop City as a Chapter in the Long History of U.S. Colonialism,” by Joy James and Kalonji Jama Changa, 22.

focused upon the common good, and confronting the Church's history of violence. Johnson's call is particularly salient in a moment in which the American Catholic Church is turning towards the right in spite of Pope Francis and Pope Leo XIV's calls for the Church to attend to the vulnerable. Johnson's words are a reminder that if religious leaders abandon the common good and the precepts of the Gospel, then they have lost what authority they have been granted. As a Catholic, Johnson speaks to the theological principle of the "primacy of conscience" in which God speaks first through a wellformed conscience. This essay is significant for activists and organizers whose work is based in theology, and one that I have carried with me in my own community work.

Other essays such as "Urban Warfare and Corporate Funded Armies: Cop City as a Chapter in the Long History of U.S. Colonialism" by Joy James and Kalonji Jama Chan address the connections between Cop City and colonialism. Cop City sits on Muscogee Creek land, originally called the Weelaunee forest. The Muscogee Creek were forced from the land in the 1820s and 1830s. Following this, the land was a prison farm, and later a plantation. Cop City would turn that land into a training ground for police using "MOUT" tactics, "MOUT is a genre of militarydeveloped urban warfare strategies...as described in...Military Operations on Urban Terrain (MOUT)...with diagrams illustrating military operations in commercial and residential areas..."⁴ They cite a report from the 1980s which finds that researchers who developed MOUT used the city of Atlanta for their research.⁵ James and Changa point to an active silence on behalf of elected officials such as Senator Warnock regarding Cop City, in which he decried property destruction rather than the destruction of indigenous lands and human bodies.⁶

Interviews and discussions such as "Tortuguita's Mother Speaks: Belkis Terán, BPM/RSTV Interview with Kalonji Changa" draw our attention to the human cost behind State violence, and Terán reminds us that protests are not the end of responding to State violence, "Protest is important, but we have to change our ways of being."⁷ Terán drew on her own religious beliefs and background in her interview with Changa. She notes that she raised Tortuguita in a "very Christian tradition." She says, "I always told my children the principle of life is that we have to respect and consider each other. Based on Jesus' word that you must love your neighbor as yourself, I think this is the most powerful law in the universe. That love helps everybody grow and give the best of yourself."⁸ Terán recounts a story of Tortuguita trying to give away all of their Christmas presents so as to fulfill Jesus' commandments.

Religion arises frequently as a topic within the essays. Organizing in the Deep South of the United States frequently includes working with faith communities, and often those same communities have roots in the Civil Rights Movement. The faith practices we see in this anthology draw on this rich history of a theology of resistance. Moreover it helps introduce an ongoing theology of resistance, one that dovetails with traditions such as liberation theology.

When Terán is asked what we can do to keep and honor Tortuguita's memory she responds in a way that is reminiscent of Johnson's call to action, "Feed the poor, try to find the people that are in need around you and help to shelter people, too...Organize with your church. There are so many ways that we can connect with people...I always say: don't do anything alone."⁹ Terán points us to thinking through how to best connect with others in the pursuit of mutual aid, contending that in doing so we can change our very beings.⁹

5 Ibid.

6 "Resisting Cop City Corporate and Clergy Colonizers," by Fergie Chambers, Matt Johnson, Kalonji Jama Changa, and Joy James, 58.

7 Beyond Cop Cities: Dismantling State and Corporate-Funded Armies and Prisons, Editor Joy James, "Tortuguita's Mother Speaks: Belkis Terán," by BPM/RSTV Interview with Kalonji Changa (Pluto Press: 2024), 67.

8 "Tortuguita's Mother Speaks," 65.

9 Ibid., 75.

Our Children Are Waiting: A Black August Poem

by
Julia Wright

"We must act as if we answer to, and only answer to, our Ancestors, our children, and the unborn."

-- Amilcar Cabral

two generations ago already
George Jackson told us
fascism is already here - did we hear ?

Lynne Stewart spoke of the twilight of evil - did we see ?

Arthur Gramsci
let us know that
when the old world refuses to leave
and
the new world is slow to arrive
there is a betweenness
where monsters are born

Frantz Fanon
gave us the weapon to defeat
the colonial monster
curled up in our minds

we will not dignify the abyss with too long a stare because our children
and the children of our children
stand ancestrally ready on the other side



“The Battle Of Greasy Grass” aka “The Battle of Little Bighorn”
June, 25, 1876

I sit here in full day light, blind: a poem

by
Julia Wright

To Mumia:

To those marching for Mumia in Philly today

“ Our political prisoners suffer from cookie cutter torture”

Ericka Payne

“ There is concern for Abu-Jamal’s physical integrity”

2021 letter from the UN Working Group of Experts for Peoples of African Descent to the US government

there are all shades
of blindness

there is your
failing eyesight,

Mumia,
there was yours,

Leonard,
in the cookie cutter torture

of dungeons
where the physical integrity

of the body
is under cruel and inhuman

absence of scrutiny
there is the self-willed blindness

to the Truth
of your innocence

chosen by those who stand to lose
by staring it in the face

then
there is the inability to see

the blindness of the absent
who like me

yearn to march

and rally
this weekend in July
to commemorate
the date
when you Mumia were criminally
sentenced to die
those who are at a distance
attempt to remotely visualize
the dust
the heat
the watermelon
the honks
the banners
the flyers
the street rags
and the rage and love
rising into the skies
i sit here
in full daylight
blind
trying to find the words,
the beat
to follow
in an imagined dance
wait for me
i am not far behind

Mumia's Address U Penn on Palestinian Encampment

May 6, 2024

Brothers, sisters, comrades, and friends: What are you doing? What are all of you doing? And why are you being punished and threatened by the State? Think about that. You are protesting against genocide. Protesting against mega violence, paid for in large part by American taxpayers who are buying the weapons used by the state of Israel to punish the people of Gaza. Who has the right to punish you for doing this? What you are doing is the rightist thing in the world. Think of this. The State itself --and by the State I mean the United States-- is buying, or selling I should say, twoton bombs for Israel to drop on the homes, the universities, the schools, the mosques, the stores, the apartment buildings, the homes, and now the tents of Palestine. Who is on the side of right? And who is on the side of wrong? These are questions that you have to grapple with, and you have to understand the nature of the State, the nature of the United States, the nature of settler colonialism that depersonalizes, dehumanizes, disappears, destroys, and really treats the Palestinians as if they are not human. But you all know better. If you didn't know that human beings are suffering indescribably, that today they are the wretched of the earth, if you didn't know that, you wouldn't be there. You're there because your hearts, your minds, your souls have been touched and moved to take to the streets, to build an encampment, and to fight for the lives, for the liberties, the liberation of a people in Palestine. For that you are not to be punished. You should be awarded. You're doing the most human thing you could do. I don't know what the administrators are going to say. I have an idea, but I don't know. I don't know what your government is going to say. I have an idea, but I don't know. But as for me, I am going to commend all of you for doing the work of saving the lives of the most oppressed people in this world. I thank you all, and I love you all.

We love you!

With love, not fear, this is Mumia AbuJamal.

Give it up! (Cheers) Give it up For our dear brother Mumia AbuJamal!

My question is why do you say cease the occupation rather than cease fire now?

Because a ceasefire is a short term, interim affair, and the real problem is not ceasing the fire, but ceasing the occupation. And the occupation is a situation that gives rise to everything that's happening over there. People who are oppressed have a right to fight their oppression by any means necessary.

Cheers! That's right! That's right!

Here's another question.

Hi Mumia. I want to say first that it's an honor for us to get to speak to you, and my question is, What...I know it's maybe a basic question, but what advice do you have for young comrades and organizers and what is it that you wish you had known at a younger age?

Thank you. It's the hardest thing in the world for a young person to be patient, but you gotta be patient. You have to talk to people. You have to listen to people. And talk to them with love in your heart. Not with arrogance, but with love.

Thank you, Mumia (Applause)

Hi! I was wondering if you have any critiques of our student movement and our general communal movement as you have observed it this far and also of coverage ?

Well, really we get propaganda from the corporate press, but here's the kicker. You're gonna make mistakes. Why? Because you're human. We all make mistakes. Anyone who says they haven't made a mistake is lying. So you're gonna make mistakes. But the question is: What moves your heart to do this work? You know, in the Black Panther Party we did what we did for free because we believed in socialism. We didn't just ????. We usually had one pair of pants – the pants we had on and the pants we were washing for tomorrow. And we didn't care because none of that was important. What was important was the work that we did. That was the most important thing. Love the people. Talk to the people. I love you all. They're pulling my plug, brother.

Prison Radio, May 6, 2024, <https://www.prisonradio.org/commentary/mumiaaddressupennonpalestinianencampment/>



A Photo of The Young Lords from 1971 for the cover of "Palante" 1971

STATEMENT OF LEONARD: SOLIDARITY WITH PALESTINIAN & LEBANESE FREEDOM FIGHTERS

Greetings Comrades, Brothers & Sisters

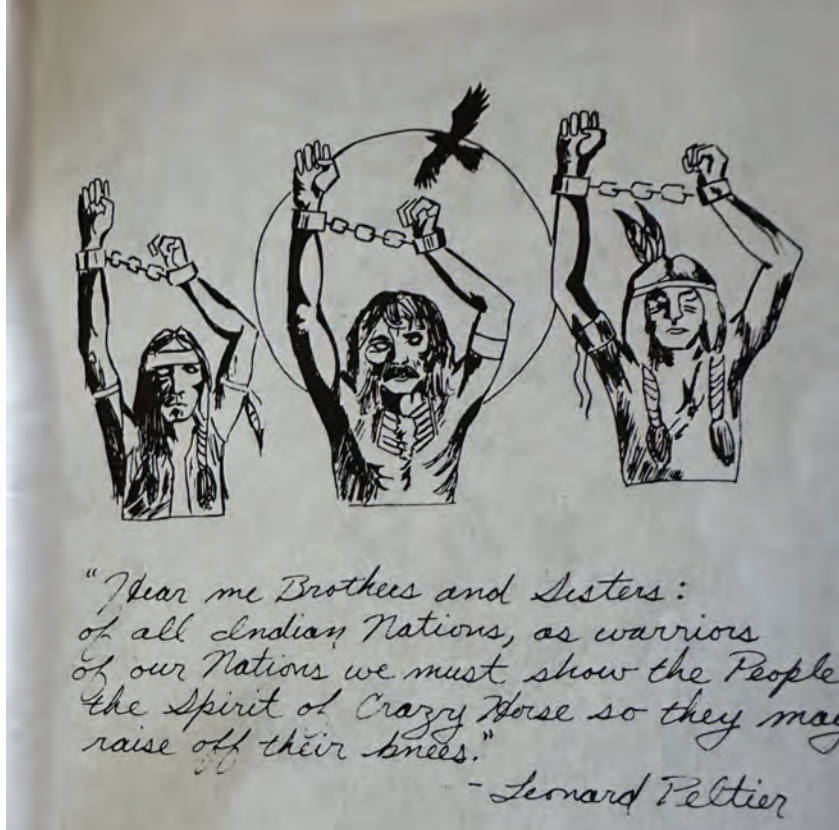
I send to you and the Palestinian people my strongest solidarity during this critical period in the struggle of the P.L.O. and Lebanese people against the forces of U.S. & Israeli aggression!

Myself, members of the American Indian Movement (AIM), Leonard Peltier Defense Committee, and its support groups stand in solidarity with the struggle of the Palestinian people for their traditional land. We understand your struggle based on our continuing war against the U.S. government & their attempts to annihilate us as a PEOPLE and to steal what remains of our traditional land as shown by their actions at Wounded Knee, Big Mountain, and most recently at Lame Deer on the Northern Cheyenne nation. The Israeli troops, in carrying out their genocidal campaign, are acting today as the 7th Calvary acted in the past and continues to act in Indian Country. THEY are the war criminals who will be tried for their butchery of the Lebanese & Palestinian people in Lebanon! If I were free today, I would take our Red Warriors to fight side by side with the freedom fighters of the P.L.O. to smash the imperialist forces of the U.S. & Israel. I know that the forces of liberation must and shall come together to fight as a united front in unity of the four colors. We as RED warriors call upon the YELLOW, BLACK & WHITE FREEDOM Fighters to stand united with the P.L.O. in uncompromising solidarity against the Zionist forces of Israel. I send my love and blood as a prisoner of war within the belly of the beast to those who continue the struggle.

VICTORY TO THE PALESTINIAN AND LEBANESE FREEDOM FIGHTERS!

Leonard Peltier, P.O.W.

Marian Federal Prison
7/13/82



Kop City Is The New Modern-Day Militarized Fort!

Shaka A. Shakur

Introduction

This week represents the one-year anniversary of the State's attack and arrest of Amin Chaoui and others who were exposing and challenging the state attempt to build another kop city, this time within the Atlanta, Georgia area¹.

It's important to look at the creation of kop city within the larger context and scheme of govt. repression, the creation of a police state of hyper surveillance, for the further intrusion into the private lives of the people, saturation policing and the use of poor or working class folks to police, and dominate and control other poor, oppressed and marginalized folks.

It is also interesting where a lot of these Kop City, modern day forts, for the police, sheriff, modern day posse or local settler population is being built and its use to control and impose minority rule. To monitor, control and secure the natives, the perceived threat population. In whose interest are they serving? In the old days when genocide was being visited all across this land, military and settler Forts were built to launch raiding parties from, supposedly to protect the local population (we know this isn't the case here) and a place where captured natives, enslaved Afrikans and others were held, interrogated, tortured or forced into servitude.

*"Cop City-ATL is designed to join Michigan Camp Grayling founded in 1913 when local lumber baron, Rasmus Hanson, donated over 13,000 acres to the State of Michigan for military training. Camp Grayling has since grown to 147,000 acres that spans over three counties of maneuver area, state-of-the-art ranges, and modern support facilities, making it the largest National Guard Training Center in the Country. In fact, there are Forty – Seven other States that have the same or similar plans"*².

Kop Cities: A Response to Resistance

So why are so many of these being built all over and around the country. Why on such a large scale and why with such a wide array of training dealing with Urban Warfare and Repression? The same Training and Tactics being used and taught to be utilized in theaters of war such as Iraq, Syria, Afghanistan and various parts of Afrika and is now being prepared to be visited upon the Neo Colonized Natives and People of Color and other so called disenfranchised folks. Could it be an opportunistic response to the rebellions and BLM protest in the aftermath of the murders of George Floyd, Breonna Taylor, Mike Brown to just name a few? An opportunity to push forward a neo-fascist agenda of further militarization of the initial shock troops of so-called law enforcement.

The rebellions and protest a few years back exposed the flaws and weaknesses within the U.S. govt. and security infrastructure as protesters and resisters attacked and burned down government agencies, police stations, court houses, city halls, etc. all of which invigorated and emboldened the masses who may have before been initially afraid, fearful or intimidated by the state and its and its security forces/apparatus.

¹ Amin Jalal Chaoui, a 29-year-old from Richmond, Virginia, drove to Atlanta, Georgia to attend a music festival organized by activists as part of their struggle against Cop City. He ended up being one of 23 people violently arrested on March 05, 2023 as he tried to leave the concert. After being held captive for 18 days, he was charged with domestic terrorism. On September 5, 2023, Chaoui and 60 others were charged with violating Georgia's RICO Act, or Racketeer Influenced and Corrupt Organizations Act. – Derek Ford
² Efia Nwangaza, Esquire, "Smash Kop City Atlanta: A Spoke in the National White Supremacist Bulwark for White Minority Rule," Re-Build: A New Afrikan Independence Movement Periodical (Winter, 2023-24): 8.

This is also why you see the heavy handed response to the cop city resisters. The use of the RICO Act and other Federal conspiracy Statutes, designed to both intimidate, crush and dismantle said organizations and developing political infrastructures.

This is a strategy and tactic hiding in plain sight of supposedly the constitutional right to assemble, to protest, to speak truth to power, but apparently not.

If people like the kop City defendants is convicted on these types of conspiracy charges it sets a dangerous precedent for all revolutionaries and political activist and any organizations that oppose, challenge or expose U.S. domestic policies. The thought police can come arrest you, prosecute you, claim you're a conspirator if you belong to a political organization or collective.

You then become a terrorist or Security Threat and end up in one of the many Prison Industrial Complex Supermaxes. It's no different in a prison setting where political org is identified as gang activity or Security Threat Group/S.T.G. activity, our books and literature is deemed to promote terrorism, subversiveness or violence and you end up housed in a Secure Housing Unit or in a Supermax on Admin Segregation Status.

These kop city complexes being built are military bases masquerading as Protect and Serve. It is not to serve the interest of the people and should be exposed and challenged!!!

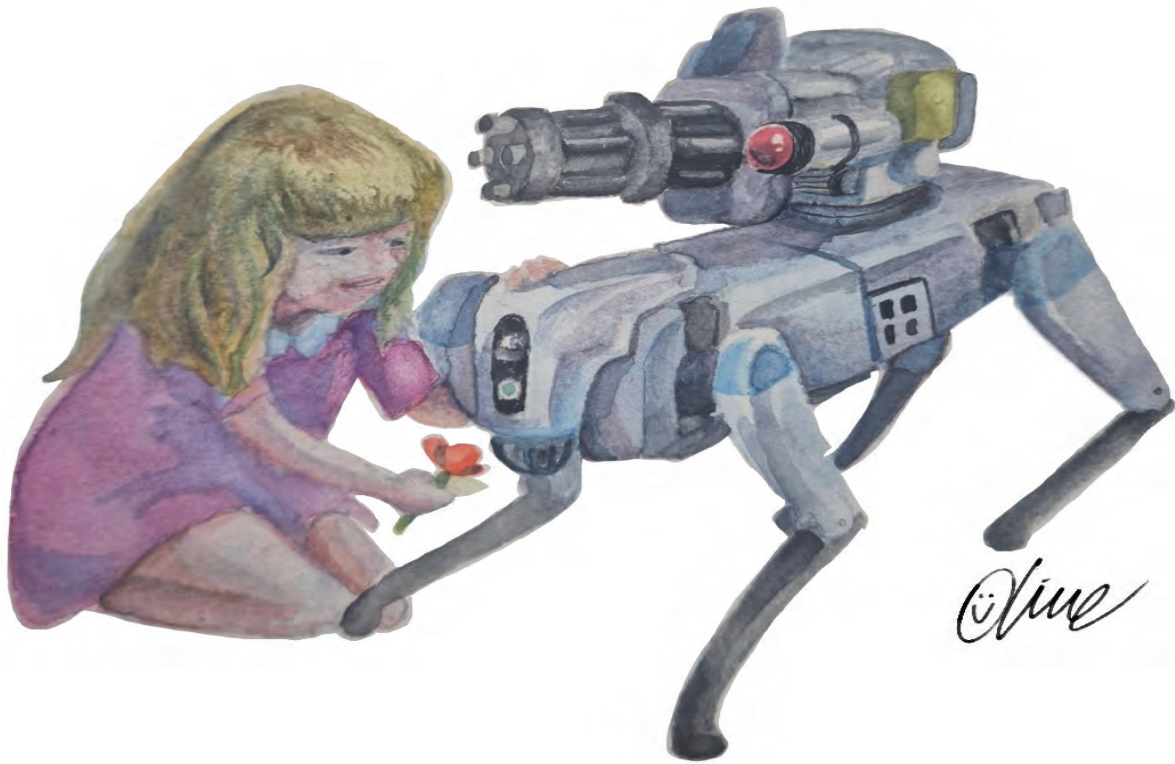
All Power 2 The People!!

