Impossible People, Queer Futures: Dean Spade and Critical Trans Politics

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Review of Dean Spade, *Normal Life: Administrative Violence, Critical Trans Politics, and the Law*. New York: South End Press, 2011.

Roughly ten years ago, the government changed my name to Charles. Ironically, this closely followed the moment when I’d decided to go by C.J. in an effort to avoid the gender-marker of my unmistakably female birth name. After filing my tax returns, what was presumably a clerical error altered the personal data on file with the IRS. When I attempted to have the mistake corrected and my information regularized, I discovered that the new data had spread to a number of government agencies, including the Social Security Administration. Newly christened in some, but not all contexts, I confronted the acute difficulties of navigating the administrative apparatuses of the state that govern daily life while equipped with an illegible gender and mismatched identity documents. The lethal consequences of these administrative systems for trans people, especially those suffering from multiple vectors of discrimination, is the subject of Dean Spade’s *Normal Life*. As trans activism becomes institutionalized and mainstreamed, channeled into the paths taken by lesbian and gay organizations, Spade asks us to reconsider the costs and benefits of centering social justice work in demands for legal recognition which take the form of inclusion in anti-discrimination acts, hate crimes legislation, marriage recognition, and military service rights. A series of questions surrounding the place of legal work in the context of activism motivate *Normal Life*, a text that is fundamentally suspicious of the promises made by the law to rectify inequality and remediate damages through its power to punish. In the historical moment in which the dominant institutions of the neoliberal state are offering some degree of legitimation and recognition to trans people, who benefits from incorporation into protected categories and full citizenship, and who is excluded? Does power operate in such a way that modifications to the law actually change the conditions of life faced by those suffering from poverty, employment discrimination, and criminalization? What roles should lawyers play within grassroots organizations, and what risks attend prioritizing the goals of professionals within these groups? As a lawyer, a law professor, and the founder of an important legal aid nonprofit that serves trans people and gender-nonconforming people enduring poverty, Spade’s text is marked by a continuous reconsideration of the possibilities and dangers of appeals to the law. Perhaps because the law is slippery, offering the pretense of change while co-opting the language of oppressed groups, processing is the dominant mode of *Normal Life*’s argumentation about legal strategies every step of the way, such that the text embodies a practice that “questions its own effectiveness, engaging in constant reflection and self-evaluation” (19).

Drawing on important work in critical race theory and women of color feminism, Spade argues that claims for legal inclusion do little to impact the actual life chances of most trans people, either by reducing levels of violence towards gender nonconforming subjects or by alleviating the structural conditions that disproportionately consign trans people to lives of poverty, criminalization, and medical neglect. Indeed, such demands take the teeth out of the transformative potential of activism, benefiting only the most privileged trans people at the expense of the most vulnerable members of the community, those whose marginalization is compounded by their immigration status, disability, race, class, and indigeneity. Worse yet, by soliciting the law’s recognition, such activism stands to aggravate already terrible conditions by legitimizing institutions that perpetuate racist, heterosexist, xenophobic, and transphobic violence, amplifying their power to punish and control. In equal parts critical and constructive, *Normal Life* links a manifesto for a transformative politics firmly focused on the needs of the most vulnerable members of the queer and trans communities with a blistering appraisal of the assimilationist strategies of gay and lesbian rights organizations in the context of neoliberalism.

While Spade explicitly intervenes in critical prison studies and critical legal studies, I want to tap *Normal Life* as a significant contribution to queer theory’s turn to futurity, texts that seek out alternate political and social formations that cannot be recuperated by what Lee Edelman terms the heteropatriarchal project of “reproductive futurism.”[[1]](#endnote-1) *Normal Life* is an especially important example of what José Muñoz identifies as the chief task of queer utopianism: to envision new and better worlds, different modes of social relation and political organization that break out of the suffocating “here and now” by distilling transformative potentials from the “then and there.” A striking poverty of imagination informs the advocates of the new homonormativity, groups unable to envision either how the benefits they associate with legally recognized partnership might be uncoupled from the institution of marriage or how those benefits would fail to address the needs of those most vulnerable to homophobia.[[2]](#endnote-2) Spokespersons from these conservatized activist groups espouse a certain brand of political realism that rejects the possibility of meaningful change in favor of surface-level modifications that make fundamentally unequal institutions appear more multicultural and inclusive. By way of contrast, Spade returns to the activist movements of the 60s and 70s, renewing their demands for sweeping structural change that cannot be conceptualized, much less met by the institutions that distribute security and vulnerability: “a critical trans politics imagines and demands an end to prisons, homelessness, landlords, bosses, immigration enforcement, poverty, and wealth. It imagines a world in which people have what they need and govern themselves in ways that value collectivity, interdependence, and difference” (68-69). Not merely incorporation into the status quo, but massive wealth redistribution, an abolition of state-sponsored violence, and an end to the racist and xenophobic apparatuses of state power animate the project described in *Normal Life*. Such demands are emerging from grassroots organizations led by people of color and dedicated to mobilizing those most affected by the issues at stake. Spade outlines a politics emanating from, and responsive to, the pressing needs of the trans community as a set of “impossible people” repeatedly told by “legal systems, state agencies, employers, schools, and our families” that we “are not who we say we are, cannot exist, cannot be classified, and cannot fit anywhere” (209). Activism that would truly attend to the difficulties of such impossible people could never come from altering the law to say “good” things about trans people (incorporating them into anti-discrimination laws) rather than “bad” things (for instance, criminalizing cross-dressing). Against the tunnel vision of conservatized, mainstream movements and the narrow realism that underwrites their limited demands, Spade judiciously reminds us not to believe the stories the law tells about itself, and to put less stock in what the law says about us.

