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2011

Amos Lee's "Street Corner Preacher" through Michel Foucault's Critique of Scientific Knowledge: A Critique of Legal Knowledge

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Amos Lee’s “Street Corner Preacher”\textsuperscript{1} through Michel Foucault’s Critique of Scientific Knowledge:\textsuperscript{2} 
A Critique of Legal Knowledge

Nick J. Sciullo\textsuperscript{*}

I. Introduction

I’m here now, I can’t believe it, Proof in the puddin’
Everything happened for a reason
Through this music I’m able to feed the family
When I’m stressed out, it’s my insanity
It’s a life-style, all in the streets and in Hollywood
Music in my DNA, it’s my livelihood...music...\textsuperscript{3}

Today’s prophets of hope, scholars of struggle, and legal minds of imperceptible aptitude are among us.\textsuperscript{4} They walk the streets we walk, eat in our delis, listen to our music, and drive on our highways; but too often, we fail to realize that there is profound life beyond our self-interested personal or encapsulating social class spheres. Too long has legal theory been confined to the stacks, the musty smell of federal reporters permeating the power of the mind, rendering stale the questioning nature that was nurtured in us as children. We must not let the voices of the downtrodden, socially maligned, and economically disadvantaged

\textsuperscript{1} Amos Lee, \textit{Street Corner Preacher}, on \textsc{Last Days at the Lodge} (Blue Note Records 2008).
\textsuperscript{2} See infra notes 67-120.
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\textsuperscript{3} Hi-Tek, \textit{Music for Life}, on \textsc{Hi-Teknoology Vol. 2: The Chip} (Babygrande Records 2006).
\textsuperscript{4} Jody David Armour, \textit{Bring the Noise}, 40 B.C. L. REV. 733, 736-37 (1999) (“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.”).
pass us by. The problem with legal knowledge, precisely, is the failure of scholars to include in it voices that fall outside the treatises, cases, and law review articles that form the body of legal knowledge usually relied upon in the law. Our guide on this journey will be Amos Lee’s “Street Corner Preacher” because music can and should be investigated as a unique space for knowledge dissemination. Music is a powerful tool that challenges our established loci of knowledge. In addition, music may contribute greatly to the body of knowledge called “legal knowledge.”

In this article, I resolve to demonstrate that although law students, scholars, and practitioners rely on a relatively narrow body of “legal scholarship,” there are in fact many additional and diverse sources of legal thought that deserve to be evaluated alongside our currently accepted body of legal scholarship. I will present arguments in favor of appreciating music as a unique and important source of legal commentary through which we might understand how people relate to the law—what I have termed “coming to the law.” I will demonstrate that music can be uniquely transgressive and that it presents a powerful alternative to what Michel Foucault called “scientific knowledge.” Ultimately, Foucault’s critique will be the road upon which we travel. I will also argue, more generally, the importance of accepting different forms of knowledge, because the rejection of different knowledges is a unique form of violence that acts before the law can take effect, ultimately serving to debase the law.

II. Why We Need the Streets

The life of the law is very much intertwined with the lives of people traversing the world’s streets. This article, however, is not a story of public defenders or criminal defense attorneys, but

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5 See Phillip C. Kissam, The Evaluation of Legal Scholarship, 63 WASH. L. REV. 221, 222 (1998) for a definition of legal scholarship. According to Kissam, ‘legal scholarship’ refers to “any writing about the law or legal process that is printed in a form generally recognized as ‘a legal publication.’” Id.

instead, represents an investigation into the critical geopolitics of law.\(^7\) Listening to the people in the street is about listening to the narratives of the dispossessed and the disempowered; viewing them through a lens where they are embraced together, a lens through which the law can be radically changed. It is not enough to simply listen to the masses, attempt to empower the voices, or chant down Babylon.\(^8\) We must think more critically than that. Law happens in space, with places and people interacting and transversing one other. Law does not happen in a vacuum, nor do different legal matters arise in the same manner or under the same circumstances; the law is varied and intriguing. Yet, we have a tendency to describe the law in impersonal, mechanistic strokes.\(^9\) Seldom do we receive instruction regarding individual understanding of the law and the importance of sociological factors, either during the adjudication of cases or within the very matters that originate cases. Facts are approached as artifacts, not as arguments imbued with politics. Thoughtful discussion is supplanted with vitriol. This impersonal method is further problematized by a rigid structure that excludes people, ideas, and resources in order to further bolster the law’s strength.

This complex latticework of power relations has shaped my legal understanding, and is also what has caused me to critique the law. I came to my Legal Research and Writing class with a firm background in critical and rhetorical theory, which I believe set me apart from my peers. Other students may have known Will Kymlicka,\(^10\) but I knew Michel Foucault.\(^11\) Where others embraced

\(^7\) See Michel Foucault, Power/Knowledge 63-77 (1980) (specifically discussing the author’s work with geography during an interview).

\(^8\) E.g., Bob Marley, CHANT DOWN BABYLON (Island Records 1999).


Stephen Macedo, I embraced bell hooks. These differences put me at odds with a number of my colleagues who eagerly embraced natural law theories and neoconservative political thought; however, such thoughts are often disguised under the banner of neoliberalism.

What I saw in Legal Research and Writing was a demonstration of sex and gender bias that pervaded law school. I do not intend to claim that this was intentional; such an argument is beyond the scope of this article. I saw a hierarchy of

13 See generally bell hooks, Ain’t I a Woman: Black Women and Feminism (1999); Teaching Community: A Pedagogy of Hope (2003); Teaching to Transgress: Education as the Practice of Freedom (1994); Outlaw Culture: Resisting Representations (2006); Killing Rage: Ending Racism (2005); Feminist Theory: From Margin to Center (1984); Feminism is for Everybody: Passionate Politics (2000).
14 See Jack M. Balkin, Deconstruction’s Legal Career, 27 Cardozo L. Rev. 719, at 720-21 (2005) (making a keen observation in reference to deconstruction, a practice that I embrace and have worked with in a number of my writings, not to mention the many legal scholars in the various critical schools who have engaged deconstruction). Balkin writes:

It is true that many literary deconstructionists identified with the political left. But they were using deconstruction to show the impenetrability, mutability, and conceptual incoherence of all texts, not simply the texts produced by political conservatives. In fact, in the literary world, many people argued that deconstruction was a profoundly conservative movement. The recognition that any text could be deconstructed and that all meanings were unstable might lead to political quiescence.