Shaka A. Shakur #1996207

ShakaShakur.org



Sofiyah Bukhari, member of the Black Panther Party and co-founder of “The Free Mumia Abu-Jamal Coalition” and the Jericho Movement for U.S. Political Prisoners of War. Watercolor by Olive Gardenia



The Cyberang: Proactively regulating police deployment of autonomous weapons

Robert Parkinson Helwig²

The Problem

In “The Terminator,” director James Cameron’s 1984 science fiction blockbuster film, Arnold Schwarzenegger portrays a cyborg assassin – a fully autonomous machine that can identify, select, and kill human targets.³ In the film, the Terminator traveled backwards in time to 1984 from 2029. In 2025, technologies exist that have the fundamental features of the Terminator and other “killer robots” popularized by 20th century science fiction: the ability to detect, select, and kill human targets without needing an affirmative human command to use lethal force. In the lifetime of a human alive today, police in the United States will procure weaponized, fully autonomous machines under the pretext of deploying it to enforce the law. When they do, our governments will be empowering weaponized, fully autonomous, and unaccountable machines to determine the rights of a human being. Ultimately, a weaponized, fully autonomous, and unaccountable machine will deprive a human being of their rights or kill them.

“The Cyberang” articulates the maturing problem posed by autonomous weapons in the context of the progressive militarization of American police, piggybacking on Michel Foucault’s imperial boomerang theory. It also defines autonomous weapons, explains the technology and how it threatens the safety of American citizens, summarizes the use of autonomous weapons, discusses the international arms race to acquire them and the efforts to regulate them internationally and domestically. Lastly, this paper proposes model legislation to

¹ “A Girl and Her Dog” 2025 watercolor by Olive Gardenia

² Robert Parkinson Helwig is an attorney based in Pittsburgh, Pennsylvania. He specializes in housing law. Robert’s experiences protesting State violence, beginning with protesting the killing of Tamir Rice, informed and inspired this project.

³ Rotten Tomatoes, The Terminator, <https://www.rottentomatoes.com/m/terminator> (last visited Apr. 22, 2023).

regulate “weaponized autonomous machines.” My experiences protesting governments’ abuse of their monopolization of violence informed this project.

The Cyberang

The Imperial Boomerang, also known as the Colonial Boomerang or the Boomerang Effect, is a helpful metaphor for understanding the threat of autonomous weapons supplementing the State’s most potent power: the power to kill with impunity.⁴ Twentieth century French philosopher Michel Foucault, credited with articulating the theory, first discussed the imperial boomerang during his lecture series “Il faut défendre la société” or “Society Must Be Defended,” in 1976.⁵ Indeed, as the citizen of a nation with a prolific imperial history, Foucault was well situated to remark on the gyroscopic procession – the phenomenon of physics that reunites a boomerang with its thrower – of colonial attitudes, tactics, and technology that return to the colonizer’s homeland.⁶

Colonization, with its techniques and its political and juridical weapons, obviously transported European models to other continents, it also had a considerable boomerang effect on the mechanisms of power in the West, and on the apparatuses, institutions, and techniques of power. A whole series of colonial models was brought back to the West, and the result was that the West could practice something resembling colonization, or an internal colonialism, on itself....⁷

One quarter century later, the United States of America would meet a boomerang of its empire. This paper does not consider whether the War on Terror and American attempts at nation-building were 21st century exercises in colonialism. However, the War on Terror and nation-building are similar enough in their significant military mobilizations to earnestly apply the metaphor the present. A boomerang’s return to its thrower concludes a cooperative, almost knowing exercise. Here, the American people – complicit or otherwise preoccupied – sheltered confidently or ignorantly behind their government, never expecting the weapons and tactics of American warfare to return home. Widespread recognition of the Boomerang Effect developed during the 2014 protests of the police killing of Michael Brown in Ferguson, Missouri, as local law enforcement presented and conducted themselves like a military organization.⁸ Rapt Americans watched Fergusonians resist police dressed in military-style fatigues, operating armored vehicles or armed with military-style rifles. Ten years later, police militarization, which includes the widespread deployment of military equipment⁹ and surveillance technologies, like facial recognition¹⁰ and drones,¹¹ has become largely accepted by the American public. When military powers and the military industry stoking them begin manufacturing autonomous weapons, proliferation of the technology will be inevitable.¹² Once the technology’s military application becomes entrenched, military industry will seek new customers in domestic law enforcement agencies. Elected officials, military industry lobby-

4 Derek S. Denman, *The Logistics of Police Power: Armored Vehicles, Colonial Boomerangs, and Strategies of Circulation*, 38 *SOCIETY AND SPACE* 1138, 1143, <https://journals.sagepub.com/doi/pdf/10.1177/0263775820929698>.

5 Stephen Graham, *Foucault’s boomerang: the new military urbanism*, openDemocracy (Feb. 14, 2013), <https://www.opendemocracy.net/en/opensecurity/foucaults-boomerang-new-military-urbanism/>.

6 Kirstin Fawcett, *What Makes A Boomerang Come Back? The Physics of Boomerang Flight*, *POPULAR SCIENCE* (Oct. 24, 2013), <https://www.popsoci.com/article/technology/what-makes-boomerang-come-back/>.

7 Graham, *supra* note 3, at 1143.

8 Niraj Chokshi, *Militarized Police in Ferguson Unsettles Some; Pentagon Gives Cities Equipment*, *The Washington Post* (Aug. 14, 2014), https://www.washingtonpost.com/politics/militarized-police-in-ferguson-unsettles-some-pentagon-gives-cities-equipment/2014/08/14/4651f670-2401-11e4-86ca-6f03cbd15c1a_story.html.

9 Defense Logistics Agency (DLA), *Frequently Asked Questions Relating to the 1033 Program, HOW MANY LAW ENFORCEMENT AGENCIES ARE CURRENTLY PARTICIPATING IN THE PROGRAM?* [https://www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/#:~:text=Non%2DControlled%20Property%20\(also%20called,of%20the%20law%20enforcement%20agency](https://www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/#:~:text=Non%2DControlled%20Property%20(also%20called,of%20the%20law%20enforcement%20agency) (last visited Apr. 23, 2023).

10 Nicol Turner Lee & Caitlin Chin, *Police Surveillance and Facial Recognition: Why Data Privacy Is Imperative for Communities of Color*, *THE BROOKINGS INST.* (Apr. 12, 2022), <https://www.brookings.edu/research/police-surveillance-and-facial-recognition-why-data-privacy-is-an-imperative-for-communities-of-color/>

11 Atlas of Surveillance, Map, *ELECTRONIC FRONTIER ORG.* (last updated Mar. 3, 2023) <https://atlasofsurveillance.org/atlas>.

12 *The Future of Life Inst., Slaughterbots Are Here*, <https://autonomousweapons.org/> (last visited Apr. 23, 2023).

ists, and police unions will manipulate Americans' genuine fears of mass shootings,¹³ terrorism,¹⁴ and societal collapse¹⁵ into public acceptance of a United States with weaponized, fully autonomous, and unaccountable machines, deputized by police agencies to enforce laws. While this expectation merely modifies the imperial boomerang theory while anticipating technological advancement, given the crucial distinction of delegating to a machine the decision to use force, the theory deserved a corresponding rebrand that paid homage to its prediction by 20th century science fiction artists.

The Elements of An Autonomous Weapon

Autonomous weapons may also be called autonomous weapon systems (AWS),¹⁶ lethal autonomous weapon systems (LAWS),¹⁷ slaughterbots,¹⁸ or killer robots.¹⁹ Although no term or definition has yet emerged as the international community's consensus choice, attempts to define autonomous weapons tend to share two components: independence from human control and the ability to use deadly force. The U.S. Department of Defense uses the term "autonomous weapon system" and defines it as "a weapon system that, once activated, can select and engage targets without further intervention by an operator."²⁰ The Future of Life Institute considers them to be any "weapons which can autonomously select, target, and kill humans."²¹ Professor Dr. Rebecca Crootof believes an autonomous weapon is

*"a weapon system that, based on conclusions derived from gathered information and preprogrammed constraints, is capable of independently selecting and engaging targets."*²² *Autonomous weapons use artificial intelligence, or A.I., specifically, machine learning. Artificial intelligence "is the capability of a computer system to perform tasks that normally require human intelligence, such as visual perception, speech recognition and decision-making."*²³

Machine learning software is 'trained' on data to create its own model of a particular task and strategies to complete that task. The software writes itself in a way... Some machine learning systems continue to 'learn' during use – so called 'active', 'on-line' or 'self-learning' – meaning their model of a task changes over time.²⁴

Humans train machine learning, also known as deep learning, a pervasive AI variety, like they train children – by teaching by example.²⁵ To train machine learning, "developers feed the system correct examples of

13 Megan Brenan, Nearly Half in U.S. Fear Being the Victim of a Mass Shooting, Gallup (Sept. 10, 2019) <https://news.gallup.com/poll/266681/nearly-half-fear-victim-mass-shooting.aspx>.

14 Gallup, Concern About Being Victim of Terrorism, <https://news.gallup.com/poll/4909/terrorism-united-states.aspx#:~:text=In%202021%2C%2036%25%20say%20they,or%20not%20worried%20at%20all%3F> (last visited Apr. 23, 2023).

15 Roxy Amirazizi, Chapman University Study of American Fears Wave 7 (2020/2021), Chapman University (2021) https://www.chapman.edu/wilkinson/research-centers/babbie-center/_files/Babbie%20center%20fear2021/blogpost-americas-top-fears-2020_-21-final.pdf.

16 Int'l Comm. of the Red Cross, WHAT YOU NEED TO KNOW ABOUT AUTONOMOUS WEAPONS, (July 26, 2022), <https://www.icrc.org/en/document/what-you-need-know-about-autonomous-weapons>.

17 Defense Primer: U.S. Policy on Lethal Autonomous Weapons Systems, 117th Cong. (November 14, 2022) [https://crsreports.congress.gov/product/pdf/IF/IF11150#:~:text=Lethal%20autonomous%20weapon%20systems%20\(LAWS,human%20control%20of%20the%20system](https://crsreports.congress.gov/product/pdf/IF/IF11150#:~:text=Lethal%20autonomous%20weapon%20systems%20(LAWS,human%20control%20of%20the%20system).

18 SLAUGHTERBOTS (Future of Life Institute, 2017).

19 Slaughterbots Are Here, *supra* note 10.

20 Autonomy in Weapon Systems, DoD Directive 3000.09 (Jan. 25, 2023).

21 Slaughterbots Are Here, *supra* note 10.

22 Rebecca Crootof, The Killer Robots Are Here: Legal and Policy Implications, 36 CARDOZO L. REV. 1837, 1837 (2015).

23 Ingvild Bode & Hendrick Huelss, Autonomous Weapons Systems and International Norms 20-21 (2022).

24 Int'l Comm. of the Red Cross, What You Need to Know About Autonomous Weapons, WHAT IS THE ROLE OF AI AND MACHINE LEARNING IN AUTONOMOUS WEAPONS? (July 26, 2022), <https://www.icrc.org/en/document/what-you-need-know-about-autonomous-weapons>.

25 Lou Bloin, AI's mysterious 'black box' problem, explained, University of Michigan-Dearborn, <https://umdearborn.edu/news/ais-mysterious-black-box-problem-explained> (March 6, 2023).

something you want it to be able to recognize, and before long, its trend-finding inclinations will have worked out a ‘neural network’ for categorizing things [it has] never experienced before. . .”²⁶ At least three tiers of autonomy govern the functionality of autonomous weapons. When a machine performs a function for a while but “then stops and waits for human input before continuing, theyOK are often referred to as ‘semi-autonomous’ or ‘human in the loop.’” When a machine performs a function entirely on its own but a human supervises it and may intervene in the event of failure or malfunction that may cause an inappropriate engagement, this is known as “‘human-supervised autonomous’ or ‘human on the loop.’”²⁷ When a machine can “select and engage targets without further intervention of a human operator,” this is considered “‘human out of the loop’²⁸ or ‘full autonomy.’”²⁹ Essentially, autonomous weapons are

*Systems that use machine analysis of information acquired from sensors to automatically select and engage targets, such that a human operator does not determine specifically where, when or against what force is applied.... The specific object to be attacked, and the exact time and place of the attack, are determined by sensor processing, instead of by an immediate human command.*³⁰

An autonomous weapon’s developer preprograms it with criteria comprising a profile, and the user deploys it into an environment “where its AI searches for that ‘target profile’ using sensor data, such as facial recognition. When the weapon encounters someone the algorithm perceives to match its target profile,” it attempts to kill them.³¹

Automated violence advocates tout the variety of military advantages for those who deploy them, as well as the purported benefits for humankind. Indeed, although this paper uses *The Terminator* to suggest that the risks posed by autonomous weapons to substantially outweigh their benefits, automated violence advocates sometimes use its sequel, *Terminator 2: Judgement Day*, to extol autonomous weapons’ potential for good. In that film, Arnold Schwarzenegger’s character returns not as indefatigable predator robot but as one reprogrammed to protect human beings.³² Researchers studying the effect of popular media representations of autonomous weapons have dichotomized killer robots with “machine guardians: anthropomorphized forms of AI which protect humans from physical harm, follow instructions and can use force with superhuman accuracy.”³³ Another position autonomous weapon advocates stake is its quicker reaction time relative to a human being.³⁴ The benefit of having a reduced reaction time in combat is self-evident: a faster fighter has a clear advantage over its slower foes. Relatedly, a human being’s susceptibility to fatigue, emotion, and predictable behavior makes them a liability on the battlefield if a machine alternative exists. For example, military researchers in China³⁵ and the United States³⁶ found that an AI-controlled aircraft can easily defeat a human pilot in a dogfight due to AI’s unpredictability and quick decision-making. In aerial combat, “the AI simply doesn’t have

26 Id.

27 Paul Scharre, *Autonomy, “Killer Robots,” and Human Control in the Use of Force – Part 1*, JUST SECURITY (July 9, 2014), <https://www.justsecurity.org/12708/autonomy-killer-robots-human-control-force-part/>.

28 Id.

29 Defense Primer: U.S. Policy on Lethal Autonomous Weapons Systems, *supra* note 15.

30 Dr. Catherine Connolly, *Autonomous Weapons and Digital Dehumanisation*, AUTOMATED DECISION RSCH. (Nov. 2022) <https://automatedresearch.org/news/report/autonomous-weapons-and-digital-dehumanisation-a-short-explainer-paper/>.

31 Taylor Jones, *An Introduction to the Issue of Lethal Autonomous Weapons*, FUTURE OF LIFE INST. (Nov. 30, 2021), <https://futureoflife.org/aws/an-introduction-to-the-issue-of-lethal-autonomous-weapons/>.

32 *Terminator 2*, IMDb, <https://www.imdb.com/title/tt0103064/> (last visited April 8, 2024).

33 Tom FA Watts & Ingvid Bode, *Machine guardians: The Terminator, AI narratives and US regulatory discourse on lethal autonomous weapons systems*, COOPERATION AND CONFLICT (Vol. 59), 109.

34 Zachary Kallenborn, *Applying Arms-Control Frameworks to Autonomous Weapons*, THE BROOKINGS INST. (Oct. 5, 2021), <https://www.brookings.edu/techstream/applying-arms-control-frameworks-to-autonomous-weapons/#:~:text=Autonomous%20weapons%20offer%20speed, in%20less%20than%20one%20millisecond.>

35 Stephen Chen, *AI Pilot Beats Human in Landmark Real-Life Dogfight*, Chinese Military Researchers Report, SOUTH CHINA MORNING POST (Mar. 2, 2023) <https://www.scmp.com/news/china/science/article/3211976/chinese-military-researchers-report-ai-pilot-beats-human-landmark-real-life-dogfight>.

36 Aaron Pressman, *An F-16 Pilot Took on A.I. In a Dogfight. Here’s Who Won*, FORTUNE (Aug. 20, 2020), <https://fortune.com/2020/08/20/f-16-fighter-pilot-versus-artificial-intelligence-simulation-darpa/>.

to worry about human things, like losing oxygen to the brain during quick turns – or being afraid of death.”³⁷ Automated violence advocates also note that “autonomous weapons systems act as a force multiplier,” meaning commanders would need to deploy fewer human beings in a mission, thus potentially reducing friendly human casualties.³⁸ Of course, human casualties will decline for only the belligerents with the financial means and technological capacity to acquire autonomous weapons, while forces without them will suffer staggering losses. At first thought, the possibility of removing humans from the battlefield would seem to be a revolutionary accomplishment for humankind. How could reducing the death toll of war be construed as a negative development for humanity, especially when contemplating the staggering efficiency with which humans killed one another during twentieth century wars, which caused the deaths of at least 108 million people.³⁹ Certainly, supporters of continued autonomous weapons development tout the ethical superiority of machine deployment and automating violence, predicting the future War without its least predictable element – human beings – and declaring the pursuit of autonomous weapons “a moral imperative.”⁴⁰ They believe that using autonomous weapons will elevate war to its most humane form by reducing collateral damage and protecting civilians through improved precision, allowing humans to make battlefield decisions more deliberately and under less stress, and removing the emotions from combatants (or rather, combatants with emotions) from the battlefield that leads to atrocities.⁴¹ Deploying typical levels of human forces to the battlefield while possessing the ability to deploy autonomous weapons could act as a deterrent to conflict, akin to the nuclear conflict concept of “escalate to de-escalate . . . [that is,] the tactical use of nuclear weapons for battlefield gains before deescalating.”⁴² When belligerents initially refuse to surrender, the threat of facing autonomous weapons could abruptly end an armed conflict, like Japan’s surrender just six days after enduring the United States’ second atomic attack.⁴³

While proponents believe that autonomous weapons, a product of humankind, will function in a benign way such that no error will ever occur, critics of autonomous weapons foresee fatal consequences and a lack of recourse when errors occur. First, as Professor Noreen Herzfeld points out, “Expecting LAWS to engage in just warfare assumes not only that its precepts are codifiable or learnable by AI, but that they are what would actually be programmed or taught.”⁴⁴ AI scholar Paul Scharre suggests

the real danger [for a country] is not that it will fall behind its competitors in AI but that the perception of a race will prompt everyone to rush to deploy unsafe systems . . . Even if countries aren’t on the brink of major AI breakthroughs, the perception that they’re rushing ahead could push others to do the same. And if a government deployed an untested AI weapons system . . . the result could be disaster for everyone involved.”⁴⁵

Scharre’s caution raises a dilemma: to truly prove an autonomous weapon a military or developer must deploy one in battle, making possible every risk that autonomous weapon skeptics fear. Restating a definition of

37 Maggie Harrison, AI Pilot Crushes Human Dogfight Rival In 90 Seconds, THE BYTE (Mar. 5, 2023), <https://futurism.com/the-byte/ai-pilot-crushes-human-dogfight>.

38 Amitai Etzioni & Oren Etzioni, Pros and Cons of Autonomous Weapons Systems, MILITARY REV., May-June 2017, at 73, <https://www.armyupress.army.mil/Journals/Military-Review/English-Edition-Archives/May-June-2017/Pros-and-Cons-of-Autonomous-Weapons-Systems/>.

Chris Hedges

39 Chris Hedges, What Every Person Should Know About War, N.Y. TIMES (June 6, 2023), <https://www.nytimes.com/2003/07/06/books/chapters/what-every-person-should-know-about-war.html#:~:text=At%20least%20108%20million%20people,men%20away%20from%20their%20wives>.

40 Jeffrey Dastin & Paresh Dave, U.S. Commission Cites ‘Moral Imperative’ to Explore AI Weapons, REUTERS (Jan. 26, 2021), <https://www.reuters.com/article/us-usa-military-ai/u-s-commission-cites-moral-imperative-to-explore-ai-weapons-idUSKBN29V2M0>.

41 Peter W. Singer, Military Robots and the Laws of War, THE BROOKINGS INST. (Feb. 11, 2009), <https://www.brookings.edu/articles/military-robots-and-the-laws-of-war/>.