In the first chapter, Spade brackets the standard narrative peddled in textbooks and in the media claiming that American institutions were once racist and sexist but now ensure equality and fairness; that the law is colorblind and impartial; and that individuals must therefore be responsible for their own failure to flourish in an equitable society conditioned by market forces and governed democratically. To elaborate the context in which trans politics is taking shape, and in which legal reform strategies are situated, Spade discusses the neoliberal landscape of contemporary politics, a field marked by the upward distribution of wealth driven by factors such as privatization, trade liberalization, coercive debt loads, the elimination of unions, and the taxation of income rather than wealth. While the state sponsors this redistribution of wealth, preserving and protecting benefits enjoyed chiefly by white, heterosexual, middle- and upper-class populations, at the same time it drastically decreases the funding available for public services that benefit those groups disproportionately exposed to poverty. As the safety net recedes and services like education, public housing, food assistance, and health care are slashed under the political rhetoric of “belt-tightening” and “shared burdens,” massive resources have been allocated to ever-expanding criminalization and imprisonment systems that recapture those abandoned to poverty.. Both cuts to crucial, life-preserving social services and the growth of the prison industrial complex have been sold to the public through the circulation of racist, sexist tropes such as the “Welfare Queen.” Because the cycles of abandonment and recapture are amplified and intensified for subjects experiencing multiple vectors of exclusion on account of race, class, disability, immigration status, or trans status, incorporation into the institutions responsible for producing this widespread vulnerability can only help the fraction of trans people who already enjoy race, class, education, citizenship, and passing privileges. Although Spade’s demands are utopian in the sense that José Muñoz describes, we can see that his view of life rendered illegible or impossible to the systems of institutional control is certainly not romanticized. Like other “impossible” groups, for instance illegal aliens, the very existence of trans people is written out of administrative apparatuses of the modern state, which consistently excludes trans people from protective and care-taking services while recapturing them for the necropolitical goals of abandonment, punishment, and imprisonment.[[3]](#endnote-3)

Chapter two more closely examines the problems that follow from demanding rights and legal recognition, specifically inclusion in anti-discrimination statutes and hate crimes laws, as the central measure of progress. In both cases, Spade powerfully argues that such laws have essentially no effect on the life chances of populations who experience outrageous levels of violence and discrimination. There is no evidence that hate crimes laws actually reduce instances of bias-motivated crime, and more to the point, law enforcement officials are the primary source of violence against queer and trans people, especially transwomen of color. Similarly, as critical race theory has amply demonstrated for other marginalized groups, despite the existence of laws explicitly forbidding discrimination on the grounds of race, sex, or sexuality, these laws are interpreted so narrowly as to be essentially useless, even for those individuals that can afford the high costs of legal aid associated with enforcing those rights. Furthermore, Spade argues that these legal reform strategies have serious misconceptions of what constitutes discrimination, recognizing it only when it operates at the individual level. As such, the institutional vectors that exacerbate poverty and directly inflict state-sponsored violence at the level of population remain untouched. Changing anti-discrimination and hate crimes law so that, officially, the law says it values the lives of trans people, will not prevent discrimination and violence. Instead, by promoting such laws, the prison industrial complex co-opts the grief and suffering of the trans community and turns it into an avenue for further expansion, new prisons, additional funding to police, and increased prosecutorial discretion. Inevitably, those resources will be exercised against communities of color, the homeless, sex workers, and illegal immigrants, including those who are trans.

In chapter three, Spade offers an alternative to the perpetrator/victim model of discrimination, locating the sources of systematic abandonment in sites other than the individual intentions of biased people in order to understand the real causes of shortened life spans in trans subjects. Taking his theoretical cues from Foucault’s *Society Must Be Defended* and Ruth Gilmore’s *Golden Gulag*, Spade describes the state as a system of distributed, decentralized agencies designed to manage the productive and reproductive forces of different populations while unequally distributing life chances among them. Although he rarely uses the word, Spade provides a thick account of the neoliberal state as biopolitical, a system of population-management.[[4]](#endnote-4) When the state is conceptualized as a caretaker that promotes the life of the nation, invariably certain populations are cast as internal threats to the body politic, “drains” on its energy that unfairly consume resources and menace the health, security, and economic well-being of the “deserving” members. A politics centered on legal inclusion recapitulates this logic, dividing the community internally by lobbying for the incorporation and protection of good, deserving members while abandoning those who are the most excluded and compromised. A more transformative platform would aim for the elimination of institutions founded in racism and settler colonialism, insisting on race, gender, and economic justice for all without exception.