15 See generally William Strunk, Jr., The Elements of Style (2007) (providing guidance for pronouns in Legal Research and Writing texts). “Guys” was used as a gender neutral term in class. “He” was the preferred pronoun in many legal research and writing texts. Strunk was not exactly a leading voice in gender neutrality. I was sternly reprimanded several times for using the plural pronoun “they” to denote gender neutrality, despite this usage being increasingly common in writing and language arts texts for at least ten years prior to my entering law school. See also Ronald K.S. Macaulay, The Social Art: Language and Its Use 167 (1994) (quoting Strumpf and Douglas who bluntly state, “English is a sexist language. Everyday speech is full of male-biased words…. The same sexism is evident in our use of masculine pronouns he, him, and his in language that attempts to speak unpreferentially to males and females, while avoiding troublesome word constructions, such as he or she.” Michael Strumpf & Aurel Douglas, The Grammar Bible 166 (2004).
knowledge that sought to reduce competing knowledges to subordinate status. I saw an ignored and flawed system. This is not to say that my education was somehow poor; it was quite the opposite. I received an excellent education in both the substance and theory of the law, but I did not blindly accept what was proffered to me. The excellence of my education was, in part, due to a cadre of young, energetic law professors and my own willingness to inject philosophical and theoretical ideas into my readings, assignments, and class discussions.

At the time, I was strongly suspicious that Legal Research and Writing was robbing me of the law. I chose not to embrace the law’s sermon of formalism because I did not observe it in the required law school readings. At a very early (dis)juncture, I noticed that the law I was being taught was very different from the law I was reading. Many judicial opinions seemed to break free from this mold and some professors in my doctrinal classes were more open to expanding the way the law was discussed. This (dis)juncture was the catalyst for my interest in the formalization and professionalization of legal discourse. The idea that this type of formalism could silence voices served as the genesis for my study of political and critical theory as they relate to the law and language. It is this same idea that provides the impetus for my investigation of the importance of these silenced voices that seem startlingly absent from the law.

If understanding the law was as formal as Legal Research and Writing texts suggest, I imagine only a few students would study law. The Legal Research and Writing text’s reliance on form and rejection of outsider knowledge mirrors the ways in which our larger legal society has ignored the voices of the masses. Law is not nearly as structured and formal as the uninitiated might believe.

I do not come from a racial minority, nor did I rise from economic poverty. I have, however, on numerous occasions, been the subject of discriminatory words due to my philosophical inclinations and my Italian heritage. This story is not unique, 

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17 We often think of institutions of higher education as open forums for scholarly engagement, but that is not always true. When I talked of critical race theory or postmodern/poststructuralist criticism amongst my peers in law school, I was met by comments that seemed neither scholarly nor polite. It was quite common to be derided,
but it informs my analysis of socio-legal issues. Although I do not claim to have suffered the burdens of people of color or those of the economically dispossessed, I hope that this shortcoming will be accepted in order to allow me to more fully engage, even if in a flawed manner, with the voices of the masses.

Ultimately, the question is not one of method, but one of restoring power to the dispossessed. The valuable commentary from those outside of the law must be brought into legal discussions because this can help restore the power lost in the act of oppression.

Our legal academy can and should seek to restore the subjectivity lost by the oppressed by including their voices in whatever form they may come. It is not enough for a lawyer to practice pro bono or to argue for outsider inclusion because the system is flawed to its very roots. The voices of the dispossessed can be heard if we choose to hear them—and there are many. But, what do we value and how do we value it? If we use the language of the oppressor to mark oppressed’s music as rebellious or if we label their musicians, activists, and non-academics as “violent,” “barbaric,” or “wicked,” this is an act of denial. The oppressed are denied the ability to seek out the subjectivity that comes from power.

The people in the streets are engaged in a great historic-political task: to liberate themselves. This task has strong roots in the French Revolution, the Hungarian Revolution of 1956, etc.

not in the spirit of argument, discussion, or debate, but in the spirit of retribution, anger, and non-acceptance.

18 The discrimination against Italians and Italian-Americans is much more pervasive than most people think. The use of terms like “Dago,” a corruption of the Spanish slur “Diego,” along with other terms like “Greaser” and “Wop” are still common. I’ve heard them applied to me and to others. The images we see on television are also replete with essentializing notions of Italian and Italian-American identity.


20 Id. at 56.

21 Id. at 50.

22 Id. at 44.

and the Paris revolts of 1968. Liberation may be achieved by revolution, but allowing this sort of revolution threatens the legal establishment because it represents destabilization of the law’s formalism. But liberation, a more constant struggle than a terminal event, actually empowers oppressors. Just as oppressors may lose subjectivity in the act of oppression, they may gain it back in a struggle that breaks them of their oppressive predilections. It is through the study of Foucault’s specific approach to genealogies of power/knowledge that one can empower the oppressed and, as this approach is applied to legal theory, can change the doctrinal approach to legal knowledge.

The task of people on the streets is one of political importance and political possibility. Meaning changes over time and legal theory is no stranger to change. This change must be helped along aggressively. The multitude can change the master’s language over time, with careful and well thought out rebellion. To do so, the multitude must develop new tactics and acquire new knowledge. In other words, this change requires an act of genealogical inquiry, one that is informed by deconstructionist philosophy. It is not enough to tear down a structure only to rebuild it in exactly the same manner.

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26 Id.
27 J. M. Balkin, Ideological Drift and the Struggle Over Meaning, 25 Conn. L. Rev. 869, 870 (1993) (“Styles of legal argument, theories of jurisprudence, and theories of constitutional interpretation do not have a fixed normative or political valence.”).
28 Michel Foucault, “Society Must Be Defended”: Lectures at the College de France 1975-1976 910 (2003) (“Genealogy has to fight the power-effects characteristic of any discourse that is regarded as scientific.”).
29 Balkin, supra note 14, at 719, (“Deconstruction was first imported from Continental philosophy to American literature departments and later migrated to American law schools. Deconstruction became fashionable in America at about the same time as reader response theory, which held that the meaning of a text is produced as the reader encounters it.”).
III. Music as Teacher: Amos Lee’s “Street Corner Preacher”

Music has long been integral to social movements, and as such is an appropriate lens through which to apply a critical perspective to society. Music acts to give coherence to movements, to social progress, and nowhere is this truer than in the United States. Therefore, it should follow that music contributes to the progression of legal understanding. If we can accept the notion of legal musicology—the use of music as a lens through which to view law—we might be better suited to formulate a theory of music, law, and intersectionality of social movements. As Jonathan Culler notes, “[a] characteristic of thinking that becomes theory is that it offers striking ‘moves’ that people can use in thinking about other topics.” Legal musicology provides the framework to consider a myriad of avenues in the law, from identity politics to punishment, etc. Music can provide these “moves” as people attempt to understand law.