42 Mary Glantz & Mona Yacoubian, Is Russia Escalating to De-Escalate?, U.S. INST. OF PEACE (Oct. 5, 2022), <https://www.usip.org/publications/2022/10/russia-escalating-de-escalate>.

43 Mari Yamaguchi, 5 Things to Know About Japan’s World War II Surrender, AP NEWS (Sept. 2, 2020), <https://apnews.com/article/ap-top-news-international-news-asia-pacific-df631de7c7f51c16abb5dc84ef3b2d37>

44 Herzfeld, *supra* note 25, at 79.

45 Scharre, *supra* note 16.

an autonomous weapon helps to articulate critics' foremost concern. The peril posed by autonomous weapons can be obscured by saying simply that a machine "can autonomously select, target, and kill humans."⁴⁶ Said differently, when someone activates an autonomous weapon, "no person is involved in making the decision to use force, or in deciding who or what force will be used against." (emphasis added).⁴⁷ Furthermore, critics of autonomous weapons submit that removing a person from the decision to use force raises deadly serious questions of violating foundational rules of international law, particularly "jus in bello, i.e., laws concerning the conduct of hostilities, and jus ad bellum, i.e., laws about when it is legal to resort to force at all."⁴⁸ In other words, how we use force and when we use force, respectively, concepts and frameworks that are closely related. Delegating to a machine the decision to use force on a human being would eliminate direct accountability for the use of force. According to ethicist Robert Sparrow,

*A fundamental condition of international humanitarian law, or jus in bello, requires that some person must be held responsible for civilian deaths. Any weapon or other means of war that makes it impossible to identify responsibility for the casualties it causes does not meet the requirements of jus in bello, and, therefore, should not be employed in war.*⁴⁹

Critics also decry autonomous weapons as the nadir in the broader trend of digital dehumanization, the "process whereby humans are reduced to data, which is then used to make decisions and/or take actions that negatively affect their lives."⁵⁰ In the context of autonomous weapons, this would take the form of "encoding human beings as targets, of equating human life to mere data points, which would be an inherent property of anti-personnel AWS."⁵¹ Delegating use-of-force decision-making to an autonomous machine "means there is no recognition of the target's humanity, undermining the human dignity of both those making the decision and those who are targeted, and so contributes to the dehumanization of warfare."⁵²

Twentieth Century political scientist Hans Morgentau posed that humans have reached "'push-button war,' war that is 'anonymously fought by people who have never seen their enemy alive or dead and who will never know whom they have killed.'"⁵³ It may be counter-intuitive to think that removing your nation's troops from the perils of in-person combat is a negative proposition. Relatedly, dual distancing, spacial and cognitive, "may also lead the user of an AWS to feel less responsible because the link between their actions and the consequences are less clear, a concern that can manifest in the 'moral buffer' – where the user transfers responsibility for the consequences to the machine."⁵⁴ Some argue that reducing the risk to humans – at least for nations that will use autonomous weapons – will incentivize nations to embark in needless wars because of that reduced risk and the reduced political liability by elected officials who make decisions about whether to go to war.⁵⁵ Moreover, some studies demonstrate that spatial distancing insulates people from the psychological effects of their violence, which eliminates a crucial deterrent to war and "makes killing easier and abuses and atrocities more likely."⁵⁶

Treatment of Autonomous Weapons by International Bodies and the United States

46 Slaughterbots Are Here, *supra* note 10.

47 Connolly, *supra* note 24.

48 MARK WESTON JANIS ET AL, INTERNATIONAL LAW: CASES AND COMMENTARY, 739 (6th ed. 2020).

49 Etzioni & Etzioni, *supra* note 31 at 75.

50 Connolly, *supra* note 24.

51 Vincent Boulanin et al, Limits on Autonomy in Weapon Systems, STOCKHOLM INT'L PEACE RSCH. INST. AND INT'L COMM. RED CROSS, 14 (June 2020), https://www.sipri.org/sites/default/files/2020-06/2006_limits_of_autonomy_0.pdf.

52 *Id.*

53 Noreen Herzfeld, Can Lethal Autonomous Weapons Be Just? 11 J. of Moral Theology 70, 83 (2022).

54 *Id.*

55 The Future of Life Inst., The Risks of Lethal Autonomous Weapons, <https://autonomousweapons.org/the-risks/> (last visited Apr. 23, 2023).

56 Singer, *supra* note 34.

The desired treatment of autonomous weapons by international accord varies by nation. The United States made public its official autonomous weapons policy in 2012 when the Department of Defense published the “Autonomy in Weapon Systems” directive, which it updated 2023.⁵⁷ Primarily, the updated version of Department of Defense Directive 3000.09 “Establishes policy and assigns responsibilities for developing and using autonomous functions in weapons systems” and Establishes guidelines designed to minimize the probability and consequences of failures in autonomous and semi-autonomous weapon systems that could lead to unintended engagements.”⁵⁸ As the AI pilot demonstrated in its victory against the human pilot, its unpredictability helped it to succeed. The unpredictability, which is a feature of the autonomous weapon, an inextricable element of its superiority over human combatants that is central to its design, scares autonomous weapons skeptics because unpredictability means insufficient control over the technology.

*AWS that rely on machine learning to adapt their functioning—specifically the selection and application of force to targets after activation, based on interaction with the operational environment—have been called ‘unpredictable by design’. Could the user of such a weapon be reasonably certain about the manner in which it will function in the circumstances of use; that is, will they be able to practicably limit the weapon’s effects of as required by IHL?*⁵⁹

Moreover, humans “have no idea of how a deep learning system comes to its conclusions. It ‘lost track’ of inputs that informed its decision making a long time ago . . . This inability for us to see how deep learning systems make their decisions is known as the ‘black box problem.’”⁶⁰ Mainstream advocates of autonomous weapons and critics resigned to their advancement and proliferation seek the standard of “Meaningful Human Control”⁶¹ or some variation thereof (DOD policy mentions “appropriate levels of human judgment over the use of force”).⁶² If humans can neither be certain about an autonomous weapon’s potential course of action nor explain how the machine determined its course of action, then meaningful human control of the machine does not exist. Without meaningful human control, militaries cannot comply with the international law principles of jus in bello and jus ad bellum. Past experiences with older military technologies’ retention of meaningful human control that avoided disaster may have informed advocates’ commitment. In 1983, Stanislav Petrov, a Soviet military officer responsible for documenting and reporting apparent missile launches, chose to not report a warning generated by a computerized early-warning system. Although the system’s “highest” reliability level sensed that the United States had launched an intercontinental ballistic missile, Petrov suspected it was a false alarm.⁶³ Without the weapon system providing for meaningful human control, the Soviet Union may have launched a nuclear “counterstrike” in error.

The inability of nations to reach consensus on defining “meaningful human control” has hindered ongoing international efforts to regulate autonomous weapons.⁶⁴ Since at least 2013, the United Nations’ Convention on Certain Conventional Weapons (CCW) has attempted to address the emerging technologies comprising autonomous weapons.⁶⁵ Given the incentives for nations to attain and exploit superiority in weapons development, the international community’s efforts at arms control have had varying degrees of success throughout history. First adopted in 1980, the Convention “seeks to ban or restrict the use of specific types of weapons (non-detectable fragments; mines, booby-traps and other devices; incendiary weapons; blinding laser weapons

⁵⁷ Autonomy in Weapon Systems, DoD Directive 3000.09 (Jan. 25, 2023).

⁵⁸ Id.

⁵⁹ Boulanin et al, supra note 42 at 7.

⁶⁰ Bloin, supra note 23.

⁶¹ Aiden Warren & Alek Hillas, Lethal Autonomous Weapons: Adapting to the Future Unmanned Warfare and Unaccountable Robots. 12 YALE J. INT’L AFF. 71, 78 (2017).

⁶² Autonomy in Weapon Systems, DoD Directive 3000.09 (January 25, 2023).

⁶³ Pavel Aksenov, Stanislav Petrov: The man who may have saved the world. BBC RUSSIAN (September 26, 2013), <https://www.bbc.com/news/world-europe-24280831>.

⁶⁴ Yeti Kakko, Meaningful Human Control As An Exceptional Concept, SAFERGLOBE (January 2022), <https://www.nonproliferation.eu/wp-content/uploads/2022/01/KakkoMeaningfulHumanControl2022-1.pdf>.

⁶⁵ Id. at 3.

and explosive remnants of war) that have indiscriminate effects on civilians or cause unnecessary suffering for combatants.”⁶⁶ During a meeting of the high contracting parties to the CCW in 2019, the nations affirmed eleven “guiding principles” proposed by experts on autonomous weapons.⁶⁷ Among other statements, these guiding principles asserted

Human responsibility for decisions on the use of weapons systems must be retained since accountability cannot be transferred to machines” and “Accountability for developing, deploying, and using any emerging weapons system . . . [must include] the operation of such systems within a responsible chain of human command and control. (emphasis added).⁶⁸

Considering that, arguably, one of the most attractive features of autonomous weapons is their extra-human functionality, that is, operation outside of human control, the CCW parties’ inclusion and affirmation of these principles suggests either their naiveté or unwillingness to acknowledge the inevitable and widespread proliferation and deployment of the lethal technologies. In a sign of possible progress, however, the United Nations may proceed toward a public comment period related to autonomous weapons. In November 2023, a U.N. committee passed a resolution to its General Assembly affirming the applicability of international humanitarian law and international human rights law to autonomous weapons. The committee also requested that the Secretary General begin a process of input from member states and non-governmental organizations regarding their views on autonomous weapons and how to address the gamut of concerns they raise.⁶⁹

Still, despite a decade of debate among CCW parties, the convention has failed to agree to a treaty, let alone reach consensus on language that could comprise a treaty.⁷⁰ Their failure is partly due to stonewalling by nations already developing autonomous weapons technology, like the United States, which may unilaterally block progress due to the forum’s unanimity requirement.⁷¹ At least one pessimistic scholar noted that attempts throughout history to regulate weapons “only tend to succeed when the weapons in question are of marginal value, are widely seen as especially horrific or destabilizing, are possessed by only a few actors, are clearly distinguished from other weapons, and can be easily inspected to verify disarmament. None of these conditions applies to autonomous weapons.”⁷² Consequently, no major military power or robotics developer presently endorses a ban. The United States, among other powers, believes that a ban would be “premature,” and, notwithstanding the unprecedented departure from millennia of human-made decisions to use force, no new international regulatory framework is needed as current international law contemplates already autonomous weapons.⁷³ Thus far, the United States’ rhetoric during CCW autonomous weapons negotiations echoes The Terminator sequel’s “machine guardian” narrative, “with both implying that these technologies can be developed to (1) protect humans from physical harm, (2) enact the commands of human decision-makers and (3) use force with superhuman levels of accuracy.”⁷⁴ Moreover, the United States’ National Security Commission on Artificial Intelligence, in its 2021 report recommended a \$8 billion investment by the Department of Defense for artificial intelligence research and development,⁷⁵ while the Commission’s chair called the pursuit of automating violence

66 United Nations, Disarmament, GLOBAL ISSUES, <https://www.un.org/en/global-issues/disarmament> (last visited Apr. 23, 2023).

67 United Nations, U.S. Commentaries on the Guiding Principles, OFFICE OF DISARMAMENT AFFAIRS (Sept. 1, 2020), <https://documents.unoda.org/wp-content/uploads/2020/09/20200901-United-States.pdf>.

68 Id. at 4, 6.

69 Lethal autonomous weapons system, First Committee (Disarmament and International Security) Res. Agenda Item 99, 78th Sess., (October 12, 2023).

70 Kallenborn, *supra* note 27 at 7.

71 Sam Shead, UN Talks to Ban ‘Slaughterbots’ Collapsed – Here’s Why That Matters, CNBC (Dec. 22, 2021), <https://www.cnn.com/2021/12/22/un-talks-to-ban-slaughterbots-collapsed-heres-why-that-matters.html>.

72 Paul Scharre, A Million Mistakes a Second, Foreign Policy, Fall 2018, at 26.

73 Mary Wareham, Stopping Killer Robots – Country Positions on Banning Fully Autonomous Weapons and Retaining Human Control, HUMAN RIGHTS WATCH (Aug. 10, 2020), https://www.hrw.org/report/2020/08/10/stopping-killer-robots/country-positions-banning-fully-autonomous-weapons-and#_ftn267.

74 Watts and Bode, *supra* note 31, at 109-110.

75 Final Report, NAT. SEC. COMM. ON ARTIFICIAL INTELLIGENCE (2021), <https://www.nsc.gov/wp-content/uploads/2021/03/Full-Report-Digital-1.pdf>

a “moral imperative.”⁷⁶ In contrast, the Non-Aligned Movement, which counts 125 nations in its membership, supports a comprehensive regulatory framework, while at least 30 nations support an outright ban on autonomous weapons.⁷⁷ Academics, nations, and non-governmental organizations may be found in every contingent with an opinion on the topic.⁷⁸

Military Deployments of Autonomous Weapons

Commentators describe autonomous weaponry as the fourth “evolution in warfare” and a “doctrinal shift” in warfare.⁷⁹ Nations, including the United States, already deploy autonomous weapons that can operate with full autonomy or human-supervised autonomy. For example, since 1980, the U.S. Navy has used Raytheon’s Phalanx Close-In Weapon System, which defends against anti-ship missiles,⁸⁰ while “the surface-to-air Patriot missile battery and the Israeli Iron Dome all can autonomously perform their own search, detect, evaluation track, engage, and kill assessment functions to defend ships or ground areas against fast-moving and highly maneuverable threats.”⁸¹ Since 2006, South Korea has deployed a human-on-the-loop autonomous weapon in the demilitarized zone that can identify a target up to two miles away using “low-light cameras, heat and motion detectors, and pattern-recognition software,” and can reach targets with its machine gun at a distance of 800 meters.⁸² Legacy military powers are not the only belligerents that deploy autonomous weapons. Both use loitering munitions, which are similar to missiles except they can remain airborne for hours while searching for a target to attack.⁸³ At least one loitering munition, Israel Aerospace Industries’ “Harpy,” can detect enemy radar systems and does not require an affirmative human command to detonate after acquiring a target.⁸⁴ A UN report on the ongoing Libyan conflict in 2020 described autonomous weapons attacking human fighters.

*Logistics convoys and retreating HAF were subsequently hunted down and remotely engaged by the unmanned combat aerial vehicles or the lethal autonomous weapons systems The lethal autonomous weapons systems were programmed to attack targets without requiring data connectivity between the operator and the munition: in effect, a true “fire, forget and find” capability.*⁸⁵

The following year, Israel used multi-sensory autonomous weapons known as “swarming drones” to hunt and attack “militants firing rockets before they could get away.”⁸⁶ Today, many nations have undertaken efforts to develop drone swarm technology, which feature autonomous machines exchanging data and working as a coordinated, decentralized unit.⁸⁷

76 Dastin & Dave, *supra* note 33.

77 Wareham, *supra* note 57 at 3, 4.

78 Elliot Winter, The Compatibility of Autonomous Weapons with the Principles of International Humanitarian Law, J. of Conflict and Sec. L., Spring 2022, at 7, <https://doi.org/10.1093/jcsl/krac001>.

79 Paul Scharre, How swarming will change warfare, Bulletin of Atomic Scientists, Nov. 2018, at 387-388.

80 MK-15 - Phalanx Close-In Weapon System (CIWS), U.S. DEP’T OF THE NAVY, <https://www.navy.mil/resources/fact-files/display-factfiles/article/2167831/mk-15-phalanx-close-in-weapon-system-ciws/> (last updated Sept. 20, 2021).

81 Merel A.C. Ekelhof, Lifting the Fog of Targeting: “Autonomous Weapons” and Human Control through the Lens of Military Targeting, NAVAL WAR COLL. REV., Summer 2018, <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=5125&context=nwc-review>.

82 Alexander Velez-Green, The Foreign Policy Essay: The South Korean Sentry – A “Killer Robot” to Prevent War, LAWFARE (Mar. 1, 2015), <https://www.lawfareblog.com/foreign-policy-essay-south-korean-sentry%E2%80%9494-killer-robot-prevent-war>.

83 Kelsey Atherton, Loitering Munitions Preview the Autonomous Future of Warfare, THE BROOKS INST. (Aug. 4, 2021), <https://www.brookings.edu/techstream/loitering-munitions-preview-the-autonomous-future-of-warfare/>.

84 Paul Scharre, Closer to the Day When Weapons Pick Targets, The Australian, May 4, 2018, at 29.

85 Letter dated 8 March 2021 from the Panel of Experts on Libya, U.N. SEC. COUNCIL (March 8, 2021), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/037/72/PDF/N2103772.pdf?OpenElement>.

86 David Hambling, Israel’s Combat-Proven Drone Swarm May Be Start Of A New Kind Of Warfare, FORBES (July 21, 2021) <https://www.forbes.com/sites/davidhambling/2021/07/21/israels-combat-proven-drone-swarm-is-more-than-just-a-drone-swarm/?sh=37d865461425>.

87 David Hambling, What Are Drone Swarms and Why Does Every Military Suddenly Want One?, FORBES (Mar. 1, 2021) <https://www.forbes.com/sites/davidhambling/2021/03/01/what-are-drone-swarms-and-why-does-everyone-suddenly-want-one/?sh=5566f>.

While autonomous weapons first emerged on the fringes of the battlefield, we may soon witness their ubiquity in warfare. U.S. Army Chief of Staff General Randy George expects “almost every U.S. Army unit, down to the smallest foot patrols, will soon have drones in the sky to sense, protect, and attack” and that the United States will soon deploy ground robots into battle alongside human beings.⁸⁸ Wars in Gaza and Ukraine likewise illuminate the future of warfare. In Gaza, reporting recently exposed the leading role of artificial intelligence in Israeli military decision-making in its bombing of Palestinians. According to Israeli intelligence officers, the targeting system, named “Lavender,” system marks “suspected operatives in the military wings of Hamas and Palestinian Islamic Jihad . . . including low-ranking ones, as potential bombing targets.”⁸⁹ While not an autonomous weapon per se, the Lavender system and Israel military officers’ use of it demonstrate a glaring lack of meaningful human control, the standard sought by advocates. Lavender logged up to 37,000 Palestinians as suspected militants, listing them and their homes as potential air strike targets. Early in the present era of the conflict, which began in October 2023, “the army gave sweeping approval to adopt Lavender’s kill lists, with no requirement that a human thoroughly check why the machine made those choices or to examine the raw intelligence data on which they were based.”⁹⁰ At least one Israeli intelligence officer admitted the grim practice of human personnel serving

*only as a ‘rubber stamp’ for the machine’s decisions, adding that, normally, they would personally devote only about ‘20 seconds’ to each target before authorizing a bombing – just to make sure the Lavender-marked target was male. This was despite knowing that the system makes what are regarded as ‘errors’ in approximately 10 percent of cases, and is known to occasionally mark individuals who have merely a loose connection to militant groups, or no connection at all.*⁹¹

Furthermore, relying on an automated system called “Where’s Daddy?” Israel “systematically” bombed these individuals when they were at home, typically while their families were present, that tracked a targeted person and bombed them after they entered their residence.⁹² In Ukraine, the ubiquity of drones and unmanned vehicles caused the invaded nation to pledge establish a new service branch dedicated to them.⁹³ Like other varieties of autonomous weapons, their targeting systems are prone to error. “In much the same way that a pressure-sensitive landmine cannot distinguish between an armed soldier and a farmer, an algorithm that converts sensor data into attack triggers is at risk of harming the wrong target.”⁹⁴ This paper is not a comprehensive catalogue of autonomous weapon deployments. Rather, the purpose is to inform us that autonomous weapons technology exists, belligerents have deployed it in combat, and proliferation is underway.

