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Conversations with the Law: Irony, Hyperbole, and Identity Politics or Sake Pase? Wyclef Jean, Shottas, and Haitian Jack: A Hip-Hop Creole Fusion of Rhetorical Resistance to the Law

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Article: Conversations \textsuperscript{n1} with the Law: Irony, Hyperbole, and Identity Politics or Sake Pase? Wyclef Jean, Shottas, and Haitian Jack: A Hip-Hop Creole Fusion of Rhetorical Resistance to the Law\textsuperscript{*}

\textsuperscript{*} Due to the subject matter, this article quotes explicit language - Eds.

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\textbf{BIO:} ** B.A., University of Richmond; J.D., West Virginia University College of Law. The author is a primary contributor to HipHopLaw.com. Thanks are due to the fierce editorial support of Associate Dean for Faculty Research & Development and Professor of Law, Caprice Roberts and Professor of Law andre douglas pond cummings, both of the West Virginia University College of Law. Both have furthered my intellectual pursuits and my fondness for scholarship off the beaten track. Additional comments and questions were posed by Associate Professor Kirk Hazen (WVU Eberly College of Arts & Sciences, Linguistics), Lizzie Hitaffer (WVU Eberly College of Arts & Sciences, Class of 2008), Sarah E. Wagner (WVU College of Law, Class of 2008) and Julie R. Shank (WVU College of Law, Class of 2007). My interest in urban music was fostered at an early age by my father, Rick \textit{Sciullo}, who introduced me to Stevie Wonder, Ray Charles, Marvin Gaye, Al Green, and B.B. King. My musical career was most profoundly influenced by Chris Miller, a.k.a. DJ Flygear, a.k.a. Spin. One of Virginia Beach, Virginia. I have presented parts of this paper at the 2007 Association for Legal and Social Philosophy Conference at Keele University in Staffordshire, England and at the 2007 African and African-American Popular Culture Conference at Plymouth State University in Plymouth, New Hampshire. My thanks to the conference organizers and conference participants for their thoughts.

\textbf{SUMMARY:}

... This article concludes by suggesting that rhetorical criticism, hip-hop, and other rhetorical acts (among them irony and hyperbole) provide new terrain from which to understand the law, and further, that the Haitian/Creole cultural identity is an important and underrepresented facet of legal culture, which further compliments current critical race theory. ... Wyclef is not the only hip-hop artist who provides thought-provoking messages and other scholars should certainly pursue what other artists have to say about the law. ... If Haitian Jack is Wyclef, then understanding how Wyclef deploys this persona to resist the law is integral to understanding Wyclef's personal feelings on this subject matter. ... Wyclef has always presented a critical disposition toward the police, and it is his music that presents a widely listened-to criticism of oppressive police procedures and a larger paradigm of state-sponsored violence. ... This assumption, roughly that Wyclef means what he says, is important, although not integral to the argument that his rhetorical presentations are important to understanding the law. ... The Double-Edged Sword: Drugs, Hip-hop, and Transcendence Wyclef portrays the evil effects of drugs on the urban community as well as the power of drug use as a resistance to fixed standards of appropriateness. ... I do not intend to suggest a conception of identity politics in this article, but rather, to suggest a form of identity criticism where individuals critique legal identities and attempt to understand how they form. ... Wyclef Jean is on the forefront of such a critical perspective and understanding the rhetorical tools he uses to comment on the legal system contributes to a greater understanding of how Haitians and hip-hop fans understand the law.
**TEXT:**

[*456]*

Introduction

"Our music is more rebel music. We do music for society, for humanity, to help and to heal."

- Wyclef Jean n²

This article sets out to prove why the law must be investigated in an interdisciplinary fashion which invites an intersection between law, popular culture, and identity politics. n³ First, this article describes how Wyclef Jean, a hip-hop artist, is an active voice of legal criticism and why his criticism is important to a larger discussion of the law. Second, this paper develops a conception of Creole/Haitian legal studies and its importance as an analytical lens through which to perceive the law and legal institutions. Third, this piece formulates a rhetorical criticism n⁴ of the law through the rhetorical terrain of Wyclef's hip-hop music and cultural aesthetic to critique criminal law and legal institutions. The fusion of hip-hop, n⁵ Haitian/Creole cultural identity, and rhetorical criticism, opens a new area for legal analysis and understanding. This article concludes by suggesting that rhetorical criticism, hip-hop, and other rhetorical acts (among them irony and hyperbole) provide new terrain from which to understand the law, and further, that the Haitian/Creole cultural identity is an important and underrepresented facet of legal culture, which further compliments current critical race theory.

There is not any sort of numbered pattern in this work and the [*457] presentation of issues discussed in this introduction is not consistent with the order of the paper's body because to do otherwise would deny the intersectionality n⁶ of the issues discussed. It is therefore better to perceive this paper as a freestyle session, n⁷ developing spontaneously, overlapping, and relapsing as an organic discourse. The issues of identity politics, popular culture, and rhetorical criticism exhibit a tremendous degree of intersectionality. This somewhat odd presentation style is preferred because strict adherence to traditional form and style are so limiting that writing in that style may restrict the utility of the criticism presented and render futile an understanding of the intersectionality amongst identity politics, popular culture, and rhetorical criticism.

Throughout the paper, examples of Wyclef's specific legal criticism are brought to light. These vignettes are weaved through the paper in an attempt to tie the larger theoretical components with Wyclef Jean's actual/practical legal criticism. The hope is that these vignettes will serve as useful examples in support of the theory discussed.

Understanding the Terrain: What's in a Name and Why it Matters

Articles have titles. Law reviews, as far as I can discern, require titles. It is not as if a law review article can be viewed as a Jackson [*458] Pollock n⁸ painting where all one needs do is view it ... . Or can a law review exist without a title? I argue that law reviews could be title-less, but will make the small concession to the legal academy and endeavor to develop a creative, attention-grabbing, and thought-provoking title. Instead of relegating my title's explanation to footnotes, I will endeavor here to engage in a discussion of this label because it might influence and inform the reader as to my thought processes, biases, convictions, and ideals. "Sake pase?" is a Creole n⁹ phrase meaning "what's new?" I begin with this simple question as an invitation to readers and authors to do something new - to offer something original and informative to the legal community. What is new? What is going on? How can we as scholars, students, teachers, and others do something important and exciting that adds to the body of understanding about the law? How can hip-hop be investigated, critical race theory re-analyzed, and rhetorical criticism and the law blended?

I selected Wyclef Jean as a subject for study because of his varied styles n¹⁰ and dissemination of several important legal messages. Wyclef [*459] received and continues to receive much critical acclaim as a songwriter, n¹¹ producer, n¹² and rapper. n¹³ While he is not beyond criticism, n¹⁴ his music has not been the subject of vitriolic rants by "haters." n¹⁵ That being said, understanding what Wyclef has to say might be easier than understanding what 50 Cent n¹⁶ or
DMX \[^{17}\] have to say. Wyclef is not the only hip-hop artist who provides thought-provoking messages and other scholars should certainly pursue what other artists have to say about the [^35] law. Hip-hop also is not the only music genre that functions as a social movement. \[^{19}\] Reggae, \[^{20}\] rock, \[^{21}\] punk, \[^{22}\] rhythm and blues, \[^{23}\] and emo \[^{24}\] can all be seen as providing an important forum for discussing societal issues and as avenues where clear messages can billow forth from the loud speakers regarding the problems that confront individuals on a daily [^36] basis. Hip-hop, however, provides a passionate voice of resistance. Morell and Duncan-Andrade observe:

The influence of rap as a voice of resistance and liberation for urban youth proliferates through such artists as Lauryn Hill, Pras, Wyclef Jean of the Refugee Camp, Public Enemy, Nas, and Mos Def, who endeavor to bring an accurate yet critical depiction of the urban situation to a Hip-hop generation. \[^{25}\]

"Shotta" is a Haitian term meaning "bad boy." \[^{26}\] Wyclef uses this term often and it illustrates an important aspect of Haitian society - resistance to the law. \[^{27}\] This is not to say that all Haitians resist the law or that they should. I do not intend to imply that Wyclef is a shotta. \[^{28}\] The use of shotta is rhetorically significant because it casts a persona \[^{29}\] in opposition to the law. The ability to develop personas, discussed later, \[^{30}\] is of pivotal importance to the ability of certain hip-hop artists to critique societal systems. The persona allows the actor to become detached from the critical project, allowing new interactions and freer ideas to circulate. From the perspective of this persona and in a dialogue between the law and this persona, something new can be learned.

The title of this piece references Haitian Jack, who is a figure of much debate. \[^{31}\] Haitian Jack, the man, the myth, the legend, is a [^34] debatable figure because no one seems to know if he is a person or a persona. Ultimately, it does not matter if Haitian Jack is a person because it is the attributes ascribed to this persona that matter the most when understanding Wyclef's rhetorical investigation of the law. If Haitian Jack is Wyclef, then understanding how Wyclef deploys this persona to resist the law is integral to understanding Wyclef's personal feelings on this subject matter. If Haitian Jack is an associate of Wyclef, then we have much to learn from the struggle of this individual and the way that individual has encountered the law and how that individual's struggle has informed Wyclef's criticism. The interaction between Wyclef and this caricature is helpful in understanding how irony and hyperbole are used in order to express ideas. Personal narratives are central to an understanding of the individual impact the law has on persons. \[^{32}\] Therefore, through the Haitian Jack story, Wyclef can teach [^35] narrative style criticism and use various rhetorical acts from a detached position in order to convey a tremendous amount of information. Lastly, if Haitian Jack is another rhetorically created persona, we can learn how that persona with no relationship to Wyclef functions and why its function is necessary or appropriate for a better understanding of an individual's legal condition. \[^{33}\]

"A Hip-Hop Creole Fusion" is an appropriate description of the analysis promulgated here. I draw on hip-hop, \[^{34}\] as well as Creole culture, to show how they interact with the law. Hip-hop is certainly an important lens through which to view the law. \[^{35}\] Hip-hop is credited as both a political and cultural force by many scholars. \[^{36}\] Unfortunately, [^37] Haitian and Creole culture are traditionally absent from legal consideration. \[^{37}\] Just as feminist legal studies, \[^{38}\] critical race studies, \[^{39}\] law and sexual preference movements, \[^{40}\] and many more have developed, Creole culture has several important statements to make about the law. Everyone meets the law differently, and in so meeting the law, one thing that cannot be discounted is an individual's ethnic and cultural background which greatly impacts an individual's perceptions about the law individually \[^{41}\] and communally. \[^{42}\]

[^345] "Rhetorical Resistance" is a term used to denote an intellectual pursuit of rebellion through the creation of rhetorical personas and other positions. This article does not advocate actual resistance (protest, boycott, sit-in, etc.), although it certainly does not oppose it. Focusing on the actual physical resistance of rebellion is a topic too large in scope to be included in this article. Rhetoric is the tool by which we create discursive space \[^{43}\] from which to engage in physical action. \[^{44}\] Rhetorical devices are extremely effective in the dissemination of information, \[^{45}\] in the teaching of ideas, \[^{46}\] and in the resistance to oppression. \[^{47}\] One cannot undervalue the significance of words as weapons. \[^{48}\] The performative [^346] content \[^{49}\] of any act is as significant as the act or the message to be conveyed by that act.
Rhetoric is life. This paper will progress with that idea and will investigate the contours of resistance to the law through rhetorical acts.

Police Misconduct: The Case Against Jake

Perhaps we already have such prophets in our midst but we refuse to acknowledge them seriously. They used to say that the words of the prophets are written on the subway walls and tenement halls; now we may find them blaring from boomboxes propped up against these same walls and halls.

The prophets among us are not getting the "props" they deserve. Urban communities, hip-hop music, tenements, favelas, and barrios all have their defenders - their stars. The question then becomes, who is listening? Dissatisfaction and confusion should not limit the utility of the messages posed by alternate forms of protest (hip-hop music, student protests, etc.). The messages may not be found in scrolls and treatises, but they ought not to be thought less of because they do not come in the traditional package.

Wyclef has always presented a critical disposition toward the police, and it is his music that presents a widely listened-to criticism of oppressive police procedures and a larger paradigm of state-sponsored violence. Because his criticism is constant and expansive, I will posit that his criticism is valid and not merely an attempt to sell records. This assumption, roughly that Wyclef means what he says, is important, although not integral to the argument that his rhetorical presentations are important to understanding the law. This is because sincere criticism is likely to reach more people and endure less counter-criticism than one motivated by monetary gain. His criticism extends to police brutality and racial profiling. People cannot overstate the importance of these criticisms. Unfortunately, hip-hop may not get its fair shake as an informative media, but such perceptions should not bar an in-depth look into the way that this art form demonstrates a new understanding of the law.

Police brutality is a serious epidemic in the United States. It may be that police brutality is the single largest and longest lasting systemic human rights abuse in the world.

Wyclef tells us:

I'm driving to Jersey to escape the terror

I was on the highway pushing a black Viper

A car pulls up, is he a jack or a sniper?

(sniper)

A blue Range Rover, he says pull over
I didn't know he was a DT undercover

I screamed out my lungs,

"This is discrimination!"

He tried, he said, "You just robbed a gas station."

"Who me? Not me! It couldn't be

[*469]

I was at the Grammys with Brandy

Didn't you see me on TV?" n59

Haitians are no strangers to the police violence. In 1997, Abner Louima, a Haitian immigrant, was beaten and sodomized by New York City Police Department officers. n60 In response to this criminal act, the police construed it as an isolated incident. n61 This rhetorically denied the need for continued resistance to police brutality because single incidents do not necessitate continual resistance. Martin Luther King, Jr. did not argue against discrimination because one Southern city was forcing Blacks to sit in the back of the bus. n62 Thurgood Marshall did not pursue discrimination in one school as he began his assault on the separate but equal doctrine. n63 The Louima travesty suggests an organized effort to protect the police - a proverbial circling of the wagons. n64 While I will [*470] not argue that Haitians are disproportionately the subject of police brutality, I will suggest that Haitian experience with the police has been filled with strife and that as such, Wyclef's criticism speaks to an important interaction between a group of people, Haitians, and a social institution, the police. To further bolster the claim that Haitians have not had success in dealing with the police, it is important to note that New York City would not provide Haitian-speaking officers with training in community relations to the Haitian areas of the city, ensuring a structural barrier to positive relations between the two groups. n65

Stories of racial profiling abound in the media. n66 The legal academy has also addressed this important societal problem. n67 As great as these [*471] sources may be and as well as some of them may be regarded, circulation of newspapers and journals or viewership of television programs pales in comparison to compact disc sales of many of today's most popular hip-hop artists. n68 This means that hip-hop music is likely to reach more people than even the most popular newspapers, journals, and magazines. Hip-hop then can be used to teach people, in an oftentimes more familiar way, about the law and criticisms of the law. Wyclef ends his above-quoted police (mis)adventure: "A rookie [cop] shoots a boy over mistaken identity ... ." n69 Events like the one Wyclef describes are common. n70 In an interview
with liveDaily, Wyclef discusses his personal reaction to the Amadou Diallo shooting: 

I was in the studio doing some recording and I heard about the case. I was shocked for a minute and I just started writing. I just felt the way the law is set up, there's all kinds of things we are supposed to go by. But when something like Diallo happens, it makes us question the Constitution. Are we the people really protected if they [the police - New York police, in this case] shoot Diallo 41 times, then the courts say not guilty? It shows you that it's set up against us not for us. 

Wyclef lends a poignant and personal inquiry into the nature of police violence and community safety. What do we know and who can we trust? For whom is the Constitution working and for what purposes? 

Young people read and hear these interviews and there is little doubt that such simple and straightforward speech is a catalyst to thought-provoking reflection. 