We have much to learn from music. Indeed, “[m]usic provides a window on some of these important cultural and societal changes” such as racism, international trade, cultural imperialism, fear, and anger. Furthermore, “[m]usicians and educators are engaged in a fundamentally social, political, and cultural enterprise.” If viewed this way, the legal educator and the musician share a similarity, as both are involved in a social, political, and cultural activity. Is there a reason we prefer the social, political, and cultural production of an educator or a law professor to the social, political, and cultural production of a musician? Either way, we must critique this knowledge production to unmask its exclusionary bias.

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31 Id.
32 Id.
33 Id.
35 See Kissam, supra note 5.
38 Id. at xiii.
Music can provide us with a deeper understanding not just of the law, but also of society. It presents a new theoretical model, a new way to speak to the increasingly complex realities of our ever-changing world. Its rhythms are the rhythms of society. Where law stratifies, music smooths. Music helps us to intimately understand the acting out of the social condition. It is a soundtrack to all that happens in society from love to law, compassion to contempt.

One of law’s most important purposes is, or at least should be, redemption. Law should enable one to change, build upon subjective worth, and restore the subjectivity lost in the criminal justice system. Redemption stories are common beyond the legal system, and the mournful cries of Bob Marley in “Redemption Song” make the message clear. Music has power. Redemption has power. Read the daily newspaper, and it is relatively easy to find stories about those who have done wrong by the law but are now working on redeeming themselves through various actions. The law exists to regulate society, or, more appropriately, an

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39 See generally Jacques Attali, Noise: The Political Economy of Music 4 (Brian Massumi, trans., Univ. of Minn. Press, 1 ed., 1985) (“Music is more than an object of study: it is a way of perceiving the world.”).
40 Id. (“It is thus necessary to imagine radically new theoretical forms, in order to speak to new realities. Music, the organization of noise, is one such form. It reflects the manufacture of society; it constitutes the audible waveband of the vibrations and signs that make up society. An instrument of understanding, it prompts us to decipher a sound form of knowledge.”).
41 Daniel T. Kobil, Should Mercy Have a Place in Clemency Decisions?, in Forgiveness, Mercy, and Clemency 36, 48-9 (Austin Sarat & Nasser Hussain, eds.) (2007) (“Unfortunately, when it comes to our current approach to justice, it appears that we solidly subscribe to the retributive creed, with goals such as rehabilitation, redemption, or atonement playing secondary roles at best.”).
42 Bob Marley was, of course, the greatest reggae musician ever to live and had a profound impact on social movement theory. See generally Garry Steckles, Bob Marley: A Life (2008); Timothy White, Catch a Fire: The Life of Bob Marley (rev. 2006).
43 Bob Marley, Redemption Song, on Uprising (Tuff Gong 1980).
44 Here, I imagine the many stories of former gang members doing anti-gang work, ex-convicts who go back to jail to mentor current convicts, and other similar stories. See generally Stanley Tookie Williams, Blue Rage, Black Redemption (2007) (discussing Staley “Tookie” Williams’s, founder of the Crips street gang, life and work to end gang violence).
45 Foucault utilizes a conception of juridico-discursive power that describes power as a regulatory process designed to prohibit actions and coerce other actions. C. G. Prado writes, “What juridico-discursive power prohibits is specific things people might do. Juridico-discursive power is thou-shalt-not coercion backed up by incarceration,
individual’s conduct in society; yet, this process often comes at an exacting cost. So, we are left with punishment, which is justified on a number of grounds, depending upon one’s philosophical persuasions: protection of society, protection of the offender, retribution, deterrence, or rehabilitation.

Redemption and rehabilitation are different creatures. Punishment does not seek to help an offender achieve redemption. Redemption comes about through self-awareness and a struggle for betterment. Redemption is a personal quest.

Rehabilitation comes about through the actions of others by a combination of therapy and counseling. An offender does not seek rehabilitation since it is a practice imposed on an offender by authorities. This redemptive quest can be portrayed in music and in this type of song we may be able to see the power opposition music can provide to traditional legal knowledge.

Amos Lee’s “Street Corner Preacher” is about a person seeking redemption through good works after a negative encounter with the legal system. In the face of a legal system that has wronged the felon, the street corner preacher seeks a new path that will restore

punishment, or execution.” C. G. Prado, STARTING WITH FOUCAULT AN INTRODUCTION TO GENEALOGY 103, (2nd. ed. 2000).
46 By this, I mean incapacitation of offenders. See George P. Fletcher, BASIC CONCEPTS OF CRIMINAL LAW 31 (1998). See also George P. Fletcher, RETHINKING CRIMINAL LAW 505 (2000).
47 Wolfgang G. Friedmann, LAW IN A CHANGING SOCIETY 226 (2nd ed. 1972); G. W. F. Hegel, ELEMENTS OF THE PHILOSOPHY OF RIGHT 126 (Allen W. Wood, ed. 1991) (“[T]he injury [Verletzung] which is inflicted on the criminal is not only just in itself, ... it is also a right for the criminal himself.”) (emphasis omitted).
49 Id. at 11-12.
50 See Jerome Hall, GENERAL PRINCIPLES OF CRIMINAL LAW 304 (2nd ed. 2005).
52 Eric A. Posner, LAW AND SOCIAL NORMS 106 (1st ed. 2000) (“Rehabilitation is a secularized version of two important theological ideas: redemption and mercy.”).
53 Id. (Posner describes the personal quest of redemption: “Although the punishment may be waived or reduced, redemption is not the same thing as a declaration that a person is innocent of a charge. What it means is that the person has committed the crime, and deserves expulsion from the community, but [they are] now accepted back into the embrace of the community.”).
this felon’s sense of rightness or sense of being in the world. Redemption is, therefore, much more complex than forgiveness or rightness; it is about being. Lee’s song speaks to the pervasive sense of hope that might exist in the masses if subjectivity can be reclaimed. Amos Lee begins

“Street Corner Preacher:”

He got a new mercy
A new grace
Street corner preacher
With the angry face
He got two years off
For good behavior
Back in the neighborhood
Working for the Savior
That’s two old ladies
And a junkie, now now
He can see for sure
That his work is cut out
Though he walks through the shadows
He won’t fear his neighbor
Back in the neighborhood
Working for the Savior

This opening verse illustrates many important characteristics of our urban communities. Amos Lee comes from an important urban center, Philadelphia, where he taught elementary school. Philadelphia is a city rich in history, poverty, and racial tensions. It is bordered by increasingly wealthy White suburbs.