Middle East to the Midwest: The Militarization of American Police

Although some autonomous weapons may have dubious application for domestic law enforcement, others may be eagerly sought by American police. The August 2014 killing by police of unarmed Black 18-year-old Michael Brown in Ferguson, Missouri, and the documentation of the subsequent uprising forced the issue of police militarization to the forefront of discussion in the United States. Americans, accustomed to 13 years of television news reports depicting their military on the streets of Iraqi cities and Afghani villages, were explicitly confronted with the imperial boomerang. Militarism (used interchangeably with militarization) in policing may be defined as “a set of beliefs or ideologies that mirror that of the US military, namely a set of values that

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88 Detsch, *supra* note 34.

89 Yuval Abraham, ‘Lavender’: The AI machine directing Israel’s bombing spree in Gaza, +972 MAGAZINE (April 3, 2024), <https://www.972mag.com/lavender-ai-israeli-army-gaza/>.

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91 Abraham, *supra* note 30.

92 Abraham, *supra* note 30.

93 Jack Detsch, America’s Next Soldiers Will Be Machines, FOREIGN POLICY (April 6, 2024), <https://foreignpolicy.com/2024/04/06/us-army-military-robots-soldiers-technology-testing-war/>.

94 *Id.* at 6.

embraces aggression, the use of force to solve problems, and the glorification of paramilitary power and strategies.”⁹⁵ Others likewise note that “Militarization is the process by which an organization adopts the operation mode of a military or embraces military values or culture,” and correspondingly adopts the problem-solving tools of a military organization.⁹⁶ As if in anticipation of the uprising in Ferguson and the militarized police response, two months before police killed Brown, the American Civil Liberties Union published a report examining the increasingly common use by police of Special Weapons and Tactics (SWAT) teams, the acquisition of military equipment by local police departments (facilitated by the federal government), and the corresponding development of military attitude and culture within police departments.⁹⁷ A SWAT team is a paramilitary organization integrated into the larger law enforcement agency. According to the ACLU, “SWAT was created to deal with emergency situations, such as hostage, barricade, and active shooter scenarios.”⁹⁸ The advent of SWAT occurred in the Los Angeles Police Department in response to the Watts riots of 1965, coincidentally but unsurprisingly another uprising that started following police violence on Black citizens.⁹⁹ In their infancy, “SWAT teams were limited to . . . exceptional militarization – meaning, the occasional hostage situation, barricaded suspect, or the rare act of terrorism.”¹⁰⁰ The vast majority of SWAT deployments today, however, are “to execute search warrants in low-level drug investigations,” while fewer than 1-in-10 SWAT deployments ensue when an individual barricades themselves, is taken a hostage, or is actively shooting.¹⁰¹ This means more than 90 percent of police tactical team deployments were not instigated by an event justifying paramilitary posture. The rote deployment of SWAT by police leadership, reaching approximately 45,000 uses each year by one estimate, demonstrates the ease with and extent to which American police rely on violence to end a conflict.¹⁰²

Federal patronization of local police militarization

While militarized police were “Originally conceived to operate in states of exception, militarized forces now routinely appear to confront the practice of fundamental of democratic activities.”¹⁰³ Of course, militarization advocates would argue that the exceptional circumstances warranting militarization are now so routine that militarized police operations merely correspond. Enabled by the federal government, local police departments from coastal metropolises to modest sized cities like Ferguson and smaller municipalities now arm and equip rank-and-file (that is, non-tactical) police officers with military equipment. Enshrined by Congress in the 1997 National Defense Authorization Act, the Pentagon’s appropriations bill, the 1033 Program “authorize[s] the transfer of excess [Department of Defense] property to federal, state and local law enforcement agencies . . . to acquire property for bona fide law enforcement purposes – particularly those associated with counter-drug and counter-terrorism activities.”¹⁰⁴ Under the 1033 Program, DOD maintains three classes of property. “Non-controlled” property is mostly innocuous and includes items like first aid kits and office equipment that one might not associate with the military.¹⁰⁵ “Controlled” property includes small arms and personal weapons, like hand-

95 Wendy Koslicki, SWAT Mobilization Trends: Testing Assumptions of Police Militarization, 40 Policing: Int’l J. Police Strat. & Mgmt. 733, 734 (2017).

96 Eliav Lieblich & Adam Shinar, The Case against Police Militarization, 23 Mich. J. Race & L. 105, 109 (2017).

97 Kara Dansky et al, War Comes Home: The Excessive Militarization of American Policing, ACLU (June 2014), https://www.aclu.org/sites/default/files/field_document/jus14-warcomeshome-text-rel1.pdf.

98 Id. at 2.

99 Clyde Haberman, The Rise of the SWAT Team in American Policing, N.Y. TIMES (Sept. 7, 2014) <https://www.nytimes.com/2014/09/08/us/the-rise-of-the-swat-team-in-american-policing.html>.

100 Lieblich & Shinar, *supra* note 73 at 116.

101 Dansky et al, *supra* note 74 at 5.

102 Id. at 19.

103 Lieblich & Shinar, *supra* note 73 at 111-112.

104 Defense Logistics Agency (DLA), Frequently Asked Questions Relating to the 1033 Program, WHERE DID THE LESO 1033 PROGRAM COME FROM AND WHAT IS DLA’S ROLE? [https:// www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/](https://www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/) (last visited Apr. 23, 2023).

105 Defense Logistics Agency (DLA), Frequently Asked Questions Relating to the 1033 Program, WHAT IS THE DIFFERENCE BETWEEN “CONTROLLED” AND “NON-CONTROLLED” PROPERTY? [https:// www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/](https://www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/) (last visited Apr. 23, 2023).

guns or rifles, night vision equipment, demilitarized vehicles, and aircraft.¹⁰⁶ The prohibited class comprises equipment that is non-transferrable from DOD to law enforcement agencies. Examples of prohibited equipment include vehicles inherently bearing weaponry, like armed drones, weapons and ammunition of .50 caliber or greater, body armor, and explosives.¹⁰⁷ From 1997 and 2021, the Department of Defense transferred more than \$7 billion of equipment to local law enforcement agencies, with transfers still occurring.¹⁰⁸ As of 2020, approximately 8,200 law enforcement agencies in 49 states participated in the program.¹⁰⁹ Given the price tag, one might expect that billions of dollars of federal patronage resulted in savings to taxpayers who do not have to directly fund capital expenditures on equipment. However, the ACLU found no evidence of taxpayer savings or reduced police budgets caused by 1033 equipment transfers.¹¹⁰ Additionally, direct DOD-to-police equipment transfers diminishes governments' ability to exercise oversight over their police departments' procurement processes, thereby reducing democratic control and citizens' ability to affirmatively decide the role and posture of police in their communities. Complementing the 1033 Program, DOD's 1122 Program provides access for states and local governments to "federal sources of supply to purchase equipment to support counter-drug, homeland security, and emergency response activities."¹¹¹ While less charitable than its 1033 counterpart, the 1122 Program still lowers cost barriers to acquiring military-grade gear, like weapons and surveillance equipment.¹¹² Augmenting the Department of Defense's charity, the departments of Justice and Homeland Security have granted tens of billions of dollars to local police departments to offset the costs of police officers and equipment for anti-terrorism activities, respectively,¹¹³ as well as maintaining programs that facilitate the transition of military veterans into civilian police agencies.¹¹⁴

Without the benefit of a rigorous scientific study, one can intuitively understand how the receipt and use of military equipment by police may affect the law enforcement function. Fortunately, one need not rely entirely on their intuition to ascertain the relationship. Researchers who examined the 1033 Program hypothesized that police receipt of military equipment leads to violence perpetrated by police. The authors of study examining the 1033 Program "theorize[d] that the receipt of military equipment increases multiple dimensions of [police] militarization (material, cultural, organizational, and operational) and that such increases lead to more violent behavior."¹¹⁵

*More specifically, the military equipment obtained from the 1033 program directly increases the material dimension. With the new equipment, martial language (cultural), martial arrangements such as elite units (organizational), and willingness to engage in high-risk situations (operational) increase (Balko, 2014). Military equipment naturally increases military-style training for said equipment. That training can increase the other dimensions of militarization.*¹¹⁶

Most crucially, the researchers found a "statistically significant relationship between 1033 transfers and fatali-

106 Id.

107 Defense Logistics Agency (DLA), Frequently Asked Questions Relating to the 1033 Program, WHAT EXCESS MILITARY ITEMS ARE NOT AVAILABLE THROUGH THE LESO/1033 PROGRAM? <https://www.dla.mil/Disposition-Services/Offers/Law-Enforcement/Program-FAQs/> (last visited Apr. 23, 2023).

108 Charlotte Lawrence & Cyrus J. O'Brien, Federal Militarization of Law Enforcement Must End, ACLU (May 12, 2021) <https://www.aclu.org/news/criminal-law-reform/federal-militarization-of-law-enforcement-must-end>.

109 Defense Logistics Agency, *supra* note 7.

110 Lawrence & O'Brien, *supra* note 85 at 13.

111 General Services Administration (GSA), 1122 Program, RESOURCES FOR STATE AND LOCAL GOVERNMENTS, <https://www.gsa.gov/buy-through-us/purchasing-programs/gsa-multiple-award-schedule/schedule-buyers/state-and-local-governments/1122-program> (last visited Apr. 24, 2023).

112 Lieblich & Shinar, *supra* note 73 at 118-119.

113 Lieblich & Shinar, *supra* note 73 at 120.

114 Department of Justice (DOJ), Community Oriented Policing Services, VETS TO COPS, <https://cops.usdoj.gov/vetstocops> (last visited Apr. 24, 2023).

115 Delehanty et al, Militarization and Police Violence: The Case of the 1033 Program, RSCH. AND POL., April-June 2017, at 1, <https://journals.sagepub.com/doi/full/10.1177/2053168017712885>.

116 Id. at 2.

ties from officer-involved shootings across all models,”¹¹⁷ meaning that “the receipt of more military equipment increases both the expected number of civilians killed by police . . . and the change in civilian deaths.”¹¹⁸

The Cyberang rears

In Dallas, Texas, in 2016, racial justice activists gathered to mourn, march, and address the recent fatal police shootings of Black Americans in Louisiana and Minnesota. Independent of the activist congregation and procession, a sniper ambushed police posted nearby, wounding 12 officers and fatally shooting 5 of them.¹¹⁹ With the suspected shooter barricaded in a parking garage and efforts to negotiate his surrender failing, police armed an explosive ordinance disposal (EOD) robot with plastic explosive, maneuvered it towards the shooter, and delivered the payload, killing the suspect.¹²⁰ While not the first instance of police modifying an EOD to deliver materials capable of incapacitating a suspect, at the time the president of the United States’ largest police union believed that the Dallas shooting was the first time American police armed a robot with an inherently lethal force to purposely cause the death of a person.¹²¹ This unprecedented deployment of a police robot suicide bomber to kill a criminal suspect required a human to modify the machine, remotely control it, and choose to detonate its ordinance. Although a human being was totally involved in the decision to use lethal force, the event breached an important threshold: the substitution of a human police officer with a machine, thereby removing an officer from imminent danger, specifically for the purpose of killing a human being. The Dallas police shooting, while hardly an anomalous event in American life (the barricaded, armed criminal suspect), may be viewed in retrospect as the inflection point in American policing marking the shift from living police to machine policing of human beings. The policy response to the shooting is an essential part of the Cyberang’s gyroscopic procession. When the U.S. military invaded Iraq in 2003, its ground forces included no robotic systems; by the end of 2008, American ground forces deployed around “12,000 robots of nearly two dozen varieties” in Iraq.¹²² When Dallas police inverted the purpose of its EOD robot from neutralizing explosive ordinance to protect human lives to delivering explosive ordinance to kill a human, those officers adopted a tactic embraced and popularized by the U.S. military in Iraq, where troops “used similar robots to deliver explosives, arming them by duct-taping bombs to the device,” likewise breaking from their intended application of combatting improvised explosive devices.¹²³ The irony of the Dallas police shooting, perpetrated by a man aggrieved by the routine police killing of Black people, is that the shooter’s legacy will be obviously accelerating the United States towards widespread acceptance and deployment of machine police, the latter of which some experts believe has the potential to disproportionately affect non-whites.¹²⁴

The Dallas police shooter’s legacy emerged in late-2022, when the City and County of San Francisco Board of Supervisors overwhelmingly passed a measure granting police the power to deploy robots “as a deadly force option when risk of loss of life to members of the public or officers is imminent and outweighs any other force option available” to police.¹²⁵ Curiously, the original text of the measure, eventually removed by the city-county’s legislative body in favor of sanctioning robots to kill their constituents, declared that “Robots shall not be used as a Use of Force [option] against any person.”¹²⁶ At the time, a San Francisco Police Department spokesperson, echoing arguments previously made in support of enhancing the lethality of police, claimed that

117 Id. at 1.

118 Id. at 3.

119 1 Suspect Dead, 1 in Custody after 11 Dallas Officers Shot, at Least 5 Killed, THE TEX. TRIBUNE (July 7, 2016) <https://www.texastribune.org/2016/07/07/officer-shot-dallas-after-protest>.

120 Alina Selyukh & Gabriel Rosenberg, Bomb Robots: What Makes Killing in Dallas Different and What Happens Next?, NPR (July 8, 2016), <https://www.npr.org/sections/thetwo-way/2016/07/08/485262777/for-the-first-time-police-used-a-bomb-robot-to-kill>.

121 Id.

122 Singer, *supra* note 34 at 2.

123 Selyukh & Rosenberg, *supra* note 102.

124 Sue Halpern, Should Local Police Departments Deploy Lethal Robots?, THE NEW YORKER (Dec. 10, 2022), <https://www.newyorker.com/news/daily-comment/should-local-police-departments-deploy-lethal-robots>.

125 CITY AND COUNTY OF SAN FRANCISCO, CAL., Government Code §§ 7070-7075 (2022).

126 Id.

robots with lethal force capabilities ““would only be used in extreme circumstances to save or prevent further loss of innocent lives.””¹²⁷ One can imagine any police spokesperson reciting a similar slogan commending the restraint exercised by their department’s robots in using deadly force. One week after the San Francisco Board of Supervisors approved the measure, the Board abruptly reversed the policy after public outcry and remanded the policy to a committee for further review.¹²⁸ Elsewhere in the United States, local governments’ police departments have deployed robots during recent years, at least on a trial basis. In 2021, Honolulu police purchased a human-operated quadrupedal machine – paid for with federal government coronavirus relief funds – to take body temperatures, disinfect, and patrol the city’s homeless quarantine encampment.”¹²⁹ The machine, branded as a robotic canine named “Spot” by its developer Boston Dynamics, is used to “augment the work of public safety officials . . . [and] increase safety for all people [by removing] humans from potentially dangerous environments.”¹³⁰ During 2021 in New York City, police also deployed the multi-sensory, artificially intelligent Boston Dynamics quadrupedal machine for reconnaissance purposes while investigating a home invasion.¹³¹ NYPD previously used “Digidog” while responding to “high-risk police encounters,” including a confrontation involving a barricaded suspect and another where a suspect held hostage five people.¹³² Police in St. Petersburg, Florida, similarly deployed its four-legged robot to reach a hostage-taking suspect in 2022.¹³³ NYPD reportedly returned the robot to Boston Dynamics in 2021. While it is not known publicly whether the department returned the robot for unsatisfactory operational utility, the efficacy of these machines should be not gauged strictly by their functionality in police operations but also by their acceptance by the public. As civilians engage more regularly with robots, we will become desensitized to their presence, which will precede normalization of their prevalence and may precede machines depriving the rights of humans. Eventually, NYPD announced that it would redeploy Digidog,¹³⁴ along with K5 autonomous security robots, which among other detection capabilities can recognize license plates.¹³⁵ Professor David J. Gunkel noted that the initial backlash to the machine was due to its use in a public housing project, which signified “power imbalance” between the citizen and state, and the perception of the disparity between funding of police – now equipped with a cutting-edge robotics technology – and other vital services, like housing, provided by a government to poor citizens.¹³⁶ New York City Council Speaker Adrienne Adams likewise “questioned spending money on robots at a time when social service agencies are having their budgets cut,” while others criticized the lack of dialogue between elected officials and constituents about whether the people want their police to use the machines.¹³⁷ In March 2024, a Boston Dynamics quadrupedal robot sustained gunshots for the first time during a police operation. Massachusetts State Police deployed the remotely controlled robot to enter the house where a barricaded suspect allegedly knocked it over twice before shooting it three times with a rifle.¹³⁸ The authorities’ charging decision may guide district attorneys nationwide in their future charging decisions involving suspects that damage police robots.

127 Janie Har, San Francisco Will Allow Police to Deploy Robots That Kill, AP NEWS (Nov. 29, 2022), <https://apnews.com/article/police-san-francisco-government-and-politics-d26121d7f7afb070102932e6a0754aa5>.

128 James Vincent, San Francisco Reverses Plan to Allow Police Robots to Kill, THE VERGE (Dec. 7, 2022), <https://www.theverge.com/2022/12/7/23497922/killer-robot-policy-san-francisco-reversed>.

129 Todd Weathers, Honolulu Police Used a Robot Dog to Patrol a Homeless Encampment, VICE NEWS (June 14, 2021) <https://www.vice.com/en/article/wx5xym/honolulu-police-used-a-robot-dog-to-patrol-a-homeless-encampment>.

130 Id.

131 Trone Dowd, The NYPD Sent a Creepy Robotic Dog into a Bronx Apartment Building, VICE NEWS (Feb. 23, 2021) <https://www.vice.com/en/article/y3gjjw/the-nypd-sent-a-creepy-robotic-dog-into-a-bronx-apartment-building>.

132 Id.

133 Michaela Mulligan, Boy, 3, Rescued After Hours-Long Standoff Under I-275 Overpass, Tampa Bay Times (Oct. 25, 2022) <https://www.tampabay.com/news/breaking-news/2022/10/25/child-3-rescued-after-hours-long-standoff-under-i-275-overpass>.

134 Rocco Parascandola, NYPD Reboots Robot Police Dog After Backlash as Civil Rights Advocates Again Warn Against High-Tech Hound, N.Y. Daily News (Apr. 11, 2023) <https://www.nydailynews.com/new-york/nyc-crime/ny-digidog-returns-city-nypd-20230411-ty4kxq3m2jefdjfrazwrsqugmi-story.html>.

135 K5 ASR – A Fully Autonomous Outdoor Security Robot, KNIGHTSCOPE, <https://www.knightscope.com/products/k5#Capabilities> (last visited Apr. 24, 2023).

136 Sophie Bushwick, The NYPD’s Robot Dog Was a Really Bad Idea: Here’s What Went Wrong, SCIENTIFIC AMERICAN (May 7, 2021) <https://www.scientificamerican.com/article/the-nypds-robot-dog-was-a-really-bad-idea-heres-what-went-wrong>.

137 Parascandola, *supra* note 116.

138 Robotic police dog shot multiple times, credited with avoiding potential bloodshed. AP News (March 27, 2024), <https://apnews.com/article/massachusetts-cape-cod-robot-dog-police-f63586d5286750702f396109c9a81836>.