The tense relationship, which might be described as intense hatred, between police and urban and/or Black communities might not be racial profiling but instead a simple distrust by police for urban populations. In one of The Carnival's many skits, Wyclef and an officer have the following exchange: 

Wyclef: Officer, you don't understand. She called me. I was sleeping. I was minding my business. 

Officer: I don't give a flying fuck about two bits about a piss. You're fuckin' guilty. 

There is a lack of trust between urban populations and the police which leads to increased levels of violence, both from police and from civilians. It may be that police officers feel a hard-line approach ultimately leads to more arrests, but when Wyclef communicates such stories to the streets, the result is a very angry urban population who will often respond violently to police conduct. The relationship is somewhat cyclical, but to break the cycle, perceptions must change. Breaking the establishment's discursive practice of legitimized police brutality is important to both combat the ill and prevent it from recurring. 

Carried to its logical extension, I must argue that any instance of a State-sponsored killing of an innocent individual is wrong. While police shootings are not as directly caused by the State as persons sent to death, they still implicitly endorse the power of the State to kill. Resistance to the death penalty has coalesced in the legal literature. Resistance to police misconduct is also great. I question the influence that these academic discussions have on individuals actually confronted by police misconduct and the death penalty. I posit that hip-hop music has a greater effect on the population because academic discussion reaches a much more limited audience than hip-hop music. 

It is important that the messages about police misconduct reach more than the residents of the ivory towers and the walkers of the hallowed halls. Is not this an issue that affects us all? Hip-hop music is a prime forum for discussions of discrimination and police misconduct because music, especially hip-hop, resonates with the masses. Hip-hop music provides a forum that reaches more people than academic texts and discussions. We must endeavor to bring our scholarship outside, expose it to the light. The free exchange of ideas is critical to an understanding of discrimination and police misconduct and to a participatory model of social criticism. 

Hyperbole and Irony: Violencing Peace!
"I mean, basically, my mission is probably the same mission that Bob Marley was on or John Lennon is on, Marvin Gaye was on, or Curtis Mayfield - I guess another crazy guy that thinks that, through music, we can make a difference - or Bono."

- Wyclef Jean n83

Hip-hop is full of violence from its lyrics to the conduct of some of its community's members. n84 The subject of the songs' lyrics is often violence. n85 Many hip-hop artists are violent. n86 But, there is much more [n477] to the picture and to assume that hip-hop causes violence n87 or that hip-hop is inherently violent would grossly mislabel the hip-hop social movement. Wyclef illuminates the tragedy of street life through thought-provoking lyrics reaching those perhaps most affected by the events he describes in his music. n88 Social criticism through hip-hop presents an important angle of reflection on the legal system. Wyclef is not a part of the violence associated with hip-hop n89 and as such serves as a counter narrative to the dominate social discourse. Wyclef explicitly states the danger of street life when he raps about gun violence plaguing inner [n478] cities. n90 He states:

Sit right back and hear a tale of a hustler "round my way;

He used to clock around the block

From where my grandma stayed;

Black BMW with rims to match, windows bulletproof

One night, he jumped out the car

And caught a bullet in his bubblegoose n91

Wyclef is not ignorant to the apparent signs of wealth displayed by neighborhood hustlers, but his emphasis is not on the "bling" n92 of diamond but on the "bang" of gun violence. All the rims in the world and bulletproof glass cannot protect wayward youth from violence outside of the hustler's tiny world. There is certainly a sense that urban environments are in a downward spiral. n93 Hip-hop's messages are stronger than any messages taught in criminal justice courses or described on CNN because they reach a broader audience and are processed more readily than the legal-jargon-filled statutory texts and [n479] "in-depth" news commentary. n94 Music is the media of the masses. Laws and legal culture are becoming increasingly popularized, but there is lack of analysis on the ways in which music interrogates legal arrangements. n95

The rhetorical presentation of what might be termed "hyperviolence" n96 is particularly persuasive because
Combining the two is a productive pairing. Morrell and Duncan-Andrade conclude:

"Music is something to which people can relate, as is irony. Particularly irony and hyperbole, thought-provoking and attention-grabbing. It is the interest generated by comedy and satire that makes many rhetorical devices, especially wordplay and uses markers, effective and realized through irony. It is more than a subject of study for rhetoricians and belongs in the tool bag of all protestors, students, teachers, and pundits. Ironic presentations or those that use hyperbole are easily understandable and powerful (in terms of either maintenance or subversion) than any other form of discourse."

Hip-hop often glorifies violence. At first blush, glorifying violence may seem like the least helpful remedy to an increasingly violent culture. But it is this sort of irony and hyperbole that actually make hip-hop a particularly effective tool for criticizing violence. There is something about wordplay and the juxtaposition of multiple viewpoints and positions which makes irony appealing. Perhaps it is some latent, humorous understanding that is common to people. Maybe wordplay's complexity keeps individuals interested. The question that naturally arises from the hip-hop ironist: How do we know we have irony? Irony is the transmission of information and attitudes other than those which are readily apparent, tangibly expressed, or explicitly uttered. The markers that denote irony are often other rhetorical acts (humor, hyperbole, etc.). Hip-hop artists rap about selling drugs or having "ho's," but what we ought not forget is that many of these artists have long-lasting, monogamous relationships, including marriages, and several have sworn off drugs and alcohol. Several artists have been admitted to institutions of higher education including: Yale University, Rutgers University, Howard University, University of Florida, Louisiana State University, Western Kentucky University, Southern University, and Southeast Missouri State University. At a very basic level, irony abounds when individuals with immense talent, sound upbringing, and strong values present personas that are quite different from their background. This persona of a drug-dealing thug is the irony of many hip-hop artists who are far from the law-breaking miscreants they portray. Of course, not all hip-hop artists demonstrate these characteristics, but even if their lives have not led them in that direction, many rap artists are businesspersons, sound investors, and philanthropists. There is a danger in assuming that all hip-hop community members share common characteristics and that assumption will not move theory far. Irony abounds as the prevalent discursive practice in hip-hop.

Why then is irony a particularly political or persuasive practice and what can it contribute to an understanding of the law? Irony may not be the first theory pulled from the critic's toolbox, but perhaps it should be. Linda Hutcheon writes: "Since irony involves social interaction, there is no reason for it to be less implicated in questions of hierarchy and power (in terms of either maintenance or subversion) than any other form of discourse."

Irony is at least as persuasive, as supportive or questioning, as other forms of discourse. It functions by wordplay and uses markers and in that respect is much like hyperbole, which is also often noted by markers. Irony is easily accessible even if the theories behind irony are not. Transgressive politics can be effectuated and realized through irony. It is more than a subject of study for rhetoricians and belongs in the tool bag of all protestors, students, teachers, and pundits. Ironic presentations or those that use hyperbole are easily understandable because of the familiarity society has with these types of play-acting. The assumption of identities, such as the humorist, the ironist, the comedian, and the debunker, allows people to play with their ideas and actions in order to present them in enticing and original ways. It is the interest generated by comedy and satire that makes many rhetorical devices, particularly irony and hyperbole, thought-provoking and attention-grabbing.

The hip-hop ironist is particularly effective because hip-hop provides such an open and interesting forum for the discussion of irony and other rhetorical techniques. Music is something to which people can relate, as is irony. Combining the two is a productive pairing. Morrell and Duncan-Andrade conclude:
Hip-hop texts are rich in imagery and metaphor and can be used to teach irony, tone, diction, and point of view. Also, Hip-hop texts can be analyzed for theme, motif, plot, and character development. It is possible to perform feminist, Marxist, structuralist, psychoanalytic, or postmodernist critiques of particular Hip-hop texts, the genre as a whole, or subgenres such as "gangsta" rap. Because hip-hop provides so many points of analysis, methods of analysis, and intersections with other disciplines, as well as various subgenres to exponentially increase the terrain available for inquiry, hip-hop is an appropriate and exciting area of reflection and rhetorical criticism. Hip-hop is a political force in its own right and Wyclef is cognizant of hip-hop's ability to make political statements. The combination of hip-hop and irony, both appropriate for discussions of law and politics by their very nature, will provide an even more enriching blend of analysis.

Crossing over the bridge of appropriateness, the traveler then must ask: "What can irony and hyperbole do to the law or to politics?" How can they help us?

Rapping the Gavel: Hip-hop Procedure 101

Wyclef Jean conducted a mock trial, a moot court of sorts, on his first solo CD, The Carnival. This sort of play acting parallels the moot court organizations and mock trials prevalent in law schools. This representation of legal action is important because for many individuals it may form the basis for an admittedly rudimentary understanding of the legal system. Wyclef's enactment of a trial also parallels media representations of the law. To be sure, some hip-hop personalities are familiar with courtroom procedures, but many of the individuals purchasing hip-hop CDs may in fact have very little experience with the legal system. The influence of television and print media on the development of individuals' perceptions of social institutions is well documented. Hip-hop's influence on the formation of perceptions about social institutions cannot be forgotten, and the creation of a piece focused on the specific representations of one musician is geared toward solidifying the premise that music is in fact an integral part of humyn expression and understanding.

Hip-hop uses the airways to make statements. These statements are received by the listener and help the listener form opinions about issues. When rappers discuss courtroom procedure, listeners are asked to question and understand what happens in court. While it is doubtful that people listen to courtroom rap and immediately procure the nearest criminal procedure text, it is likely that rap music is considered the next time the listener comes into contact with a courtroom proceeding. This has positive and negative consequences. It is certainly better to know something than nothing, even if that something is inaccurate. The logical question is: How do depictions of courtroom drama bias listeners, if at all? Then one must ask: Is that bias justified and what purpose does it serve?

The Double-Edged Sword: Drugs, Hip-hop, and Transcendence

Wyclef portrays the evil effects of drugs on the urban community as well as the power of drug use as a resistance to fixed standards of appropriateness. The message, however, is clear: "Damn, drugs will make you do terrible things." Wyclef gives a heartfelt dedication on The Carnival to those consumed by the drug trade. The lure of drugs is strong: "When I come back, there'll be no need to clock; I'll have enough money to buy out the block." Engaging in illegal activities does provide a source of wealth for a historically economically disenfranchised population. In the pop version of Gone "Till November Wyclef adds a dire message:

Ever contemplating the charges I'm facing
My newborn son, I hope to see his graduation

Take him to the movies, by the cemetery

If my corpse could talk then I would tell him, "I was sorry"

There is a whole generation of youth being robbed of their fathers. If the violence of the streets is not the culprit then the crack/cocaine disparity and seemingly disproportionate marijuana penalties are. By this I mean that the relative level of offense of a marijuana crime is such that it does not warrant the severity of the punishment. I also suggest that the crack/cocaine disparity is unconstitutional on equal protection grounds. However, proving that point is not integral to grasping the statistical evidence that strongly shows the prison system is denying Black men their liberty at an alarmingly disproportional rate. This, in turn, guarantees an unstable family life for many individuals and those struggles are reported in hip-hop.

There is a romanticism associated with the drug dealer that is somewhat based in fact and offers a salient example of the monetary advancements young people can make from an illicit enterprise. Individuals can make large amounts of money through drug dealing. Even the corner pusher can amass quite a fortune. To think that drug dealing offers no reward (however fleeting that reward may be) is simply not true. There is something to be said for the pull that drug dealing has on young urban youth: despite the pitfalls and risks, drug dealing often provides immediate status rewards. Many assume that rappers promote this image - the image of the bragadocious, rich, and popular drug dealer. That assumption is misguided as a deeper look into the lyrical content will likely show, at the very least, a narrative description that does not in fact glorify anything - the simple telling of a story. Oftentimes the hip-hop performer engages in a poignant criticism of this type of drug culture and drug dealing. When the critic considers Wyclef's lyrics, the critic should perceive a strong critical process used to debunk the glorified drug scene. Understanding how this criticism functions and what impact it may have on the hip-hop listener will help people understand how the legal ramifications of drug culture are viewed.

The hyperbole utilized in hip-hop, often portraying all rappers as huge drug kingpins, is part of an involved criticism. Surely not every drug dealer makes millions, evades the police, and lives happy and carefree. People realize this when they listen to these hyperbolized messages. It is easily recognizable and denoted by rhetorical markers like variations in the music's beat, changes in vocal inflection, etc. These differences in harmony, while oftentimes subtle, are easily recognized by the avid listener. Much more is coming through to criticize this (anti)legal behavior, drug culture, than the passive listener or uninformed hip-hop critic might think.

There seems to be an idea that pervades much social commentary that centers on a supposed disregard of one's own well-being. This idea is one part hopelessness and one part lovelessness. Without hope for a better future and a love for self, thoughts of death are bound to be encountered. But Wyclef reminds us that "every man want heaven, no man want die." While urban populations may engage in behavior deemed dangerous by the majority, this behavior is not so much a disregard for life and limb but a message that, despite the circumstances that plague urban life, there is a desire to maintain - to survive.

Hip-hop does not necessarily glorify drug culture, but instead actually critiques it in several instances. A deeper analysis illuminates a critical message lurking just beneath the surface. I argue that listeners actually perceive this message and act accordingly. Many of hip-hop's more youthful listeners may not be picking up the message as well as their older compatriots. This does not mean that these youngsters, as they progress through life and experience more of what hip-hop has to offer, are not intimately affected by hip-hop's lessons. Since hip-hop's emergence as a popular form of music, more people are making smarter decisions because they understand the negative
health and legal ramifications of drug culture depicted in hip-hop music. There is a resounding message of hope in Wyclef's music, accompanied by a clear message that he does in fact know he has a responsibility as a role model and cultural commentator. This hope offers an uplifting message of perseverance, thoughtfulness, and success.

Haitian-Creole Legal Theory: From Port-au-Prince to New York City

"You have to physically put yourself in the front line for your country; or you are worth absolutely nothing.' ... "To get respect you got to start giving back to your community and you have to start speaking out.'"

- Wyclef Jean

We must understand how racial groups are fractured and divided and how current theoretical models may serve to deny their voices. In somewhat of an aside, Wyclef is also a legitimate source of criticism because he gives a voice to the voiceless. He provides a legal criticism imbued with Haitian-Creole understanding, enlightening critical race theory that often focuses on Black or African-American experience as the experience of a monolithic group. Understanding Wyclef's legal commentary can only be achieved through an appreciation of those things that have influenced his life, which above all, is his Haitian ancestry.

Haiti and Haitian immigrants are a particularly interesting focus of legal understanding for several reasons. First, Haiti is home to unparalleled violence and political strife, which finds no equal in the Caribbean, and can therefore be important in understanding how and why political repression occurs and what beliefs and experiences Haitians may bring to this country's legal system upon arrival. Second, Haitian legal studies can be a valuable subset of the larger body of critical race studies and add a healthy and refined perspective to understand how laws affect specific minority groups. One of the flaws in critical race studies is that it often assumes that all minority groups (racial and ethnic) meet the law with the same history and under a similar general understanding of oppression or persecution. Wyclef's focus on history makes his lyrics all the more poignant because they give youth a sense of historical and cultural significance with which they can build a better understanding of their position in the world.

My criticism of critical race theory is very limited as I find it to be one of the most useful tools in appreciating the differences and complexities of multiculturalism. It is an integral tool in investigating the law and other social institutions because it brings other people's voices into an arena where they have traditionally been silenced. I fear, however, that there are often not enough specific inquiries into how individual racial and ethnic groups are affected by the law. Haitian experience is different from Cuban experience which is different from Dominican experience. Likewise, Italians come to the law differently than the Irish and differently from the English. Differences in experience cross racial and ethnic lines. Not all persons often described as "European" or "White" have had the same experience, and it is therefore helpful to break down those larger categories into more representative sociological/anthropological units. An effective critical race theory focuses on each individual group inside the larger category of race and also those groups that critical race theory may believe are in opposition to the theory. The tendency to group continentally similar groups (Asians, Africans, Balkans, etc.) is symptomatic of a larger essentialism, which is detrimental to the formation of a healthy individualism needed to restore self-confidence in the individual as well as a sense of personal individual political efficacy.