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54 AMOS LEE, Street Corner Preacher, on LAST DAYS AT THE LODGE (Blue Note 2008), lyrics available at http://www.azlyrics.com/lyrics/amoslee/streetcornerpreacher.html.
57 See JAMES WOLFINGER, PHILADELPHIA DIVIDED: RACE AND POLITICS IN THE CITY OF BROTHERLY LOVE (2007) (analyzing the complex and intersecting racial, economic, and political problems of Philadelphia).
The first thing we might observe from Lee’s preacher is the preacher’s angered state. We might expect someone on or of the streets to be angry, disenchanted, etc., but we do not know why this individual is angry. This, perhaps, reflects the complex series of emotions that permeate the life of the downtrodden. Life is difficult, emotionally taxing, and complex: the combination of these emotions can create a matrix of discontent.

We also note an important facet of urban life—returning to the neighborhood. The neighborhood is of central importance to urban life, a locus of identity. In the neighborhood one may find classmates, churches, elders, grocery stores, and family. It encompasses both boundary and feeling. The neighborhood is a nucleus for urban life. Individuals may define themselves by neighborhood affiliation, and this identification may serve as a justification for law-breaking.

The song’s illustration of the protagonist walking in the shadows emphasizes the fact that he is an outsider, beyond the light, an afterthought to walking life. Amos Lee contrasts the
dark shadows with the lights of knowledge, clarity, and the like; thereby giving the listener a sense of the preacher’s outsiderness. John P. Conger further describes the shadow: “Indeed, the body is the shadow insofar as it contains the tragic history of how the spontaneous surging of life energy is murdered and rejected in a hundred ways until the body becomes a deadened object.”

There is an important distinction between walking in the open street and walking in the shadows because it tells us something of the physical surroundings, the temporality of the space, and it offers insight into the preacher’s psychology.

Who are our cast of characters? The two old ladies call to mind the importance of history since neighborhood elders are often the pillars of a community. They unite the past and present and preserve generational integrity. Crucial to the notion of redemption is an ability to connect past wrongs with present potential. The old ladies contrast with the junkie who is living in crime and desperation. The womyn symbolize respect and learned wisdom in contrast to the reckless and young-minded attitude of the junkie. Lee is concerned with presenting models of humanity. The old ladies prove that redemption is possible, that there is hope. No matter what their previous indiscretions were, we know that they are still alive and still a part of the city. The junkie allows us to conceptualize the continued pursuit of redemption. This journey does not end with old age nor does it end with one person; it requires a community and years of work.

Well he understands
The need for livin’ it large
But it’s hard to get a job
With a felony charge
Now he’s working in a hospital
Washin’ dishes

about the personification of this shadow of the ego. Sometimes it forms the skeleton in the cupboard, and everybody naturally wants to get rid of such a thing.”).

65 This sort of balancing is not uncommon in works of art. It creates a sort of symmetry where two competing images balance each other. Think of the good cop/bad cop routines on modern legal dramas or a protagonist, who comes from a family of miscreants.
Walking through the fields
Of the lost inhibitions
There is death everywhere
The new, benediction
To save the liver
From the waking death is his conviction
The eyes of man
Well he seeks no favor
Back in the neighborhood
Workin’ for the Savior

The push and pull of material culture is all encompassing. “Living it large” has no doubt been a driving force behind much criminal behavior. Problems arise, however, when the legal consequences of living large catch up with the individual. Our felon is then positioned in a particularly problematic position, threatened by both living it large and the attempt to do just that. The felon also has a substantial substantive difficulty to reclaim subjectivity—the loss of the right to vote. There must be substantial psychic pain involved in losing the right to vote, not because I am arguing the right to vote is a sacrosanct expression of efficacy in a democratic form of government, but rather because the inability to choose to exercise one’s vote is likely to leave permanent scars. Might not this psychic injury be directed at minority populations? Might this argue for including these voices into legal discussions because the legal academy often looks

66 See Hall, supra note 50 at 304.
68 ERIC LONGLEY, DISCORDANT SOUNDS 109 (2002) (Freelance writer Eric Longley provides a satirical look at this problem: “It seems that there aren’t enough felons involved in politics. Not enough felons? I would have thought that the problem went in the other direction: We have too many felons involved in politics already. No, say the activists, this is not the case. The problem is that convicted felons lose the right to vote.”).
69 Bobby Delgado, GANGS, PRISONS, PAROLE: $ THE POLITICS BEHIND THEM 426 (2007) (“Imprisonment is like a big condom. It serves as a population control mechanism that stunts population growth among the minorities. Democratic children often grow up to vote like their Democratic parents, so lock ‘em up and throw away the key so that they cannot have children!”).
monolithic? Rehabilitation might have been achieved in prison, but redemption is substantially hampered by the inability of the felon to do the secular good works\(^{70}\) of employment.

One will also note tremendous contradictions in this story: living large contrasted with difficulty securing employment, a waking death, seeking no favor yet hoping to be saved for his actions. These are the binaries that characterize street existence, or are at least the terms in which street life is contrasted to non-street life: light versus dark, wealth versus money, and hope versus desperation. The street corner preacher feels this same struggle. At every corner, there is a dual existence of hope and hopelessness. Cornell West described this nihilism of the downtrodden quite poetically in *Race Matters*: “[n]ihilism is to be understood here not as a philosophic doctrine that there are no rational grounds for legitimate standards or authority; it is, far more, the lived experience of coping with a life of horrifying meaninglessness, hopelessness, and (most important) lovelessness.”\(^{71}\)

This tremendous feeling of lovelessness is firmly present in the street corner preacher’s narrative; we see little reason for hope, only a blind faith in some sort of redemptive power.

Well a new sun  
And a second chance  
He unbolts the door  
And hops over the fence  
Young womyn\(^{72}\) with a baby  
That her daddy gave her  
Back in the neighborhood  
Workin’ for the Savior  
But all around  
The war rages on  
Burnt out houses  
With the front door gone  
Well his faith is his fountain

\(^{72}\) See Sciullo, *supra* note 64 at 712 n.10.
His love is his labor
Back in the neighborhood
Workin’ for the Savior

In verse three, we notice an important new terrain for the preacher: he receives a second chance, an integral part of rehabilitation and redemption. This verse describes the space upon which the felon, the dispossessed may seek redemption. Amos Lee establishes this space as the world beyond “the fence,” which denotes images of the past, of trouble, of failure. The preacher “hops over,” not runs through or burrows under. This is a triumphant bound. Hopping over denotes a complete eclipsing of the fence’s boundary. The preacher is no longer subordinate to the ordinal mass that is the fence, he has moved beyond such markings. Redemption lies beyond the fence.