With the proclivity of American police departments to adopt the tactics, use the equipment, and embrace the mindset and culture of a military organization (that is, militarize), one can foresee their motivation and enthusiasm in campaigning to acquire autonomous weapons when they become available. Consider the unmanned aerial system or unmanned aerial vehicle, the colloquial “drone.” The United States military, while not the pioneer in modern unmanned aerial system technology,¹³⁹ undeniably popularized the UAV as a major tactical advantage during the War on Terror. Its popularization has created problems both in theory and in practice, despite the objective military advantage created by deploying UAVs. According to an ongoing tally of police surveillance capabilities, more than 1,300 police departments nationwide possess unmanned aerial systems.¹⁴⁰ According to an International Association of Chiefs of Police estimate on the number of police departments nationwide, more than 7 percent of law enforcement agencies already have drones in their arsenal.¹⁴¹ Just 30 years after the inception of SWAT, at least “90 percent of American cities with a population over 50,000 had SWAT teams.¹⁴² [75] percent of cities under 50,000 people had SWAT teams.” When the military industry begins to market autonomous weapons to domestic police agencies, police and elected leaders will offer the same justifications to acquire autonomous weapons that their predecessors used to persuade the public or legislative bodies with budgetary control to accept and fund SWAT.

Militarization is not accomplished only by the incorporation of military equipment into police arsenals or the deployment of police paramilitary units. Surveillance technologies, including those that rely on artificial intelligence, like facial recognition,¹⁴³ and algorithms processing colossal data sets, like predictive policing programs,¹⁴⁴ are critical elements of police militarization. However, this paper focuses mainly on machines that use force, not those that may be used to otherwise violate civil rights, like the federal constitutional right against unreasonable searches,¹⁴⁵ and for Pennsylvanians, the concurrent state constitutional right.¹⁴⁶ Instead of ignoring surveillance technologies altogether, this brief digression from autonomous weapons serves to notify the reader that surveillance technologies factor heavily police militarization. For a primer on police surveillance technologies, please see below.¹⁴⁷ The inaccuracy of facial recognition technology (FRT) in identifying non-white races and non-male genders weighs against police use of weaponized machines. Facial recognition technology is “software that can make use of a camera and image to analyze a human face for the purpose of identification. To identify a face, FRT takes the biometric data provided by a captured image from a photograph or video and matches it to other images in a data set.”¹⁴⁸ FRT face tracking technology “involves police use of stored or real time video to track a targeted suspect. For example, after a bank robbery, police could search city video feeds to find the path of the fleeing suspect. . . . face tracking provides locational information about the suspect.”¹⁴⁹ Assuming the infrastructure was installed, face tracking technology could notify police of a targeted person’s movements and track the person in real-time as they travel. Researchers with MIT Media Lab found that three of the foremost facial recognition systems were “far worse” at distinguishing faces with darker complexions

139 History of Drone Warfare, The Bureau of Investigative Journalism, [https:// www.thebureauinvestigates.com/explainers/history-of-drone-warfare](https://www.thebureauinvestigates.com/explainers/history-of-drone-warfare) (last visited Apr. 24, 2023).

140 Atlas of Surveillance, *supra* note 9.

141 National Special Weapons and Tactics (SWAT) Study: National Assessment of Critical Trends and Issues From 2009 to 2013, INT. ASS’N OF CHIEFS OF POLICE & THE NAT. TACTICAL OFFICERS ASS’N, <https://www.theiacp.org/sites/default/files/2018-10/swatstudy.pdf> (last visited Apr. 24, 2023).

142 Liebllich & Shinar, *supra* note 73 at 116.

143 Melanie A. Bigos, Note, Let’s “Face” It: Facial Recognition, Police Surveillance, and the Constitution, 22 J. HIGH TECH. L. 52, 53 (2021).

144 Tim Lau, Predictive Policing Explained, BRENNAN CTR. FOR JUSTICE (Apr. 1, 2020), <https://www.brennancenter.org/our-work/research-reports/predictive-policing-explained>.

145 U.S. CONST. amend. IV.

146 PA. CONST. art. I, § 8.

147 Community Control over Police Surveillance: Technology 101, ACLU, https://www.aclu.org/sites/default/files/field_document/tc2-technology101-primer-v02.pdf (last visited Apr. 23, 2023).

148 Cameron Martin, Facial Recognition in Law Enforcement, 19 SEATTLE J. SOC. JUST. 309, 311 (2020).

149 Andrew Guthrie Ferguson, Facial Recognition and the Fourth Amendment, 105 MINN. L. REV. 1105, 1113 (2021).

than those with lighter ones.¹⁵⁰ The National Institute of Standards and Technology (NIST), which operates from the United States Department of Commerce, consistently finds that “even the best FRT algorithms have a mismatch rate that is five to ten times greater for persons of color.”¹⁵¹ Mismatches have already led to police mistaking civilians for criminal suspects and arresting them. Detroit police relied on erroneous matches by facial recognition technology in wrongfully arresting at least three people, each of whom were Black,¹⁵² including a woman, eight months pregnant at the time, accused of robbing and carjacking someone at gunpoint.¹⁵³ In 2022, FRT used by a Texas retailer produced a mismatch and led to the wrongful arrest of a man for armed robbery. The man, who was actually in California while the robbery occurred, was jailed for two weeks, during which he “was allegedly attacked and raped by three men, leaving permanent injuries.”¹⁵⁴ Given that Black and Hispanic people are already 2.5 times more likely than other races to experience physical force by American police, they likewise would face a greater risk of being misidentified by a weaponized autonomous machine and harmed by it.¹⁵⁵ Indeed, as demonstrated above, the risk has already materialized and caused avoidable, unjustified suffering. Authorities have also installed recognition technology surveillance infrastructure in Lakeland, Florida, where authorities sought the technology specifically for that purpose. In March 2024, the Lakeland Downtown Development Authority (LDAA) installed at least 14 cameras in downtown Lakeland that it would monitor in real time and permit business owners to access the captured footage.¹⁵⁶ Users of the software may upload the picture of “person of interest” to the software’s database. The cameras, which can observe a 360-degrees vision field, “detect and record when those individuals move through a camera’s field,” and notify LDAA personnel when a person of interest enters the surveilled area.¹⁵⁷ At least one business owner lauded the surveillance zone, reporting the “need” to identify constant offenders, while the LDAA concurred, stating “that people should expect to be surveilled in public spaces.” After the ACLU of Florida criticized Lakeland’s resort to the technology, LDAA directed the vendor to turn off the cameras’ facial recognition function, lamenting “‘The harmful effects of pointless litigation that the LDAA cannot afford [relative to] the small benefits that facial recognition would have provided.’”¹⁵⁸

Regulating Autonomous Weapons in the United States

Humans’ inability to explain how AI makes decisions should condemn the autonomous weapon before police ever equip themselves with one. This conclusion becomes more evident when mulling the challenges communities already face in holding accountable those humans who purport to enforce the law. In theory, when police violate the law or otherwise engage in misconduct, an internal or external authority reviews their conduct, their justification for their actions, and disciplines them if appropriate, thereby encouraging constitutional policing and discouraging misconduct or outright criminal behavior.¹⁵⁹ Internal proceedings levy discipline

150 Paul Scharre, *Killer Apps: The Real Danger of An AI Arms Race*, FOREIGN AFFAIRS, May 2019, at 135.

151 Martin, *supra* note 11, at p. 318.

152 ACLU of Michigan, *After Third Wrongful Arrest, ACLU Slams Detroit Police Department for Continuing to Use Faulty Facial Recognition Technology*, ACLU (Aug. 6, 2023), <https://www.aclu.org/press-releases/after-third-wrongful-arrest-aclu-slams-detroit-police-department-for-continuing-to-use-faulty-facial-recognition-technology>

153 Kelly Kasulis Cho, *Woman sues Detroit after facial recognition mistakes her for crime suspect*, Washington Post (Aug. 7, 2023), <https://www.washingtonpost.com/nation/2023/08/07/michigan-porcha-woodruff-arrest-facial-recognition/>.

154 Brian Fung, *Lawsuit: Facial recognition software leads to wrongful arrest of Texas man; he was in Sacramento at time of robbery*, CBS (Jan. 23, 2024), <https://www.cbsnews.com/sacramento/news/texas-macys-sunglass-hut-facial-recognition-software-wrongful-arrest-sacramento-alibi/>.

155 Erika Harrell and Elizabeth Davis, *Contacts Between Police and the Public, 2018 – Statistical Table*, Dept. of Justice (Feb. 3, 2023), <https://bjs.ojp.gov/content/pub/pdf/cbpp18st.pdf>.

156 Rebecca Pitt, *ACLU claims downtown Lakeland’s facial recognition cameras violate privacy*, ABC (March 26, 2024), <https://www.abcactionnews.com/news/region-polk/aclu-claims-downtown-lakelands-facial-recognition-cameras-violate-privacy>.

157 Sara-Megan Walsh, *LDAA is tracking ‘people of interest’ in downtown Lakeland using facial recognition*, Lakeland Ledger (March 21, 2024), <https://www.theledger.com/story/news/local/2024/03/21/ldda-using-new-cameras-to-track-people-of-interest-in-downtown/73052094007/>.

158 Sara-Megan Walsh, *LDAA turns off facial-recognition software in downtown security cameras*, Lakeland Ledger (April 4, 2024), <https://www.theledger.com/story/news/local/2024/04/04/lakelands-downtown-security-cameras-no-longer-use-facial-recognition/73204783007/>.

159 Stephen Rushin, *Police Disciplinary Appeals*, 167 U. PA. L. REV. 545, 556 (2019).

through the chain of command, which often leads to an officer-sympathetic appellate process of binding arbitration.¹⁶⁰ The practice of arbitrating officer disciplinary appeals is widespread, with about two-thirds of police unions collective bargaining agreements requiring them in the United States' largest cities.¹⁶¹ Externally, misconduct is supposedly discouraged by "the exclusionary rule, criminal prosecution, and civil litigation. Each of these mechanisms penalizes individual acts of unlawful behavior by frontline police officers, which in the aggregate should theoretically force rational police supervisors to enact rigorous internal oversight and disciplinary procedures within their police agencies."¹⁶² In practice, however, the "disciplinary procedures seem as if they are designed to insulate officers from democratic oversight."¹⁶³ Although police officers today routinely dodge accountability for misconduct, at least there are mechanisms in place, however ineffective, to hold police accountable and modify their behavior. Of course, humans cannot contrive any like process for a machine, as a machine can neither comprehend the consequences of its actions nor be held to account for them.¹⁶⁴ Furthermore, as mentioned already, the way artificially intelligent machines learn and our corresponding ability to observe their decision making "makes it difficult to fix deep learning systems when they produce unwanted outcomes," that is, fix a system that hurts humans.¹⁶⁵

To use the lexicon of modern technology, lawmaking by reaction is a feature of a legislature, not a bug. The prohibition of autonomous weapons deserves an international treaty with unanimous participation, but unless the planet experiences a catastrophe inflicted by autonomous weapons, an international regulatory framework is unlikely to be accomplished. Moreover, considering the motives of the most influential and militarily dominant nations, a comprehensive, good faith international accord deserves scrutiny. Domestically, Congress should prohibit the possession and use of autonomous weapons. So far, just one federal legislator has proposed legislative action to ascertain the American military's autonomous weapons capabilities and that of its competitors abroad. Senator Ron Wyden (D-OR) proposed an amendment to the Fiscal Year 2023 National Defense Authorization Act that would require the Department of Defense to report to Congress a comparison of "the capabilities of the United States with the capabilities of adversaries of the United States" regarding, among other systems, "Weapon systems with lethal, offensive capabilities that are fully-automated or have the potential to become fully automated" and "Automated systems with intelligence, surveillance, and reconnaissance capabilities."¹⁶⁶ Senator Wyden's proposed amendment was not included in the version signed into law by President Joe Biden in December 2022.¹⁶⁷ The most compelling justifications for Congressional action are nationwide application of a sole regulatory scheme and the ability to address qualified immunity. While beyond the scope of this paper, it is useful to mention the doctrine since an ideal federal legislative remedy would address the doctrine. The Supreme Court of the United States clarified the principle of qualified immunity in *Harlow v. Fitzgerald* when it ruled that "government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known."¹⁶⁸ Although *Harlow* considered an allegedly unlawful termination of a government employee's contract, the best known application of qualified immunity is to police officers who injure civilians. Advocates of qualified immunity commend the doctrine for entitling police to deference as they perform their duties, while critics argue that providing immunity to "all but the plainly incompetent or those who knowingly violate the law"¹⁶⁹ fails to provide meaningful accountability.¹⁷⁰ One can imagine the

160 Rushin, *supra* note 4, at 553.

161 Stephen Rushin, *Police Union Contracts*, 66 DUKE L.J. 1191, 1238 (2017).

162 Rushin, *supra* note 4, at 555-56.

163 Rushin, *supra* note 4, at 556.

164 @bumblebike, Twitter (Feb. 16, 2017, 7:59 PM), <https://twitter.com/bumblebike/status/832394003492564993>.

165 Bloin, *supra* note 23.

166 National Defense Authorization Act for Fiscal Year 2023, S.A. 6261 to H.R. 7900, 117th Cong. § 221 (2022), <https://www.congress.gov/amendment/117th-congress/senate-amendment/6261/text>.

167 James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, H.R. 7776, 117th Cong. (2022), <https://www.congress.gov/bill/117th-congress/house-bill/7776>.

168 *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

169 *Malley v. Briggs*, 475 U.S. 335, 341 (1986).

170 *Policing the Police: Qualified Immunity and Considerations for Congress*, 117th Cong., <https://crsreports.congress.gov/product/>

novel liability issues that may emerge with the deployment of machine police. The manufacturer of an autonomous weapon deployed by police would take every precaution to protect itself from liability for injuries caused by a machine leased or sold to a police agency. Whether dual insulation of qualified immunity and contracted indemnity could protect the manufacturer of a police autonomous weapon from liability is a question that Americans will confront in the future.

In preparation for regulating autonomous weapons, it will be useful to review efforts to regulate human operated, unmanned aircraft, the colloquial drone. In 2018, Congress banned a person from operating “an unmanned aircraft or unmanned aircraft system that is equipped or armed with a dangerous weapon.”¹⁷¹ The law defined “dangerous weapon” as a “weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury.”¹⁷² In 2019, with the growing prevalence of drones, Pennsylvania prohibited “unlawful use of unmanned aircraft.”¹⁷³ The statute criminalizes using “an unmanned aircraft intentionally or knowingly to: (1) Conduct surveillance of another person in a private place. (2) Operate in a manner which places another person in reasonable fear of bodily injury. (3) Deliver, provide, transmit or furnish contraband in violation of [existing laws that prohibit contraband in a correctional institution].”¹⁷⁴ The conduct described in subsections (1) and (2) is lawful, however, if undertaken by a law enforcement officer while performing their official duties. When regulating unmanned aircraft, Utah similarly created a loophole that may be exploited by law enforcement.¹⁷⁵ Elsewhere, Florida,¹⁷⁶ North Carolina,¹⁷⁷ Oregon,¹⁷⁸ and West Virginia¹⁷⁹ each prohibit operating an unmanned aircraft or aircraft system that has a weapon attached. Alabama enhances the penalty for a person who, without authorization, enters a critical infrastructure site “while possessing or operating an unmanned aircraft system with an attached weapon, firearm, explosive, destructive device, or ammunition.”¹⁸⁰ With the exception of Virginia’s 2013 law, which banned law enforcement from deploying or facilitating the use of a weaponized unmanned aircraft system, other states’ regulatory frameworks, like Pennsylvania’s and Utah’s, generally bored loopholes enabling law enforcement to deploy autonomous weapons to police civilians.¹⁸¹ Even Virginia’s law failed to consider that unmanned systems may also be designed for land¹⁸² or marine environments.¹⁸³

With questionable alternatives, I propose to address the issue of police procurement and deployment of autonomous weapons through state legislation. In 2023, Rep. Kelly Kortrum, a Montana state legislator proposed the “Killer Robot Attack Ban Act,” which prohibits a person or business entity from manufacturing, possessing, using, or selling a lethal autonomous weapon.¹⁸⁴ The bill does not subject a government entity or its agent to regulation, perhaps due to his expectation that if passed, an individual or business entity will inevitably violate the law, and ensuring public safety would require the possession and use of LAWs by police. The bill also does not address autonomous technology armed with weapons that are not inherently lethal, such as percussive ordinance, sound munitions, chemical agents, impact projectiles, or those that emit electrical

pdf/LSB/LSB10492 (updated Feb. 23, 2023).

171 FAA REAUTHORIZATION ACT OF 2018, PL 115-254, October 5, 2018, 132 Stat 3186.

172 18 U.S.C.A. § 930 (West. Supp. 2008).

173 Jossie Carbonare, New PA ‘Peeping Tom’ Drone Law Protecting People’s Privacy, FOX 43 (Jan. 2, 2019) <https://www.fox43.com/article/news/local/contests/new-pa-peeping-tom-drone-law-protecting-peoples-privacy>.

174 18 PA. CONS. STAT. ANN. § 3505 (West 2019).

175 UTAH. CODE ANN. § 72-14-303 (West 2017).

176 FLA. STAT. ANN. § 330.411 (West 2017).

177 N.C. GEN. STAT. ANN. § 14-401.24 (West 2014).

178 OR. REV. STAT. § 837.365 (West 2018).

179 W. VA. CODE ANN. § 61-16-2 (West 2018).

180 ALA. CODE § 13A-7-4.3 (2022).

181 VA. CODE ANN. § 19.2-60.1 (West 2019).

182 James Vincent, They’re Putting Guns on Robot Dogs Now, The Verge (Oct. 14, 2021) <https://www.theverge.com/2021/10/14/22726111/robot-dogs-with-guns-sword-international-ghost-robotics>.

183 David Axe, Ukraine’s Drone Boats Are Winning the Black Sea Naval War, Forbes (Nov. 20, 2022) <https://www.forbes.com/sites/davidaxe/2022/11/20/the-ukrainian-navy-has-no-big-warships-its-winning-the-naval-war-anyway-with-drones>.

184 H.B. 594, 68th Leg. 1 (Mont. 2023).

current. Indeed, “While lethality is a potential outcome of [weaponized autonomous machine usage], what is problematic about integrating autonomous features applies in general to ‘acting with the intent to cause physical harm, i.e. violence.’”¹⁸⁵ In an email exchange, Rep. Kortrum acknowledged that he “left it vague.”¹⁸⁶ Some academics that study legislative drafting recognize that “vagueness and generality are often deliberate due to the political nature of the legislative process.”¹⁸⁷ Yet, not adequately addressing an issue in legislation may “result in the enactment of a statute that is incomplete, vague, or overly general, and that delegates to an administrative agency or a court, or both, the ability to ultimately decide its full meaning.”¹⁸⁸ That said, Rep. Kortrum generously provided insight into the committee’s discussions, wherein members discussed including police officers and other government employees.¹⁸⁹ As the Montana lawmaker noted, “police officers and government officials are individuals,” so he believed that HB 594 would apply to them.¹⁹⁰ My proposed Pennsylvania statute, the Weaponized Autonomous Machines Act, or WAM Act, expands on Rep. Kortrum’s foundation. The WAM Act may serve as a model for any jurisdiction that hopes to stop the momentum of the Cyberang. It includes a policy statement, defines the property to be regulated, regulates the property and conduct, addresses civil and criminal liability, assesses a penalty, and provides for severability.

An Act

Providing for the regulation of weaponized autonomous machines.

Section 1. Short title.

This act may be cited as the Weaponized Autonomous Machines Act.

Section 2. Declaration of policy.

- (a) *An autonomous machine is not alive.*
- (b) *An autonomous machine cannot truly understand its decisions or actions.*
- (c) *An autonomous machine cannot be held accountable.*
- (d) *An autonomous machine has no rights.*
- (e) *An autonomous machine may not use force against a living thing.*

Section 3. Definitions.

The following words and phrases when used in this Act have the meanings given to them in this section unless the context clearly indicates otherwise.

“Weaponized autonomous machine.” A machine that, once activated, can identify and select a living target, and use force against the living target without an affirmative action from a human operator that approves the use of force by the autonomous machine after it identifies and selects a living target.

Section 4. Prohibition of weaponized autonomous machines.