Between 1957 and 1984, 300,000 Haitian refugees came to the United States. Most of these Haitians settled in New York City, although many found homes in other large U.S. cities. Wyclef Jean's family settled in New Jersey, only a few minutes from the hustle and bustle of New York. The road was rough from the start. Haitian immigrants did not receive the federal or state assistance that their Cuban counterparts received.

The United States has never viewed Haitians as contributing much to society and perceptions have not changed greatly. The barrier to a full appreciation of the Haitian condition may be linguistic, historical, and/or cultural. The motion picture How Stella Got Her Groove Back, based on the Terry McMillan novel of the same name, unfairly summarized the contributions of Haitians where Haitians were the butt of an AIDS joke.
Wyclef Jean is featured on the movie's soundtrack and stated at the MTV Music Awards: "I was saddened and offended to see my country used as a brunt of an AIDS joke in the movie. AIDS is a crisis and not ... a comedy." This situation is indicative of the disparaging life of poor urban and minority communities. These perceptions must be challenged in order to pursue the humynity lost by a history of neglect and mistreatment. Allowing more avenues for Haitian-focused and Haitian-led research in the legal academy is a step in that progressive direction.

Haitian-Creole understanding is not simply about recognizing how Haitians have been treated. It is also about understanding how individuals, generally, form conceptions of themselves and others and how those conceptions, along with interaction between individuals and legal systems, affect and are designed to effect certain groups. We must look at the formation of legal institutions and rules and not simply at their effect. An illustration of legal ineptitude toward Haitian-Creoles is the startlingly few Haitian-Creole interpreters that pass the language test provided in court systems. This may be because there are few Haitian immigrants or more likely that tests are written by non-Haitian speakers who do not understand colloquialisms and other more common uses of Haitian language. I posit that this is likely an effect of poorly designed tests and a lack of recruiting efforts. An effects-first stance, looking at Haitians after they have been taken to court or failed to have their rights vindicated, will assure nothing more than a bandage on a festering sore. The consequence of ineffective or too few interpreters is that Creole speakers have trouble understanding the legal system and pursuing the protection of their rights.

Wyclef Jean does not speak for all Haitians or all Haitian immigrants. His position as "of Haitian descent" allows him the ability to speak with facially credible ethos on the plight of his ancestors and contemporaries. Wyclef's ancestry and position as a celebrity allows him to bring to light issues that may otherwise fall by the wayside. To be sure, other persons of Haitian ancestry could be the focus of inquiry, but Wyclef presents the most readily accessible and easily identifiable source of commentary because Haitians have few voices of hope to which to listen.

Shottas, Haitian Jack, and Performative (Anti)legal identity

To be sure, many of the children and young adults of the inner city, standing waist deep in the toxin of this nation's hypocritical rhetoric, have bitten off their tongues and used bullets instead to declare their rage. Some rappers, however, have turned the Queen's English on its ear and, disdaining euphemisms, circumlocutions and sundry other verbal evasions, have bluntly described their reality and warned of the consequences of continuing to deny their humynity. Albeit "bad negroes" by the lights of a politics of respectability, their warnings have proven to be prophetic. We ignore them and their message at our peril.

This article will now discuss how personas are created and why (anti)legal identities are useful. The discussion will begin with the most common types of legal identities and progress into the use of (anti)legal identities in hip-hop. Furthermore, attention will be given to the effect these identities have on the philosophical terrain of rhetorical identity. Smooth and striated space will be discussed and the way in which (anti)legal identities play with concepts of space analyzed.

Much of hip-hop music is positioned as a(n) (anti)legal identity. More generally, hip-hop is becoming an increasingly popular lens through which to view legal arrangements. This article will add a rhetorical criticism to the already large body of hip-hop-and-the-law literature. From the signing of the record deal to the music's subject matter, the trials and tribulations of the artists, to the endorsement deals and media relations, hip-hop has become integrally intertwined with legal news, courtroom drama, and legal criticism.

Everyday legal transactions create legal identities regularly. Examples of such identities include the "reasonable person," the municipality as a person for purposes of 1983 litigation, and the constructive trust. People take on personas and the law creates personas all in order to streamline the judicial process. This streamlining is problematic, however, because it forces people into a rigid schematic interpretation of the law.
(Anti)legal identities provide a break in the striations of understanding of the law and ultimately allow a deeper understanding of the previously undisrupted space by exposing imperfections in a legal system worthy of critical inquiry. The (anti)legal identity is the bright light that refracts off the facets, however small and smoothed, of the discursive space, casting a wide critical rainbow of magnified splendid imperfections.

French continental philosopher Gilles Deleuze and militant anti-psychiatrist Felix Guattari ("D&G") note that striated space is the means by which oppression is allowed to occur and reproduce itself. D&G further suggest that this striated stand in opposition to smooth space. They engage in a rhetorical criticism (their criticism is actually much more nuanced, expansive, and complex), which posits that in order to break the striated space of dominant discourse, individuals must engage in a nomadic existence on the full expanse of the multitude of smooth spaces. This nomadism is a conduct that breaks free from the striated space, and by virtue of its rejection of the striated pattern of dominant discourse, leaves an inherently unstable ground in its wake. The nomadism advocated by D&G parallels hip-hop music. Hip-hop provides that active, loud voice to break the striations of the courthouse windows, halls, legal briefs, and the like. It is through the freestyle battles, b-boy contests, scratch competitions, and competitive tagging that hip-hop breaks the ideal of the law-abiding citizen, a striated ideal designed to organize and delineate persons. Wyklef Jean adds to the hip-hop critical perspective, a perspective infused with the cultural understanding of a disenfranchised community.

I believe people understand the ideal of the law-abiding citizen as a generally-accepted societal construct and that this construct is an enabler of striated space. When individuals begin to rely on this identity as the main way in which we understand our relationship to the law, we are establishing ourselves in a position of servitude to our legal institutions.

Our servitude stems from our inability to act out against our apathy toward challenging what we know. The process by which this occurs stems from the strengthening dependence on the law-abiding individual, which blocks an appreciation for (anti)legal action by closing off the space in which that (anti)legal identity can be formed. Because I am not convinced that all laws are just or even legal, I will assume that an (anti)legal identity could just as easily be a legal identity depending, of course, upon the interpretation of the observer. The law-abiding individual discourse closes off forms of expression which may challenge the way in which people come to understand the law. While the process by which the law-abiding citizen is accepted is largely psychological, there are ways to challenge the construct internally and act externally in a complex, transgressive manner.

But this focuses on the effect of the assumption of legal identity. I think, first, we must come to an appreciation for the formation of such (anti)legal identities. In forming an identity, the assemblage of multiple characteristics, desires, wants, and needs are configured to present a public face. What is a plaintiff? Is a plaintiff a wronged individual or group, a money-hungry opportunist, a defendant in the last case, a mother, a son, a political statement? Do plaintiffs win cases, lose them, bring change to an area of law, vindicate rights, clog dockets, prove points? What is a judge? Is a judge a decision-maker, a facilitator, a therapist, a scholar, an anachronism? Do judges judge, mediate, critique, inform, educate, condemn, proselytize? How one views an individual in a legal setting affects their understanding of that legal identity. The factors that one considers in developing a perception about an individual's legal identity are not universal as every observer of the legal system is likely to bring many unique perspectives to the law.

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of law and has shaped the direction of development of legal practice. n226

[*507] Pierre Schlag offers a normativity critique of Cohen's answer and posits that a corporation is actually an assemblage of many things including persons, places, procedures, practices, and personifications. n227 I call Schlag's analysis into question because it fails to address the simple fact that one cannot touch a corporation. I posit that Cohen was more on target than not. There may be an office, a manufacturing plant, or a promotional giveaway, but these things are not a corporation. The corporate charter, bylaws, or annual report are not a corporation. They may be "of the corporation" or "by the corporation," but are themselves not a corporation. It is precisely this assemblage that makes it nothing. Carried to its logical extension, the answer I position, in contrast to Schlag's asserted theory, is that there is nothing that is not an assemblage and quite possibly nothing at all, but that discussion is worthy of a larger focus at some other time. This is not nihilism spiraling downward on a debunking double black diamond slope. Rather, it is a positive negativity, much like Nietzsche's philosophy. n228 It is an affirmative denial of the existence of certain things - an interrogation into the existence of social reality. n229 There are corporations because people say they exist. However, this creates neither a tangible object nor an actor which would exist without the agreed-upon notion that the entity did in fact exist. Thus, the discussion of legal identities is a complex and timely issue because it crosses over the boundaries of various areas of the law and is applicable in all legal situations.

What can be said about corporations can be said about legal identities assumed by persons. Namely, legal fictions are helpful to the law, both to facilitate its effectiveness and to critique its short fallings. Perhaps conceptualizing legal identities as labels will help illustrate the point. A plaintiff can also be a man, a mother, a soldier, an activist, or any other label. n230 There is nothing which designates a person any specific thing other than an agreed-upon notion that the label is correct (a person can self-label as well). n231 Labels are proven incorrect when people assume identities opposite to the identity previously assumed. Although it seems that most identities change along a continuum and are more in flux than they are static, for the moment I will assume that most people assume that one is either/or. When an individual chooses a gender they had previously not expressed or embraced, or when someone undergoes reassignment surgery, perceptions of gender identities can and do change. Discussions of gender and sexual identity are inherently complex, of course. n232 Plaintiffs are also prone to be defendants through cross-complaints and other procedures. Plaintiffs may also be witnesses and perhaps even lawyers. Legal identities change just as identities, generally, change. n234

Hip-hop, like other art forms, allows the actor to assume an identity. n235 That identity is played out through certain acts of the actor. n236 These acts establish an actor which may be different from the individual, as viewed by the individual, as seen by others, or as that individual wishes to be seen. n237 That is to say, the individual becomes an agent of the traits being acted out - the identity is transformative. n238 By loosely utilizing Kenneth Burke's dramatism, we are able to understand the reasons why people do what they do. n239

Why then do many hip-hop artists pursue (anti)legal identities? n240 [*509] The assumption of (anti)legal identities is largely done in order to preserve a fundamental humynity most people hold sacred. While it may seem perverse to cherish, desire, or reinforce a(n) (anti)legal position in order to preserve a fundamental humynity, it is precisely the juxtaposition of unlawfulness on the quest for humynity fulfilled that testifies to the seriousness of the problem. n241 When one must resort to (anti)legal behavior to pursue the legally cognizable rights of equality and freedom, the futility of the system has been realized. In that preservationist effort, the individual must decide why, and if, the legal system is a medium of humynity and what one can do given the existence of a legal system.

The (anti)legal identity might be viewed by the hip-hop artist as an attention-grabbing act - a technique that is spectacular and unusual. Are not many attracted to the violence, the sorrow, the disgust, and perhaps the incompetence of these characters? n242 Violent television seems to hold a large number of viewers captive. n243 Listeners are likely attracted to hip-hop because of the bragadocio, the violence, and the excessive and inappropriate cursing, as a safe way to receive such images. Ultimately, hip-hop attracts listeners because these listeners are drawn by the caged soul of the performer embossed on vinyl. So, in one sense, the (anti)legal identity is a safe character play that people can watch with little consequence to their well-being.
The assumption of (anti)legal identities is also successful because the play-acting, hyperbole, and irony in which hip-hoppers engage are grounded in reality. Tricia Rose describes the "symbolic and ideological warfare with institutions and groups that symbolically, ideologically, and materially oppress African Americans." The assumption of (anti)legal identities is part of the symbolic and ideological war against unresponsive legal systems. Evidence of (anti)legal identities' effectiveness is found in the criticism that they garner. To be sure, hip-hop might alienate many listeners that cannot relate to the material discussed. However, hip-hop is not the only media bringing these images and ideas to the world, and, is thus less likely to be alienating. This criticism, while representative of an incomplete critical process, is still instructive to the onlooker wishing to glean something from the myriad voices of the hip-hop community. These critics have found the problem, are disgusted by it and its presentation, but fail to act on it. However, it is better to have taken the first step, even though that first step has lead critics to urge severe restrictions on hip-hop music, then to have never turned on the radio.

[*511] For illustrative purposes, Haitian Jack will be analyzed in depth. Assuming that Haitian Jack is a real person, an associate of Wyclef Jean, then Haitian Jack provides a person that contributes to the narrative project of rebellion. Stories can be told about how these two men interact and how their interactions resist the law. Wyclef's criticism becomes valuable by virtue of its personal narrative value. In this narrative, Wyclef may choose to use hyperbole and irony as a way to illuminate his critical disposition. Hyperbole rests on the notion that something has happened and the rhetorician is sensationalizing that experience for the purpose of drawing more attention to it. Hyperbole is not about denying that a wrong took place, and sensationalizing the wrong is not an endorsement of that wrong. To the contrary, it is a way to bring focus to the issue and engage in a more critical investigation of the ill. If a rapper raps about having many "hos," ladies, girlfriends, or whatever, and uses hyperbole, then the rhetorical act teaches several points. The listener knows that the rapper has had relationships. The rapper engaging in hyperbole may be drawing attention to those relationships or his or her long-term relationship or even marriage. The rapper may be critiquing the absurdity of having several simultaneous relationships or the audacious objectification of feminine gender actors that occurs across the societal spectrum. Hyperbole is a sort of confessional device by which the rapper can lay claim to the rapper's wrongs. Irony as well casts a bright light on important societal concerns, performing a similar function. Hyperbole functions as an accountability measure that allows the rapper to own the rapper's actions as well as the expression of opinions about those actions through the hyperbolistic lyrics.

If Haitian Jack is Wyclef, then Wyclef is allowed to observe his actions or create actions as a disinterested observer. The creation of the persona allows one to assume a position both inside and outside the criticism, allowing for interaction between the two positions in the pursuit of a deeper critical understanding of the nature of the issue at hand. The persona-person model of legal criticism does not necessarily involve hyperbole or irony, but may allow the person to force the persona to engage in these rhetorical techniques. Much like how using hypothetical situations makes it easier for patients in psychological therapy to discuss their problems, the creation of a persona makes it easier for rappers to investigate their situations.

If Haitian Jack is not a real person at all, but a created rhetorical device designed to invigorate critical discussion, then hyperbole may still be at play. For that matter, any of the aforementioned situations allow for the use of irony and hyperbole. Haitian Jack becomes an ironic hero. Irony can run through Haitian Jack's story just as it would any ironist's tale. The advantage of the persona of an ironic hero is it allows the critic to distance one's self from the material of criticism guarding against the potential intermingling of the critic's beliefs and the critic's project.

Wyclef gives the listener clues that he is in fact engaging in some sort of play-acting. Wyclef raps: "So storyteller, what's the moral of this story? Live reality and don't get caught up in your fantasy." Wyclef demonstrates that what urban youth are rapping and thinking about are different from what is actually going on. His recognition of rap as a story and his recognition that people tend to tell stories about themselves is instructive because it clues the listener in to the multiple stories at work at any one time.

The assumption of the (anti)legal identity is necessary and proper for criticism of the law because it engages other critical paradigms (music, rhetorical theory, etc.). It represents a break from the normal flow of information and also
offers a break in more traditional styles of criticism. This specific form of play-acting also allows the critic to step away from the criticism and argue from a rhetorical space free from the confines of the critical project. In this sense, the assumption of a(n) (anti)legal identity is a bias-reducing agent for the critic, adding legitimacy to the project. The (anti)legal identity is a valuable tool for criticism, both procedurally and substantively.