The preacher has not completely divorced the past. He has returned to the neighborhood, the locus of identity. He has come back to the conditions that made his life what it had become, to embrace them even as he attempts to transgress these oppressive conditions. Here, Amos Lee asks the listener to dissociate the acts of transgression from, perhaps, the place of transgression; not in an act of psychic annihilation, but as a critical approach to a complex past. Redemption lies in the neighborhood.

We are harkened back to the past in the next few lines of verse three. The house—that centering weight, that formal structure, a vessel for the object of the past. Inside the houses exists an important world. The houses are burnt out, however, not stable. The front doors are gone. Gone from either the fire, or perhaps the fire crew knocking in the door to search for survivors of the fire of yesteryear. This powerful imagery calls to mind both the performativity of the past as well as the violence of memory. Note also that these houses are not a warm home, not a place where family resides or where safety reigns. Rather, these are houses: impersonal and abstract.

Amos Lee provides us with one example of the kind of discourse that demonstrates a profound commentary on our politico-legal world, but which would traditionally be categorized outside the realm of legal knowledge. Lee’s writing deserves to be

73 See HALL, supra note 50.
considered by legal theorists, as does that of many singers, songwriters, and other performance artists. This is not say that Amos Lee stands on the pantheon of legal elite, but that what he brings to the discussion is worthwhile and persuasive.

IV. Music and Foucault’s Critique of Scientific Knowledge

What exists in the legal academy is a dependence on a certain type of knowledge, generated in a certain way, evaluated beyond, or as superior to, other forms of knowledge. Through great difficulty and constant refinement, the law has sought to exclude certain types of knowledge. This process began many years ago as lawyers were forced to serve apprenticeships, belong to certain guilds, and of course, attend certain schools. I find England\textsuperscript{74} to be the most accessible historical example of the scientification of knowledge, the establishment of knowledge as an exclusive discipline with rules for participation and rigid criteria for acceptance of both practice and product, although surely the Romans made quite extensive use of guilds as well.

The result was a legal apparatus that had as its purpose the centralization of knowledge. The production and maintenance of legal knowledge became a job unto itself and the early guilds and apprenticeships were a precursor to the American Bar Association.\textsuperscript{75} Of course, in the United States we also have Boards of Bar Examiners,\textsuperscript{76} which combine the state apparatus of knowledge with the legal apparatus of knowledge into one larger and more ominous historico-political knowledge apparatus.\textsuperscript{77}

\textsuperscript{74} See Elliott A. Krause, Death of the Guilds: Professions, States, and the Advance of Capitalism, 1930 to the Present (1996) (for a modern history of guilds); see also W. D. Strappini, English Guilds in the Middle Ages, 79 THE MONTH 478-90 (1893).

\textsuperscript{75} See History of the American Bar Association, ABANet.org, available at http://www.abanet.org/about/history.html (last visited May 18, 2010).


\textsuperscript{77} The confluence of state and professional power strikes me as particularly dangerous because it combines the full apparatus of the state, with its historico-juridical power with that of the profession and its historico-political power. This seems to amplify both
Foucault’s concerns relate to the scientificity of a knowledge system and the “effects of the power of a discourse that is considered to be scientific.” Foucault clearly allows for the application of his critique beyond the so-called pseudo-sciences, which are viewed largely as the social sciences. Importantly, included in Foucault’s critique, is the assertion that scientific knowledge is exclusionary of other knowledge systems, and disseminates information exclusively to the discipline in which it acts (i.e., mathematics arguments are usually hard to digest if one is not a mathematician; likewise legal arguments are difficult to understand if one has not attended law school). The legal world subscribes to this idea of scientific knowledge with its exclusionary practices, rigid rules and disciplinary mechanisms, complex lexicon, and self-referential predilections.

Foucault directly critiqued these practices as seeming to be of science, that is to say the natural sciences, despite being only the armature of scientific practice. One need only refer to the following quote and insert “legal” where “scientific” appears: “The discourse of the human sciences thus comprises the specialized language spoken by scientific authorities, as well as the extra-linguistic conditions that determine what can be said, and by whom, in the production and distribution of scientific knowledge.”

powers as reinforcing the professionalism of state control, while also reinforcing the state-supported righteousness of the profession.

79 See FOUCALUT, POWER/KNOWLEDGE, supra note 7, at 84.
81 CLARE O’FARRELL, MICHEL FOUCALUT 88 (2005).
82 I adapt this argument from AGNES HELLER, A THEORY OF MODERNITY 262, at n. 57 (1999).
Legal knowledge mirrors this notion of scientific knowledge with citation styles and citation number preferences, filing deadlines, licensing and continuing education requirements, and so on. Foucault states: “The tendency to organize technological knowledges brings [with it] . . . a whole series of practices, projects, and institutions.”84 These characteristics are found in the law. The American Bar Association, state bar associations, Model Rules of Professional Conduct, The Bluebook, the Association of Legal Writing Directors, and the like are all part of this organization. The question is not whether these artifacts and organizations benefit the law—of course they do. Rather, the question is: What does it mean that these artifacts and organizations benefit the law?

My interest in Foucault is two-fold in this project. I want to understand his theory on knowledge so that we may begin to see cracks in the walls of legal discourse, and so that we also can understand that both the law and language of law/discourses on law are examples of situated power/knowledge structures. Foucault will not provide us with a concrete theory of the law.85 His work will compliment and critique understandings of the law, but not rebuild the law or approach the creation of a new legal system.86 As noted by Ascanio Piomelli, the law needs an accessible exposition of Foucault.87

Foucault never explicitly addressed the law;88 his critical eye was focused on institutions,89 many of which were supported by law and promulgated law and regulations. These institutions included, for example, the prison,90 the mental hospital,91 and the medical clinic.92 Although at least one commentator has labeled Foucault as