Having established the biopolitical framework that governs the allocation of security and vulnerability in the context of neoliberalism and advanced capitalism, Spade reconsiders the legal apparatuses that actually impact the lives of trans people, the administrative systems responsible for distributing life chances. If anti-discrimination and hate crimes laws will have little effect on the daily life of most trans people, the administrative systems that interface between state power and individual subjects are a significant source of violence, discrimination, and abandonment for trans individuals. Spade focuses on the complexities trans people face in their attempts to secure identity documents that correspond to gender identity; receive access to sex-segregated facilities such as rehabilitation centers, public bathrooms, homeless shelters, and prisons; and acquiring health care. Identity documents are governed by a variety of institutions, most of which have entirely different requirements that must be met before gender markers can be altered, many of which require evidence of medical treatment and surgery. Because Medicaid and most private health insurance policies specifically exclude trans people from receiving the gender-confirming health care required to change these documents (and to prevent some measure of street harassment, employment discrimination, and suicide), most trans people have conflicting sets of IDs. These discrepancies significantly increase the barriers trans people face when attempting to access social service agencies, which play a particularly ubiquitous role in the lives of impoverished communities. The outright rejection of welfare services contributes to the abandonment and exposure of trans people already experiencing poverty. Trans people also have difficulty accessing sex-segregated facilities that correspond with their gender identity, exposing them to enormous violence. An analysis of the biopolitical nature of the actuarial state indicates that legal-reform strategies, to the extent they are employed for a critical trans politics, should focus their energies on the administrative systems that regularly contribute to the shortened life spans experienced by trans people.

The final chapter addresses concerns with the emerging shape of non-profit organization, which increasingly borrows its infrastructural models from the private sector. Because of the shortage of social services, these non-profits play an important role in meeting the needs of groups abandoned by the state. However, the function of non-profits in distributing resources is suspect because they tend to be funded by corporations and the wealthy, who maintain active roles in directing the goals of the organizations, and as such, these groups cannot be expected to achieve any transformative changes in the maldistribution of wealth and security. Furthermore, organizations lack radical agendas because grassroots mass-mobilizations have been targeted and criminalized for the past thirty years while non-profits with limited demands that support the status quo have been funded. This has also encouraged the emergence of non-profit administration as a career track for young white people with graduate degrees who concentrate decision-making power in the hands of executive boards and funding agencies while excluding the voices of those who are purportedly being served. Spade turns to the Miami Workers Center’s “Four Pillars of Social Justice Infrastructure” for alternate models of community organizing that truly respond to the needs of marginalized groups and build leadership from within the community itself. As counter-examples to the non-profit industrial complex, the conclusion looks to activist groups and coalitions, especially those organized by people of color, that provide models of consensus-based, grassroots organizing dedicated to eliminating violence without expanding the logics of imprisonment, exile, colonialism, and nationalism.

*Normal Life* encourages us to imagine and organize for queer futures that reject the restrictive vision of legal reforms that would exchange the incorporation of a sliver of trans people while consigning the rest to abandonment. At a time in which gay marriage is promoted as the last remaining civil rights issue, *Normal Life* insists that a properly queer agenda would not exclude anyone and would work for a world without prisons or borders or poverty. Against lobbying campaigns that insist that assimilation into the ever more quickly diminishing middle class is the only available channel for activism, Dean Spade reminds us that what’s really queer is to give away money.

Works Cited

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1. Important recent texts engaging with queer futurity include Jasbir Puar, *Terrorist Assemblages: Homonationalism in Queer Times* (Durham: Duke UP, 2007); José Muñoz, *Cruising Utopia: The Then and There of Queer Futurity* (New York: NYU UP, 2009; Jack Halberstam, *In a Queer Time and Place: Transgender Bodies, Subcultural Lives* (New York: NYU UP, 2005); Elizabeth Freeman, *Time Binds: Queer Temporalities, Queer Histories* (Durham: Duke UP, 2010). [↑](#endnote-ref-1)
2. On the new homonormativity, see Duggan (50). [↑](#endnote-ref-2)
3. Mae Ngai describes the illegal alien as an “impossible subject” for the modern state, “a person who cannot be and a problem that cannot be solved” (5). [↑](#endnote-ref-3)
4. Spade writes elsewhere with an explicitly biopolitical framework (Spade and Willse). [↑](#endnote-ref-4)