Outro

What we need is a legal understanding infused with voices of the [*513] multitude. We need a sociopolitical understanding responsive to the underrepresented facets of society. Popular culture can, and does, provide an important lens through which to view legal arrangements and societal patterns and conditions. Wyclef Jean is on the forefront of such a critical perspective and understanding the rhetorical tools he uses to comment on the legal system contributes to a greater understanding of how Haitians and hip-hop fans understand the law. It is time to turn up your headphones because, "this music should be played as loud as possible, preferably in residential areas," where it can invigorate and intrigue those in the legal academy and those in positions to increase the knowledge about hip-hop's many intersections with identity politics and legal understanding, as well as the resulting contribution to social thought.

Legal Topics:

For related research and practice materials, see the following legal topics:
GovernmentsLocal GovernmentsPolice Power

FOOTNOTES:

n1. The concept of conversation is important to understanding the way in which both the individual and the institution engage in an ever-changing discourse. The back and forth, give and take, of conversation opens up a new playing field for people to discuss issues and be part of a larger discursive practice. Conversation allows the venting of hostilities and the expressing of hope. It covers the full spectrum of emotions and ideas. Wyclef says, "So many things can be prevented with a conversation. If there is no one for an individual to turn the burden on, they turn crazy. Sometimes a cat will come up and want to rob me. In 30 seconds of conversation, he won't anymore." Rebecca Louie, Count Wyclef Jean Among New York's Hip-Hop Peacekeeping Force, Daily News (N.Y.), Nov. 6, 2003, at 40. Wyclef illustrates the virtue of discussion in straightforward prose, when he describes how simply opening up a dialogue can turn a violent situation into a meaningful interaction.


n3. "Identity politics" is a phrase I will use loosely to define the set practices, procedures, and ideas that help individuals assert their characteristics (race, sexual orientation, ethnicity, sex, gender, religion, etc.). The process is political because how one develops one's self is important in determining how one acts, makes decisions, and develops interpersonal relationships, all of which constitute some of the underlying concepts of politics.

n4. "Rhetorical criticism" is another term I will use loosely to define the set of acts aimed at criticizing artifacts (things, actions, etc.) by
using an in-depth analysis of the words used and the way words are enacted and chosen to convey ideas. Rhetorical criticism combines literary criticism, sociology, cultural studies, and politics.

n5. Jeanita W. Richardson & Kim A. Scott, Rap Music and Its Violent Progeny: America's Culture of Violence in Context, 71 J. Negro Educ. 175, 176 (2002) ("Hip-hop is a broad term referring to a cultural movement among African American youth that has influenced styles of clothing, music and other forms of entertainment.").

n6. Kimberle Crenshaw describes gender and Black identity intersectionality:

These problems of exclusion cannot be solved simply by including Black [feminine gender] within an already established analytical structure. Because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which those who act out or embrace Black feminine gender are subordinated.

Kimberle Crenshaw, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, in The Black Feminist Reader 209 (Joy James & T. Denean Sharpley-Whiting eds., 2000). This description of intersectionality, while developed in the context of Black feminism, describes how problems are often multifaceted and require various modes of criticism in order to understand the many sub-issues at play in the larger discussion of justice, equality, rights, etc.

n7. A freestyle contest/session/battle involves rappers (emcees) performing on the spot, usually while a disc jockey plays beats or scratches records in the background to provide a beat for the verses. Freestyle sessions are often conducted in the form of battles in which emcees rhetorically attack each other by trading verses. Freestyling tends to have no rules, other than a time limit on the length of verses.

n8. Jackson Pollock (1912-1956) was a leader of the Abstract Expressionist movement. Pollock numbered his paintings so as to leave the viewer uninhibited by the constraints of a title. See generally Steven Naifeh & Gregory White Smith, Jackson Pollock: An American Saga 7, 766 (1998); Helen A. Harrison, Such Desperate Joy: Imagining Jackson Pollock 128 (2000).


n10. Wyclef's varied musical styles span from rap to reggae, to rhythm and blues, and even some rock with a few covers and samplings of classic rock groups (Queen and Pink Floyd are particularly interesting examples). Wyclef presents a variety of messages. He speaks of the importance of ethnic identity and personal history. Rod S. Hagwood, Expecting to be Stylish, Sun-Sentinel, Aug. 11, 2005, at 6E
"Everyone in the United States is a refugee to some degree,' Jean said in a company statement. "No one's culture originated here. In the past either our parents or ancestors left their homelands to come here for various reasons. People die because they are refugees. People need to remember that.' Wyclef's music is eclectic, influenced by many genres, and ultimately producing a new expansive musical form. Live From ... : Interview by Miles O'Brien with Wyclef Jean (CNN television broadcast Nov. 12, 2003) ("Basically, my style of music is very eclectic. And I grew up listening to rock, rap, country, every form of music. So people been trying to describe my music for years. So let's give it a title. Let's just call it Clef music, you know?"). Wyclef continued his tradition of Clef music with the release of Carnival Vol. II: Memoirs of an Immigrant in 2007. Geoffrey Himes notes, "Because his blend of reggae and hip-hop rhythms is so distinctive and because his knack for singalong choruses is so uncanny, he can invite almost anyone without being overshadowed by the company." Geoffrey Himes, Wyclef Jean: "Carnival Vol. II: Memoirs of an Immigrant," Wash. Post, Jan. 11, 2008, at T8.

n11. Caroline Sullivan, I Preach to the Street: Why Did Wyclef Jean Help Tom Jones do Hip-hop, Why Has He Got 62 Guns, and Whats He Doing with 20,000 Songs on a Dictaphone Caroline Sullivan Gets the Answers, Guardian (Manchester), Nov. 28, 2003, at 7 (describing Wyclef's success as a rapper and a producer); Jay N. Miller, Jones Still Shakes It with the Best of 'Em, Patriot Ledger (Quincy), July 12, 2005, at 19 (discussing Wyclef's work as a producer and songwriter with Tom Jones).

n12. See Miller, supra note 11.

n13. The Carnival, Wyclef's first solo CD, received the nomination for a 1998 Grammy Award for Best Rap Album. Guantanamera, which featured Celia Cruz and Jeni Fujita, received the nomination for a 1998 Grammy Award for Best Rap Performance By A Duo Or Group. Gone Till November, also from The Carnival, was nominated for a 1999 Grammy for Best Rap Solo Performance. 911, a performance with Mary J. Blige on The Ecleftic, was nominated for a 2001 Grammy for R&B Vocal Performance by a Duo or Group. He won two Grammy awards for his work as a member of The Fugees in 1996 and one for his work on Carlos Santana's Supernatural. See Grammys.com, http://www.grammys.com (last visited Oct. 16, 2009).


n16. See 50 Cent, The Massacre (G-Unit Records 2005). Wyclef suggests that he is not a gangsta rapper and argues that his music should not be associated with violence. Wyclef reminds a crowd in Chicago that, "we ain't 50 Cent... We just came to have fun." David Jakubiak, Jean Hosts Consciously Bourgeois Party, Chi. Sun-Times, July 13, 2005, at 63 (discussing a concert done at Ravinia in Chicago).


n18. Artists like dead prez, Common, KRS One, Mos Def, and Talib Kweli stand out most. See Common, Like Water For Chocolate (MCA 2000); Talib Kweli, Quality (Rawkus 2002); Common, Be (Geffen Records 2005); Talib Kweli, The Beautiful Struggle (Rawkus 2004); Mos Def, The New Danger (Geffen Records 2004); Mos Def, Black on Both Sides (Rawkus 2002); KRS One, I Got Next (Jive 1997); KRS One, Kristyles (Koch 2003); Dead Prez, RBG: Revolutionary But Gangsta (Sony 2004); Dead Prez, Lets Get Free (Relativity 2000).


n23. Artists like Marvin Gaye, Stevie Wonder, and Aaron Neville have all spoken on the plight of Black America and the ills of poverty and racism. See generally Brian Ward, Just My Soul Responding: Rhythm and Blues, Black Consciousness and Race Relations (1998); Mark Anthony Neal, Songs in the Key of Black Life: A Rhythm and Blues Nation (2003); Stuart L. Goosman, Group Harmony: The Black Urban Roots of Rhythm & Blues (2005).
n24. Bands like Dashboard Confessional, Jimmy Eat World, Coheed and Cambria, Something Corporate, and The Get Up Kids are pillars of the emo movement and have garnered much fan support. Emo is a sub-genre of punk, supra note 22, and classification of bands as emo, punk, or pop is difficult as bands gain and lose popularity, and re-invent themselves. See Tammy La Gorce, Finding Emo, N.Y. Times: N.J. Wkly. Desk, Aug. 14, 2005, at 1 (describing emo's popularity and evolution from a New Jersey perspective); Nate Cavalieri, Blame It on Braid: A Reunion Tour Provides a Rare Peek at Where This Emo Thing Started, Houston Press, July 22, 2004, http://www.houstonpress.com/2004-07-22/music/blame-it-on-braid/ (providing one band's perception on the trajectory of emo).


n27. When purchasing Wyclef's CD, The Preacher's Son, I was pleased to find a DVD of studio recording sessions. Wyclef Jean, The Preacher's Son (J-Records 2003). I placed the DVD into my player and sat back on the couch ready to be amazed. The songs were familiar. I had just listened to them on the CD, but there was something different: a song called "Shottas." Wyclef, with his cousin and bassist Jerry "Wonder" Duplessis, was discussing what it means to be a shotta, notions of violence and gangsterism, all with a distinctly Haitian perspective. I found the song to be as much a documentary as a hip-hop track and was moved by the tremendously heartfelt narrative of a man reflecting on his culture.


n29. By persona, I mean a face or a mask that a person wears. I do not intend to use the term in any strict psychological sense. A persona is an assumed identity.

n30. See infra notes 193-252 and accompanying text.

n31. While Tupac makes reference to Haitian Jack, I do not believe that this Haitian Jack is the same as that of Wyclef's world, nor do I
believe that Tupac's Haitian Jack is Wyclef because the two rappers had little if anything to do with each other and, in fact, only worked "together" on one of Tupac's posthumously released albums. Tupac raps in an early song:

I heard he was light skinned, stocky with a Haitian accent

Jewelry, fast cars and he's known for flashing (What's his name???)

Listen while I take you back (NIGGA SAY HIS NAME!) and lace this rap

A real live tale about a snitch named Haitian Jack

Knew he was workin for the feds, same crime, different trials

Nigga, picture what he said, and did I mention

Promised a payback, Jimmy Henchman, in due time


Kill a nigga quick remind me of Haitian Jack

I peep his style son I know his steelo, He on the d-low

He smile at niggaz mumbling fuck you in Creole

Heard war stories bout how he maneuver with the Ruger

Hold the iron horizontally and send shots through ya

50 Cent, 50 Bars, on Guess Who's Back? (Full Cup Records 2002). Wyclef planned a play about his life involving two immigrants: Wyclef Jean, who becomes a singer, and Haitian Jack, who becomes a gangster. Wyclef Jean Plans Film on His Life; The Jean Genius!, New Musical Express, July 19, 2000, http://www.nme.com/news/wyclef-jean/3915. These stories suggest that Haitian Jack could actually be several people. There are several characteristics that seem to be prevalent in all accounts: 1) violent disposition, 2) an (anti)legal identity, and 3) Haitian ancestry. See Wyclef Jean, David Banner, on Let's Ride 7" (Universal 1998) (briefly mentioning Haitian Jack).

n32. This might be even truer for urban youth, especially Black urban youth who have great exposure to hip-hop music. Michael Franti, a
rapper in the early 1990s, explains: "Hip hop is basically in the African tradition of talking over a rhythm. And you know hip hop music has all of the traditional elements of African storytelling: of braggadocio, of dissing, of humor... And it's a contemporary version of that storytelling." Ishmael Reed et al., Hiphoprisy: A Conversation with Ishmael Reed and Michael Franti, 56 Transition 152, 155 (1992). The storytelling of narratives makes narratives easily accessible. Hip-hop is based on the storytelling tradition and therefore is a useful cognate of narrative legal discourse.


n34. Hip-hop is a culture which developed and is popular in urban youth communities. Hip-hop has appeal across race, gender, and class lines. See Geneva Smitherman, "The Chain Remain the Same": Communicative Practices in the Hip Hop Nation, 28 J. Black Stud. 3, 3 (1997).

n35. Although some critique the destructive capabilities of rap, rap presents a significant forum to augment the education of our youth. Powell writes that "as educationalists we cannot afford not to tap into some of rap's vitality and bring it into the educational setting where it can inspire and motivate our youth to stay in school and receive relevant educations." Catherine Tabb Powell, Rap Music: An Education with a Beat from the Street, 60 J. Negro Educ. 245, 257 (1991). See generally Butler, supra note 19, at 987. Hip-hop as a narrative tool is also important for its ability to pose counter-hegemonic narratives which seek to undermine dominant societal discourse. Kim Lane Scheppele, Foreword: Telling Stories, 87 Mich. L. Rev. 2073, 2075 (1989) (discussing the importance of counter-narratives to undermine the supposed disinterested objectivity of the rule of law).

n36. Patricia Rose, "Fear of a Black Planet": Rap Music and Black Cultural Politics in the 1990s, 60 J. Negro Educ. 276, 276 (1991) ("To dismiss rappers who do not choose so-called "political" subjects as "having no politically resistive meaning" requires ignoring the complex web of institutional policing to which all rappers are subject."); see supra notes 34-35; see also Wyclef Jean, President, on Welcome to Haiti: Creole 101 (Koch Records 2004).


n38. See generally Adrien Katherine Wing, A Critical Race Feminist Conceptualization of Violence: South African and Palestinian Women, 60 Alb. L. Rev. 943 (1997); Angela P. Harris, Introduction: Love and Architecture: Race, Nation, and Gender Performances Inside and


n41. Everyone interacts with the law differently because of cultural understanding, personal experience, etc. The interaction between the law and legal institutions and the individual is shaped by each individual's set of personal experiences and cultural and linguistic understandings. This is why there are so many individuals expressing a broad spectrum of emotions ranging from fear to excitement, and hate to love. Law students, law professors, lawyers, litigants, and everyday folks express these emotions. Everyone's story and experience is different. See Sua Sponte: My Law School Odyssey: Three Years, Three Time Zones and Beyond, http://www.suasponte.org (last visited Oct. 17, 2009); See generally Robert Whitman, Individual Experiences Can Stimulate Student Interest, The Law Teacher, Spring 1994, at 5 (discussing the value of narrative in the law-school experience throughout this article and the entire issue); andre douglas pond cummings, "Open Water": Affirmative Action, Mismatch Theory, and Swarming Predators - A Response To Richard Sander, 44 Brandeis L.J.795 (2006) (using narrative to discuss the impact of racial diversity in law school).

n42. Several of the organizations that claim to represent various groups have had unique experiences with the law. While these groups do not necessarily represent all of those whom they allegedly represent, they do present a unified force characterized by at least some people with a common denominator. The groups of which I speak include, but are not limited to, NOW, the NAACP, and PETA. For cases involving these groups see Nat'l Org. for Women v. Little League Baseball, Inc., 318 A.2d 33 (N.J. Super. Ct. App. Div. 1974); NAACP v. Duval County Sch., 273 F.3d 960 (11th Cir. 2001); Andrus v. Sierra Club, 442 U.S. 347 (1979); People for the Ethical Treatment of Animals, Inc. v. Gittens, 414 F.3d 23 (D.C. Cir. 2005).

