

SIGNATURES OF THE IMPOSSIBLE

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I. INTRODUCTION

What's in a name? Halley's article takes as its starting point masculine identification in the signature "Ian Halley." But the designation of Ian as a "masculine" name perhaps causes one to fall into a trap that Halley has set for readers. Pointing out the "gender" of a name, particularly in a language that does not inscribe gender in nouns, adjectives, or past participles, commits a feminist error of always inscribing gender or attributing discrimination along gendered lines to every aspect of living. Gender thus carries the attributes of *value*. It is from Ian's performative and phantasmatic iteration that Halley engages two writers, Leo Bersani and Duncan Kennedy, who adopt a "queer" theoretical position that must, in Halley's view, depart from feminism. Decrying a form of moralism apparently endemic to contemporary feminism, Halley gives a reading of cultural feminism's roots in some of the more radical provocations from MacKinnon and Dworkin, only to underscore how contemporary feminism, for better and for worse, has rejected all that was radical in those already highly problematic positions.¹

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Acknowledgments: Many thanks to Jody Greene for helping me clarify melancholic politics, and to Joanna Hodge, for peripatetic rambling in Hyde Park. I would also like to acknowledge conversations with Alberto Moreiras which indirectly contributed to some thoughts emerging in this article.

1. Ian Halley, *Queer Theory By Men*, 11 *DUKE J. GENDER L. & POL'Y* 7 (2004). Halley uses several articles as reference points, including: Leo Bersani, *Is the Rectum a Grave?* 43 *OCTOBER* 197 (1987), reprinted in *AIDS: CULTURAL ANALYSIS, CULTURAL ACTIVISM* 197 (Douglas Crimp ed., 1996); Duncan Kennedy, *Sexual Abuse, Sexy Dressing, and the Eroticization of Domination*, 26 *NEW ENG. L. REV.* 1309 (1992), reprinted in *DUNCAN KENNEDY, SEXY DRESSING ETC.* 126 (1993); CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987). Halley also implicitly addresses Andrea Dworkin's works. *ANDREA DWORKIN, PORNOGRAPHY: MEN POSSESSING WOMEN* (1981) [hereinafter *PORNOGRAPHY*]; *ANDREA DWORKIN, INTERCOURSE* (1987) [hereinafter *INTERCOURSE*]. For an interesting and wonderfully written critique of the pornography debates, see Mary Joe Frug, *A Postmodern Feminist Legal Manifesto*, in *POSTMODERN LEGAL FEMINISM* 125 (1992). Frug's analysis leads her to plead that she not be seen as anti-feminist for opposing the ordinances set forth by MacKinnon and Dworkin. Duncan Kennedy's thinking follows in Frug's vein.

MacKinnon and Dworkin would call upon the law to reject its “male” position, condemning sex, and the violence that for them necessarily is involved in heterosexual intercourse.² They failed to acknowledge the pleasures of violence or debasement, and they continued to have absolute faith in the power of the law to effectuate change in women’s cultural, economic, and political realms.³ Cultural feminism, drawing on a similar view of masculine forms of violence, condemns the undervaluing of values and sexual practices deemed “feminine.”⁴ It insists upon the *value* of that which has been subordinated, that is, the feminine. According to Halley, imbuing the subordinated with intrinsically positive value also occurs in some queer theory in which power of the subordinated becomes linked to the attribution of value, and the forms of signification that follow.⁵ When Halley appreciates the argument that ensues, however, she reads queer studies as offering a parody of the feminist move because of its far more radical sense of sexuality.⁶ In an earlier draft of Halley’s article, authorship was signified, and therefore a certain authority given over to, a signature which has here been substituted: Janet Halley became Ian Halley. I note that copyright is still held by Janet in Ian’s article, and I ask myself why that may be. If Janet Halley owns the words of Ian Halley, what is suggested about the constitution of the self, responsibility, and agency designated in the signature and in the name of the copyright holder? Perhaps the “true” copyright ought to belong to a “Halley who is divided, multiplied, conjugated, shared,” and perhaps even to Bersani and Kennedy, MacKinnon and Dworkin.⁷ Janet seems particularly keen to maintain ownership of Ian, and in some ways continues to insist her presence even though she presents herself as absent. I note also that this was once a talk, but I will confine myself to the dynamics of written communication, and the meanings that emerge in signatures, because I was not present for the oral per-

2. See generally MACKINNON, *supra* note 1; DWORKIN, INTERCOURSE, *supra* note 1.

3. Halley, *supra* note 1, at 17-18 (discussing this in the context of Bersani’s departure from MacKinnon).

4. It is unclear to me who Halley has in mind when she discusses cultural feminism, but some figures that fit broadly into this paradigm are JOSEPHINE DONOVAN, FEMINIST THEORY: THE INTELLECTUAL TRADITIONS OF AMERICAN FEMINISM (1992) and SANDRA GILBERT & SUSAN GUBAR, THE MADWOMAN IN THE ATTIC (1979).

5. See, e.g., Halley, *supra* note 1, at 15, 17-18 (discussing Bersani).

6. This seems to be why she is less critical of Bersani’s endorsement of gay sexuality than of feminism’s, as if gay sex was in and of itself radical. It is true that Bersani’s argument throughout the essay stresses the dark underside of what has been deemed negative. It is not, however, the case that the basic structure of evaluation changes in Bersani’s endorsement in a way that is radically different from cultural feminism’s. There may well be different agendas and different consequences, but the value-form remains present. See Halley, *supra* note 1, at 19-26.

7. Jacques Derrida has written on the problem of ownership, acknowledgment, and the constitution of a unitary self. See generally JACQUES DERRIDA, *Limited Inc a b c . . .* (1977), reprinted in LIMITED INC 29 (Samuel Weber trans. & Gerald Graff ed., 1988) [hereinafter DERRIDA, *Limited*]. He addresses his remarks to John Searle who had criticized Derrida’s essay entitled *Signature Event Context* (1972), reprinted in LIMITED INC 1 (Alan Bass trans. & Gerald Graff ed., 1988) [hereinafter DERRIDA, *Signature*]. I am altering Derrida’s words here, when he writes “the true copyright ought to belong (as is indeed suggested along the frame of this *tableau vivant*) to a Searle who is divided, multiplied, conjugated, shared. What a complicated signature!” DERRIDA, *Limited, supra*, at 31.

formance.⁸ My response will consider the question of value, what was remaindered in the substitution of Janet for Ian, and the constitution of the self sometimes proposed in the proffering of a signature.

II. TAKING A BREAK, DISAVOWAL, AND THE DISSOLUTION OF THE EGO

Halley's article proposes that it would be good both for feminism, and for "left/liberal/progressives" to "Take a Break from Feminism."⁹ In a classic expression of disavowal, the logic of which Octave Mannoni succinctly described in the phrase "*I know very well, but even so . . .*,"¹⁰ Halley writes:

There are many good reasons to think [taking a break from feminism] is a bad idea. . . . In this essay I hope it will be permissible to circumscribe my goal: I want to provide an elaboration, in a somewhat high degree of detail, of some conceptual moves that may be possible only if one pursues a divergence between feminism and queer theory as I imagine it.¹¹

Feminism is circumscribed, queer theory is full of imaginative possibility. Feminism is *known* to insist upon its importance, nagging that it is a bad idea to leave it behind. But *even so*, Halley's version of the necessity for queer theory's divergence from feminism involves a conscious choice to ignore the nagging, as well as the ambiguities to which it gives rise. In this gesture "feminism," in spite of the lip service given to "sex positive" feminism, as well as those feminisms whose agenda is not that of MacKinnon or cultural feminists, apparently needs to be rejected. What remains of feminism's important questions, and its nagging, is therefore left behind. I would furthermore suggest that Halley's relationship to it is unresolved. This allows Halley to give queer theory a utopian quality, and simultaneously see feminism only in terms of its manifested limitations.

Not only does feminism provide the model for *valuation* of the subordinated, in Halley's nominalist version, feminism is plagued by a need to distinguish between m and f (whether male/female; masculine/feminine; or men and women). As queer theory does not have to rest its case on this binary of gender according to Halley, it would serve it well to take a break from feminism. Two important questions arise from this: (1) does feminism, any more or less than queer theory, really have to be primarily about gender and the logic of m/f? (That is, didn't "difference" feminism already tackle this problem?); and (2) what is compromised when the "supplement of gender"¹² is not only critiqued, remaindered, and exchanged, but actually left behind and abandoned?

8. I am gesturing towards an idea of signature discussed later in this article, and drawing on Jacques Derrida's essay *Signature Event Context*, *supra* note 7. Derrida draws on the work of J.L. Austin, when Austin writes, interpolating his readers/audience in his explanation of communication with the use of the possessive "our," "Still confining ourselves, for simplicity, to *spoken* utterance." J.L. AUSTIN, HOW TO DO THINGS WITH WORDS 113 (1962).