- (a) *A person, business entity, non-profit entity, or government agency may not buy, sell, possess, construct, acti-*

¹⁸⁵ Bode & Huelss, *supra* note 21, at 17.

¹⁸⁶ Email from Kelly Kortrum, State Rep., Mont., to Author, Re: HB 594 - Question from a law student and former Pa. House staffer (Mar. 25, 2023 4:02 PM EDT) (copy on file with Author).

¹⁸⁷ ROBERT J. MARTIN & MICHAEL B. SALERNO, *LEGAL, LEGISLATIVE, AND RULE DRAFTING IN PLAIN ENGLISH* 95 (2005).

¹⁸⁸ *Id.*

¹⁸⁹ Email from Kelly Kortrum, State Rep., Mont., to Author, *supra* note 143.

¹⁹⁰ *Id.*

vate, make operational, or use a weaponized autonomous machine.

Section 5. Penalties.

(a) *A violation of this Act is a felony of the second degree.*

Section 6. Liability.

(a) *An act by a weaponized autonomous machine may be imputed to a person, business entity, non-profit entity, or government agency that violates the Act.*

(b) *A person whose violation of the Act causes an injury to a person or damage to property, may be liable as a principal or an accomplice under a provision of Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated States.*

(c) *A person, business entity, non-profit entity, or government agency who violates this Act and the violation causes an injury to a person or damage to property, may be liable in tort.*

Section 7. Severability.

(a) *If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.*

Section 8. This act shall take effect immediately.

Conclusion

In drafting the WAM Act, I deviated from the word “lethal,”¹⁹¹ and emulated the language used by Oregon¹⁹² and Virginia¹⁹³ by using “weaponized,” because even weapons that are not inherently lethal may still kill persons during police interactions.¹⁹⁴ My own fears of mass shootings caused me to deliberate over whether to prohibit only weapons that are inherently lethal, like firearms and explosives, and permit so-called “less-lethal” or “non-lethal” weapons, like blunt objects, percussive ordinance, chemical agents, impact projectiles, and those that emit electrical current.¹⁹⁵ Ultimately, however, I reflected on my experiences in protesting state violence and observing institutional hostility to holding police accountable when they improperly or unlawfully hurt civilians, which caused me to use the all-encompassing term. I believe the spirit of my “weaponized autonomous machine” definition most closely resembles the Department of Defense definition of “autonomous weapon system.”¹⁹⁶ I developed the declaration of policy, apart from subsection (c), which is supposedly attributed to an internal IBM slide during the 1970’s, (“A computer can never be held accountable, therefore a computer must never make a management decision”)¹⁹⁷ while imagining a dystopia where a machine determines the rights of my family, friends, and neighbors. When selecting which classes for whom the conduct would be regulated, I followed Rep. Kortrum’s example of people including and business entities, but also subjected business enti-

191 Defense Primer: U.S. Policy on Lethal Autonomous Weapons Systems, *supra* note 15.

192 OR. REV. STAT. § 837.365.

193 VA. CODE ANN. § 19.2-60.1.

194 Reid et al, Death Toll Keeps Rising, U.S. Communities Rethinking Taser Use, Reuters (Feb. 4, 2019) <https://www.reuters.com/article/us-usa-taser-deaths-insight/as-death-toll-keeps-rising-u-s-communities-start-rethinking-taser-use-idUSKCN1PT0YT>.

195 Kelsey D. Atherton, What ‘Less Lethal’ Weapons Actually Do, Scientific American (June 23, 2020) <https://www.scientificamerican.com/article/what-less-lethal-weapons-actually-do>.

196 Autonomy in Weapon Systems, DoD Directive 3000.09 (January 25, 2023).

197 @bumblebike, Twitter (Feb. 16, 2017, 7:59 PM), <https://twitter.com/bumblebike/status/832394003492564993>.

ties and non-profit entities to regulate any individual and any group of individuals organized for any purpose in the commonwealth to avoid ambiguity and vagueness. In drafting the penalty and liability sections, I aimed to impose sufficient deterrents to the prohibited conduct. I devoted special attention for government actors by eliminating sovereign immunity for damage to property or injuries caused by a violation of the WAM Act. Although I included a severability clause, according to the commonwealth's rules of statutory construction, a Pennsylvania statute need not contain a severability clause.¹⁹⁸ A severability clause is superfluous because any statute found to be unconstitutional, must be severed, and the remainder of the valid statute, if unaffected, must remain effective.¹⁹⁹ Sensitive to the risks of incomplete drafting, I used the Pennsylvania Administrative Code's form severability clause language in case of litigation. Lastly, I made the statute effective on the date of enactment to discourage a latency period that could spawn complications, like attempts by a subject class member to procure a weaponized autonomous machine or legal challenges.

This paper is not exhaustive. Rather, it serves as a warning that a combination of ignorance, apathy, complacency, and malintent may cause the Cyberang to fully rear. If it does, it will fundamentally alter American life for the worse. Passing legislation, like the WAM Act, while part of the solution, can only complement intentional, sustained, widespread community mobilization that advocates for the primacy of the living thing over machines in society.

¹⁹⁸ 101 PA. CODE § 15.69 (1974).

¹⁹⁹ 1 PA. CONS. STAT. ANN. § 1925 (West 1972).

**BLAZING A NEW PATH:
REPARATIONS INFORMED CANNABIS REFORM CAN UPLIFT THE
VERY COMMUNITIES HARMED THE MOST**

By
Baylynnne Brunetti¹

¹ I would like to express my deepest gratitude to Professor Julia Vazquez for her invaluable guidance, thoughtful feedback, and inspiration throughout the development of this piece. Your mentorship has profoundly shaped my approach to legal scholarship and advocacy. Thank you to the editors at NLG for all of their work on making this piece publication ready. I am also deeply thankful for my incredible best friends, whose support and encouragement continually motivate and inspire me to become a better advocate. Finally, to my partner Alex, thank you for your endless patience, understanding, and belief in me always.

Introduction

Glass. There is glass everywhere. It permeates the walls to make everything inside visible. Tropical fish swim in their enclosures. Merchandise that consists of hats and clothing line the entrance wall. Kombucha and cold brew are on tap, free to customers. Yoga with cannabis consumption is offered. The dispensary donates proceeds to help with ocean preservation; I think that is ignorant in lieu of the harms of the War on Drugs in the very community this dispensary takes space in. Variations of edibles are displayed in a meticulous manner, housed in a glass casing like Cinderella's slipper. White faces offer to be your concierge and start spouting off sales pitches riddled with ingredients and effects. I cannot shake the discomfort that sits with me as I stroll through the endless cases and variations of cannabis infused² items . There is glass everywhere.

The discomfort from that moment sparked the inspiration for this work. As a white person, I felt uncomfortable being in a dispensary catered towards my demographic, knowing that there are currently thousands of people across the country locked away for far less than the edible sitting in the case before me. Over 30,000 people across the state of California are still waiting for expungements for non-violent cannabis charges³ – a flaw in the decriminalization and subsequent legalization of cannabis in California. I was angered further when, while researching, a startling statistic jumped out of the 400 (and growing) dispensaries in Los Angeles, only 4% of them were Black-owned⁴. White people are benefitting and profiting off of the continued systemic harms of the War on Drugs and the treatment of people of color⁵ in this country. Analyzing cannabis decriminalization through the lens of Critical Race Theory (CRT) is essential to advancing equity in the post–War on Drugs era. CRT, which emerged in the 1970s and 1980s as a response to the limitations of traditional civil rights strategies, offers a critical framework for understanding how laws and institutions reproduce racial hierarchies⁶. It rejects the notion of legal neutrality and colorblindness, asserting instead that the law often serves to reinforce the interests of dominant groups. This framework is particularly salient in evaluating drug policy, as it exposes how facially race-neutral laws governing cannabis have been disproportionately enforced against communities of color.

² **Julia Vázquez**, The Impacted Immigration Lawyer in the Era of Trump: Empathy, Wellbeing, and Sustainable Lawyering, 50 SW. L. Rev. 275 (2021). I cite to Professor Julia Vázquez here because of her use of personal narrative in her scholarly work. The use of personal narrative in Critical Race Theory is so powerful, and I feel like legal writing often suppresses that creativity. However, reading her work and that of Mari Matsuda proves that there is space for that style in the legal writing space, something that makes it even more impactful. Though their storytelling is rooted in deeper significance and an impacted first-person narrative - I am grateful to them for creating a space where personal narrative can impact the legal writing we create. Thank you, Professor Vázquez, for helping us learn and grow in not only Critical Race Theory but through legal writing.

³ **Kiera Feldman**, California Was Supposed to Clear Cannabis Convictions. Tens of Thousands are Still Anguishing (January 13, 2022, 5:00 AM), <https://www.latimes.com/california/story/2022-01-13/california-was-supposed-to-clear-weed-convictions-tens-of-thousands-are-still-languishing>

⁴ **Staci Ramsey**, Black Entrepreneurs Breaking Equity Barriers in the Cannabis Industry (2021), https://uscstoryspace.com/2021-2022/staciram/Fall_Final/#:~:text=Even%20though%20there%20are%20more,to%20data%20collected%20by%20Cannaclusive.

⁵ This paper employs the term people of color to describe the broad range of racial and ethnic communities disproportionately impacted by the War on Drugs. While Black communities have been uniquely and profoundly affected, other communities in Los Angeles, particularly Latinx, Indigenous, and certain Asian American populations, have also suffered significant harms as a result of racially discriminatory drug policies and enforcement practices. The use of people of color is intended to promote inclusivity and reflect the collective, racialized nature of these systemic injustices, without minimizing the distinct experiences of specific groups.

⁶ Traditional civil rights strategies, which emphasize formal equality and litigation-based remedies, have been criticized for failing to address the deeper, structural roots of racial inequality. By focusing on individual instances of discrimination and seeking narrowly tailored legal remedies, these approaches often overlook systemic and institutionalized forms of racism. Critical Race Theory emerged in part as a response to this shortcoming, arguing that meaningful racial justice requires a more expansive critique of the legal system and its role in maintaining social hierarchies. Kimberlé Williams Crenshaw, Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law, 101 Harv. L. Rev. 1331 (1988).

This paper will explore the impact of cannabis decriminalization on people of color, focusing on whether these reforms genuinely address the historical and ongoing racial injustices perpetuated by the War on Drugs. Through a “critical legalism” lens, this paper will examine the ineffectiveness of decriminalization policies in mitigating racial disparities in the criminal legal system and propose further reforms needed to achieve actual justice for marginalized communities. While abolitionist frameworks rightly call for the complete dismantling of carceral systems that have long targeted communities of color, this paper adopts a reform-oriented approach as a pragmatic means of addressing urgent harms within existing legal structures. Reform, in this context, is not positioned as the end goal, but as a necessary and incremental step toward more transformative change, one that centers racial equity and acknowledges how legal regimes have historically protected whiteness as a form of property structuring access to rights, resources, and legitimacy along racial lines⁷.

The War on Drugs has had a devastating impact on communities of color.⁸ The War on Drugs had led to mass incarceration, economic disenfranchisement, and an onslaught of other issues.⁹ Cannabis criminalization has been one of the most glaring examples of how drug policies have been weaponized against Black and Brown communities.¹⁰ Despite recent decriminalization efforts, such as California’s Prop 64 and the Los Angeles County Social Equity Program, there is concern that these reforms may fall short of addressing the deep-rooted racial inequities embedded in the criminal justice system.¹¹ This is especially true when we see the impact of decriminalization uplifting predominantly white owned dispensaries.¹²

As more states move toward decriminalizing or legalizing cannabis, it is essential to ensure that these reforms do not merely shift the landscape of the criminal legal system without correcting the racial disparities that have long plagued it. By highlighting the shortcomings of current decriminalization efforts and proposing more comprehensive solutions, this paper will aim to advance the conversation on how to create a more just and equitable society. Part I will give a brief history on the War on Drugs and the history of restorative justice, followed by an analysis of the communities affected by the War on Drugs in Los Angeles, California.¹³ Part II sets forth how systemic racism continues to influence the enforcement of drug laws, even in the context of decriminalization, and how the implementation of the City of Los Angeles’s Social Equity Program can be reimagined to provide better access and avoid further perpetuating harm to the community it seeks to protect. This section will also discuss the theory of whiteness as property¹⁴ and the whitewashing of cannabis. Part III will discuss

7 Cheryl I. Harris, *Whiteness as Property*, 106 Harv. L. Rev. 1707 (1993).

8 ACLU, *A Tale of Two Countries: Racially Targeted Arrests in The Era of Marijuana Reform*, 29 (2020), https://www.aclu.org/sites/default/files/field_document/tale_of_twocountriesracially-targetedarrests_in_the_era_of_marijuana_reform_revised_7.1.20_0.pdf [<https://perma.cc/BT9W-MT24>].

9 See supra 3.

10 ACLU, *The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests* (June 2013), <https://assets.aclu.org/live/uploads/publications/1114413-mj-report-rfs-rel1.pdf>

11 Douglas A. Berman & Alex Kreit, *Ensuring Marijuana Reform Is Effective Criminal Justice Reform*, 52 ARIZ. ST. L.J. 741 (Fall 2020).

12 In 2017, 81% of marijuana business owners in the U.S. were white, 5.7% were Hispanic, 4.3% were Black and 2.4% were Asian. Courtney Connley, *Cannabis is projected to be a \$70 billion market by 2028—yet those hurt most by the War on Drugs lack access* (July 1, 2012, 11:30 AM), <https://www.cnn.com/2021/07/01/in-billion-dollar-cannabis-market-racial-inequity-persists-despite-legalization.html>

13 The War on Drugs had a substantial impact across communities in the United States. However, to ensure a more targeted framework and policy proposition, I have decided to focus on the City of Los Angeles, California to track the impact of the War on Drugs to this geographic area, the subsequent repeal of marijuana criminalization in the State of California and will conclude with a critique of City of Los Angeles’s attempt at restorative justice through their Social Equity Program. Further, Los Angeles is home to the most dispensaries in the State of California.

14 Professor Cheryl I. Harris traces the origins of whiteness as property in the parallel systems of domination of Black and Native American peoples out of which were created racially contingent forms of property and property rights. Following the period of slavery and conquest, whiteness became the basis of racialized privilege, a type of status in which white racial identity provided the basis for allocating societal benefits both private and public in character. These arrangements were ratified and legitimated in law as a type of status property. Even as legal segregation was overturned, whiteness as property continued to serve as a barrier to effective change as the system of racial classification operated to protect entrenched power. Cheryl I. Harris, *Reflections on Whiteness as Property* (June 10, 1993), <https://harvardlawreview.org/print/no-volume/whiteness-as-property/>

restorative justice economic reparations for the communities harmed by the War on Drugs, followed by suggestions for reform on a federal level. Despite reforms, communities of color remain disproportionately affected, economically excluded, and underserved by justice initiatives, necessitating a more holistic approach that encapsulates restorative justice measures.¹⁵

Part I

The War on Drugs

A. The War on Drugs on a Federal Level

The first federal legislation regarding cannabis was the Marihuana Tax Act of 1937. While the law didn't criminalize the possession or use of marijuana, it included hefty penalties if taxes weren't paid, including a fine of up to \$2000 and five years in prison.¹⁶ The Act was drafted by Harry Anslinger who was the inaugural commissioner of the now-defunct Federal Bureau of Narcotics. He spearheaded an anti-cannabis campaign, reinforcing racial stereotypes about its users and exploiting unfounded claims that it incited criminal behavior.¹⁷ Anslinger deliberately used the Spanish term "marijuana" instead of "cannabis" to link the drug to Mexican immigrants which culminated in the passing of the act by placing an obscene number of regulations, fines, and imprisonment risk on anybody involved in the selling, prescribing, and consumption of cannabis, the law effectively criminalized the drug and paved the way for the mass incarceration of marijuana related offenders that would follow under President Richard Nixon.¹⁸

President Richard Nixon pushed Congress to pass the Controlled Substance Act (CSA) regulating controlled substances.¹⁹ On October 27, 1970, Congress added cannabis as a Schedule I drug under the Comprehensive Drug Abuse and Prevention Control Act of 1970 (CSA).²⁰ In 1971 President Richard M. Nixon coined the phrase War on Drugs, but in reality, "the undertaking was neither a single coherent entity nor a true war but rather a succession of executive-sponsored domestic and transnational punitive campaigns spanning the postwar era through today".²¹ As John Ehrlichman, a top Nixon aide, revealed in a 1994 interview that was published in 2016, the war on drugs itself was designed to target Black people and "hippies":²²

15 Restorative justice is a response to wrongdoing that prioritizes repairing harm and recognizes that maintaining positive relationships with others is a core human need. It seeks to address the root causes of crime, even to the point of transforming unjust systems and structures. It is a way of thinking about behavior correction in a way that emphasizes healing the harm done, whether to a person, group, or object, rather than punishment for the sake of punishment itself.

16 U.S. Customs and Boarder Protection, *Did You Know... Marijuana Was Once a Legal Cross-Border Import?* (December 20, 2019), <https://www.cbp.gov/about/history/did-you-know/marijuana#:~:text=His%20campaign%20against%20Cannabis%20led,an%20annual%20tax%20of%20%2424>

17 Simeon Spencer, *Redressing America's Racist Cannabis Laws: Voters and Policymakers are Key to Enacting Change* (August 4, 2022), <https://www.naacpldf.org/cannabis-laws-racism/>

18 Donna Murch, *Crack in Los Angeles: Crisis, Militarization, and Black Response to the Late Twentieth- Century War on Drugs*, *The Journal of American History* (June 2015) <https://diversity.williams.edu/davis-center/files/2015/05/Crack-in-Los-Angeles-Crisis-Militarization-and-Black-Response-to-the-Late-Twentieth-Century-War-on-Drugs.pdf>

19 Controlled Substances Act of 1970, Pub. L. No. 91-513, 84 Stat. 1236 (1970) (codified at 21 U.S.C. §§ 801-917)

20 Controlled Substances Act of 1970, Pub. L. No. 91-513, § 202(c), 84 STAT. 1249 (codified at 21 U.S.C. § 812(c)--Schedule I (c) (10)).

21 See supra 17

22 amila Hodge, Nazish Dholakia, *Fifty Years Ago Today, President Nixon Declared the War on Drugs* *Fifty years after then-President Richard Nixon declared a "war on drugs," the United States is still mired in the implications of this wrongheaded, racist policy decision* (June 17, 2021), <https://www.vera.org/news/fifty-years-ago-today-president-nixon-declared-the-war-on-drugs>

*The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and Black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or Black, but by getting the public to associate the hippies with marijuana and Blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course, we did.*²³

The War on Drugs evolved into an even bigger monster. The 1984 Comprehensive Crime Control and Safe Streets Act abolished parole in the federal system, leading to a significant increase in elderly prisoners.²⁴ Subsequently, the 1986 Anti-Drug Abuse Act introduced mandatory minimum sentencing guidelines, including the notorious 100-to-1 sentencing disparity between crack and powder cocaine.²⁵ In 1988, the act was expanded to include an overly broad definition of conspiracy, which contributed to the influx of individuals convicted of low-level and nonviolent drug offenses into the federal system.²⁶

In the early 1990s, the Violent Crime Control and Safe Streets Act of 1994 was passed.²⁷ This legislation marked the most extensive expansion of the federal death penalty in recent history, weakened habeas corpus rights, undermined the exclusionary rule, allowed the prosecution of 13-year-olds as adults, and deployed 100,000 additional police officers, leading to an increase in racial profiling.²⁸ The bill also eliminated Pell educational grants for incarcerated individuals, established the federal three strikes law, and incentivized states to adopt “truth-in-sentencing” laws.²⁹ These measures led to a dramatic increase in prison construction, extended prison sentences, and fostered a punitive mindset.³⁰

A. The War on Drugs in Los Angeles

The policies implemented by Nixon catalyzed into a borderline martial law state which snaked across the states to Los Angeles, heeding way in the form of a militarized police force.³¹ Thirsty to use their new militarized arsenal, the state targeted historically African American and Latino neighborhoods in the South-Central communities of Los Angeles.³² But even before the War on Drugs began -- California had begun its implementation of harsh drug laws dating back to the 1960's.