n43. Discursive space is the broader area on which we act. It is composed of actions, verbal and nonverbal. Discursive space is created by rhetorical acts. It flows with each and every rhetorical act. Every action, verbal or nonverbal, is a rhetorical act. By constructing a world through rhetoric, we enable ourselves to take physical action.

n44. By physical action, I mean nonverbal movement.
n45. See Hutcheon, supra note 33, at 56.

n46. Id.

n47. Satire and parody are the most accessible forms of resistance. Parody is closely related to satire and both are often used to resist ideas or challenge positions. Linda Hutcheon, A Theory of Parody: The Teachings of Twentieth-Century Art Forms 43-44 (2000) (defining parody as distinct from satire and involving the interplay of the past and present, as well as describing the usefulness of intertextuality in postmodern criticism); Simon Dentith, Parody: The New Critical Idiom 40-41 (2000) (discussing the subversive nature of parody throughout history as an ever-present tool in the cultural wars).

n48. Rapper Marshall Mathers (a.k.a. Eminem) notes:

My words are weapons
I use "em to crush my opponents
My words are weapons
I never show no emotion
My words are weapons
I use "em to kill whoever's steppin' to me
My words are like weaponry on a record

Eminem, Words Are Weapons, on FunkMaster Flex's The Mix Tape Vol. 4: 60 Minutes of Funk (Relativity 2000). Although this song misappropriates war rhetoric, it emphasizes the power of words to debunk people and ideas. War rhetoric brings a danger of trivializing the nature of conflict. While this risk is real, it is important to realize that the seriousness of Eminem's rhetoric may warrant some grandstanding in order to bring focus to his message. Eminem stresses the power of the spoken word and hip-hop, in effect, engaging in double entendre by rapping about rapping so that the song's message may apply to the song itself, the art of rapping/emceeing or the art of rapping about rapping - making a seamless critical web that can critique itself.

n49. By "performative content," I mean the character of the performance, not the substantive content. The various uses of words affect the way in which people understand those words. "Performative content" should be understood to mean the way in which something is done or how content is transmitted. The way in which a rhetorical act is done is a part of the general act and is distinguishable from the act itself, the author's intended meaning of the act, and the recipients' perceived meaning of the act.
n50. Kenneth Burke best illustrates this point in his often-quoted parlor analogy:

Imagine that you enter a parlor. You come late. When you arrive, others have long preceded you, and they are engaged in a heated discussion, a discussion too heated for them to pause and tell you exactly what it is about. In fact, the discussion had already begun long before any of them got there, so that no one present is qualified to retrace for you all the steps that had gone before. You listen for a while, until you decide that you have caught the tenor of the argument; then you put in your oar. Someone answers; you answer him; another comes to your defense; another aligns himself against you, to either the embarrassment or gratification of your opponent, depending upon the quality of your ally's assistance. However, the discussion is interminable. The hour grows late, you must depart. And you do depart, with the discussion still vigorously in progress.

Kenneth Burke, The Philosophy of Literary Form: Studies in Symbolic Action 110-11 (1941). Burke describes the seamless web of rhetoric where something is always happening. Ideas are out there and people are talking. Thoughts are exchanged and debated, and no matter when one comes to the conversation, the ideas and actions discussed will continue as you move from one location to another. Conversations are not fixed. They change and develop as the rhetorical terrain changes and develops.


n53. Wyclef was part of a television public service announcement against police brutality. This campaign was sponsored by the October 22nd Coalition and ran on various stations in major cities across the United States in 1997. The Carnival is laden with references to police brutality. See Wyclef Jean, The Ecleftic: 2 Sides II a Book (Sony 2000); The Fugees, The Score (Sony 1996). See also infra note 76.


It seems interesting to note however, that the United States draws little attention for crimes and humyn rights abuses which are routinely perpetrated by its own law enforcement officials. One scholar attributes most of the civil unrest that has occurred in the U.S. over the last one hundred years, to police abuse and humyn rights violations:

Police abuse against minority communities in urban America is one of the main sources of racial division and tension in our society today. Tension between police and community, brought on by the reality and the perception of widespread police abuse and racism, has been one of the main causes, and usually the precipitating cause, of each of the serious civil disorders in this century ... .

police officers and their frequency); Asit S. Panwala, The Failure of Local and Federal Prosecutors to Curb Police Brutality, 30 Fordham Urb. L.J. 639 (2003) (discussing the many negative effects of police brutality); Barbara E. Armacost, Organizational Culture and Police Misconduct, 72 Geo. Wash. L. Rev. 453 (2004) (discussing how police brutality is not an individual activity, but is instead the product of organizational behavior); see Wyclef Jean, Diallo, on The Eclectic: 2 Sides II a Book (Sony 2000); see also infra note 58.

n55. Wyclef Jean, Bus Search, on The Eclectic: 2 Sides II a Book (Sony 2000).

n56. Michael Quinn, "Never Shoulda Been Let Out the Penitentiary": Gangsta Rap and the Struggle over Racial Identity, 34 Cultural Critique 65, 65-66 (1996) ("Although the mainstream media continues to criticize rap for its supposed glorification of gang culture and violence, other groups find rap offensive for different political reasons."); but see Glenn Gamboa, Street Justice, Arguing Against Hip-hop's Bad Rap, Newsday (Long Island), Oct. 6, 2004, at B5 (discussing Russell Simmons' quest to present a documentary discussing hip-hop's unfair treatment in the media).

n57. cummings, supra note 54, at 385-86.


n59. Wyclef Jean, Apocalypse, on The Carnival (Sony 1997); see also Crash (Lion's Gate Films 2005) (dealing with a large variety of interesting racial issues).


n62. See generally Martin Luther King, Jr., Why We Can't Wait 25 (2000); Martin Luther King, Jr., Stride Toward Freedom 71 (1958);
Michael Eric Dyson, I May Not Get There with You: The True Martin Luther King, Jr. (2000). Martin Luther King, Jr. was able to resist discrimination on several different levels. He boycotted buses, organized demonstrations against cities and retailers, spoke against discrimination generally, traveled from town to city and back again. His effectiveness, or so I would argue, was due in large part to his ability to launch a broad-based and multifaceted peaceful resistance.


n64. This type of police behavior has been described as the "blue code of silence" and is listed as the single biggest impediment to justice. The Independent Commission on the Los Angeles Police Department, The Christopher Commissioner Report, at 168 (1991) (citing to the Los Angeles Police Department's unwillingness to discuss issues in the aftermath of the Rodney King beating); Peter Noel, Against the Blue Wall, Village Voice, July 13, 1999, available at http://www.villagevoice.com/news/9928,noel,7009,5.html (describing a Black trooper attempting to fight back against racially discriminatory policies of the New Jersey State Police).


Even assuming that the City had a legitimate basis for fearing violence and disorder, it had other viable alternatives besides making the involuntary transfers. For example, plaintiffs' expert testified that:

"Black officers were not necessarily better at policing Black communities than White officers, and that cultural similarities - such as language skills - were more important than race. He also suggested other ways the City could have responded to the crisis, such as providing incentives for officers to transfer voluntarily into the district, and reaching out to Haitian-American officers and officers of different ethnic groups with training in police-community relations ... [in order to] more effectively [respond] to community concerns."

The failure by New York City police officials to ensure that Haitian or Creole-speaking officers were transferred proves policymakers did not care what the community wanted.

Id. (quoting Patrolmen's Benevolent Ass'n v. City of New York, 310 F.3d 43, 49-50 (2d Cir. 2002)).

n66. Clarence Page, Only Smart Profiling Makes Sense, Balt. Sun, Aug. 23, 2005, at 11A (discussing the need for more responsive solutions to crime than racial or ethnic profiling); Dave Wischnowsky, Blacks Sound Off on Police Profiling, Chi. Trib., Aug. 23, 2005, at C4 (discussing racial profiling in Chicago); Colbert I. King, Editorial, You Can't Fight Terrorism with Racism, Wash. Post, July 30, 2005, at A19 (discussing an inherent racism involved in profiling); see Naomi Carniol, Profiling by the Numbers, Toronto Star, Aug. 21, 2005, at A7 (discussing racial profiling in Canada); but see Paul Sperry, Editorial, Politically Correct Suicide, Wash. Post, Aug. 20, 2005, at A15


n68. When many artists are going platinum (selling at least one-million copies), there is little debate about the growing fan base for hip-hop. Several artists have achieved multi-platinum status and these numbers challenge the readership of the biggest and best newspapers.

n69. Wyclef Jean, Apocalypse, on The Carnival (Sony 1997).

n70. The shooting of unarmed Amadou Diallo is the most salient example of police misconduct. Unarmed Amadou was shot 41 times when he reached for his wallet. Jane Fritsch, The Diallo Verdict, N.Y. Times, Feb. 26, 2000, at B6. Wyclef memorializes Diallo in a song named for the young man:

Enemy on the borderline
Who'll be the next to fire
forty-one shots by Diallo's side?
You said he reached sir
but he didn't have no piece sir
But now he rest in peace sir
in the belly of the beast sir
You guys are vampires
in the middle of the night
Suckin' on hunyn blood
Is that your appetite?
You said he reached sir
but he didn't have no piece sir
But now he rest in peace sir
in the belly of the beast sir
Have you ever been shot
forty-one times?
Have you ever screamed
and no one heard you cry?
Have you ever died
only so you can live?
Have you ever lived
only so you can die again, then be born again
from these enemies, on the borderline
Who'll be the next to fire
forty-one shots by Diallo's side?

Wyclef Jean, Diallo, on The Ecleftic: 2 Sides II a Book (Sony 2000). The atrocities committed by the New York City Police Department were revisited when Sean Bell was shot 51 times after leaving his bachelor party in 2006. By all accounts Sean was a great kid, a young Black man about to be married who was a great father and a Los Angeles Dodgers prospect. Things looked great for him until he decided to leave a strip club with his friends. Wyclef immortalized Sean a year after Sean's tragic death:

What would you do after your bachelor party?

In the bar celebrating with all your homies

Go outside and you ready to ride

Then over 51 shots you ain't ready to die

In your fast car, yeah, in your fast car

Police, Record (Bergen County), Feb. 27, 2000, at A10; Trevor W. Coleman, Editorial, Verdict in Diallo Case Sends a Message We Should All Fear, Detroit Free Press, Feb. 29, 2000, at A10 (recounting a personal narrative of one man's reaction to the Diallo verdicts).


n73. It is intuitive that conversation and narrative are easier reads than law review articles, complex editorials, or textbook chapters. Young people probably find something they can relate to in the conversational style of hip-hop music.

n74. Wyclef Jean, Words of Wisdom, on The Carnival (Sony 1997).

n75. Newspapers have widely covered this lack of trust. Catherine Porter, Turning Up the Heat on Profiling, Toronto Star, Mar. 19, 2004, at E02 (describing Black distrust of the Toronto police as a product of racial profiling policies); Evelyn Myrie, Violence Among Black Men, Hamilton Spectator (Ontario), July 29, 2003, at A11 ("Many years of race-relations training and programs administered by policing organizations have done little to bridge the gap between police and marginalized communities. Quite frankly, younger black men do not trust the police to protect them."); Greg Freeman, The Time Is Right to Back Oversight Panel for Police, St. Louis Post-Dispatch, Aug. 20, 2002, at B1.

In many black neighborhoods here, residents don't trust the police. "In a lot of places, we're under siege, from the bad guys on one hand, and from the police on the other," said Monroe. "There are a lot of good police officers. But there are also police officers who use police brutality and who overstep their bounds."

Id.

n76. The most publicized example of this phenomenon was the Los Angeles Riots. Because of intense police brutality, virtually the whole urban population took to the streets looting and pillaging. See generally, Geography of Rage: Remembering the Los Angeles Riots of 1992 (Jervey Tervalon & Cristian A. Sierra eds., 2002); Anna Deavere Smith, Twilight: Los Angeles, 1992 (1994).

n77. Supreme Court Justice Harry Blackmun eloquently makes this point in his famous pronouncement:

From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored - indeed, I have struggled - along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court's delusion that the desired level of fairness has been
achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies. The basic question - does the system accurately and consistently determine which defendants "deserve" to die? - cannot be answered in the affirmative. It is not simply that this Court has allowed vague aggravating circumstances to be employed, relevant mitigating evidence to be disregarded, and vital judicial review to be blocked. The problem is that the inevitability of factual, legal, and moral error gives us a system that we know must wrongly kill some defendants, a system that fails to deliver the fair, consistent, and reliable sentences of death required by the Constitution.


n80. I am not aware how many people read certain law review articles or the number of subscriptions that particular law reviews may have, but with many hip-hop artists selling millions of copies of each record they produce, it is intuitive that millions of people are not reading law review articles. See infra note 82.

n81. See N.W.A. (Niggaz With Attitude), Fuck tha Police, on Straight Outta Compton (Priority Records 1990). Wyclef Jean's recently released The Carnival Vol. II: Memoirs of an Immigrant continues the theme of frustration with the police. Wyclef, with T.I. in the background, raps about the deplorable state of urban communities and perhaps a misguided focus on street crime:

If you livin' in the street You know your livin' free

(And if you ain't you know your doin' time like me) Thugs with the heat, are the coldest ones to meet

(You can catch yourself a case get a fine, do three) We flyin' high, but still can't touch the sky
(But on conspiracy your doing ten at the least) Everbody's a gangsta, but no-body wanna die

(With all this snitchin' you might never see the streets) Nuclear testing, replacin' the SAT's

(With all this going on why they worried about me) Stem cell research there's another you another me

(I'm just hustling in the streets tryin' to flip a couple keys) With what goes up, must come down, the laws of gravity

(I know I see it happen to my partner big neege, We miss ya shawty!) To win at chess, you've got to trap the king (Ay)


In an example of the divergence in ticket and CD sales, hip-hop star 50 Cent sold more records than anyone this year but hovered just outside the top 20 list for concert acts; those figures are still being finalized by Pollstar. No other rapper is in the top 20, despite the fact that hip-hop was the dominant musical genre of the year according to record sales and a bushel of Grammy nominations for OutKast, Missy Elliott, 50 Cent, Eminem, and Jay-Z. There were more nominations for hip-hop artists than for rock acts.

Id.; Daniel Frankel, Promotional Pop of Pop Music, Electronic Media, Oct. 18, 1999, at 16 (“For years, record sales of rap and hip-hop artists have been growing.”).

n83. Live From ...: Interview by Miles O'Brien with Wyclef Jean, supra note 10.

n84. I do not intend to imply that rappers are violent individuals. It is important however to note how rap connotes violence. "Rap-related violence is one facet of the contemporary urban crisis that purportedly consists of a rampant drug "culture" and "widing" gangs of Black and Hispanic youth." Rose, supra note 36, at 282. Whether or not the idea that rap and violence somehow "go together" is true (I believe it is not), a discussion of rap and violence is important to understanding the social context of the art form.
See L.L. Cool J, I Shot Ya, on Mr. Smith (Def Jam 1995); 50 Cent, I'll Whip Ya Head Boy (featuring Young Buck), on Get Rich or Die Tryin' (Interscope Records 2005); 50 Cent, Gunz Come Out, on The Massacre (Aftermath 2005); Busta Rhymes (featuring Lord Have Mercy), Get Off My Block, on When Disaster Strikes (Elektra 1997); DMX (featuring the Lox and Drag-On), D-X-L (Hard White), on And Then There Was X (Def Jam 1999); DMX (featuring the Lox and Mase), Niggaz Done Started Something, on It's Dark And Hell is Hot (Def Jam 1998); 2Pac, Fuck Them All, on Better Dayz (Interscope Records 2002); 2Pac, Fuckin Wit The Wrong Nigga, on Until The End of Time (Interscope Records 2001); Styles P (featuring the Lox and J-Hood), Lick Shots, on Gangsta & A Gentleman (Interscope Record 2002); Notorious B.I.G (featuring Eminem), Dead Wrong, on Born Again (Bad Boy 1999); Gravediggaz, 1-800 Suicide, on 6 Feet Deep (V2 North America 1994); Shyne, For The Record, on Godfather Buried Alive (Def Jam 2004).