9. Halley, *supra* note 1, at 9.

10. OCTAVE MANNONI, *Je sais bien, mais quand même*, in CLEFS POUR L'IMAGINAIRE 9 (1969).

11. Halley, *supra* note 1, at 9.

12. By "supplement of gender," I mean, in this context, the way in which gender difference, as understood by feminism, is deemed irrelevant while at the same time resulting in the subordination

Halley refers to a “divergentist” theory, which recognizes and underscores the different political agendas among feminists and queer theorists and activists, as a way in which one may deal with distinctions among political and theoretical positions between feminist and queer studies.¹³ In this attempt to divert the two fields and theoretical bodies, however, she exaggerates differences and does not attend to the problems of diversion that may arise. She claims that “convergentist” logic, which tries to make necessary the coexistence or intersectionality of a variety of liberal/leftist positions around gender, sexuality, and indeed class and race, conflate different agendas in ways that do not allow attention to the differences and divergences.¹⁴ It would seem to me, however, that the logic involved in both divergentist and convergentist agendas is the same, and it leads to the exclusion of alterity at the moment of conceiving political possibility.¹⁵

Halley’s appreciative departure from Bersani and Kennedy, who explicitly attempt to re-think questions of sexuality in the post-AIDS moment in the United States, involves pitting their theories with and against feminist taxonomies in the United States today.¹⁶ Both writers acknowledge great debt to forms of feminism that have disabused us of too-rosy concepts of sexuality, and the normative and bourgeois ideas of good and bad sexual practices and fantasies that accompany this.¹⁷ They both offer critiques of some feminist thinkers; they also are greatly indebted, and feel no need to leave feminism itself entirely behind. Duncan Kennedy thinks of himself as not a “feminist any more than he thinks of himself as a black nationalist,”¹⁸ but writes this in light of the influence on him of Jane Gallop, Judith Butler, and Mary Joe Frug (in memory of whom Kennedy’s essay is dedicated). The implicit point is that he does not see feminism as an identity position, but he finds some feminist work rather useful in its structuralist and post-structuralist veins. The whole essay is, in some ways, a protracted relation to the feminist thinker to whom it is dedicated. Hardly laying feminism to rest, it is a thinking through of the limitations of some feminisms in light of others. It is true that the desire to not count oneself as a feminist is a dismissal of a certain position, but the criticism of some feminisms (particularly governance feminism) is hardly news in the feminist academy. A feminist, more often than not, is someone who does some form of feminist work, just as a post-structuralist is someone who does some post-structuralist work. A

of one gender by another, thus being remaindered because its demands cannot be met by the supposedly “gender-free” discourse put in its place.

13. Halley, *supra* note 1, at 46 n.134.

14. *See id.* at 29.

15. For interesting, but I think ultimately flawed notions of the “intersections” of race and sex, see Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex*, 1989 U. CHI. LEGAL F. 139; Kimberlé Williams Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, in *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* 357 (Kimberlé Crenshaw et al. eds., 1995). Wendy Brown’s essay, *Suffering the Paradoxes of Rights*, gives an excellent summary of a variety of arguments against the notion of intersectionality, explaining how different modalities of power do not end up constituting subjects who are formed in discrete relations to these powers. Wendy Brown, *Suffering the Paradoxes of Rights*, in *LEFT LEGALISM/LEFT CRITIQUE* 420-34 (Wendy Brown & Janet Halley eds., 2002).

16. *See* Halley, *supra* note 1, at 14-38.

17. Bersani, *supra* note 1, at 212-15; KENNEDY, *supra* note 1, at 150-58.

18. KENNEDY, *supra* note 1, at 129.

feminist is not necessarily, and in fact is not usually, simply someone who identifies with the most banal form of outdated or misguided feminism. Indeed, some define feminism as critique precisely because of its self-critical attitude.¹⁹ Bersani, who discusses the “*value of sexuality itself. . . (as the demeaning of) the seriousness of efforts to redeem it*”²⁰ after having discussed feminist attempts to redeem it, nonetheless sees their feminist analysis of sexuality as demeaning as the groundwork for his own discussion. It is Bersani’s essay that will become the focus of my response to Halley.

Bersani begins provocatively with the statement, “[t]here is a big secret about sex: most people don’t like it.”²¹ This does not, of course, mean that most people do not have it. Following Catharine MacKinnon’s insights around forms of debasement women experience in heterosexual sex, Bersani writes of how this is a position that needs acknowledgment as attractive as well as potentially abusive.²² In MacKinnon’s rendition, by contrast, there is no room for men to experience or enjoy feelings of debasement.²³ They are always positioned as aggressors; and debasement is always considered negatively. Halley concurs with Bersani on this point.²⁴ She ambiguously departs from him, however, in a problem that she sees as deriving from cultural feminism: the value ascribed to the subordinate.²⁵ Whereas MacKinnon was unequivocal in her condemnation, Bersani insists on the value of the subordinate position.²⁶ It is from this position that he can criticize the murderously puritanical mainstream representation of AIDS, and the equally lethal evaluation of good sex and bad sex, particularly in state sponsored campaigns, in principle aiming to reduce the spread of HIV, but in practice geared toward the lowest risk groups.²⁷ Embracing abjection as a mo-

19. And perhaps needless to say, given my tone, many feminists like myself are increasingly frustrated by the characterization of feminism which fails to take into account the very complex and varied historical relations with Marxism, liberalism, psychoanalysis, socialism and other social movements only to be redeemed by something vaguely designated “postmodern.” I suppose I would count as a postmodern feminist, albeit with a psychoanalytic and postcolonial touch, but the lack of precision of the term “postmodern” leaves it designating nothing other than post-1968 cultural theory. Deconstructive, Lacanian, and Foucaultian readings are, after all, not the same even though they may all be sexily postmodern in the accounts given by Frug, *supra* note 1, *passim* and KENNEDY, *supra* note 1, *passim*. Greater attention to this vagueness would be welcome in words that critique some feminist positions or practices for good reason.

20. Bersani, *supra* note 1, at 222.

21. *Id.* at 197.

22. He writes:

Needless to say, the ideological exploitations of this fantasmatic potential have a long and inglorious history. It is mainly a history of male power, and by now it has been richly documented by others. I want to approach this subject from a quite different angle, and to argue that a gravely dysfunctional aspect of what is, after all, the healthy pleasure we take in the operation of a coordinated and strong physical organism is the temptation to deny the perhaps equally strong appeal of powerlessness, of the loss of control.

Id. at 216-17.

23. MACKINNON, *supra* note 1, at 3, 6-7.

24. Halley, *supra* note 1, at 17.

25. Halley, *supra* note 1, at 20-21.

26. Bersani, *supra* note 1, at 217.

27. Bersani writes about these campaigns, “TV treats us to nauseating processions of yuppie women announcing to the world that they will no longer put out for their yuppie boyfriends unless these boyfriends agree to use a condom.” Bersani, *supra* note 1, at 202. This statement is, of course,

ment of the undoing of self, in which uncontrollable regressive identifications cannot come to fruition, he writes, “[t]he self is a practical convenience; promoted to the status of an ethical ideal, it is a sanction for violence.”²⁸ He adds in a footnote, “[t]his sentence could be rephrased, and elaborated, in Freudian terms, as the difference between the ego’s function of ‘reality-testing’ and the superego’s moral violence (against the ego).”²⁹ The super-ego, in Freudian theory, constitutes a regulatory mechanism through which “conscience” violently imposes itself on the ego. As I will explain, the ego’s relation to reality-testing, when hindered by melancholia, can challenge the notion of sovereignty and selfhood that relies on moral violence.³⁰

I have no interest at all in responding to Halley in a defense of all kinds of feminism. In many of its renditions, I also find feminism regressive and misguided. I do not dispute the idea that a whole range of mistakes have been made by feminists and in the name of feminism, ranging from misguided well-meaning gestures to deliberately regressive and reactionary moves that are complicit with and fail to critique a dominant politics, whether of the puritanical and murderous, neo-liberal late capitalist, or the conservative imperial ilk. Rather than defending a movement that has undeniably at times been guilty, I will propose why leaving feminism behind, and believing that it can be left behind, is itself a politically and conceptually misguided ploy that is complicit with a neo-liberal heterosexist paradigm. Rather than disavowal, I will propose melancholia.