William H. Parker, chief of the LAPD from 1950 until his death in 1966, was renowned by conservatives for his drug policies that targeted communities in East Los Angeles.³³ In 1961, Los Angeles County law enforcement wanted the Legislature to provide not just stricter penalties but also more assured convictions. Chief Parker criticized the sole focus on harsher penalties without ensuring they could secure convictions, dismissing

23 Dan Baum, *Legalize It All: How to Win the War on Drugs* (April 2016), <https://harpers.org/archive/2016/04/legalize-it-all/>

24 S.1762 - 98th Congress (1983-1984): Comprehensive Crime Control Act of 1984, S.1762, 98th Cong. (1984), <https://www.congress.gov/bill/98th-congress/senate-bill/1762>.

25 H.R.5484 - 99th Congress (1985-1986): Anti-Drug Abuse Act of 1986, H.R.5484, 99th Cong. (1986), <https://www.congress.gov/bill/99th-congress/house-bill/5484>.

26 S.Amdt.3466 to H.R.5484 - 99th Congress (1985-1986) (2024), <https://www.congress.gov/amendment/99th-congress/senate-amendment/3466>.

27 H.R.3355 - 103rd Congress (1993-1994): Violent Crime Control and Law Enforcement Act of 1994, H.R.3355, 103rd Cong. (1994), <https://www.congress.gov/bill/103rd-congress/house-bill/3355>.

28 Nkechi Taifa, *Race, Mass Incarceration and the Disastrous War on Drugs* (May 10, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/race-mass-incarceration-and-disastrous-war-drugs>

29 H.R.3355 - 103rd Congress (1993-1994): Violent Crime Control and Law Enforcement Act of 1994, H.R.3355, 103rd Cong. (1994), <https://www.congress.gov/bill/103rd-congress/house-bill/3355>.

30 See supra 28.

31 Joe Domanick, *To Protect and to Serve: The LAPD's Century of War in the City of Dreams* (1994)

32 See supra 17.

33 Sarah Brady Siff, *A History of Early Drug Sentences in California: Racism, Rightism, Repeat* (August 6, 2021), <https://dam.assets.ohio.gov/image/upload/opd.ohio.gov/Law%20Library/Training/OPD%20Training%20Materials/2021%20Virtual%20Legal%20Summit/September/Siff-Calif-Drug%20Sentences.pdf>

it as a “cart before the horse” approach.³⁴ A coalition of public figures in Los Angeles rallied behind proposals to reform drug laws, including bills that aimed to limit the impact of the exclusionary rule on drug cases. One bill proposed that all evidence in drug cases would be admissible regardless of search legality, while another would allow confidential informants to testify without disclosing their identities. When the Senate Judiciary Committee deemed these bills likely unconstitutional and dismissed them, Parker was outraged.³⁵ Despite this setback, the 1961 reforms marked a significant win for drug prohibition advocates, particularly with the introduction of a new offense: possession for sale. This charge was distinct from both simple possession and sale, carrying a higher penalty than possession yet easier to prosecute than sale. County Counsel Harold Kennedy, in preparing the legislative drafts for key officials in Los Angeles, explained the intent behind this new offense by stating that if someone was found with a substantial amount of narcotics, it would legally imply intent to sell, resulting in a more severe penalty than for simple possession. This change, which passed along with much of the coalition’s suggested legislation, laid the groundwork for modern quantity-based sentencing practices, providing law enforcement a new tool to circumvent procedural hurdles and pursue the harshest sentences.³⁶

Though California has been regarded for being at the forefront of social-justice reforms – do not be fooled, California led the national trend of incarcerating people of color.³⁷ By 2000, the combined numbers of Blacks and Latinos were over 64 percent of the total population of the California Department of Corrections.³⁸ The militarized infrastructure of the Los Angeles Police Department (LAPD), the Los Angeles Sheriff’s Department (LASD), and the California Highway Patrol (CHP) can be traced back to law enforcement’s aggressive response to civil unrest in the postwar era.³⁹ Following the 1965 Watts uprisings, the LAPD’s adoption of military-grade equipment and specialized tactical units emerged from its counterinsurgency efforts against the Black Power and Brown Power movements.⁴⁰ The LAPD established SWAT in 1967 with a small unit of former military personnel and soon deployed it for the first time against the Southern California Black Panther Party office.⁴¹ The LAPD created Total Resources Against Southeast Hoodlum (TRASH) in the aftermath of the creation of SWAT. The name was changed to Community Resources Against Hoodlums (CRASH), which became the city of Los Angeles most notorious anti-gang unit.⁴² With the policies enacted in the 1960’s and a militarized police force with an intent to target communities of color, as noted by the CRASH operation—Los Angeles fueled the mass incarceration pandemic.

34 *Stiff Penalties for First Narcotics Offense Hit*, L.A. TIMES, Dec. 8, 1959, at 2.

35 See infra 32.

36 See 33.

37 Joe Domanick, *To Protect and to Serve: The LAPD’s Century of War in the City of Dreams* (1994)

38 Joe Domanick, *To Protect and to Serve: The LAPD’s Century of War in the City of Dreams* (1994)

39 See 22.

40 The Watts “Riots” will be referred to herein as the Watts “Uprising”. The uprising was sparked by the arrests of Marquette, Ronald, and Rena Frye after a routine traffic stop on August 11, 1965, at 116th Street and Avalon Blvd. when the arrests turned violent with excessive force by LAPD. These arrests ignited the revolt, but these arrests were not the cause in, and of, themselves. They were the proverbial “straw that broke the camel’s back.” Black youth targeted white people as representatives of unequal racial power relationships and law enforcement as agents of the state who maintain the unequal racial power dynamics. The rebellion, then, sought to change the racial structure, power dynamics, and relationships. See M. Keith Claybrook, Jr., *Remembering, Rethinking, and Renaming the Watts Rebellion* (August 31, 2021) <https://www.aaihs.org/remembering-rethinking-and-renaming-the-watts-rebellion/>

41 See supra 22.

42 Donna Murch, *Crack in Los Angeles: Crisis, Militarization, and Black Response to the Late Twentieth- Century War on Drugs*, *The Journal of American History* (June 2015) <https://diversity.williams.edu/davis-center/files/2015/05/Crack-in-Los-Angeles-Crisis-Militarization-and-Black-Response-to-the-Late-Twentieth-Century-War-on-Drugs.pdf>

B. The Communities Impacted

According to a report commissioned by Public Health Advocates and prepared by the University of California, Davis, Center for Regional Change (CRC), that documented racial disparities in cannabis arrests in California from 1966-2016, “examination of statewide arrest rates for non-Hispanic Blacks, Hispanics, and non-Hispanic whites reveals stark disparities.”⁴³ The arrest rate for whites and Hispanics has remained between about 40 per 100,000 population and 90 per 100,000, compared to a range of 157 – 429 per 100,000 population for Blacks. The arrest rate for Blacks increased by 80% between 1996 and 2008, but only 54% for whites”.⁴⁴ In Los Angeles County, Black residents make up 8% of the population of the city but have marijuana-related arrests at a staggering 28.4%. Hispanics make up 48.3% of the population and have an equally jarring marijuana-arrest rate of 43.3%.⁴⁵

The Department of Cannabis Control of California established an Equity Fee Waiver Program that outlines specific census areas that the Department has identified as an “Area with a Population Disproportionately Impacted by Past Criminal Justice Policies (Census Tract or Family Member Conviction or Arrest)”⁴⁶ (See Figure 1). This map gives some insight on the communities in Los Angeles impacted during the War on Drugs (1980-2016) – prior to the decriminalization of cannabis in California. Further, the City of Los Angeles Department of Cannabis Regulation produced a map under their Social Equity Program. In order to qualify for

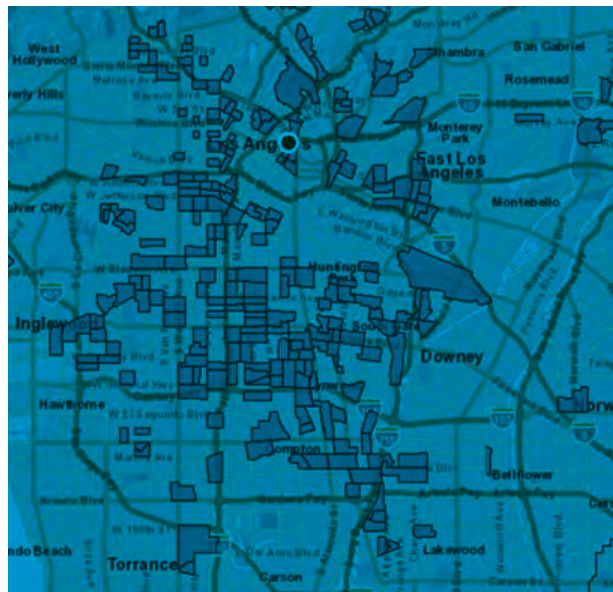


Figure 1

Figure 1 shows a map from the Department of Cannabis Control of California of areas that have been impacted by cannabis arrests and convictions from 1980-2016. These areas qualify for the California Cannabis Equity program.

the cities Social Equity Program, individuals from a “Disproportionately Impacted Area” are eligible. The city defines a “Disproportionately Impacted Area” under Section 104.20. as “eligible zip codes based on the “More Inclusive Option” as described on page 23 of the “Cannabis Equity Analysis Report” commissioned by the City in 2017 and referenced in Regulation No. 13 of the Rules and Regulations, or as established using the same methodology and criteria in a similar analysis provided by an Applicant for an area outside of the City.”⁴⁷ The City of Los Angeles City Council moved to further expand this report in 2018 to incorporate areas that had been left out of the initial 2017 report.

⁴³ University of California, Davis, Center for Regional Change, When the Smoke Clears: Racial Disparities in California’s Marijuana Arrests

⁴⁴ University of California, Davis, Center for Regional Change, When the Smoke Clears: Racial Disparities in California’s Marijuana Arrests

⁴⁵ See *supra* 28.

⁴⁶ Department of Cannabis Control California, Apply for Equity Relief: <https://cannabis.ca.gov/applicants/apply-for-equity-fee-relief/>

The consulting firm hired by the city for the 2017 report identified police reporting districts with disproportionate arrest rates, but the City Council initially chose instead to use ZIP Codes, a less precise option that looped in some affluent and largely white areas, including Los Feliz. This created inequity in the process of establishing which areas would qualify for the Social Equity Program.⁴⁸

The City Council later switched to police reporting districts which resulted in the new 2018 report. Figure 2 (below) shows Figure E from the cities report.⁴⁹ This report used Los Angeles Police Department data for cannabis-related city-wide arrests from 2000 to 2016. From 2000 to 2016, LAPD arrested 89,553 people for cannabis-related offenses.⁵⁰ The report broke down areas of Los Angeles by Police Report Districts, which classifies geographic areas with high arrest rates that also have 60 percent low-income households as a PRD.⁵¹

“Low-Income” is defined as means 80 percent or below of Area Median Income for the City based on the 2016 American Community Survey. The report showed that PRD areas total 68,569 of the citywide total of 89,553 arrests. PRDs recorded approximately 65% of the City’s total cannabis-related arrests over the study time-frame.⁵² This map of PRDs will be used in the reparations recommendation in Part III of this paper. Using this commissioned map is the best way to allocate reparations in conjunction with arrest records data. These areas have been identified as the areas in Los Angeles most harmed by the War on Drugs.

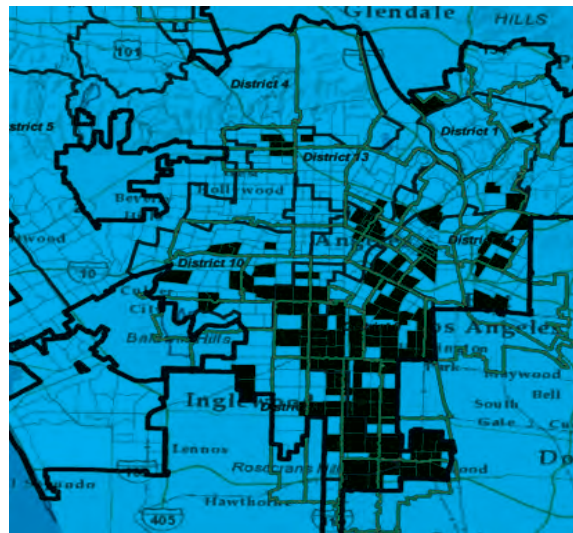


Figure 2

This figure illustrates “Police Reporting Districts and Zip Codes with Above Average Arrest Counts and Greater Than 60% Low Income”.⁵³

C. Theories Applied

This viewpoint is critical when examining the ramifications and horrors of the War on Drugs. We cannot simply just repeal laws without restoring the very communities that were destroyed by those laws. Otherwise, we are perpetuating the harms that were exacerbated by these laws and policies.

47 Los Angeles, CA., Municipal Code §1042.40 (1936)

48 Marisa Gerber, California Promised ‘Social Equity’ After Pot Legalization. Those Hit Hardest Feel Betrayed (January 27, 2022), <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

49 Marisa Gerber, California Promised ‘Social Equity’ After Pot Legalization. Those Hit Hardest Feel Betrayed (January 27, 2022), <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

50 See supra 45.

51 See supra 45.

52 See supra 45.

53 City of Los Angeles, Expanded Cannabis Social Equity Analysis Report; DCR Report No. 3, https://clkrep.lacity.org/online-docs/2017/17-0653_rpt_DCR_06-16-2020.pdf

Part II: Current California Legislation and Policy

A. Proposition 64

On November 9th, 2016, Proposition 64 went into effect in California. Proposition 64: The Adult Use of Marijuana Act (“AUMA”), legalizes specific personal use and cultivation of marijuana for adults 21 years of age or older; reduces criminal penalties for specific marijuana-related offenses for adults and juveniles; and authorizes resentencing or dismissal and sealing prior, eligible, marijuana-related convictions.⁵⁴ Under Prop 64, there was a provision for marijuana conviction relief which would allow most people previously convicted of most cannabis felonies to have a judge reclassify their felony convictions as misdemeanors.⁵⁵ It also allows most people previously convicted of marijuana misdemeanors to have a judge reclassify their misdemeanor convictions as infractions.⁵⁶ Finally, it allows some individuals to have their prior convictions dismissed and sealed entirely.⁵⁷

B. California Assembly Bill 1793

To create a better path for expungements in the aftermath of Proposition 64, the California State Assembly passed California Assembly Bill 1793. The law was the first in the nation to offer automatic record clearance for marijuana convictions and was implemented to ease the process of expungements for cannabis related offenses.⁵⁸ Previously, individuals had to file their own court petitions which placed the burden on those harmed by the War on Drugs and made justice less accessible.⁵⁹ Assembly Bill 1793 mandated the Department of Justice to review state criminal records by July 1, 2019, to identify past convictions eligible for recall, dismissal, sealing, or redesignation under AUMA.⁶⁰ The prosecution was required to review these cases and decide by July 1, 2020, whether to challenge the changes, only doing so if eligibility requirements are unmet or there is a public safety risk. If no challenge is made by the deadline, the court must automatically reduce or dismiss the conviction.⁶¹ The bill required updates to the criminal database within 30 days and public posting of related information, imposing new duties on local entities.⁶²

However, Assembly Bill 1793 has failed in its execution and there are still 34,000 people waiting for expungements.⁶³ According to the Los Angeles Times, the number was closer to 68,000 before the Times began their investigation into the courts.⁶⁴ The DOJ sent district attorneys 191,055 potentially eligible cases for review.⁶⁵ In 2023, Los Angeles had 70,097 eligible convictions (the highest of any county in California), a year later 2,232 still remaining to be sealed.⁶⁶ Though this shows progress, it still is a failure to the 2020 deadline set in A.B. 1793 and causes further harm to thousands of individuals because thousands upon thousands of individ-

54 California Courts, The Judicial Branch of California: Proposition 64: The Adult Use of Marijuana Act <https://www.courts.ca.gov/prop64.htm>

55 California Courts, The Judicial Branch of California: Proposition 64: The Adult Use of Marijuana Act <https://www.courts.ca.gov/prop64.htm>

56 California Courts, The Judicial Branch of California: Proposition 64: The Adult Use of Marijuana Act <https://www.courts.ca.gov/prop64.htm>

57 California Courts, The Judicial Branch of California: Proposition 64: The Adult Use of Marijuana Act <https://www.courts.ca.gov/prop64.htm>

58 Assembly Bill No. 1793, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

59 California Courts, The Judicial Branch of California: Proposition 64: The Adult Use of Marijuana Act <https://www.courts.ca.gov/prop64.htm>

60 Assembly Bill No. 1793, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

61 Assembly Bill No. 1793, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

62 Assembly Bill No. 1793, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

63 Kiera Feldman, California Was Supposed to Clear Cannabis Convictions. Tens of Thousands are Still Anguishing (January 13, 2022, 5:00 AM), <https://www.latimes.com/california/story/2022-01-13/california-was-supposed-to-clear-weed-convictions-tens-of-thousands-are-still-anguishing>

64 See 58.

uals are still waiting for their expungements – to provide a sense of freedom from the legal system and not have to suffer from the disadvantages of being haunted by the carceral system.

Under a lens of restorative justice, Assembly Bill 1793 appears to follow the ideology of restoring communities and attempts to reconcile past failures.⁶⁷ However, Assembly Bill 1793 gave prosecutors discretion on DOJ recommendations- the very prosecutors who had charged individuals with cannabis offenses.⁶⁸ Further, the court systems across the state are not in communication with each other nor is there a central database.⁶⁹ This could lead to many more individuals falling in between the cracks and not getting their records expunged or completely sealed. These convictions cause further harm by barring access to employment, apartments, and other programs. No one should have been allowed to capitalize on cannabis until the state took care of the many people it left behind in its wave of cannabis decriminalization.