84 See FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 28, at 180.
86 Id. at 479.
89 See generally FOUCAULT, supra note 11 and related text.
90 See FOUCAULT, MADNESS & CIVILIZATION, supra note 11.
91 See FOUCAULT, DISCIPLINE & PUNISH, supra note 11.
a legal realist,\textsuperscript{93} that label seems to be generously applied given Foucault’s ancillary dealings with the law. All are clearly relevant to the study of law, but missing throughout much of the legal literature. The body of his work, however, did deal significantly with law as it relates to power/knowledge. He concludes appropriately: “Law is neither the truth of power nor its alibi. It is an instrument of power which is at once complex and partial. The form of law with its effects of prohibition needs to be resituated among a number of other non-juridical mechanisms.”\textsuperscript{94}

Music is uniquely positioned to challenge law because of its profound connection to social movements.\textsuperscript{95} When thinking of law and music, we must look beyond copyright law and contract law to a conception of music as a critical lens. It is decidedly not a hard science. It does not imbue itself with self-important scientificity. And that is what makes it particularly dangerous and insulting to law. “With noise is born disorder and its opposite: the world. With music is born power and its opposite: subversion.”\textsuperscript{96} The subversive charter is particularly scary for the ordered legal world. And that is exactly why we must allow music to operate inside of law, to dance with it. Music is itself a critique of law. Foucault notes, “what is striking to me is the multiplicity of links and relations between music and all the other elements of culture.”\textsuperscript{97}

Why then, has music failed to make a larger impact on legal writing? Richard Delgado notes, “[a] subtler yet audacious form of legal writing has appeared, with roots in postmodernism, critical thought, and narrative theory.”\textsuperscript{98} There is little dispute that this form of writing is here to stay, and although it is slightly more contested, it may add to the way we understand the law. One cannot help but wonder why, as other disciplines have embraced the study of music and popular culture generally, the legal

\begin{footnotes}
\footnote{93}{MARK G. E. KELLY, THE POLITICAL PHILOSOPHY OF MICHEL FOUCAULT 53 (2009).}
\footnote{94}{FOUCAULT, POWER/KNOWLEDGE, supra note 7 at 141.}
\footnote{95}{See EYERMAN & JAMISON, supra note 30.}
\footnote{96}{ATTALL, supra note 39, at 6.}
\footnote{97}{Michel Foucault, \textit{Contemporary Music and the Public, in Politics, Philosophy, Culture: Interviews and Other Writings, 1977-1984} 314, 314 (Lawrence D. Kritzman ed., John Rahn et al. trans.,1985).}
\footnote{98}{Richard Delgado, \textit{“The Imperial Scholar” Revisited: How to Marginalize Outsider Writing, Ten Years Later, in Critical Race Theory: The Cutting Edge} 485 (Richard Delgado & Jean Stefancic eds., 2000).}
\end{footnotes}
academy seems to lag. Delgado continues, “[t]he authors, format, and authorities cited, are radically different from those that came before.”99 True enough, but these small inroads have not made the academy a frequent stop for the legal musicology scholar.

We must radically re-conceptualize knowledge in order to effectively empower the margins. We must work tirelessly to intellectually enable ourselves to accept change.100 “As sociologists of knowledge have pointed out, such a shift occurs only when the costs of resisting it become unacceptable compared to the gains of adopting the new approach.”101 The costs of resisting continue to be strong. My guess is that most law professors are not teaching song as knowledge. I do not recall such instruction and I do not recall my law school colleagues embracing such a notion. But, resisting is not impossible. The first law review article I wrote cited the music of Ben Harper102 and Tracy Chapman.103 Before me, other scholars had done the same. They were not shunned, nor did they face career ruin. Legal scholars must be brave, must embrace the power of empowering outsiders. The only way changes in power/knowledge occur is through subtle changes in the politics of that same power/knowledge.104

The foundation is there for a larger assault on classical legal thinking. What Foucault brings to contestation is a profound historical perspective on the relationship of power/knowledge and to the ways in which law has functioned to empower legal institutions.105 Through Foucault, we may challenge fundamental assumptions about legal knowledge. Specifically, we may understand how the law fades in the face of power.106 It is in this power relationship that music can make a valuable contribution to re-conceptualizing legal knowledge. Change has occurred. Music

99 Id.
101 Delgado, supra note 98.
102 See Sciullo, supra note 100, at n.2, 62, & 84.
103 Id. at n.141.
104 Id. at 51-52.
has continually become more appreciated for its power/knowledge, but the paradigm shift needed to fully redress dominant discourse has not been seen. The legal academy has been opened, yet the political rebellion Foucault would have enjoyed has yet to alter the body of the legal academy. The project of reacquiring knowledge is indeed necessary for a serious change in the relational structure of the law and the masses. In order to advance the multitudinous causes of the masses, the masses must commit to reacquiring knowledge and locating it in places where this knowledge can be deployed to challenge the dominant modes of legal discourse. Michel Foucault paraphrases French critical historian Henri de Boulainvilliers, who makes this very point in referencing the need of the Germanic nobility to resist the intellectual colonization by the Gauls:

"You will not regain power if you do not regain the status of the knowledges of which you have been dispossessed—or which, rather, you have never tried to possess. The fact is that you have always fought without realizing that there comes a point when the real battle, or at least the battle within society, is no longer fought with weapons, but with knowledge."

Realizing that knowledge is the nexus of power is tremendously important in one’s understanding of power relations. Knowledge is the enabling factor in any set of relations. For the dispossessed to challenge the hoarders of knowledge and capital, they must re-establish their knowledge as legitimate, as a force with which to be reckoned.

Foucault was not concerned with obscurest metaphysics; he did not seek to wallow away in the confines of a dusty office. He urged a political step, a personal politics of genealogical

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109 See FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30 (Henri de Boulainvilliers (1658-1722) was a prominent French writer and historian. He is often credited as one of the progenitors of critical history and this theme is explicitly explored throughout Foucault’s Society Must be Defended.).
110 See FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30, at 155.
Foucault’s genealogy is an active stance against the tacit acceptance of discourse. It is a critical project imbued with the power of historical inquiry, dialogue, and micro-political action. Foucault offers up a hypothetical speech act from someone who claims power from knowledge using scientific discourse: “I speak this discourse, I am speaking a scientific discourse, and I am a scientist.” First, note that this statement is self-referential. The person speaking the scientific discourse is a scientist because she or he is speaking the scientific discourse. Second, the discourse creates power. The speaker comes to be more than the person engaged in the utterance; the speaker becomes a scientist, a new subjectivity of knowledge/power.