difficult to read in terms of feminism. It is strange to think of Bersani as being for Halley in some ways too much of a feminist. But the difficulty of the reading is perhaps Halley’s larger point. How do feminists assess both the statement and the yuppie women? Will these “yuppie women” inevitably be endorsed (possibly by some varieties of culturalist feminism)? Will Bersani’s statement be seen as evidence of misogyny (possibly by MacKinnonite and Dworkian feminists)? Is simply ignoring the statement’s figuring of woman what queer theory should do, in Halley’s view? Or could feminists intervene here with a simultaneous acknowledgment of the annoying nature of the yuppie, of the media coverage, and of Bersani’s statement? Of course, Bersani is objecting primarily to the media coverage of women, and yet the yuppie women also receive derogatory treatment for the adjustment in their sexual practices. They become abject beings and therefore “nauseating.” Isn’t the point here that Bersani is criticizing the media for always paying attention to the population least at risk, thus neglecting violently those whom AIDS has most deeply affected, and also manufacturing prejudice? Abjected, those women are perhaps more accurately absent and erased than humiliated. See also Leo Bersani, *Gay Presence, in HOMOS 11* (1995). Douglas Crimp also writes extensively on the reactionary, moralistic, and dangerously bigoted response to HIV/AIDS by the State, the media, and, importantly, by some queer activists. See generally DOUGLAS CRIMP, *MELANCHOLIA AND MORALISM: ESSAYS ON AIDS AND QUEER POLITICS* (2002). Crimp merges disavowal and melancholia in a manner that I find a little puzzling, but his main argument concerning the need to understand the process of mourning and the peculiarly regressive forms of reaction to AIDS is very useful. See *id.*

28. Bersani, *supra* note 1, at 222.

29. *Id.* Bersani is drawing on distinctions discussed by Sigmund Freud. See SIGMUND FREUD, *Mourning and Melancholia* (1917), reprinted in 14 THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD 243, 243-60 (James Strachey trans. & ed., Hogarth Press 1964) [hereinafter FREUD, *Mourning*]; SIGMUND FREUD, *The Ego and the Id* (1923), reprinted in 19 THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD 12, 19-27 (James Strachey trans. & ed., Hogarth Press 1961) [hereinafter FREUD, *Ego*].

30. See generally FREUD, *Ego, supra* note 29.

Disavowal functions in terms of the “superego’s moral violence,” and the wrong-minded attempt to erase entirely the history of a radical movement with a complicated history. Melancholia is an “undoing of self,” and the melancholic is unable to let anything simply go. Melancholia is inhospitable to forms of identity or community formation that rest on a structure of mourning and identification with dominant or subordinate groups. Even though feminism has indeed been involved in supporting major miscarriages of justice, I will argue that feminism as a whole is not the problem Halley needs to address. As a justice-seeking project unafraid of removing the grounds from which it has sometimes misguidedly pronounced, feminism, *like* queer politics and theory, and in coalition rather than convergence with it, may offer, through its nagging presence, constant critique. Like queer studies, it can, and more often than not does, go beyond the category of gender, and not just in its holy alliance with race and class, or in the concept of intersectionality of various discourses. Feminism, no more or less than queer studies, also acknowledges the failure of the concept of the subject containing various discourses of race, class, and gender, because these are never separable. As Douglas Crimp has argued, drawing on notions of ethico-political responsibility in Thomas Keenan’s work, which in turn draws from Jacques Derrida’s, there is equally a complacent, dangerous, and politically regressive queer activism that must be critiqued in order to understand responsibly.³¹ Understanding anything responsibly involves an ability to respond implied within the term “responsibility.” There should be no fear of removing all grounds from which responsible or moral actions are usually conducted as and when they are inadequate to the task of moving toward justice. For Crimp this does not mean a rejection of queer theory itself. I would say the same for feminism, and it is through a similarly melancholic politics that I derive this conclusion.

Neither feminism nor queer activism are reducible to the forms of violation or abuse they have historically explicitly rejected or endorsed. Feminism is not the problem, moralistic evaluation and its deadly consequences are. Equally, feminism *per se* does not have to fall prey to the attribution of causality to copula logic, which I understand as assuming the relation between what happens to one woman and what happens to women more generally. The gesture of “speaking for” women that is suggested in the odd configuration of “speaking as a woman” is an example of such causal logic, and it assumes that the copula, that is the connection between the subject and the predicate, can be identical. What is remaindered, of course, is the supplement of difference—what else is one besides a woman when one speaks “as a woman?” What differences are embedded in the concept “woman” that are forgotten as soon as a commonality among women is assumed? Some feminists, particularly those informed by structuralism and some forms of psychoanalysis, simply see gender as the

31. See generally CRIMP, *supra* note 27; THOMAS KEENAN, *FABLES OF RESPONSIBILITY: ABERRATIONS AND PREDICAMENTS IN ETHICS AND POLITICS* (1997). Jacques Derrida’s work has also frequently explored the notion of responsibility. See, e.g., JACQUES DERRIDA, *ACTS OF RELIGION* (Gil Anidjar ed., 2002); JACQUES DERRIDA, *WITHOUT ALIBI* (Peggy Kamuf trans., 2002); JACQUES DERRIDA, *OF HOSPITALITY* (Rachel Bowlby trans., 2000); JACQUES DERRIDA, *SPECTRES OF MARX: THE STATE OF THE DEBT, THE WORK OF MOURNING, AND THE NEW INTERNATIONAL* (Peggy Kamuf trans., 1994) [hereinafter DERRIDA, *SPECTRES OF MARX*].

ground from which all else follows and emerges, taking note of the “supplement of copula” at the same time. Indeed, it has been the dominant strain of feminist theory in the past twenty years to critique the position that one presumes to speak for all women when one speaks “as a woman.”³² As Judith Butler, respectfully protesting against Gayle Rubin’s argument for distinct and discrete formulations of feminist and queer politics, puts it, “*But when and where feminism refuses to derive gender from sex or from sexuality, feminism appears to be part of the very critical practice that contests the heterosexual matrix, pursuing the specific social organization of each of these relations as well as their capacity for social transformation.*”³³

Butler herself references a connection between psychoanalytic and Foucaultian theory to formulate her own sense through which gender is formulated in relation to homosexual desire, which is the unknown lost object of the modern subject.³⁴ Thus homosexual desire will always threaten the gendered ego. While Butler draws on a theory of melancholia in Freudian psychoanalysis, she is also implicitly drawn to what many would consider to be a basic tenet of psychoanalysis—the primacy of the sexualized libido in the constitution of the self.³⁵ In many ways, she echoes Bersani’s (and to some extent Halley’s) own plea for the exclusivity of gender and sexuality discourse in the disintegration of the self. This disintegration of self would be the dissolution of the subject, even of one who rejects selfhood. Without this self, of course, the relative merits of disintegration could not be judged, and it would not be masochistic in any usual sense of the term. Butler departs from the sexual scenario, however, in the final pages of *The Psychic Life of Power*, with the reminder that melancholia is not all about sexuality, or necessarily about gender. For her, it is about the trace, that supplement that has become remaindered but insists on its presence covertly:

The ego comes into being on the condition of the “trace” of the other, who is, at that moment of emergence, already at a distance. To accept the autonomy of the ego is to forget that trace; and to accept that trace is to embark upon a process of

32. See Gayatri Chakravorty Spivak, *Can the Subaltern Speak?*, in *MARXISM AND THE INTERPRETATION OF CULTURE* 271 (Cary Nelson & Lawrence Grossberg eds., 1988). In *The Supplement of Copula*, Jacques Derrida writes of the figure of copula—the joining word suggesting identical existence of the subject and the predicate—as the emergence of supplementarity. The word “is,” for example, always suggests the possibility of non-identity, and is the carrier of the supplement characterizing the other’s singularity. The copula, in its attempt to assert the self-same, actually always forces the possibility, or rather, inevitability, of difference. JACQUES DERRIDA, *The Supplement of Copula: Philosophy Before Linguistics*, reprinted in *MARGINS OF PHILOSOPHY* 175, 196 (Alan Bass trans., 1982). Whenever the copula exists, it carries within it the supplement of the predicate which exceeds the subject itself. *Id.* at 200-03.

33. Judith Butler, *Against Proper Objects*, in *FEMINISM MEETS QUEER THEORY* 1, 12 (Elizabeth Weed & Naomi Schor eds., 1997). *But see* Gayle Rubin, *Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality*, in *PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY* 267, 300-09 (Carole S. Vance ed., 1984). Halley does indeed comment on this passage, but insists that this notion of gender and sexuality should not be conceived as feminist. *See generally* Halley, *supra* note 1.

34. *See generally* JUDITH BUTLER, *THE PSYCHIC LIFE OF POWER: THEORIES IN SUBJECTION* (1997).