Fox News commentator Bill O'Reilly is at the forefront of the movement against hip-hop. To be sure, O'Reilly is not the only critic of hip-hop music, but his criticism has been the subject of much media coverage. See The O'Reilly Factor: Feds Investigation Unsolved Crimes Surrounding Hip Hop Artists (Fox television broadcast Mar. 9, 2005). But see Wyclef's response to Bill O'Reilly:

Shots go off, mother's cry

People die, homicide

Black on Black crime needs to stop

Y'all can't blame it on hip-hop

Cause what we say is what we see

And what we see is reality

The ghetto's the ghetto

You got them livin' in sorrow
Soon they won't live to see tomorrow


n88. Wyclef's clearest attempt to reach Haitians and Haitian-Americans can be seen in his Haitian-Creole release Welcome to Haiti: Creole 101. This release is geared toward his fans in Haiti and contains few English language verses. The album describes life in Haiti, opinions on social issues, Haitian politics, and cultural understanding. Wyclef Jean, Welcome to Haiti: Creole 101 (Koch Records 2004).

n89. Wyclef describes the apparent contradiction between his peace-loving belief and his large gun collection:

It's real simple. You have people who are collectors or do things for sport, and people who do things for violent ways. I have them for sport and collecting - doesn't mean you're going to go on the street and bang somebody up. Why would I shoot in anger? I don't resort to guns. The gist of violence in rap culture is that you gotta address the environment where someone goes into a place with a gun and shoots it up.

Sullivan, supra note 11.

n90. See Wyclef Jean, Gunpowder, on The Carnival (Sony 1997).

n91. Wyclef Jean, Bubblegoose, on The Carnival (Sony 1997). This song discusses the danger faced in street life. All the security and precautions in the world do not make one immune from the violence of the street. The violence is too pervasive and even the best-intentioned and well-planned individual faces the risks.

n92. Wyclef describes the inherent falsity of "bling culture":

Er body rappin' about diamonds and violence

And they ain't ours, all they do is charge credit cards
And when the bill comes, they blame it on the rap stars

Now how you figure? I ain't rent a car

I wasn't at the spa, I ain't by the bar

Now here's a jewel when you get your first record deal

Don't subject yourself to the mass appeal

First Class, caviar in the vil'

In the new S Class with the Jordan wheels.

Wyclef Jean, 80 Bars, on Masquerade (Sony 2002). Wyclef is critical of what he sees as a desire for material wealth. He catalogues the items rappers actively purchase. Many rappers are often consumed with the image of being famous, and Wyclef describes himself as less concerned with wealth and more concerned with what material culture might be doing to urban communities. See Jacqueline Charles, Hip Hop Star Wyclef Jean Arrived in Haiti, Miami Herald, Jan. 12, 2006, http://www.heritagekonpa.com/ Hip%20hop%20star%20wyclef%20Jean%20hope%20to%20help%20Haitians. htm ("Jean added, "there is no way I am going to have 30 cars, seven houses and look at my country [Haiti] the way it is and do nothing.").

n93. Wyclef Jean, Gunpowder, on The Carnival (Sony 1997).

n94. Chuck D, lead man of Public Enemy, has described rap as the CNN for Black people. Tim Brennan, Off the Gangsta Tip: A Rap Appreciation, or Forgetting about Los Angeles, 20 Critical Inquiry 663, 685-86 (1994).

n95. Much of this lack of analysis is due to critics who lack a desire to consider popular culture more deeply. To be sure, popular culture is becoming more and more the focus of intense critical inquiry, but oftentimes hip-hop is allowed to passively be played into the hands of critics. Sanneh and Killah Priest note that, "as ghetto life is increasingly glorified (and lampooned) in the lyrics of some of the country's most popular records, literal-minded critics find confirmation of the worst stereotypes of social pathology." Kelefa Sanneh, The Secret Doctrine: A Conversation with Killah Priest, 74 Transition 162, 164 (1997).
n96. Hyperviolence is violence that is deployed beyond the violence it seeks to represent. It is rhetorically larger than the violence it seeks to describe. If violence could be quantified with some sort of value established, hyperviolence would be represented by the equation \( HV = V^n \), where "n" is the quantified value of hyperbole. The relationship is exponential and not geometric because of the propensity for hyperbole to so alter which it is actually meant to represent. Hyperbole is not merely an adjective, which could geometrically increase violence, but it is actually an enabler of further violence because it practically functions as a verb intensifying the action component of the violent noun it is meant to describe.

n97. One of hip-hop's major purposes may be hyperbole or ironic presentations of legal arguments. Tricia Rose notes:

[A] large and significant element in rap's discursive territory is engaged in symbolic and ideological warfare with institutions and groups that symbolically, ideologically, and materially oppress African Americans... Rappers act out inversions of status hierarchies ... and draw portraits of contact with dominant groups in which the hidden transcript inverts/subverts the public, dominant transcript.

Tricia Rose, Black Noise: Rap Music and Black Culture in Contemporary America 100-01 (1994).

n98. See Jeffrey O. G. Ogbar, Slouching Toward Bork: The Culture Wars and Self-Criticism in Hip-Hop Music, 30 J. Black Stud. 164, 173 (1999) (discussing Ice Cube's stable home life, wealthy neighborhood, lack of a prison record, and excellent high school) ("Artists such as Ice Cube represent a hyperbolic look at societal pathologies like misogyny and violence through the construction of first-person narrative."); Quinn, supra note 56, at 71 ("Rather than questioning or denying the veracity of mainstream representations of life in inner cities, Gangsta Rap accepts the gang member-drug seller role assigned to urban black youth by the media and then hyperbolizes these representations until the rappers become exactly what whites fear.").


n100. Phrases like "Throw the book at 'em" or "Lock 'em up and throw away the key" are probably the most common examples. These phrases exaggerate a condition or situation using rhetoric that is much more severe than the actual situation described. To "throw the book" at someone means to charge someone with every conceivable act allowed but does not also include hurling a treatise at anyone's person. This phrase connotes the adage, "adding insult to injury." As if it were not bad enough to be charged with many crimes, the criminal justice system is also going to allow you to be pummeled with texts. Likewise, to "lock one up and throw away the key" does not involve locking someone up and preventing their release by throwing the key into the nearest dumpster. "Throwing away the key" does involve pursuing longer sentences or the actual sentencing of convicted criminals to longer terms of confinement but does not involve the absurd action of permanently placing someone in a jail cell without hope of removal for any reason.
n101. Immigrant populations keep connections with their homeland through language and custom. Language and custom fall into the larger body of cultural rhetorical acts. Because cultural indicators are an important way of developing an understanding of a culture, I would posit that the rhetorical connection between two cultures/communities is of central importance to the ways communities understand each other. That is to say that hip-hop and rap can learn from each other by using the rhetorical characteristics common to both areas of interest (irony, hyperbole, creating personas, etc.).

n102. Quinn, supra note 56, at 66; Butler, supra note 19, at 987; cummings, supra note 54. See andre douglas pond cummings, "You Are Now About to Witness the Strength of Street Knowledge": Hip Hop, the Law and Desperate Responses (unpublished manuscript on file with author).

n103. Paul Butler notes:

While glorification of outlaws is certainly not limited to hip-hop, the culture's depiction of the criminal as a socially useful actor is different. Hip-hop justifies rather than excuses some criminal conduct. Breaking the law is seen as a form of rebelling against the oppressive status quo. Rappers who brag about doing time are like old soldiers who boast of war wounds.

Butler, supra note 19, at 997-98 (footnote omitted). See generally Powell, supra note 35.

n104. See supra Part Hyperbole and Irony: Violencing Peace!.

n105. Linda Hutcheon concludes that "the 'scene' of irony involves relations of power based in relations of communication." Hutcheon, supra note 33, at 2. It is precisely because irony brings both power relations and communication relations together that makes irony a particularly persuasive force in analyzing societal issues. Hutcheon continues: "Irony can and does function tactically in the service of a wide range of political positions, legitimating or undercutting a wide variety of interests." Id. at 10.

n106. Wordplay is the use of words to convey meanings that the specific words might not normally convey. Irony, hyperbole, oxymoron, and onomatopoeia are all examples of this type of rhetorical presentation. See also Jason Mraz, Wordplay, on Mr. A-Z (Elektra 2005).

n107. This phraseology is used simply to denote a hip-hop artist that engages in irony.
n108. Hutcheon suggests:

Irony is an interpretive and intentional move: it is the making or inferring of meaning in addition to and different from what is stated, together with an attitude toward both the said and the unsaid. The move is usually triggered (and then directed) by conflictual textual or contextual evidence or by markers which are socially agreed upon.

Hutcheon, supra note 33, at 11.

n109. Id.


n111. Prostitutes, whores, and hookers may be more common words.

n112. Siobhan Grogan, A Rap on the Knuckles from Granddaddy, Times (London), Nov. 1, 2002, at 14 (discussing L.L. Cool J's relationship with his wife Simone that has lasted twenty years); Olivia Abel, Passages, People, June 7, 2004, at 89 (discussing Snoop Dog's seven-year marriage before it ended in divorce).


n115. See Farley, supra note 114.


n118. Lonnie Lynn, a.k.a. Common, attended college for two years before dropping out to work on his first album. Common, It's Your World, on Be (Geffen Records 2005) ("Went to school in Baton Rouge for a couple of years. My college career got downed with a couple of beers. Came back home, now I gotta pay back loans.").


n120. David Banner graduated from the Historically Black College and/or University (HBCU) Southern University and served as student government president while there.


n122. Rappers have become fashion designers (Jay-Z, Diddy, Wyclef, 50 Cent, Nelly, Master P, Eminem), restaurateurs (Diddy), philanthropists (David Banner, Young Jeezy, TI, Snoop Dogg), and non-profit directors (Ludacris, Wyclef, Diddy). I constantly battle with attempting to preserve readability balanced against a desire to limit and/or prevent the continued use of patriarchal language. Where gender discussions may seem wordy or imprecise, I ask that the reader will evaluate such slovenly instances in light of an author's battle with

n123. See id.

n124. See id.

n125. Hip-Hop is itself an educational edifice. See Morrell & Duncan-Andrade, supra note 25, at 88.

n126. Hutcheon, supra note 33, at 40.

n127. See generally id. at 10.

n128. Irony's markers may include winks of the eye, exclamation points, nods, and jokes. Irony usually provides some designation that what the listener actually perceives is in fact irony. See Nick J. Sciullo, In Favor of Irony, 84 Rostrum 37-39 (2009) (discussing irony in the context of competitive interscholastic debate).

n129. Wordplay, "joking around," play acting, and other activities are fairly common in everyday conversations. The theories and debates about these rhetorical techniques might not be on most people's minds, but the joking and wordplay are on the tips of their tongues.

n130. Debunking is a large process historically rooted in rebellious ideas. Debunking involves questioning assumptions and posing counter narratives in order to understand issues more deeply. Kenneth Burke, in discussing the historical development of the literary form of debunking, states:

In brief, the history of debunking is interwoven with the history of liberalism. As soon as men [sic] began methodically to question the
Church's vocabulary of human [sic] motivation, they gravitated towards the debunking category. The productivity of this attitude has been astounding.

Burke, supra note 50, at 168. Again, the second time I used "[sic]" in Burke's analysis is where I would normally use alternate spelling. See supra note 122.

\[n131\] Morrell & Duncan-Andrade, supra note 25, at 89.

\[n132\] Wyclef Jean (featuring DJ Quik), Ladies & Thugs, on Trauma (Mad Science 2005) ("I wanna murder the sniper that shot Martin Luther King, then get rid of the Viagra cause I'm strictly ginseng. Campaign in the hood if you want progress. Take all the gangs and put "em in Congress."). Wyclef raps:

Yeah, if I was President All blacks have reparations no segregation Feed the nation until there's no famine

Muslims, Jews, Christians would all hold hands,

every week on the beach party by the sand Word up, take trips on Air Force One, No need to bring no homeless with no sneaks to Air Force One Better schools in the hood, better teachers for the classes, making money, paying no taxes Find the best scientist tell "em come up with an answer,

I want the cure for AIDS and cancer

But I gotta watch my back

Snipers on the hill with the steel

Man power, waitin' to JF kill

Wyclef Jean, President, on Welcome to Haiti: Creole 101 (Koch Records 2004).

\[n133\] Wyclef Jean, Intro, on The Carnival (Sony 1997); Wyclef Jean, Pablo Diablo, on The Carnival (Sony 1997); Wyclef Jean, Closing
n134. Virtually all law schools have mock trial teams, teach trial advocacy, and have other classes and organizations that engage in mock trial activities. West Virginia University has several classes that contain a trial, pre-trial, or oral argument component, and has mock trial teams.

n135. More generally, media representations of courtroom proceedings and the legal system are well covered in the literature. Both fictional representations and factual representations are prevalent. Paul Butler notes:

There is a symbiotic relationship between culture and law. Culture shapes the law, and law is a product of culture. Television, for example, has profoundly informed our perceptions of criminal justice in the United States. Most Americans can recite the Miranda warnings, not because they have been arrested, but because television cops advise television "bad guys" of their constitutional rights several times a day.

Butler, supra note 19, at 987. See generally Marc Mauer, Race to Incarcerate 172-74 (1999) (discussing the extent of television news coverage given to criminal action).

n136. Butler, supra note 19, at 984.


n138. See supra notes 20-24.

n139. See infra notes 142, 146, 152.

n140. This is best illustrated by The Fugees' first release Blunted on Reality, where the title is telling of the transcendence available through drug use. The Fugees, Blunted on Reality (Sony 1994).

n142. Wyclef sings:

Every time I make a run, girl you turn around and cry

I ask myself why, oh why?

See, you must understand, I can't work a 9 to 5

So I'll be gone till November

...

And give a kiss to my mother


n143. Id.


n146. Wyclef illustrates this idea:

Hold on now, don't die now, be strong now

He said, I was born a crack baby

In a plastic bag in the alley

Raised in a foster home

With no mother to love and I never knew my papi

Back in the days of Bobby McFerrin

Used to sing don't worry, be happy

Lord how can I be happy

When I don't even know my own family tree Lord

Wyclef Jean, Next Generation, on The Preacher's Son (J-Records 2003), See Saigon, Favorite Thingz, on Warning Shots (Sure Shot Recordings 2004) ("Favorite Father? How you gonna ask me that knowin' most of my crew grew up without one."). See Butler, supra note 19, at 984; United States v. Smith, 73 F.3d 1414, 1422 (6th Cir. 1996) (Jones, J. concurring) ("The current enforcement and sentencing policies may in fact be substantial factors in the persistence of the "crack epidemic" in the African-American community. These policies have resulted in the incarceration of scores of young black males, many of whom will remain in prison until they reach middle age.").

n147. Butler, supra note 19, at 988; David A. Sklansky, Cocaine, Race, and Equal Protection, 47 Stan. L. Rev. 1283 (1995); See Ogbar, supra note 98, at 178 (discussing rapper Ras Kass's criticism of the crack/cocaine disparity).
n148. See infra note 149.

n149. The concurrence by Judge Nathaniel R. Jones in the Smith case summarizes this point:

Since the Act's passage, the African-American community has borne the brunt of enforcement of the 100:1 ratio. From 1985 to 1986, the number of minority youth detained for drug offenses increased 71%. By 1994, blacks comprised 90.4% of all federal crack cocaine drug offenders. From 1992 to 1994, the percentage of drug prosecutions involving crack offenses increased from 14.6% to 21.2%. Therefore, the Act has resulted in an increasingly disproportionate number of young black males being prosecuted and incarcerated for a considerable amount of time, to the point that blacks, who comprise 12% of the population, now make up 57.7% of the prisoners in federal jails for drug offenses.