C. City of Los Angeles's Social Equity Program

The City of Los Angeles launched the Cannabis Regulation Department on July 30, 2017, after Measure M was passed by voters in March of 2017.⁷⁰ Measure M gave the Los Angeles City Council the full authority to regulate cannabis-related activity within the City of Los Angeles.⁷¹ Under the Cannabis Regulation Department, the Social Equity Program was established. The Mission of the Social Equity Program is to “promote equitable ownership and employment opportunities in the cannabis industry in order to decrease disparities in life outcomes for marginalized communities, and to address the disproportionate impacts of the War on Drugs in those communities.”⁷² Funding for the Social Equity Program stems from the passage of the California Cannabis Equity Act of 2018 and the Budget Act of 2019 which apportioned funding from the state to provide to local jurisdictions to develop and operate local cannabis equity programs.⁷³

Through this grant, the City of Los Angeles was awarded approximately \$15.8 million to aid through the Social Equity Program.⁷⁴ The Social Equity Program requires the following criterium to be considered for the lottery: (1) California Cannabis Arrest or Conviction, be from a “Disproportionately Impacted Area”, and be “Low Income”.⁷⁵ “Disproportionately Impacted Area” is defined as eligible zip codes identified in the City’s 2017 “Cannabis Social Equity Report” that is referenced above in Figure 2. “Low Income” is defined as “both of the following definitions are met: (1) the Social Equity Individual Applicant meets the low-income thresholds established in the annual U.S. Department of Housing and Urban Development (HUD) income limits based upon the Area Median Income (AMI) for Los Angeles County based on household size; and (2) the Social Equity Individual Applicant does not have Assets in excess of the amount as defined in this subsection.”⁷⁶

65 See 58.

66 California NORML, Clearing of Past Marijuana Crimes Moves Forward Across California (September 28, 2023), <https://www.canorml.org/clearing-of-past-marijuana-crimes-moves-forward-across-california/>

67 Assembly Bill No. 1793, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

68 Assembly Bill No. 1793, 2017-2018 Leg., Reg. Sess. (Cal. 2018) (enacted).

69 Kiera Feldman, California Was Supposed to Clear Cannabis Convictions. Tens of Thousands are Still Anguishing (January 13, 2022, 5:00 AM), <https://www.latimes.com/california/story/2022-01-13/california-was-supposed-to-clear-weed-convictions-tens-of-thousands-are-still-languishing>

70 City of Los Angeles Department of Cannabis Regulation, About the Department, <https://cannabis.lacity.gov/about/department-cannabis-regulation/about-us>

71 City of Los Angeles Department of Cannabis Regulation, About the Department, <https://cannabis.lacity.gov/about/department-cannabis-regulation/about-us>

72 City of Los Angeles Department of Cannabis Regulation, Social Equity: About the Program, <https://cannabis.lacity.gov/social-equity/about-program/about-program>

73 See *infra* 64.

74 See *infra* 64.

75 Los Angeles, CA., Municipal Code §1042.40 (1936)

76 Los Angeles, CA., Municipal Code §1042.20 (1936)

Further, the City requires that workers at the approved dispensaries also meet the same criteria or be categorized as a “Transitional Worker” meaning, an individual who lives in a Disproportionately Impacted Area and meets two of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran; (9) or over the age of 65 and financially compromised.⁷⁷ This further extends equitable remedies to individuals who wish to simply seek employment at Social Equity dispensaries who are primarily disenfranchised from other employers. However, it could be beneficial to extend these requirements on workers to all cannabis dispensaries to ensure a greater blanket of equity.

Additionally, the Social Equity program establishes fee waivers (more on this below) for licensing. Further, the program has worked with the Los Angeles County Bar Association’s Cannabis Section to create a Pro Bono/Low Bono Legal Assistance program.⁷⁸ While this is a good way to ensure that applicants do not have an even harder time sifting through municipal codes and program requirements just to be ultimately rejected for not understanding legal jargon – it only promises 30 hours of legal assistance at the Pro-Bono rate. It is important to acknowledge that Los Angeles is one of the few jurisdictions in the United States to address the impacts of the War on Drugs through a lens of equity. However, just like California’s attempt at reconciliation – the program has fallen short of its potential.

D. Addressing Inequities in Reform

i. Issues with the City of Los Angeles Social Equity Program

As addressed above, the Social Equity Program is a good start on the path to reform. But, as of now, it seems to be doing more harm to the communities it sought to uplift.⁷⁹ A major impediment in the process was the requirement that applicants secure property before applying for licenses.⁸⁰ This placed a significant financial burden on individuals from historically marginalized communities, many of whom lack access to capital, legal support, or real estate networks. As a result, the policy favored well-resourced actors and invited predatory partnerships, undermining the program’s intended goals of racial and economic justice.⁸¹ The Los Angeles Times reported that as a result of the process becoming mired in bureaucratic delays, that many applicants were stuck paying thousands of dollars a month for empty buildings, prompting some applicants to refinance homes or borrow from relatives.⁸² The Times article discussed the application process for Kika Keith who signed a lease for a shop on Crenshaw Boulevard for \$12,000.00 a month – this was reported to be over two times the actual rental price, a practice that has further served as barrier for applicants (discussed further below in Section E). Due to mishaps in the application process in which over 200 applicants accessed the application for the Social Equity Program early—which ultimately led to a lawsuit, Keith’s investors pulled out.⁸³ At this point, Keith had spent over \$350,000.00 largely for rent on an empty building.⁸⁴ As a result of the lawsuit, Keith eventually had her application approved with the push of her local council member after paying out \$1.5 million.⁸⁵

⁷⁷ See 68.

⁷⁸ City of Los Angeles Department of Cannabis Regulation, Social Equity: Pro Bono/Low Bono Legal Services <https://cannabis.lacity.gov/social-equity/applicant-and-licensee-benefits/pro-bonolow-bono-legal-services>

⁷⁹ Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

⁸⁰ Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

⁸¹ Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

⁸² Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

⁸³ See 71.

⁸⁴ Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

⁸⁵ Kika Keith’s dispensary, Glorilla Rx Wellness Co., is located at 4233 S Crenshaw Boulevard, Los Angeles, California 90008. An instrumental part of ensuring that we uplift communities harmed by the War on Drugs is to support them financially if able.

Stemming from the lawsuit was the addition of the cannabis arrest factor for the Social Equity program.⁸⁶ This was to ensure that those who had been directly affected by cannabis convictions would be first on the list of eligible applicants.⁸⁷ However, this can be a major hurdle. If a case has been cleared, the record cannot be found which requires applicants to find old probation/arrest/conviction reports which can be a substantial barrier if it is an old arrest and dependent on the records of the county or local arresting precinct.⁸⁸

Another issue with the program was the lack of funds allocated to the Fee Deferral Program.⁸⁹ Los Angeles Municipal Code Section 104.20.4(ii) established a Fee Deferral Program available to Social Equity Applicants.⁹⁰ The department has still not established requirements to participate following an outcry stemming from the lawsuit filed against the department.⁹¹ Further, only \$250,000.00 was allocated to fee deferrals.⁹² With application fees ranging from \$10,000-\$14,000 just for a review and temporarily approval application – the actual costs past that range well into the thousands of dollars. All of this means that the \$250,000 in fee deferrals does not extend to help many applicants who could desperately use the financial assistance. However, those with access to the equity and investors needed to start off an operation are predominately white individuals. This has led to the staggering statistic that out of the over 400 dispensaries in Los Angeles, only 4% are Black owned- roughly 16.⁹³ Out of the remaining, 5 cannabis dispensaries are Latinx owned.⁹⁴ This is a gross inequity.

It is important to remember that it was white people who criminalized cannabis and built up the War on Drugs and mass incarceration epidemic. White people now re-write this history to enable a capitalistic agenda of profiting off of harm to others.⁹⁵ These barriers are put in place are there to keep those harmed by the War on Drugs out of these spaces—perpetuating the War on Drugs. Going back to Kika Keith's story from the above section,⁹⁶ it is evident to see there are many barriers in place contributing to the exclusion of people of color in the industry.

86 Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

87 Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

88 Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

89 Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

90 Los Angeles, Cal., Mun. Code § 104.06.1(2021), https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-321075.

This citation refers to Section 104.06.1 of the Los Angeles Municipal Code, which outlines the Social Equity Program for commercial cannabis licensing. The year 2021 reflects the most recent amendment to this section, as indicated by Ordinance No. 187,095, effective July 1, 2021.

91 The Social Equity Program came under fire for what many applicants believed to be an unfair and flawed application process, and an audit ended up revealing that more than 200 applicants accessed the portal earlier than the start time. Some spots were claimed by online bots. This led to an investigation and eventually, a suit against the city.

92 Los Angeles, Cal., Mun. Code § 104.06.1(2021), https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-321075.

University of California, Davis, Center for Regional Change, When the Smoke Clears: Racial Disparities in California’s Marijuana Arrests

93 University of California, Davis, Center for Regional Change, When the Smoke Clears: Racial Disparities in California’s Marijuana Arrests

94 University of California, Davis, Center for Regional Change, When the Smoke Clears: Racial Disparities in California’s Marijuana Arrests

95 Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

96 Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

First and foremost, with the egregious fees in place and the lack of access to capital and investors—individuals are left behind.⁹⁷ It is impossible to secure a bank loan because cannabis is still a Schedule I drug on the federal level, meaning that it is federally illegal.⁹⁸ This means that banks will not give business loans for individuals seeking assistance to open a dispensary because of the federal ban.⁹⁹ Banks must comply with federal regulations, which make the process of lending to an illegal business risky and complicated.¹⁰⁰ The Federal Deposit Insurance Corporation will not insure most banks that engage in this activity. Banks also may be reluctant to lend to a cannabis business because this activity could be considered aiding and abetting a federal crime.¹⁰¹ Further, if banks do decide to lend to cannabis dispensary owners, they do so at an egregious interest rate and have predatory lending practices.¹⁰² This would best be resolved by the enactment of the SAFER Banking Act by Congress (further discussed below under Federal Remedies).

Part III: Proposal for Reparations/Policy Reform

A. Reparations to Impacted Communities in Los Angeles: Taxation for Reparations

The City of Los Angeles should enact a reparations-based approach to addressing the racial and economic disparities exacerbated by cannabis legalization. In this context, reparations refer to targeted, race-conscious policies and programs designed to compensate for the harms caused by decades of discriminatory enforcement of drug laws—such as direct financial support, priority licensing, debt relief, and community reinvestment for those disproportionately impacted by the War on Drugs. However, this brings up an important question: can we trust the state given the expungement failures and their perpetuation of the War on Drugs and failure under the Social Equity Program? This is a fair critique and one that should not be swept away as a mild concern.

The City of Los Angeles should pay into a reparations system based on the amount of people who were incarcerated in the communities due to their War on Drugs policing. This could be enacted using the same data that the Social Equity Program commissioned at the start of the program.¹⁰³ The eligibility requirements would be the same – any individual that has a cannabis arrest record or a parent/guardian with cannabis arrest record stemming from 1980-2016. Further, encapsulating individuals that are “Low Income” – as defined above under Social Equity Program requirements.

The City’s reparations-based approach must also acknowledge the foundational role that Whiteness as Property has played in shaping the racial disparities of cannabis enforcement and legalization. As Cheryl Harris argues, whiteness has historically operated as a form of property, conferring tangible economic, social, and legal benefits to white individuals while systematically excluding people of color from those same entitlements.¹⁰⁴ In the context of cannabis legalization, this dynamic is evident in how predominantly white entrepreneurs have been able to capitalize on the legal market, while Black and Brown communities continue to bear the economic and carceral scars of the War on Drugs. Legalization without reparations not only perpetuates these disparities, but also reinforces the notion that access to the cannabis industry and its profits, is a privilege reserved for those

97 Marisa Gerber, California Promised “Social Equity” After Pot Legalization. Those Hit Hardest Feel Betrayed, (January 27, 2022) <https://www.latimes.com/california/story/2022-01-27/california-pot-industry-social-equity-broken-promises>

98 21 U.S.C. § 802 (2024).

99 JUSTIA, Financing a Cannabis Business & Legal Limitations (September 2024), <https://www.justia.com/cannabis-law/financing-a-cannabis-business/>

100 JUSTIA, Financing a Cannabis Business & Legal Limitations (September 2024), <https://www.justia.com/cannabis-law/financing-a-cannabis-business/>

101 JUSTIA, Financing a Cannabis Business & Legal Limitations (September 2024), <https://www.justia.com/cannabis-law/financing-a-cannabis-business/>

102 JUSTIA, Financing a Cannabis Business & Legal Limitations (September 2024), <https://www.justia.com/cannabis-law/financing-a-cannabis-business/>

103 City of Los Angeles, Expanded Cannabis Social Equity Analysis Report; DCR Report No. 3, https://clkrep.lacity.org/online-docs/2017/17-0653_rpt_DCR_06-16-2020.pdf

104 Cheryl I. Harris, Reflections on Whiteness as Property (June 10, 1993), <https://harvardlawreview.org/print/no-volume/whiteness-as-property/>

cannabis legalization, this dynamic is evident in how predominantly white entrepreneurs have been able to capitalize on the legal market, while Black and Brown communities continue to bear the economic and carceral scars of the War on Drugs. Legalization without reparations not only perpetuates these disparities, but also reinforces the notion that access to the cannabis industry and its profits, is a privilege reserved for those already possessing the “property” interest of whiteness. A race-conscious tax and equity model, as proposed here, serves to interrupt that cycle by redistributing resources and re-centering those communities historically dispossessed by the War on Drugs.

Reparations can be generated through taxation. The concept would be to tax consumers in unharmed communities at a higher rate on cannabis products. City taxes already vary by different locations throughout the city (and throughout the county) so this would not be an “equal protection” issue, as opponents would likely counterargue. Here, if a dispensary is not located in an area that was defined as disproportionately impacted by the War on Drugs, then they should pay an Equity Tax (unless the individual is participating in the Equity Program). The policy behind this would be to not only secured funding for the reparations program – but this could incentivize individuals to go to dispensaries that are in “higher impact” communities. There is an argument to be made that perhaps communities harmed by the War on Drugs do not want dispensaries in their communities. In order to accommodate for this critique, the Social Equity Program should allow individuals from “high impact areas” to open dispensaries wherever they want – not just limiting it to the geographical area that the applicant is from. It does not have to be placed in their community unless they want it to be. Further, lifting this restriction would allow for more choice and autonomy and allow for communities to decide what relationship they want to have with something that was a harm. Additionally, as mentioned above, the added taxation for reparations would not apply to Social Equity Program participants – regardless of where they are located.

Fiscally, the state of California would benefit from participation in this concept program. In the first quarter of 2024, cannabis tax revenue reported from returns was \$259.9 million throughout the state¹⁰⁵ Since January 2018, total cannabis revenue generated in California amounts to over \$6 billion.¹⁰⁶ This not a new nor profound argument – the Task Force to study and Develop Reparation Proposals for African Americans under the California legislature explored this in their review produced in 2023. However, the recommendation offered here lowers the scope to Los Angeles and encompasses the many different communities of color that were targeted by the War on Drugs. Additionally, the city should establish their own task force to look further into expanding the Social Equity Program and dollar amounts to be distributed via the reparations system. By reducing the scope to Los Angeles, it could lead to less bureaucratic delays and a more efficient system. To be clear, it would be naïve to claim that this would be a smooth transition. As noted throughout this paper, it would come with its flaws and kinks—as any government action does. However, it would be a start to provide a more equitable landscape within the cannabis industry.

105 California Department of Tax and Fee Administration, California Department of Tax and Fee Administration Reports \$259.9 Million in Cannabis Tax Revenue for First Quarter of 2024 (June 3rd, 2024) <https://www.cdtfa.ca.gov/news/24-08.htm#:~:text=Cannabis%20excise%20tax%20supports%20programs,%2C%20environmental%20recovery%2C%20and%20more>

106 California Department of Tax and Fee Administration, California Department of Tax and Fee Administration Reports \$259.9 Million in Cannabis Tax Revenue for First Quarter of 2024 (June 3rd, 2024) <https://www.cdtfa.ca.gov/news/24-08.htm#:~:text=Cannabis%20excise%20tax%20supports%20programs,%2C%20environmental%20recovery%2C%20and%20more>

Federal Remedies

A. Marijuana Justice Act of 2019

The federal government should pass the Marijuana Justice Act of 2019.¹⁰⁷ The Marijuana Justice Act decriminalizes cannabis. Specifically, it removes cannabis from the list of scheduled substances under the Controlled Substances Act and eliminates criminal penalties for an individual who imports, exports, manufactures, distributes, or possesses with intent to distribute marijuana.¹⁰⁸ Additionally, the bill does the following: reduces federal funds for a state that has not legalized cannabis and has a disproportionate arrest rate or a disproportionate incarceration rate for cannabis offenses, directs federal courts to expunge convictions for cannabis use or possession, and establishes a fund—the Community Reinvestment Fund—to support grants in communities most affected by the War on Drugs.¹⁰⁹

B. Introduction to SAFER Banking Act

The Introduction to SAFER Banking Act provides protections for federally regulated financial institutions that serve state-sanctioned cannabis businesses.¹¹⁰ Currently, many financial institutions do not provide services to state-sanctioned cannabis businesses due to the federal classification of cannabis as a Schedule I controlled substance.¹¹¹ The bill prevents federal banking regulators from penalizing depository institutions for offering services to state-sanctioned cannabis businesses. It bars regulators from limiting deposit insurance or ordering account terminations unless a bank is engaged in unsafe practices or violating the law, not based on reputation risk. Under this Act, transactions involving state-legal cannabis businesses are no longer classified as “unlawful activity,” exempting financial institutions from anti-money laundering penalties and asset forfeiture for servicing these businesses.¹¹² It bars regulators from limiting deposit insurance or ordering account terminations unless a bank is engaged in unsafe practices or violating the law, not based on reputation risk.¹¹³ Under this Act, transactions involving state-legal cannabis businesses are no longer classified as “unlawful activity,” exempting financial institutions from anti-money laundering penalties and asset forfeiture for servicing these businesses.¹¹⁴ The SAFER Act would allow for greater access to less predatory lenders and expand the resources available to potential cannabis dispensary owners who do not have access to investors or capital.¹¹⁵

107 Marijuana Justice Act of 2019. H.R.1456 - 116th Congress (2019-2020): Marijuana Justice Act of 2019, H.R.1456, 116th Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/1456>

108 Marijuana Justice Act of 2019. H.R.1456 - 116th Congress (2019-2020): Marijuana Justice Act of 2019, H.R.1456, 116th Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/1456>

109 See 62.

110 Introduction to the Safer Banking Act: H.R.2891 - 118th Congress (2023-2024): SAFE Banking Act of 2023, H.R.2891, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-bill/2891>.

111 Introduction to the Safer Banking Act: H.R.2891 - 118th Congress (2023-2024): SAFE Banking Act of 2023, H.R.2891, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-bill/2891>.

112 Introduction to the Safer Banking Act: H.R.2891 - 118th Congress (2023-2024): SAFE Banking Act of 2023, H.R.2891, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-bill/2891>.

113 Heidi Urness, Aaron Kouhoup, SAFER Banking Act: Marijuana May Soon Become a Bigger Deal (February 15, 2024), https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-february/safer-banking-act/

114 Heidi Urness, Aaron Kouhoup, SAFER Banking Act: Marijuana May Soon Become a Bigger Deal (February 15, 2024), https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-february/safer-banking-act/

115 Heidi Urness, Aaron Kouhoup, SAFER Banking Act: Marijuana May Soon Become a Bigger Deal (February 15, 2024), https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-february/safer-banking-act/

Part IV: Conclusion

As this paper has explored, the legalization and decriminalization of cannabis in Los Angeles has failed to deliver the promise of racial justice and equity. Instead, the cannabis industry has reproduced many of the same racial and socioeconomic hierarchies that led to the War on Drugs, rewarding capital, proximity to whiteness, and legal infrastructure while continuing to marginalize people of color. The Los Angeles Social Equity Program, while well-intentioned, illustrates how reform without a reparative framework can reinforce structural inequality. By requiring applicants to secure property and navigate an opaque, resource-intensive licensing scheme, the program has effectively excluded many of the very individuals it was designed to empower and lift up. Applying Cheryl Harris's theory of Whiteness as Property showcases how economic and legal advantages remain racialized, shaping who can access, benefit from, and defend their place in the emerging cannabis market.¹¹⁶

To truly address the harms inflicted by the War on Drugs, the City of Los Angeles must move beyond symbolic equity initiatives and adopt a reparations-based model grounded in restorative justice. This means not only eliminating barriers to entry, but by also actively redistributing resources. This looks like, direct investment to people of color, extended legal support and protection from predatory investors and loans. These means are necessary because anything less risks entrenching racial injustice under a progressive veneer. True justice requires a reimagining of cannabis policy, one that centers those most harmed and affirms that equity is not merely a performative gesture, but a structural commitment.

116 Cheryl I. Harris, Reflections on Whiteness as Property (June 10, 1993), <https://harvardlawreview.org/print/no-volume/whiteness-as-property/>



Nat Turner's Rebellion 1831



“James Baldwin” Watercolor by
Olive Gardenia 2025

***“Do I Really want to be integrated into a burning
house?”***

-James Baldwin
From “The Fire Next Time”

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