35. *See generally* JEAN LAPLANCHE & JEAN-BAPTISTE PONTALIS, *THE LANGUAGE OF PSYCHOANALYSIS* (Donald Nicholson-Smith trans., 1973). This standard dictionary of psychoanalysis by Laplanche and Pontalis understands most psychoanalytic categories in this light.

mourning that can never be complete, for no final severance could take place without dissolving the ego.³⁶

I will ultimately depart from Butler on this final point concerning the dissolution of the ego because it seems to me that the ego is constituted as a whole only with the extra-ego trace as it is manifested in the super-ego. Melancholia, it seems to me, is always a threat to the ego. The ego does not simply become constituted through a dependence on the melancholic trace's nagging, repressed insistence.

Melancholia is the affect brought about through the trace, the supplement, the non-identical and inassimilable, which threatens the constitution of the modern subject that cannot accept its demands. It runs counter to the super-ego, but not as the id. It works toward the dissolution of ego, and its modern, liberal, and humanistic constitution. The self-contained sovereign subject does not depend on it in anyway. Rather, its very constitution is threatened by it.

The resurgence of thought about mourning and melancholia in recent years has been remarkable. Almost all the work related to the subject has drawn from psychoanalysis, or, in a slightly different vein, from Walter Benjamin's work on German tragic drama and left melancholy, but the focus has not exclusively been on sexuality in the case of the former, or on the Holocaust in the case of the latter.³⁷ AIDS and millennium hysteria, as well as the fall of Communism seem to be contributing factors, alongside a delayed traumatic response to the horrors of world wars, anti-colonial struggles, and late capitalist fundamentalisms. What underlies most mournful responses is attachment to and identification with a group or community. Melancholia, especially when theorized through Freud, involves a critical relation to community, often a disidentification, and is accompanied by a kind of disintegration of the self occurring as a result of this unresolved relation which is impossible to assimilate to a "self." The melancholic always encloses within it a "supplement of copula," which is not equivalent to an "I." There is always something that initially appears to be part of the subject, but is subsequently understood as external to it, and therefore non-identical with it. The non-identical supplement is a nagging presence undoing the self through a critical agency. The ambivalent relation to that which is lost engenders a critical agency directed toward the self and thus toward the very concept of selfhood endorsed by the self-consolidating nature of community identification.

36. BUTLER, *supra* note 34, at 196.

37. See, e.g., ANNE CHENG, *THE MELANCHOLY OF RACE: PSYCHOANALYSIS, ASSIMILATION, AND HIDDEN GRIEF* (2000); CRIMP, *supra* note 27; DERRIDA, *SPECTRES OF MARX*, *supra* note 31; DAVID ENG, *RACIAL CASTRATION: MANAGING MASCULINITY IN ASIAN AMERICA* (2001); LOSS: *THE POLITICS OF MOURNING* (David Eng & David Kazanjian eds., 2003); RANJANA KHANNA, *DARK CONTINENTS: PSYCHOANALYSIS AND COLONIALISM* (2003); JOSÉ ESTEBAN MUÑOZ, *DISIDENTIFICATIONS: QUEERS OF COLOR AND THE PERFORMANCE OF POLITICS* (1999); GILLIAN ROSE, *MOURNING BECOMES THE LAW* (1996); Wendy Brown, *Resisting Left Melancholy (Left Conservatism: A Workshop)*, 26 *BOUNDARY 2* 19, 19-27 (1999). The relevant sources for much of this scholarship include: NICOLAS ABRAHAM & MARIA TOROK, *Mourning or Melancholia: Introjection versus Incorporation*, in *THE SHELL AND THE KERNEL* 125 (Nicholas T. Rand ed. & trans., 1994); WALTER BENJAMIN, *THE ORIGIN OF GERMAN TRAGIC DRAMA* (John Osborne trans., 1977); Walter Benjamin, *Left-wing Melancholy*, in *THE WEIMAR REPUBLIC SOURCEBOOK* 304 (Anton Kaes et al. eds., 1994).

But Bersani's notion of the disintegration of the self is more focused on the exclusive way in which sexuality is formulated in feminist texts, and he brings his own background in psychoanalysis to bear on this work.³⁸ Halley criticizes him for his valuation, and perhaps "celebration" of the subordinated figure, echoing as it does cultural feminism's apparent validation of all things suppressed that are rendered feminine.³⁹ Bersani implicitly valorizes a common thread between the MacKinnonite version of women's relation to sexuality that MacKinnon cannot validate herself, but which, according to Bersani, does a good job of assessing in terms of subordination and humiliation.⁴⁰ He understands subordination, however, in terms of a psychoanalytically conceived *jouissance*, a state of extreme pleasure and pain beyond all recognition of anything commonly understood as happiness or pleasure in the ego.⁴¹ Writing of a "self-shattering" that is distinct from an anecdotal "masochism to which the melancholy of the post-Oedipal superego's moral masochism is wholly alien," Bersani proposes a disintegration distinct from one which could be discussed within the terms of an already existing sovereign subject.⁴² I would depart slightly from Bersani's phrasing here. His proposal of the "melancholy of the post-Oedipal superego"⁴³ runs counter to my own understanding of melancholia. Freud theorized the superego only in 1923.⁴⁴ While it is true that Freud refashioned his notion of "critical agency" as the "conscience" of the morally regulating and normalizing superego, this critical agency was no longer melancholic. His concept of melancholia remained unresolved, but the "critical agency" of melancholia was understood as "diseased" because of an ambivalence felt toward the thing lost.⁴⁵ Ambivalent rather than judgmental, the ego is undone by melancholia, not reaffirmed in its sovereignty through compliance to the demands of the superego.⁴⁶

For Bersani, this queer *jouissance* is quite different from that experienced by any other marginalized or abused groups. He writes:

38. Bersani discusses his work *THE FREUDIAN BODY: PSYCHOANALYSIS AND ART* (1986) in his article, *Is the Rectum a Grave?* Bersani, *supra* note 1, at 217-18.

39. Halley, *supra* note 1, at 20-22.

40. Bersani, *supra* note 1, at 214-15.

41. *Id.* at 222. I note in passing Tim Dean's interesting reminder that Bersani derives his notion of pleasure more from Bataille than from the Lacanian psychoanalysis one might expect. Tim Dean, *The Psychoanalysis of AIDS*, 63 *OCTOBER* 83, 115 (1993). It seems to me, however, that even though there are great distinctions between Bataille and Lacan, the latter draw from a common pool of psychoanalytic and surrealist thinking on the subject. David Macey probably overstates the case of Lacan's surrealism, but his book *LACAN IN CONTEXTS* is nonetheless informative on this matter. See DAVID MACEY, *LACAN IN CONTEXTS* (1989). Bersani brings psychoanalysis and Bataille together, writing: "From the Freudian perspective, we might say that Bataille reformulates this self-shattering into the sexual as a kind of nonanecdotal self-debasement, as a masochism to which the melancholy of the post-Oedipal super-ego's moral masochism is wholly alien, and in which, so to speak, the self is exuberantly discarded." Bersani, *supra* note 1, at 217-18.

42. Bersani, *supra* note 1, at 217-18.

43. *Id.*

44. See FREUD, *Ego*, *supra* note 29.

45. FREUD, *Mourning*, *supra* note 29, at 256-57.

46. *Id.* at 256-58. I have discussed this concept of melancholia more fully in my book. See KHANNA, *supra* note 37.

An authentic gay male political identity therefore implies a struggle not only against definitions of maleness and of homosexuality as they are reiterated and imposed in a heterosexist social discourse, but also against those very same definitions so seductively and so faithfully reflected by those (in large part culturally invented and elaborated) male bodies that we carry within us as permanently renewable sources of excitement.

There is, however, perhaps a way to explode this ideological body. I want to propose, instead of a denial of what I take to be important (if politically unpleasant) truths about male homosexual desire, an arduous representational discipline. The sexist power that defines maleness in most human cultures can easily survive social revolutions; what it perhaps cannot survive is a certain way of assuming, or taking on, that power. If, as Weeks puts it, gay men “gnaw at the roots of a male homosexual identity,” it is not because of a paradisiac distance that they take from that identity, but rather because, from within their nearly mad identification with it, *they never cease to feel the appeal of its being violated*.⁴⁷

In an attempt to simultaneously critique the manifestations of masculinity in sexist human cultures, and also the pastoralization of sex in gay male political identity, Bersani proposes a politics built through the masochism of dissolution.⁴⁸ Though Halley is quite critical of a kind of celebration of male homosexual masochism and the imposition of the value-form onto sexuality, she nonetheless is attracted to the politics derived from it.⁴⁹ For her, Bersani’s idea, slightly reformulated, allows for a sexuality unconfined in any way by the value-form.⁵⁰

In spite of the fact that Bersani attributes value to characteristics of subordination, he does not conclude with a validation of queer identity manufactured from what Wendy Brown might call “a state of injury” in which she looks to identity formation functions “not as a supplement to class politics, not as an expansion of left categories of oppression and emancipation, not as an enriching augmentation of progressive formulations of power and persons”—all of which they also are—“but as tethered to a formulation of justice that reinscribes a bourgeois (masculinist) ideal as its measure.”⁵¹ Rather, his concept of the “humiliation of the self” wrests subordination discourse from a bourgeois logic of value and exchange in which the onto-phenomenological is reduced to a measure of regulation and exchangeability.⁵² And his anti-identitarian and anti-communitarian stance thus allows for a critical agency and a politics which continue to undo normative sexual practice.⁵³

47. Bersani, *supra* note 1, at 209.

48. *Id.* at 218-222.