The racial disproportionality of crack-related prosecutions is even more disturbing in light of the harsher sentences for crack offenses. The mean sentence for crack traffickers, most of whom are black, is 133.4 months. In contrast, powdered cocaine traffickers receive a mean sentence of approximately ninety months. The majority of these offenders are white (32%). Similarly, for simple possession offenses, crack offenders receive a sentence which is nearly ten times longer than that received for cocaine offenders: the mean sentence for crack possession offenders is 30.6 months, while that for cocaine offenders is 3.2 months. Yet 73.8% of cocaine possession offenders obtain supervised release while only 32% of crack possession defendants are granted parole. Thus, the numbers clearly illustrate the disparities in prosecutions, sentencing, and probation between cocaine offenders, who are mostly white, and crack offenders, who are mostly black, since the 100:1 ratio came into being.

Smith, 73 F.3d at 1418-19 (citations omitted).

n150. See id.

n151. If a dealer sells a nickel bag (about the size of a quarter) of marijuana for five dollars from a large quantity (an ounce or two) of marijuana, the dealer is likely to amass quite a fortune. Drug dealers are privileged with no overhead and great advertising networks of associates and friends. If a dealer sells larger quantities, the profits rise higher as dealers can sell to other dealers.

n152. Wyclef notes:

Ay, yo peace God

I ain't tryin' to see the graveyard

But in this game of life I was dealt the wrong card
I wasn’t born this way it just came to be
Sellin crack through a alley where the fiends rally
Where the dealer was the president
And the fiend was the voter so they voted for the government
And stick ups was only natural
It seem every other day a new gun pointed at you
Peace God
Yo only God got the answer
And sorry bout ya mom dyin of cancer
But congratulations, I heard you no longer a runner
You a big man now, the black Tony Montana
But watch out cause I heard wealth bring envy
Trust me I did sing for the Kennedys
Until we meet again feel my words through my pen
And stay pure in the city of sin

Wyclef Jean, Peace God, on Masquerade (Sony 2002). Wyclef describes the status (quasi-political power, wealth, popularity, etc.) that comes from drug dealing. The picture is bleak however, filled with death and sadness. Drug culture may bring benefits, but those benefits are shrouded in a cloud of conflict and violence, ultimately placing the participants in peril.

n153. See supra note 128.

n154. See supra Part The Double-Edged Sword: Drugs, Hip-Hop, and Transcendence.

n155. One commentator conducted a superficial analysis of hip-hop music as it relates to consumerism, suggesting that what rappers rap about is what it is and nothing more. See Christian D. Rutherford, Note, “Gangsta” Culture in a Policed State: The Crisis in Legal Ethics Formation Amongst Hip-Hop Youth, 18 Nat’l Black L.J. 305, 328-33 (2004). Rutherford’s article does not provide the rhetorical analysis needed to understand the communication strategies of hip-hop artists. While Rutherford points to glaring examples of glorified drug-dealing, materialism, and other ills, he fails to analyze the situations that make those rhetorical presentations particularly meaningful. In effect, Rutherford contributes to the problem by promoting a one-sided analysis of an important and influential societal phenomenon, hip-hop music. By engaging then stopping, Rutherford leaves the critical project unfinished and allows swarming sharks to seize upon the wounded and bloody body of half-cannibalized hip-hop music. He feeds the predators rather than enriching the debate.

n156. This comes from the “bad boy/girl” or “thug” persona, which many rap artists perform. See supra notes 27-30.
Wyclef Jean, "Gone 'Til November," on The Carnival (Sony 1997). I do not endorse the gendered rhetoric of this lyric, but I have chosen to present it without correction to preserve its performative content. Wyclef does not embrace death but instead embraces the rewards of death for those who live their life responsibly, perhaps embracing the roots of his preacher father. Wyclef expands upon his critical engagement of death in his most recent album:

If it was my last day on earth
   I'd treat it like my first
   Go out the way I came in
   So innocent so pure
   With no thoughts of insecurity
   Live life to the fullest
   Be what I wanna be
   Last day on earth I'd tell my girl don't cry
   I'm with my daddy in paradise
   Where the blind can see
   The mute can talk
   The crippled can walk
   But for now
   Heaven's in New York
   Heaven's in New York


To be sure, not all rappers are as socially conscious as Wyclef Jean. Some rappers may in fact glorify violence and drug use. This glorification does not however mean that hip-hop, as a whole, glorifies these illegal activities. Assuming the whole represents the parts is a fallacious exercise in totality that closes off avenues for further critical inquiry.

Just as literary criticism seeks to look more critically at various forms of literature, critical theory can be used to look deeper into the contours of hip-hop. Indeed, irony and hyperbole are often contained in literary criticism and many of literary criticism's techniques are excellent tools for studying other forms of discourse.

Evidence that hip-hop is lowering drug use is nonexistent, but there is a trend among hip-hop's largest market segment, teens and
young adults, that drug use is falling. Holly Auer, A Bitter Distinction for Girls; More Teen Girls Using Drugs Than Boys, Post & Courier (Charleston), Feb. 14, 2006, at A1 (noting that overall drug use among teens from 12-17 is down over previous years).

n161. Wyclef sings:

Maybe my mother, coul’d a been my father

Perhaps it was my sister, probably my brother

Maybe the church, coul’d a been the street

Perhaps it was the guitar, or Jerry Wonder beats

Maybe the money when I didn’t have a dime

Maybe a way out before committing crimes

Coul’d a been Lauryn, perhaps it was Pras

Probably the mirror looking dead in my eyes

Coul’d a been reggae, or the love of hip-hop

Maybe my fans at the show saying don’t stop

Probably the struggle of all refugees
Maybe the sign how the diamonds bling-bling, ching-ching

Ring ring, there's a call from my wifey, whoo

Perhaps I gotta make it home but music keep calling me

And maybe it's all I know, whatever it is I'm grateful for being

... 

Coulda been a crack fiend with no place to go

Lord, oh mighty God, have mercy on my soul

Coulda been Pablo, king of Yayo

Or a pimp with a limp screaming we don't love them hoes

Oh no, God knows, perhaps I was chosen

A source of inspiration for the next generation

And maybe it's all I know, whatever it is I'm grateful for being

Wyclef Jean, Grateful, on The Preacher's Son (J-Records 2003). Wyclef shows reverence for the positive influences in his life. He mentions his friends and family as well as various cultural influences that helped steer him in a productive direction.


n164. Wyclef provides a succinct description of Haiti:

Haiti is my native country, one I know as the first black nation to gain independence in 1804. Most other people seem to know Haiti only by the statistics about how bad things are there. The majority of its 8 million residents live on less than $1 per day. Unemployment is close to 80 percent, and more than half the population is under 21 years old. Haiti is the poorest nation in the Western Hemisphere.

Yele Haiti Homepage, http://www.yele.org (last visited Oct. 22, 2009). The importance of Haiti's independence cannot be discounted. It surely has marked the African Diaspora in a profound manner. It is the only society of former slaves to break free from the slavery of White colonial oppressors. This is not something we have seen on such a scale anywhere else. Haiti's independence was a serious crack in the armor of the slave system. The Carribean modeled the successful 12-year Haitian revolution, and as the leader of revolutionary Latin America, Haiti provided assistance to other peoples. It is rumored that Napoleon had his soldiers shoot off the nose of The Great Sphinx because it reminded him of Haitian general Toussaint L'Overture. This action carries with it quite a bit of symbolic meaning as well. Needless to say, Haiti's evolution from slave island to free nation is one of the most interesting and revolutionary stories in world history. Omega, supra note 162, at 46. B. Boy Omega notes that, "for over a century, Haiti and its descendants in North America have been unjust targets of disrespect, hatred and misunderstanding." Id. at 45.

n165. This phenomenon is called "essentialism." Essentialism involves assuming that a supposed group shares common characteristics. See generally Jane Wong, The Anti-Essentialism v. Essentialism Debate in Feminist Legal Theory: The Debate and Beyond, 5 Wm. & Mary J. Women & L. 273, 275 (1999) (describing the debate between essentialists and anti-essentialists generally); Angela P. Harris, Race and Essentialism in Feminist Legal Theory, 42 Stan. L. Rev. 581, 585 (1990) (describing the essentialism in feminist theory and discourse).

n166. Wyclef Jean, Gangsta Cause, on Greensleeves Rhythm Album #18 (Greensleeves 2001) ("Apartheid? Mandela fought for that. Malcolm X, Martin Luther gave their life for that. Farrakhan did the million man march for that."). Moreover, Wyclef has made it okay to be Haitian - empowering an ethnic group to reclaim its pride. Wyclef recalls, "'My first fight was against the system. I was defending my flag in the States first.' ... "The system was saying that Haitians were wack and I wasn't having it. Many are called but few are chosen. I was called to put my nation in the forefront." Omega, supra note 162, at 46 (quoting Wyclef Jean). Wyclef ends his conversation with B. Boy Omega by noting the strong sense of community Haitians feel. He speaks of the need to give back. He argues for remembering the Haitian Revolution as a way to uplift Haitians today. His arguments are persuasive, his historical knowledge impressive, and his passion undeniable. Id. at 47.

n167. See supra note 39.
n168. See generally Alex M. Johnson, Jr., Defending the Use of Narrative and Giving Content to the Voice of Color: Rejecting the Imposition of Process Theory in Legal Scholarship, 79 Iowa L. Rev. 803 (1994) (describing the value of critical race theory and narrative generally).

n169. This is due to currents of essentialism, which run through everyday life. See infra note 176.


n174. See Roediger, supra note 172.

n175. Critical race theory is not complete without critical whiteness studies. Likewise, feminism is not a practicable theory without male studies. The complimentarity of inside and out produces the synthesis of understanding that is necessary to build a base for further criticism. Scholars and critics must always look to the broader issues and theories at play to build a more profound body of educational discourse.

Because essentialism strips away individual's subjectivity and assigns to them a new identity based on supposed group solidarity, individuals lose their respective individual characteristics. See supra note 176.

Loescher & Scanlan, supra note 163, at 313.

Id. at 320.


Wyclef Jean, Sang Fezi, on The Carnival (Sony 1997). Wyclef tells his story, in Creole, upon arrival to the United States:

Le mal lekol ameriken te kon joure'm

(When I went to school American's used to diss me)

Yo relem neg new yo relem ti refijie

(They called me Black nigger, they called me a little refugee)

Jan yo plae mwen woue yo pa civilize

(The way they talked I saw they were not civilized)
Jan yo plae mwen woue yo pa kon bon dije

(The way they talked I saw they didn't know God)

n182. Loescher & Scanlan, supra note 163, at 320 (referring to the Eisenhower administration's establishment of programs to help Cuban immigrants).

n183. B. Boy Omega describes one New York City practice:

In cities like New York and Miami acronyms such as "HBO" stood for "Haitian Body Odor" and fabrications like "Haitians eat cats," was ironically utilized by numerous, uninformed Black American children and adults, totally unaware of the contributions Haitians had made in their liberation from slavery possible. "Haitians helped facilitate a lot of things around the world," proclaims Wyclef. "If we did not fight the way we did we'd probably all still be slaves right now."

Omega, supra note 162, at 46. Scarface notes the persecution of Haitians on Wyclef's song, Next Generation, "We get plotted on by agents with talks of replacing the Africans, Jamaicans and the Haitians in this next generation." Wyclef Jean, Next Generation, on The Preacher's Son (J-Records 2003).


In addition to the Haitian accent, the language of the Haitian populace, Creole, may be a source of discrimination or act as an impediment to meaningful communication. Even President Aristide was made to feel the brunt of language discrimination when the American intelligence community based its reports that he was mentally unstable partly on his use of the "rich imagery" of Creole, a mix of French, African and European languages.

Similar to discrimination on the basis of language, biases based upon cultural differences create additional barriers for Haitian asylum-seekers. To the average American, Haitian culture is unfathomable. Knowledge of Haitian culture, according to one scholar, comes mostly from published works "based on myths, most of which are, at best, uninformed and plagiaristic and, at worst, mean-spirited and narrow-minded." Many journalists, travelers and scholars have historically maligned the country, describing it as "backwards, dangerous and savage," and populated by "pawns of superstition" who have "no understanding of the social forces of their own society."


n187. See How Stella Got Her Groove Back, supra note 185.

n188. Joal Ryan, MTV Awards Get Political, E! Online News, Sept. 11, 1998, http://www.eonline.com/News/Items?0,1,3585,00.html. See Villiers, supra note 184, at 914 ("It is not surprising, therefore, that today the notion of Haiti may bring to mind images of voodoo, savagery and black magic. The misinformation and maleficence reached its peak in the early 1980s, when the origination of the AIDS-causing virus was erroneously linked to Haitians." (footnotes omitted)). This association of Haitians with AIDS was much more than a poor attempt at humor. B. Boy Omega notes:

Not too long ago, Haitian identity came attached with an overwhelming negative stigma based on nothing else other than being from the small Caribbean country. Back in the early 1990's, the U.S. Food and Drug Administration implemented a ban on Haitians from donating blood claiming that individuals from Haiti were at a higher risk of having AIDS, which set-off a firestorm of protests by Haitian and indigenous Black Americans.

Omega, supra note 162, at 46.

n189. Rah Digga notes the hopelessness of urban and minority populations on Wyclef's Next Generation:

Whoa, we the next generation, look at what we facing

The kids raise themselves, all kind of temptation

Flowers and candles decorating all the pavements

No, the perpetrator ain't seeing no arrangements

Nobody cares about the feelings of the poor
Many suffer while we spending eighty billion on a war, uh

Cutting school budgets, U.S. stockmarket plummets

Conditions only worsen and I wonder what be coming

Metal detectors replace music classes

Angry little kids wanna beat their teacher's asses

The red and blue's, somebody's gotta lose

Reality TV be reality for who?

I don't question what the Lord found in me

I just pass it on to folks with no boundaries

Got a long road ahead of us, AIDS already deaden' us

Now we got SARS, how many will there be left of us?