This transformation from speaker to scientist mirrors the legal teaching style where beginning students are asked to learn citation styles, source appropriateness, and the process of assessing the weight of a case. All of this helps build a student into something more than a knowledge-seeker— the student enters on the path of becoming a doctor of jurisprudence. Foucault describes the creation of a legal knowledge: “You recall that in both scholastic and arithmetical kind of judicial proof, which in the penal law of the eighteenth century was called legal proof, an entire hierarchy of quantitatively and qualitatively weighted proofs was distinguished.” Legal knowledge has been carefully drafted to be different and special. To be sure, this is not to argue that legal research is devoid of checks, safeguards, and rigor, but that legal knowledge should be broadly construed, and it must be critiqued. Foucault continues:

Compared to the attempt to inscribe knowledges in the power-hierarchy typical of science, genealogy is, then, a sort of attempt to desubjugate historical knowledges, to set them free, or in other words to enable them to oppose and struggle against the coercion of a unitary, formal, and scientific theoretical discourse.

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111 See generally FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30.
112 See FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30, at 10.
113 FOUCAULT, ABNORMAL, supra note 105, at 6.
114 FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30, at 10.
Music provides this struggle in the form of reactivating local knowledges. These minor knowledges are emancipatory, setting free the repressed knowledges of outside voices. In Amos Lee’s “Street Corner Preacher,” we can see the vocalization of an outside voice and the empowerment of marginalized knowledge. We must distinguish Foucault’s archaeology from his genealogy, which he does clearly. Genealogy is the active tactic of bringing archaeologies into play. So what is an archeology? Archeology is the method and genealogy is the application of bringing that method into a larger political project. In this respect, the above analysis of Amos Lee’s “Street Corner Preacher” is an archeology of song, whereas the urging of a more inclusive legal power/knowledge discourse, a legal musicology, is a genealogy. It is an ongoing process that continues to investigate the “shadow of their former oppressor.”

What then, are we talking about when we speak of music as a critical project designed to investigate, invigorate, and inebriate the law? If I hear, “But, legal writing and analysis are the best with its structure and rigor and rules,” then a genealogical process’ worth is proven. The cry to defend a discipline as always the best, or so strong as to eschew criticism, is a strong indication that power/knowledge must be interrogated through a genealogical project. This retreat inward has left legal reasoning lurking in the shadows. Joel R. Cornwell makes this very point when describing legal writing programs:

Ironically, legal writing courses, the portion of the first-year curriculum ostensibly allotted to techniques of dissecting and manipulating language,

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115 See generally FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30.
117 See Lee, supra note 1.
118 See FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30, at 10-11.
119 Id.
120 Id.
121 Id.
122 See Lee, supra note 1.
123 FREIRE, supra note 19, at 46.
124 See FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30, at 12 (“The silence, or rather the caution with which unitary theories avoid genealogy of knowledges might therefore be one reason for going on.”).
have largely ignored the insights of analytical philosophy and literary deconstruction indirectly appropriated in other courses. The standard models remain algorithmic, reinforcing a conservative view of writing as an applied lexicographic skill, essentially void of the substance taught in nonwriting courses.\textsuperscript{125}

A genealogy of legal reasoning would help illuminate the exclusionary and self-referential practices of the academy, while providing an avenue for outsider voices to be heard whether through poetry, music, or any other art form.

The critique of music as a source, something worthy of citation, takes many forms, but seems to rest on two key notions: 1) Only legal scholars, practitioners and to a lesser extent, experts in other fields, are qualified to comment on law; therefore, musicians are unqualified; 2) There is no review of a song’s message, so the message must not be sufficiently reliable. Why is this critique so fervently made? Kris Franklin reminds us, “[l]egal citations construct legal authority. Legal authority, in turn, constructs law. Thus, the question of what is cited in a judicial opinion . . . fundamentally shapes what we understand to be American law.”\textsuperscript{126} Therefore, we cannot possibly let song construct the very foundation of law in this country or across the world! On their face, these arguments seem logical, but as illustrated above, it is also clear that these arguments sound very much like a scientific power/knowledge apparatus’ attempt to assure its prominence.

Kissam lists three standards of legal scholarship, which may also be used to assess a song’s validity as citation-worthy: 1) Scholarship must be original; 2) Scholarship must demonstrate competence or quality; 3) Scholarship need not be regarded as outstanding or important to merit its creation.\textsuperscript{127} A citation-worthy song usually exhibits these characteristics. That is, we can make the minor discourse conform to the master discourse if we want.

\textsuperscript{125} Joel R. Cornwell, \textit{Legal Writing as a Kind of Philosophy}, 48 MERCER L. REV. 1091, 1092 (1997).
\textsuperscript{126} Kris Franklin, \textit{The Rhetorics of Legal Authority Constructing Authoritativeness, the “Ellen Effect,” and the Example of Sodomy Law}, 33 RUTGERS L.J. 49, 49 (2001).
\textsuperscript{127} Kissam, \textit{supra} note 5, at 228-230.
The power/knowledge of a largely White male elite in the legal profession and the academy\(^{128}\) has served to limit the ways in which music has infiltrated the legal academy.\(^{129}\) The tide is changing, with hip-hop making inroads at the margins of the legal academy.\(^{130}\) Using Foucault’s critique, the argument that hip-hop in particular is being held back because of its profanity,\(^ {131}\) cadence, or diction is particularly indicative of the law’s desire to remain a scientific discourse. Does profanity really render an argument useless? Have not some of the greatest writers in history utilized profanity, or even discussed subjects outside of the mainstream? Are not stream of consciousness writers like William Faulkner or beatnik poets like Allen Ginsburg often revered for their deviance from the norm?

Alex B. Long, in his essay “[Insert Song Lyrics Here]: The Uses and Misuses of Popular Music Lyrics in Legal Writing,” does a fine job listing the uses of music in legal scholarship in his article.\(^ {132}\) But, what his list suggests, and I know that this reading will be called into question, is that these are the only acceptable song uses, not simply the demonstrated uses. This problem is drawn from a poor contextual, historical perspective on the power of music to be uniquely empowering to subjugated voices. Long has not engaged in Foucaultian genealogy. Long further suggests that lyrics can be a valuable stylistic component to writing;\(^ {133}\) however,

\(^{128}\) [André Douglas Cummings, “Open Water”: Affirmative Action, Mismatch Theory and Swarming Predators – A Response to Richard Sander, 44 BRANDeS L.J. 795, 828 (2006). While a footnote could never do justice to the ongoing debate about White law professors and students, André Douglas Pond Cummings poses an interesting question with respect to one White academic: “At what point does a White privileged law professor decide that he knows better than the students of color that are living through the law school admissions process themselves?” Another form of the fundamental question at work in this article’s analysis is, “Why would a largely White academy seek to resist the inclusion of outsider knowledge in nontraditional formats?”