49. Halley, *supra* note 1, at 25.

50. *Id.* at 25-27.

51. See WENDY BROWN, STATES OF INJURY: POWER AND FREEDOM IN LATE MODERNITY 59 (1995).

52. Bersani, *supra* note 1, at 217-18.

53. This idea of the value-form is something discussed by Karl Marx and Gayatri Chakravorty Spivak. See generally KARL MARX, 2 CAPITAL (Friedrich Engels ed., Samuel Moore & Edward Aveling trans., 1885) (discussing the idea of value-form); Gayatri Chakravorty Spivak, *Scattered Speculations on the Question of Value*, in IN OTHER WORLDS: ESSAYS IN CULTURAL POLITICS 154 (1987) (a brilliant reading of notions of the value-form in relation to the onto-phenomenological). Alexander García Düttman writes of the disunity of existence brought about through the violent dislocation that has

But how does this critical agency function? And what relation does it bear to reality-testing and the potential undoing of ego? Bersani derives his notion of the violence of the “sanction for violence” enabled by the “practical ideal” of the self elevated to “the status of an ethical ideal” from Freudian notions of sexuality as well as of mourning, melancholia, and the super-ego.⁵⁴ In Freud’s career, a critical agency once associated with melancholia, or the failure to assimilate loss into the ego through a form of reality-testing that confirms existence of the self and death of the other, was eventually formulated as the possession of the superego.⁵⁵ Melancholia, in other words, was inadequately formulated according to Freud, and he would soon move its characteristics into a different realm.

When he wrote *Mourning and Melancholia* in 1917, Freud proposed that the mourner would be involved in the process of mourning for an extended length of time and with great intensity.⁵⁶ As the mourner is involved in “reality-testing,” there is a resistance to the fact of the loss.⁵⁷ The withdrawal of all libido from the object into the self meets with resistance, and often the mourner will cling on to the idea that the thing lost is still present. For the mourner, however, reality generally wins the day, and there is gradual withdrawal of the attachment, and a sustaining of the ego: “when the work of mourning is completed the ego becomes free and uninhibited again.”⁵⁸ The melancholic, on the other hand, does not participate in any reality-testing, not least because the melancholic does not know exactly what it is that has been lost. Even if the melancholic knows that someone or something no longer exists, explains Freud, there is no knowledge of what exactly is lost in the process. Because no form of reality-testing can clarify the nature of the loss, the melancholic turns inward. “In mourning it is the world which has become poor and empty; in melancholia it is the ego itself.”⁵⁹ The melancholic feels worthless, and becomes very self-critical, but this self-criticism, or critical agency, is not the regulating super-ego that is turned in toward the self in a way that would force into existence violently the sovereign subject. The diseased self-critical agency has, rather, distorted the very existence of “self.” Freud writes:

[L]et us dwell for a moment on the view which the melancholic’s disorder affords of the constitution of the human ego. We see how in him one part of the ego sets itself over against the other, judges it critically, and, as it were, takes it as its object. Our suspicion that the critical agency which is here split from the ego might also show its independence in other circumstances will be confirmed by every other observation. We shall really find grounds for distinguishing this agency from the rest of the ego. What we are here becoming acquainted with is the agency commonly called ‘conscience’; we shall count it, along with the cen-

characterized living in the time of AIDS. See generally Alexander García Düttman, *AT ODDS WITH AIDS: THINKING AND TALKING ABOUT A VIRUS* (Peter Gilgen & Conrad Scott-Curtis trans., 1996).

54. FREUD, *Mourning*, *supra* note 29, at 243-58; FREUD, *Ego*, *supra* note 29, at 28-39.

55. See generally FREUD, *Ego*, *supra* note 29.

56. FREUD, *Mourning*, *supra* note 29, at 243-44.

57. *Id.* at 244-45.

58. *Id.* at 245. However, disavowal involves the acknowledgment through reality-testing of the existence or non-existence of something, and a subsequent decision to ignore what reality-testing has demonstrated. *Id.*

59. *Id.* at 246.

sorship of consciousness and reality-testing, among the major institutions of the ego, and we shall come upon evidence to show that it can be diseased on its own account.⁶⁰

This elaboration of the “conscience” would become fully theorized some years later in Freud’s essay *The Ego and the Id*, as the self-regulatory force of the super-ego.⁶¹ But at the time of writing *Mourning and Melancholia*, Freud theorized this critical agency as the affect created by an excess—the thing lost that can neither be identified nor assimilated to the self as would be the case in mourning.⁶² The critical relation toward the ego, and not in the guise of the ego-regulating super-ego, is exactly the force of the remainder. That remainder cannot be assimilated, and it is viewed as “diseased” within the economy of the supremacy of the ego, or indeed, the “moral masochism” of the superego.⁶³ It cannot let go of that which has been lost. Its future will always be shaped by the demands made on it by the diseased critical agency, which in a sense causes a break in relation to historical time.

Quite different from disavowal, in which the subject *knows very well*, melancholia embraces the unknown and undoes the ego in the process. Therefore there is no real possibility of identification with the thing lost, even though there is a “diseased” embrace between the disintegrating ego and the inassimilable remainder. Through disintegration, the question of value itself is somewhat undermined. The “disidentification” with the ego controlled by the super-ego cannot simply lead to the valuation of the subordinated. It is indeed the very structure undone that is Bersani’s focus of interest. This is not the valuing of an object. It is the refusal of the ego because of the problematic relation to the abject, inassimilable, lost and possibly repudiated object. Judith Butler’s *Psychic Life of Power* has explored this form of disidentification extensively.⁶⁴ For her, the unknown lost object is homosexual desire, which threatens “the gendered character of the ego.”⁶⁵ If gender and heterosexuality are built on the repudiation of the homosexual, then one would have to acknowledge also the refusal of the feminine which accompanies heterosexuality in the male. The girl child comes into womanhood also through the repudiation of the feminine as first love object, hence leading to the very problematic identification with the mother.⁶⁶ Perhaps, however, the term disidentification already suggests an ego and active resistance from it, rather than the dissolution I favor.

Douglas Crimp has written extensively on the “moralistic repudiation of gay men in the pre-AIDS years” by post-AIDS queer theory.⁶⁷ Identification with a normative heterosexual order, which probably culminates in the demand for the right of gay marriage, is a repudiation of the apparently “immature”

60. *Id.* at 247.

61. See generally FREUD, *Ego*, *supra* note 29.

62. FREUD, *Mourning*, *supra* note 29, at 245.

63. Bersani, *supra* note 1, at 218.

64. BUTLER, *supra* note 33, at 132-66.

65. *Id.* at 136.

66. *Id.*

67. CRIMP, *supra* note 27, at 9.

years of gay life and has led to a highly regressive form of queer politics.⁶⁸ The condemnation of sexual practices and lifestyles that has accompanied AIDS discourse has of course done nothing to solve the problem of AIDS: it has functioned to ignore those most vulnerable to the illness.⁶⁹ Michael Warner has also written extensively on the conservative and normative desire which has made gay marriage the most public queer activist presence today.⁷⁰ This brings up the question more generally of progressive activism participating without skepticism in right discourse. I will discuss this more fully in what is to come. Brown and Halley have also written on the problematic focus on rights that has characterized much left activism in recent years.⁷¹

Michael Warner's book, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life*, interestingly invokes the category of ethics to counter the current dominance in queer political discourse around marriage. For him, the ethical position to take would be to critique gay marriage and the regressive trappings of social respectability that go along with it.⁷² Following the psychoanalytic discourse we have been pursuing here, one could propose that this withdrawal from social respectability can also, at its most radical, constitute the disintegration of the onto-phenomenological category of the ego. The critical agency of melancholia would thus constitute not the normative categories of the law of the ego, but rather the demand for pursuit of justice.

Halley's decision to take a break from feminism cannot, I would suggest, ultimately respond to the melancholic remainder that is most effective in wresting politics from the conservative constraints of the superego. In fact, her disavowal of feminism leaves no room for active critique. Disavowal is acting out in relation to the failings of some forms of feminism, which seem to have failed Halley. Halley's peculiar endorsement of Bersani is that, unlike him, she remains in the realm of parodic acting out rather than an undoing of self through the darkness of *jouissance*. In fact, this acting out is more of an assertion of selfhood and the moral prescription against pastoralized views of sex, than it is a radical undoing. If queer, indeed, is an undoing of self, then this acting out is functioning within a heterosexist paradigm involving identification with moral violence. It takes no account at all of the value-form it endorses, because it cannot acknowledge the formative and problematic relation to the supplement. Critical melancholia, rather, embodies the undoing of self and simultaneously enacts the critique of self. We do not simply see the self undone. Self is undone with the recognition of violence performed through the normative categories of valuation, the onto-phenomenological, the subject, and the human.