Wyclef Jean, Next Generation, on The Preacher's Son (J-Records 2003).

n190. An illustration of the miscommunication between people beyond semantic differences can be developed by considering the Haitian concept of voudou. This term has a vast significance to Haitian history, cultural patterns, and religious notions, but it has been pejoratively
depicted in general understanding by persons in the United States. The negative connotations of black magic, zombies, sacrificing persons, and blood rituals degrade the understanding of a much larger and more pervasive socio-cultural phenomenon. Roseann Duenas Gonzalez et al., Fundamentals of Court Interpretation vii, 240 (1991). The lack of cultural understanding underlies this misinterpretation. See Villiers, supra note 184, at 914.

n191. Charles M. Grabau & Llewellyn Joseph Gibbons, Protecting the Rights of Linguistic Minorities: Challenges to Court Interpretation, 30 New Eng. L. Rev. 227, 317-18 (1996) (making light of the low passage rates in New Jersey and federal court, both instances were below 8%); see Villiers, supra note 184, at 897 (citing to the "paucity of available legal support and few, if any, Creole interpreters" for Haitian refugees).


n193. Armour, supra note 52, at 737.

n194. See infra notes 208-19.

n195. The gangster, shotta, pimp, bad boy, and thug are all examples. These personas tend to involve breaking the law, often through acts of violence and drug dealing. Many times hip-hop artists are misogynistic in their lyrics and often in their daily lives. While hip-hop's misogynistic tendencies are clearly oppressive and objectifying, they do not explicitly entail law breaking, and while certainly worthy of intense further investigation, will not be discussed more than in passing in this piece. In fact, "some researchers have argued that society in some ways, needs rap music - no matter how seemingly misogynous, hypermaterialistic, and hedonistic - to illustrate cultural norms of the urban poor." Richardson & Scott, supra note 5, at 185. I also do not claim that the (anti)legal identities are necessarily based in truth and may in fact not be.

n196. See Ogbar, supra note 98, at 164 (generally discussing the impacts of hip-hop on law and politics as well as cultural studies).

n198. Entertainment Law is a wildly popular class at WVU Law and entertainment law societies and programs are increasing in size and frequency.

n199. See Snoop Dogg, Murder was the Case, on Doggystyle (Interscope Records 2000); Common, Testify, on Be (Geffen Records 2005); see generally Jadakiss, Why, on Kiss of Death (Ruff Ryders 2004).

n200. Hip-hop artists have been the subject of extensive involvement in the criminal justice system. Whether or not the interaction of hip-hop artists and the criminal justice system is fair and just is not an issue addressed here. I personally believe, however, that it is not just. It might be that popular conceptions about rap artists and a high incidence of criminal activity are the product of an unfair mass media. The media's influence cannot be understated. Warren Woodberry, Jr., Trial Delay for Rapper DMX, Daily News (N.Y.), July 24, 2004, at 6 (discussing DMX's Queens County Court trial for an assault at Kennedy Airport); Robert Gearty, Lil' Kim Learns Her Prison Fate Today, Daily News (N.Y.), July 6, 2005, at 3 (discussing Lil' Kim's perjury trial in Manhattan federal court); C-Murder's Trial Under Way, Houston Chron., Sept. 19, 2003, at A2 (detailing the charges at C-Murder's murder trial); Ann Oldenburg, The People vs. Puff Daddy: The Hot Ticket in Town? The Rapper's Trial in Courtroom 733, USA Today, Feb. 5, 2001, at D1 (discussing the second week of Puff Daddy's night club shooting trial); Tina Daunt, Lawyer in Rapper's Trial Says Slaying Was Self-Defense, L.A. Times, Nov. 29, 1995, at B3 (discussing Snoop Dogg's murder trial); Bella English, The Convict and the Singer, Boston Globe, July 13, 2005, at E1 (discussing John Forte's 14-year drug trafficking sentence).

n201. See Rutherford, supra note 155, at 329 (discussing the lucrative money involved in hip-hop).

n202. Legal identities include the "reasonable person," defendant, plaintiff, complaining witness, guardian ad litem, amicus curiae, etc. When individuals assume these roles, they acquire various statuses, responsibilities, and privileges. They become the individual plus something - plus a new set of characteristics that they assume, willingly or unwillingly.


reasonable person. 1. A hypothetical person used as a legal standard, esp. to determine whether someone acted with negligence; specif., a person who exercises the degree of attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own and of others' interests. . The reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions. - Also termed reasonable man; prudent person; ordinarily prudent person; reasonably prudent person; highly prudent person. See reasonable care under care.

Id.

The reasonable person's applications and criticisms are widely discussed in literature and classes. To avoid needlessly listing the
mountains of literature surrounding the issue or engaging in a mechanistic parsing of words in an attempt to opine some grand definition, I will suggest some readings that provide interesting commentary on this well-developed area of scholarship. See generally Caroline A. Forell & Donna M. Matthews, A Law of Her Own: The Reasonable Woman as a Measure of Man xvii (2000) (engaging in a feminist critique of the reasonable person standard); Caroline Forell, Essentialism, Empathy, and the Reasonable Woman, 1994 U. Ill. L. Rev. 769, 769 (1994) (engaging in a feminist critique of the reasonable person standard); Mayo Moran, Rethinking the Reasonable Person: An Egalitarian Reconstruction of the Objective Standard 1-16 (2003) (describing problems with the reasonable person generally).


n205. A constructive trust is an example of a legally created entity:

A constructive trust is a "trust by operation of law which arises contrary to intention and in invitum, against one who, by fraud, actual or constructive, by duress or abuse of confidence, by commission of wrong, or by any form of unconscionable conduct, artifice, concealment, or questionable means, or who in any way against equity and good conscience, either has obtained or holds the legal right to property which he ought not, in equity and good conscience, hold and enjoy. It is raised by equity to satisfy the demands of justice."


n206. By streamlining, I intend to indicate some sense of increased efficiency. This footnoted statement is intended to be facially neutral.

n207. Gilles Deleuze & Felix Guattari, Capitalism and Schizophrenia: A Thousand Plateaus 474-500 (1987) (describing and providing numerous examples to illustrate smooth and striated space). Deleuze and Guattari are not accessible writers. It takes numerous readings and re-readings to even begin to pick away at the ever-frosty tundra of their philosophical positions. The process of reading these two authors is the alternative they posit - the pursuit of deconstruction and smooth space in a literary world of punctuation, paragraphs, and sub-headings. In the most clear expression of their striated-smooth space dialogue, Deleuze and Guattari note:

When the ancient Greeks speak of the open space of the nomos - nondelimited, unpartitioned; the pre-urban countryside; mountainside, plateau, steppe - they oppose it not to cultivation, which may actually be part of it, but to the polis, the city, the town. When Ibn Khaldun speaks of badiya, bedouinism, the term covers cultivators as well as nomadic animal raisers: he contrasts it to hadara, or "city life." This clarification is certainly important, but it does not change much. For from the most ancient of times, from Neolithic and even Paleolithic times, it is the town that invents agriculture: it is through the actions of the town that the farmers and their striated space are superposed upon the cultivators operating in still smooth space (the transhumynt cultivator, half-sedentary or already completely sedentary). So on this level we reencounter the simple opposition we began by challenging, between farmers and nomads, striated land and smooth ground: but only after a detour through the town as a force of striation. Now not only the sea, desert, steppe, and air are the sites of a contest between the smooth and the striated, but the earth itself, depending on whether there is cultivation in nomos-space or agriculture in city-space. Must we not say the same of the city itself? In contrast to the sea, the city is the striated space par excellence; the sea is a smooth space fundamentally open to striation, and the city is the force of striation that reimports smooth space, puts it back into operation everywhere, on earth and in the other elements, outside but also inside itself. The smooth spaces arising from the city are not only those of worldwide organization, but also of a counteraffack combining the smooth and the holey and turning back against the town: sprawling, temporary, shifting shantytowns of nomads and cave dwellers, scrap metal and fabric, patchwork, to which the striations of money, work, or housing are no longer even relevant.
Returning to the simple opposition, the striated is that which intertwines fixed and variable elements, produces an order and succession of distinct forms, and organizes horizontal melodic lines and vertical harmonic planes. The smooth is the continuous variation, continuous development of form; it is the fusion of harmony and melody in favor of the production of properly rhythmic values, the pure act of the drawing of a diagonal across the vertical and the horizontal.

Id.: The smooth and striated are surely in opposition, but do not occur in distinction from each other. Id. at 474-75, 480-81. The smooth and striated are often mixed and battle for control over the rhetorical landscape. Id. at 474, 480-81, 500.

n211. Deleuze and Guattari write:

Even though the nomadic trajectory may follow trails of customary routes, it does not fulfill the function of the sedentary road, which is to parcel out a closed space to people, assigning each person a share and regulating the communication between the shares. The nomadic trajectory does the opposite: it distributes people (or animals) in an open space, one that is indefinite and noncommunicating. The nomos came to designate the law, but that was originally because it was distribution, a mode of distribution. It is a very special kind of distribution, one without division into shares, in a space without borders of enclosure. The nomos is the consistency of a fuzzy aggregate: it is in this sense that it stands in opposition to the law or the polis, as the backcountry, a mountainside, or the vague expanse around a city ("either nomos or polis"). Therefore, and this is the third point, there is a significant difference between the spaces: sedentary space is striated, by walls, enclosures, and roads between enclosures, while nomad space is smooth, marked only by "traits" that are effaced and displaced with trajectory.

Id. at 380-81.

n212. The hip-hop artist is very much like D&G's nomad in that the hip-hop artist moves to and fro without destination, but on a trajectory of lyrical activity guided not by result, but simply by the value of the free expanse of rhetorical terrain to traverse.
n213. A freestyle battle is a competition where two emcees will create rhymes, on the spot, as a disc jockey plays a beat. Some freestyle battles involve multiple participants and multiple rounds. For a fair portrayal of freestyle battles, refer to 8 Mile (Universal Studios 2002).

n214. A "B-boy" is a break dancer. "B-boy" has alternately been defined as a hip-hop fan. Rose, supra note 36, at 277.

n215. Scratch competitions are contests where DJ's battle by seeing which DJ can scratch records better. Scratching is the process by which DJ's move the needle of a record player over various spots so as to create new combinations of sounds and new vocal arrangements.

n216. Tagging is the process by which graffiti artists mark their work. Groups of graffiti artists will often compete to see who can tag more things or design more graffiti murals. This activity is also called bombing. See generally Nicholas Ganz, Graffiti World: Street Art from Five Continents (2004); Martha Cooper & Henry Chalfant, Subway Art (1988); Henry Chalfant & James Prigoff, Spraycan Art (1997).

n217. See supra notes 163-93 and accompanying text.

n218. Haitian Creoles are simply Haitians that speak Creole or can ascribe to themselves Creole ancestry. Not all Haitians are Creole and many individuals speak Creole who are not Haitian. "Creole" is a word that can carry with it several definitions, and readers are cautioned to think about how authors intend the word to be understood.

n219. By assuming that people tend to abide by laws, a space is created that is free of dissent. Most people follow the rules and in so following the rules add legitimacy to those rules. The less someone dissents from a particular condition the more that particular condition garners support and operates free of criticism and investigation.

n220. Just as laws vary by state and country, so do people's perceptions about what is "right" or "wrong," and "legal" or "illegal." Is the mother who steals medicine she cannot afford for her dying child right or wrong? Is the violation of a law that is unjust illegal? These sorts of situations illustrate the gray area between what is or is not a legal identity. Beauty is in the eye of the beholder as the perceptions of one individual are not necessarily the perceptions of another individual.

n221. Nick J. Sciullo, Regionalism, the Supreme Court, and Effective Governance: Healing Problems that Know No Bounds, 8 How.

n222. This public face is what we see in the colloquial sense. It is who or what we encounter. See The Fugees, The Mask, on The Score (Sony 1996).

Have you ever worn the mask one-two one-two

"M" to the "A" to the "S" to the "K"

Put the mask upon the face just to make the next day

Feds be hawkin' me

Jokers be stalking me

I walk the streets and camouflage my identity

My posse in the Brooklyn wear the mask

My crew in the Jersey wear the mask

Stick up kids doing boogie woogie wear the mask

Yeah everybody wear da mask but how long will it last

Id.
n223. This likely explains the proliferation of specialized legal study. Critical race theory, feminist theory, GLBT theory, often referred to as queer theory, and the like, are becoming more and more common. This, so it seems, is an attempt to understand how people with various societal markers engage the law. Through the experiences of these individuals, theories have developed to bridge the gap between experiential learning and deeper abstract knowledge. Thus, the development of theory is a corollary to the experiences that individuals encounter and the ideas spawned from those encounters. Therefore, the development of so many socio-legal theories is a strong indication of the different experiences that abound.


n226. See supra notes 203-06.

n227. Schlag, supra note 225, at 1094.

n228. Nietzsche is often described unfairly as a nihilist. Nietzsche advocates a rejection as a positive step in the critical process. His failure to believe in certain things does not by extension mean he disbelieves everything. See generally Friedrich Nietzsche, Beyond Good and Evil (Helen Zimmern trans., 1989) (1886); Friedrich Nietzsche, On the Advantage and Disadvantage of History for Life (Peter Preuss trans., 1980) (1874); Friedrich Nietzsche, The Anti-Christ (H.L. Mencken trans., 1999) (1895).


n231. Id.


n234. Vining, supra note 230, at 150-51.

n235. See Kenneth Burke, A Grammar of Motives xv (1945).

n236. See id. at xv, 227-74.

n237. See id. at 227-74, 171-226.

n238. Id.

n239. Burke notes: "These forms ... are equally present in systematically elaborated metaphysical structures, in legal judgments, in poetry and fiction, in political and scientific works, in news and in bits of gossip offered at random." Id. at xv.

n240. Kelefa Sanneh, The Secret Doctrine: A Conversation with Killah Priest, 74 Transition 162, 162-64 (1997). The pursuit of (anti)legal identities is part of the play-acting that rappers do. Many rappers have, as their strategy, a desire to obscure and make fun of situations:

Those who search for "reality" in rap lyrics inevitably blur the distinction between biography and art, celebrating tabloid "facts" that soon
pass into urban mythology. And poetry is no match for an urban myth. The "reality," of course, is that rappers are paid to brag and to boast, to make things up and to talk shit.

Id. at 164. The rapper has much incentive to engage in boasting and "shit talking." While money may influence the authenticity of irony and hyperbole, it is not determinative of the rhetorical presentation's quality. There is a tendency to blur the lines between the shades of reality, which forces the hip-hop listener into an intensely attentive position.

n241. There is something to be said about the extreme nature of responses and actions with respect to the situation to which these responses and actions are directed. Whether or not the response is indicative of an objective or subjective seriousness is debatable.

n242. I think the obsession over, or interest in, what rap is about, from the perspective of many nonurban or non-persons-of-color, might be based in a sort of paternalistic omnipotent eye. Kenneth Burke explains when describing the Black theater:

One could safely bestow one's love upon such essentially ineffectual foibles and imaginings. They had the loveableness of the incompetent.

Americans, driven by some deep competitive fear, seem to open their hearts most easily to such symbols of "contented indigence." Note how their darling comic heroes are all transparent, outspoken, ineffectual fellows, too scatter-brained to be dangerous, too prompt in tomfoolery for expertness in the grim ways of jockeying one out of a job or getting the better of one in a deal.

Burke, supra note 50, at 361-62.

n243. This may be because there is so much violence on television or because people are naturally interested in the violence they see. See generally Patricia M. Wald, Doing Right by Our Kids: A Case Study in the Perils of Making Policy on Television Violence, 23 U. Balt. L. Rev. 397, 397 (1994) (discussing the impact of violent television on children and the large amount of violence on television generally).

n244. Kenneth Burke explains: "The difference between the symbolic drama and the drama of living is a difference between imaginary obstacles and real obstacles. But: the imaginary obstacles of symbolic drama must, to have the relevance necessary for the producing of effects upon audiences, reflect the real obstacles of living drama." Burke, supra note 50, at 312.

n245. Rose, supra note 97, at 101.

n246. The O'Reilly Factor, supra note 87.
n247. Burke, supra note 50, at 313.

n248. Because these images come through on movies, documentaries, novels, sitcoms, and the like, there is a greater chance for recognition of a common struggle, or at the very least, that someone has a problem and that problem is serious. "Such procedure is especially to be desired in the propagandist, since humyneness is the soundest implementation of persuasion." Id.


n250. See supra notes 31-33.

n251. See supra Part Hyperbole and Irony: Violencing Peace!.

n252. Wyclef Jean, John 3:16, on Muggs Presents ... The Soul Assassins Chapter 1 (Sony 1997).

n253. See Sciullo, supra note 221 (discussing the need of individuals in the multitude to rise up and let their voice be heard).

n254. This is a common phrase used by rappers and mixed by disc jockeys. The literature does not discuss this phrase, and this phrase seems to have an organic origin.