What would a politics derived from this model of attention to the abjected singularity of the melancholic embrace look like? And if I choose to call this melancholic politics a form of feminist ethics, where exactly does this leave demands for rights that have so characterized feminist and queer activism in the

68. See *id.* at 1-26.

69. *Id.* at 43-82.

70. See generally MICHAEL WARNER, *THE TROUBLE WITH NORMAL: SEX, POLITICS, AND THE ETHICS OF QUEER LIFE* (1999).

71. See generally Wendy Brown & Janet Halley, *Introduction*, in *LEFT LEGALISM/LEFT CRITIQUE 1* (Wendy Brown & Janet Halley eds., 2002).

72. WARNER, *supra* note 70, at 81-148.

recent past? If rights are indeed always compromised by a notion of the ontophenomenological built on the regressive features of the regulatory super-ego and the value systems it represents, are we to do away with them entirely as sources for legal pursuit? Halley, following Bersani, sees a politics derived from the dissolution of the self as something peculiar to homosexuality rather than to melancholia more generally.⁷³ What would it mean to take this a step further, and to have a politics built from the very undoing afforded through melancholia of other sorts? When we acknowledge the singularity of sexuality in its current relation to AIDS discourse, are we to abandon the legal to endless mourning, never finding any possibility of a politics based on the concept of the human? In the next section, I will attempt to sketch out what this politics may look like.

III. THE PROBLEM OF RIGHTS AND THE QUESTION OF JUSTICE: FEMINIST MELANCHOLIA AND THE REMAINDER

Human rights, and more particularized forms of named rights, such as women's rights, gay rights, or animal rights, have a complicated relationship, not least because the demand for rights does not always have a following in the political realms of feminism, queer activism, or animal liberation. One could obviously say that the distinction between animal rights and human rights is different from that between women's rights or gay rights and human rights for the simple reason that animals are not human, and presumably do not aspire to be, whereas women and gays are human, and on one level at least, do not, therefore, have to aspire to be. I say "on one level," because the categories of women's and gay rights functions as a supplement to that of human rights in a manner that suggests a "becoming human" of woman and homosexuals—that is, attaining the status by which there will be an inclusion of their rights into the category of human rights. Perhaps the notion of human rights is itself "humanized," as it were, through accommodating women and homosexuals within its realm. But the lesson of a term like animal rights and the obvious inability to include the animal into a notion of human rights points toward the lesson of the critique of human rights discourse more generally: the liberal critique which argues for inclusion or accommodation, and the Marxist and deconstructive critiques which take issue with the forms of universalism implied in the notion of human qualifying that idea of "rights." At the heart of the issue of "rights," especially in the international realm, is that of difference, and of course not merely cultural difference or difference in lifestyle.

An *ethico-political* notion of reading informs my understanding of the pursuit of international justice. Feminism, like queer studies, enters this ethico-political reading practice as a means of understanding how some continue consistently to be unaccounted for in this pursuit. This notion of the ethico-political involves both an understanding of an abstracted form of practice, and a concrete relation to the other. Deconstruction has given us the reading tools to make this pursuit, and I think it can be as relevant to queer theories as much as feminist ones. Reading involves not only attention to the parameters and laws of *genre*, context, and means of production, though it involves all of these; it also involves

73. Halley, *supra* note 1, at 25-27.

being open to the singularity of the text, that which exceeds the identifiable particularities at hand, and encountering something unsettling which seems to exist beyond those laws. Deconstructionist reading, put to work in the pursuit of justice, would not necessarily endorse a “belief” in the notion of human rights, even though it could be through a more overt political notion of how to address “wrongs.” As Spivak has pointed out, there is an asymmetry between the notion of the human in the idea of human rights and human wrongs,⁷⁴ in the sense that human wrongs concern injustice performed by humans, and the notion of rights seem to “belong” to the human *qua human*. The questions that arise, of course, are what constitutes human beings, and on what grounds rights are determined for them. Even if the notion of human rights is designed to offer an ethical and legal neutral standard for equal treatment under the law, it is clear that those rights seem often arbitrarily chosen, contingent, and far from neutral at the moment of their inception. At their inception they are groundless other than through politics and its notion of the citizen-subject or human.

This is one of the many lessons Jacques Derrida, the *franco-maghrebi* deconstructive philosopher, gives us in his essay, *Force of Law*, originally a talk written for presentation at the Cardozo Law School.⁷⁵ He argues that once a law is in place, there can be determinations made concerning its enforceability, legitimacy, and whether it has been broken.⁷⁶ It creates its own guidelines, even in instances in which these are highly debatable. He refers us back, however, to the moment at which the law is established, when there is no foundation as such for it, and when the sovereign, violently exempting “himself” from legal enforcement, determines what laws are employed and subsequently enforced on others. Law may seem like a stable entity built on a hefty foundation, but as soon as one looks at its origins, that foundation is revealed as either mystical or arbitrary, or both.⁷⁷

However, rather than feel despair about this baselessness of the law, the recognition that it is without foundation, legal or otherwise, is paradoxically the moment in which it is revealed as political rather than ethical. The mode of assessment, critique, or *reading*, thus shifts. One is left without a stable means of justification, value assignment, response, or indeed alibi. For no foregone ethical standards unquestionably provide the basis for action, response, or intervention, humanitarian or otherwise. Responsibility becomes *based* on the ability to respond to the singularity of the other, of a situation, or of an event. It involves a political determination in the public space opened up through difference, that is, through the understanding of the singularity of the other that does not fit into any preestablished rules, the recognition that “the other,” for example, will always constitute more than an example of the general rubric employed to understand it.

It has sometimes been said that such a reading constitutes its own alibi: it gives an excuse, or a pretext, for ignoring the historico-political foundation of

74. See Gayatri Chakravorty Spivak, *Righting Wrongs*, in HUMAN RIGHTS, HUMAN WRONGS 168, 168-69 (Nicholas Owen ed., 2003).

75. JACQUES DERRIDA, *Force of Law*, in ACTS OF RELIGION 228 (Gil Anidjar ed., 2002).

76. *Id.* at 251-52.

77. *Id.* at 269.

“other” subjects, that is, what Michel Foucault, at the end of *The History of Sexuality*, has described as the turning of politics into *biopolitics*: the moment in which life, or natural life, becomes the terrain upon which the state’s power is played out.⁷⁸ He writes, “[f]or millennia, man remained what he was for Aristotle: a living animal with the additional capacity for a political existence.” “[M]odern man,” he adds, “is an animal whose politics places his existence as a living being in question.”⁷⁹ Asking us to consider the disciplinary control of what have become, through state enforcement, docile bodies to be manipulated, Foucault implores us to understand the genealogy of the mechanisms of biopower.⁸⁰ One strand of feminism, especially in literary analysis, has been to locate the rules governing that biopower. Even as this may be necessary, there is no reason why that Foucaultian biopolitical analysis would necessarily open one up to the other, to the extent that the recognition of the other’s singularity could constitute something like a risk for the observer, a challenge, or indeed damage to the frame of rules one lives by. It is indeed necessary to understand the mechanisms of biopower, they keep one honest as it were, like the qualifiers of rights like “gays’,” “women’s,” or “animal’s” to remind us of the forms of life so frequently and persistently or, indeed, structurally performed in the instrumentalization of community-based or “human” rights.⁸¹ And the understanding of those mechanisms is of course crucial to one’s responsibility to the other. Alone, however, biopolitical understanding is a necessary but insufficient response, or an abrogation of the ability to respond to the other in the pursuit of justice for all.

So how does one move toward the possibility of justice for all in the experience of the impossibility of this? How can one guarantee justice once one has moved away from an established rubric, like that of human rights, which has historically been so arbitrary in its designation of those it possibly protects, and its notion of the subject overshadowed as it is by the value-form imposed onto the onto-phenomenological? “Cultural difference” consistently becomes a sticking point in human rights discourse, most clearly when the status of women with cultural origins outside the first world are at stake, having “wrongs” performed against them. All too often, “cultural difference” becomes an alibi that guarantees the “reader’s” own politics—status and value go unquestioned. (This is the problem of liberalism generally, and most strikingly in Rawlsian liberalism in which the subject is presumed to be rational and individualist, and any awkward question of difference is relegated to the realm of the private.⁸² It is also consistently a problem in Habermasian notions of the public sphere in which difference and antagonism can similarly be negotiated only through his

78. MICHEL FOUCAULT, *HISTORY OF SEXUALITY VOLUME I: AN INTRODUCTION* 137-45 (Robert Hurley trans., 1978).

79. *Id.* at 143.

80. *Id.* at 135-59.

81. Jacques Derrida is particularly insistent on this point. Derrida, *supra* note 75, at 257.

82. In *THE LAW OF PEOPLES* (1999), John Rawls attempts to revise some of the ideas proposed in his book, *A THEORY OF JUSTICE* (1971), to apply to a more international realm, and to therefore take the fact of difference into account. The perspective, however, does not really change his relegation of difference to the private and his assumption of a “decent” people. See generally RAWLS, *IN THE LAW OF PEOPLES*, *supra*.

version of the rational, in this case, a notion of what constitutes rational discourse).⁸³

In short, there are no guarantees and no alibis. Justice has to be a movement and a constant renegotiation of its political grounds. Difference, after all, is not only cultural difference, and it cannot be addressed without opening oneself potentially to challenge from the other. Queer theory, no less than any other ethico-political formation, would similarly have to abandon any fixed notion of sexuality as revolutionary in terms of debasement at its core. Bersani does not make this error. He writes, "to want sex with another man is not exactly a credential for political radicalism."⁸⁴ An example of the problem is that much of even the most progressive work on sexuality and AIDS does not venture to think sexuality beyond European and North American contexts.

But critique shows us the erroneous at best and tyrannical at worst complacency that the notion of the human as it is employed in human rights and "humanitarian intervention" consistently allows. For example, even prior to the current war in Iraq, discussion of the "humanitarian" intervention of the United Nations (UN) relegated it to the position of hospital, rather than political player. So the war in the United States and British governments' discourse gets erroneously rationalized because of agreement to "care" after Iraq is once again ripped apart through the instruments of sovereign power and the state of exception. No form of humanitarian work has changed the way in which prisoners are rendered as caged animals in Guantanamo Bay. For another example, Kofi Annan gets promoted to Secretary General in spite of the fact that he is directly responsible for UN inaction during the horrifying Rwanda genocide. Reporting on human wrongs, transparency, and the institutionalization of liberal notions of the human is incontrovertibly no guarantee of any humanitarian advancement; in fact in practice it all too often seems quite the opposite when the powerful relegation of some to the status of non-human seems permissible. Another example is that the status of women in Afghanistan, though admittedly atrocious, was used as a humanitarian justification for war, while women's demands were consistently ignored, and the war ultimately resulted in very little change.⁸⁵ "Humanist" notions of empathy were shown to have failed as a foundation of ethical response in Bosnia, when genocide was played out on (and perhaps assisted through) television screens internationally, eliciting no guarantees for action and the protection of life.⁸⁶

Liberalism is consistently anti-political in its preference for terms like "humanity" and "universalism" as opposed to "the people," "the event," "the situation," "the citizenry," and "the international." Etienne Balibar, in his reading of the *Declaration of the Rights of Man and the Citizen* calls our attention to that tension between man and citizen, asking whether one is designated human with access to rights because one is a citizen, or whether one is citizen because one

83. See generally JÜRGEN HABERMAS, *MORAL CONSCIOUSNESS AND COMMUNICATIVE ACTION* (Christian Lenhardt & Shierry Weber Nichol森 trans., 1990).

84. Bersani, *supra* note 1, at 205.

85. See Ranjana Khanna, *Taking a Stand for Afghanistan: Women and the Left*, 28 *SIGNS* 464, 464-65 (2002).

86. Thomas Keenan, *Publicity and Indifference (Sarajevo on Television)*, 117 *PMLA* 1, 104 (2002).

has access to human rights.⁸⁷ Hannah Arendt tried to solve this problem by demanding citizenship for all, legitimating everyone as human with access to rights.⁸⁸ Writing of refugees, she criticized the concept of an ethical humanity in favor of political international democracy.⁸⁹ Like Balibar many years later, Arendt draws on the scandal of the separation between human and citizen in the Declaration of 1789.⁹⁰ She writes:

No paradox of contemporary politics is filled with a more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as “inalienable” those human rights, which are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves. Their situation has deteriorated just as stubbornly, until the internment camp—prior to the Second World War the exception rather than the rule for the stateless—has become the routine solution . . .⁹¹

Arendt was discussing those who had no citizenship, but we could claim the analytical critique for all those who demand particularized rights that seem to function as a supplement to *human rights*. Yet Arendt’s solution seems inadequate to the task of pursuing justice, because the logic of rights and citizenship, and indeed of the human, always leave a remainder or supplement, and are thus always held hostage to the normalization that takes place in the process of becoming citizen, and the psychical consequences of that.

The psychoanalytic construction of the subject was constituted through the colonial relation, at the time of the consolidation of the European nation-state, and the melancholic subject was one constituted through a critical agency that had already lost the ideal of nation-statehood, corrupted (and constituted) as it was through the colonial relation. This melancholic subject effectively became a non-subject.⁹² The melancholic relation exists as a result of the loss of an ideal. In the context of colonialism, this ideal was often the idea of the nation-state, the sovereign subject, and sovereignty within the nation-state. If European nation-states were formulated out of their relation to the colonies, then those states always required a supplement within which sovereignty cannot be achieved. The ideal of freedom and sovereignty for all embedded in the ideology of the nation-state was thus always a contradiction that could be seen in the existence of the colonies. That existence always existed within the context of the “supplement” to the nation-state, that is, the colony. Those non-subjects within the colonies were to conceive the possibility of their sovereignty and their coming into subjecthood through the ideal of nationhood which appeared to give everyone the possibility of relative sovereignty and citizenship. That supplement, however, not recognized as such, was to always undo the postcolonial subject, revealing the critical gap between the manifest instantiation of nation, citizen, law, repre-

87. ETIENNE BALIBAR, *Rights of Man and Rights of the Citizen: the Modern Dialectic of Equality and Freedom*, in *MASSES, CLASSES, IDEAS: STUDIES ON POLITICS AND PHILOSOPHY BEFORE AND AFTER MARX* 39, 44-50 (James Swenson trans., 1994).

88. HANNAH ARENDT, *THE ORIGINS OF TOTALITARIANISM* 302 (1979).

89. *Id.* at 267-302.

90. *Id.* at 298-99.

91. *Id.* at 279.

92. For a more extensive discussion of this idea see KHANNA, *supra* note 37.

sented, and valued, and the melancholic supplement. Having manifestly lost the ideal of nationhood, without realizing exactly what had been lost, the melancholic “non-subject of the political”⁹³ would always perform the critical agency that would critique its attachment to the ideal. The remaindered trace would always manifest a slippage that demands something different for the inadequate political. The melancholic insistence of that trace would reveal the ethical, justice, subaltern, and use that the political could never respond to. The demand of the melancholic, whose critical agency runs counter to the normalizing disavowal which is the property of the superego, is the call for justice.

If feminism has too often been associated with the repressive nature of normalizing moralism, as well as colonial and racial violence in its historical constitution, being responsible to the not human will involve a simultaneous attentiveness to the demands of that unknowable entity, woman, however she is defined. This does not mean *valuing* everything women think, feel, or want, or demanding the right on behalf of women as if it were progressive. Feminism, no more or less than queer activism and theory, could constitute the space of hope, marked as it is by its own history of violence, and its own specters demanding justice.⁹⁴

Though melancholia is about the critical agency that challenges the normative onto-phenomenological structure of the ego, it is not unquestionably ethical or just, and it would be naive to think of politics marked by melancholia as inherently radical and untouched by normative and regressive politics. It is certainly not the case that a psychical, physical, or juridical investment in homosexuality automatically amounts to the absence of gendered, sexual, racial, or capitalist violence and prejudice. The melancholic, after all, is something of a wretched figure precisely because of the weight of the normative value system upon which ego-constitution rests, and exactly an ambivalent response to the lost object. The question of value, however full the power of critique brought against it, as Gayatri Chakravorty Spivak has suggested, will always include “the impossibility of a full undoing.”⁹⁵ As I have explained elsewhere, “a psychic contingency in the present embodies within it the persistence of history . . . not simply as fantasy or as memory, but also as archive distinct from memory.”⁹⁶ The melancholic’s undoing of the ego, however, manifests alterity and thus the call for justice. And it is not, as in the case with Bersani and Halley, the exclusive property of queer politics.⁹⁷

93. This phrase comes from Alberto Moreiras’ work in progress, and I thank him for having given me the opportunity to discuss the topic with him.

94. While I greatly admire the work of Gillian Rose, I find her frustration with contemporary work on mourning and melancholia to exaggerate the nihilism in what she refers to as “postmodern thinking.” Her works, *MOURNING BECOMES THE LAW: PHILOSOPHY AND REPRESENTATION* (1996) and *DIALECTIC OF NIHILISM: POST-STRUCTURALISM AND LAW* (1984), see only an undoing in the form of critique proposed through deconstruction, and no possibility of a space of politics.

95. Spivak, *supra* note 32, at 154.

96. See KHANNA, *supra* note 37, at 228.

97. In a more recent essay, Bersani has called his notion of a politics built on masochism as irresponsible, failing as it does to produce any idea of sociality through which a politics could emerge. Perhaps, however, ethico-political relation to the other, centered around the idea of melancholia, would inevitably remain attached to the social, as it is the self that becomes impoverished as one

The undoing of the ego present in the structure of melancholia is always a dual negotiation between dissolution of the ego and simultaneously attachment to it and the names to which it remains attached. Melancholia is not just about coming undone, of course, it is always about the critical relation outside of the moralism of the superego. Halley, following Bersani, sees gay men as never ceasing to feel the appeal of its (their identity) being violated.⁹⁸ I propose that acknowledging the singularity of this position does not demand a sense of the exclusivity of queer theory understanding the import of the dissolution of the ego, and the moral violence of both the value form and the super-ego.⁹⁹ Perhaps the question of queer and feminist are simply issues of semantics. But, for a reader, naming, semantics, and signatures are never really that simple.

IV. THE SIGNATURE

Jacques Derrida, speaking of AIDS, says:

If I spoke a moment ago of an event and of indestructibility, it is because already, at the dawn of this very new and ever so ancient thing, we know that, even should humanity some day come to control the virus (it will take at least a generation), still, even in the most unconscious symbolic zones, the traumatism has irreversibly affected our experience of desire and of what we blithely call intersubjectivity, the relation to the alter ego, and so forth.¹⁰⁰

He is, of course, pointing to the remainder that will always exist concerning the trauma of AIDS and its massive effects and disruption on all “symbolic zones,” undoing any notion of humanity that existed prior to the event, or any notion of history outside that of the traumatic break brought about through the impossibility of understanding AIDS. Regulated notions of temporality and stable notions of the human come undone. And in itself recognition of a change that is mired in melancholia and countless remainders, comes a responsibility to the other, to the remainder, to that which contaminates.

This, I would propose, is the manifestation of critical melancholia. It is not only the *trauma* of AIDS discussed here, amounting to a change in subjecthood; rather, it is a radical change in relationality and subjectivity marked by the singular and unique event of AIDS. AIDS has left its signature on any kind of subjectivity or dissolution we could begin to imagine. An ethical relation to it for Derrida involves being undone by the event, even when it becomes curable. A melancholic ethico-politics must always be attentive to the remainder. The remainder is the thing apparently lost which cannot be identified as such. No form of complete mourning becomes possible, nor any form of a rejected or disavowed reality. The remainder that insists itself will always be that which un-

suspends oneself in the other's text, according to Freud, and not the world. See Leo Bersani, *Sociality and Sexuality*, 26 CRITICAL INQUIRY 641, 641-56 (2000); FREUD, *Mourning*, *supra* note 29, at 246.

98. Halley, *supra* note 1, at 15-17.

99. Bersani, *supra* note 1, at 209. Such attachment to the remainder and its undoing of the subject is also not only a factor in the deconstructive thought of Jacques Derrida. We similarly see this tension in such post-Marxist thinkers like Jean-Luc Nancy. See generally JEAN-LUC NANCY, *THE INOPERATIVE COMMUNITY* (Peter Conner et al. trans., 1991).

100. Jacques Derrida, *The Rhetoric of Drugs*, in POINTS . . . : INTERVIEWS 1974-1994 228, 251 (Elisabeth Weber ed., Peggy Kamuf et al. trans., 1995).

does any definitive constitution of selfhood. The remainder always undoes the frame we establish for ourselves.

Halley, although, following Bersani, endorses the peculiar ways in which a politics may emerge from queer sexuality, and ultimately acts out a reinscription of subjectivity through her rejection of feminism.¹⁰¹ And she does this through the signature of Ian, as if that signature did not carry the trace of Janet. Perhaps this is parody, but why does it manifest itself for Ian in the rejection, or breaking away from Janet? The move from Janet to Ian is equivalent to the movement from feminist to queer. This notion of what is “queer” functions in terms of the copula. Woman and feminist are of course not equivalents, other than in the moral violence of heterosexist aggression, and the normative values built through the superego’s aggressive division of the sexes. There is no reason for Ian to stop being Janet. Ian’s signature carries the trace of Janet, just as queer theory carries the trace of feminism.

Ian’s signature carries the trace of something else in it, and this notion of queer as carrying the trace of the past, of difference, and of remainder carries with it the “impossibility of a full undoing.” Neither Janet nor Ian can become completely undone within a melancholic framework, precisely because the critical agency will always be in the relation of critique of the self, undoing and yet reminding of the remainder of self. Ian seems to want to write as if a signature really can do the work of sustaining self-identity, coherence, prior and future existence in the realm of the same and continuous, all of which is put into doubt by the very necessity of it.¹⁰² Ian has not put feminism into question, he has acted out through disavowal. He has effectively rejected the critical relation in favor of abandonment, and has shored up his selfhood in the process. He has repeated and reinforced a heterosexist framework, and through disavowal has parodied melancholia as a radical and critical undoing of self.

Disavowal, the ignoring of the trace, cannot realize the undoing of self that occurs in melancholia. Halley is essentially saying, “I know very well about the existence of Janet, but even so, I choose to disregard her and let Ian speak for me.” The signature, while proposing a being that may have been there at the time of writing, and may not have been, nonetheless calls upon the proper name and its gendered identifications. The signature leaves a trace of singularity, even as it is lost as the enunciating communicator. The signature, by its very nature, is always a copy, and a trace of it is assumed to exist elsewhere, designating as it does the absence of the signatory. What is absent always throws some doubt on the assurance apparently afforded through the signature. Ian carries in him the trace of Janet, and she poses a question about why identification with the masculine has occurred. The trace of her allows for the possibility of critique, and it also undoes both Ian and Janet as stable entities. In doing so, s/he is able to speak.

The impossibility of signature in my title refers not to the ways in which it is at times not possible to sign, so much as the ways in which the signature always carries within it the very undoing of its task of sustaining continuity, and maintaining particularity. The written text itself will always be singular in the

101. See Halley, *supra* note 1, at 26-27.

102. See DERRIDA, *Signature*, *supra* note 7, at 19-21.

way traces of the other are manifested. Acknowledging the affective connection to the other while simultaneously beginning to work it through, is the melancholic's job. Ian's plea to take a break from feminism needs to be seen as an acting out of disavowal unable to acknowledge a relation and unable to perform critique. There is no argument made in Halley's article which proposes a reason to ignore the demands made by the questions and the repressions of sexism in all their complexities. The possibility of critique is entirely foreclosed, somewhat paradoxically for a piece of celebratory support of queer sexuality that endorses the moral violence of the value-form.

Gillian Rose, writing rather despairingly of the melancholic nature of contemporary theory, proposes replacing the lament of the *trauerspiel* or tragedy with the possibilities of comedy.¹⁰³ She may well have overstated the case, but it does seem that the genre of comedy did allow for a *breaking out of character* to make a political statement. In Greek Comedy this was referred to as *parabasis*. Gayatri Chakravorty Spivak in *A Critique of Postcolonial Reason: Toward a History of the Vanishing Present* calls for "a permanent parabasis," the breaking out of a frame for direct (and non-representative) political commentary.¹⁰⁴ This breaking out of the frame, the attempt to recognize the trace as the undoing of self, and the consequent effort to responsible openness and to constant critique, is what makes feminism for me a justice seeking project. Working with the law, and always critiquing it, feminism moves with and against an idea of the human, the ego, the sexed and gendered subject, and the proper name designated in a signature or the ownership of copyright.

V. CONCLUSION

A ruthlessly vigilant and constant ethico-politics informed by feminism, and a reading practice open to the other includes all notions of alterity, animal, human, or otherwise. In its focus on singularity, there can be no set of consistent rules applied to a substitutable other in the name of neutrality. Rather, the reader is marked as substitutable in his or her openness to the singularity and particularity of the other. It opens one up to the necessity of change through a politics without alibi, and a challenge to the forms of violation performed in our name and to our economic benefit. It is through this understanding of the relation between the particular and the singular that we can move toward justice. It is only in this relation that responsible acts and ethico-political writing can take place.

103. ROSE, *supra* note 37, at 63-76.

104. GAYATRI CHAKRAVORTY SPIVAK, *A CRITIQUE OF POSTCOLONIAL REASON: TOWARD A HISTORY OF THE VANISHING PRESENT* 430 (1999).