\(^{129}\) Alex B. Long, [Insert Song Lyrics Here]: The Uses and Misuses of Popular Music Lyrics in Legal Writing, 64 WASH. & LEE L. REV. 531, 541 (2007).

\(^{130}\) Id. at 541-42.

\(^{131}\) Id. at 543.

\(^{132}\) Id. at 555-56 (“[P]opular music lyrics can be used to help establish a metaphor or analogy for a legal concept; as a case study of what a particular artist’s work says about the law; to restate or illustrate an idea in more colorful or humorous language; to provide the title of a piece of legal scholarship; or to pay homage to a departed colleague.”) (citations omitted).

\(^{133}\) Id. at 559.
this sounds like the master’s discourse marginalizing the minor discursivities as stylistic at the expense of being substantive. No one doubts the importance of style in persuasion, but why do lyrics only express stylistic value and not substantive legal commentary? Long continues to argue:

But just because popular music can be used in such a manner doesn’t mean that it necessarily should be. Such vivid statements also carry with them the potential to do harm to a writer’s argument. Given the often colorless nature of legal writing, vivid statements may sometimes distract the reader from the point the author wishes to make.\(^\text{134}\)

Foucault answers this assertion suggesting that every individual can wield power.\(^\text{135}\) If true, then a “vivid statement” might be viewed as a direct expression of one’s power and not as a distraction. Furthermore, Foucault might logically argue that music in legal theory is part of a larger context to contest power everywhere.\(^\text{136}\) Music does not only contest the power/knowledge of established modes of discourse, but when applied to legal reasoning, challenges the foundations of legal power/knowledge. Foucault offers important support for the potential of music: “[o]ne impoverishes the question of power if one poses it solely in terms of legislation and constitution, in terms solely of the state and the state apparatus. Power is quite different from and more complicated, dense and pervasive than a set of law or a state apparatus.”\(^\text{137}\)

Here, Foucault explicitly describes the need for genealogies beyond the state and its apparatuses. Accordingly, we must also cast an ever-critical eye on the power of music both as liberating musicology and oppressive apparatus. We should look beyond traditional loci of power and begin to understand how power operates amongst non-state apparatuses. Genealogies are powerful forms\(^\text{138}\) when used by adversaries as tactics central to

\(^{134}\) Id.


\(^{136}\) Id. at 79.

\(^{137}\) FOUCAULT, POWER/KNOWLEDGE, supra note 7, at 158.

\(^{138}\) FOUCAULT, SOCIETY MUST BE DEFENDED, supra note 30, at 189.
the operation of power/knowledge.\textsuperscript{139} Music becomes a discourse of power/knowledge that is transferable from oppressed to oppressor and vice versa.\textsuperscript{140} Because of power’s fluid nature, it is not enough to insist that music challenges more established discourses. To hold out music and declare it as a discursive tactic of resistance to dominate socio-legal power/knowledge structures is necessary.

Where are we able to go post-Foucault? What positive political action can we take, and where does music conclusively “fit in” as a beacon and challenger of truths? Foucault offers several propositions about truth that allow for legal musicology. Foucault postulates that truth is “a system of ordered procedures for the production, regulation, distribution, circulation and operation of statements.”\textsuperscript{141} In law, this is IRAC, criminal and civil procedure, etc. It is noteworthy that Foucault uses terminology very much associated with the creation of music and other media: “production,” “distribution,” and “circulation.” Music does create its own truth, which, although maligned as a minor knowledge, has the power to challenge law’s major knowledge. Perhaps unsettling to more conservative legal thinkers, the challenged posed by minor knowledges, is bidirectional. Minor knowledges help to change major knowledges at the same time major knowledges are changing minor knowledges. Despite critical engagement’s lofty ideals of destabilizing all power structures in totality, the picture is more muddled than that. Although critical theory and deconstruction have very lofty goals, power cannot be ameliorated with one stroke of the pen or pump of the fist. The call to challenge the law’s discursivities of power as typified in the judicial/juridical constructs of law is not a call to reject the law at once nor a naïve assumption that any legal theorist will “fix” the legal system, but a call to delve deeper into the power relations of law. Jack M. Balkin reminds us that “no deconstructive argument destabilizes all of the conceptual structures in language or culture at once; for every distinction it contests, it leaves unexamined thousands more.”\textsuperscript{142}

\textsuperscript{139} \textit{Id.} at 190 (“What I am trying to identify is what might, if you like, be termed a discursive tactic, a deployment of knowledge and power which, insofar as it is a tactic, is transferable…..”).

\textsuperscript{140} Id.

\textsuperscript{141} See FOUCAULT, POWER/KNOWLEDGE, supra note 7, at 113.

But, it is in this space of challenge where we can begin to formulate new theories for understanding the law. This challenge is a place where new critical directions can begin, leading to transformative legal scholarship. Totality should not be the goal, but instead we should focus on individual acts of micro-political resistance. In this case, by carefully reassessing the basis for legal knowledge and accepting and altering as necessary to shape a more nuanced system of legal knowledge.\textsuperscript{143}

In challenge, the political is possible. “‘Truth’ is linked in a circular relationship with systems of power which produce and sustain it, and to effects of power which it induces and which it extends.”\textsuperscript{144} The quest to use music as a tool of resistance is not to avoid power since it cannot be avoided, but to move power in an alternative flow. Law “is a set of rules and powers,”\textsuperscript{145} and challenging this power is what scholars must do. This alternative flow is Foucault’s “ascertaining the possibility of constituting a new politics of truth.”\textsuperscript{146} Music is the vehicle by which legal minds can ascertain a new politics of knowledge, a way to access the politics of a multitude of truths.

\section{Conclusion}

The legal academy has a violent hold on acceptable forms of knowledge, an injustice to the immense socio-legal knowledges that exist beyond the legal academy. Positioned as a scientific knowledge apparatus, legal knowledge has excluded the voice of outsiders. Music offers a particularly poignant and persuasive medium for these outsider voices to be heard. Using what I have termed “legal musicology,” we might be better able to understand the importance of music’s commentary on the law and legal reasoning. While other disciplines have taken significant steps

\begin{itemize}
\item \textsuperscript{143} \textit{FOUCAULT, POWER/KNOWLEDGE}, \textit{supra} note 7, at 37 (Foucault observes that other disciplines are beginning to utilize “ignoble” material. To be sure, the law has begun to look more critically at race, class, gender, and other social positions that often render an individual as an outsider, but there must be more progress in the way legal scholars think about competing knowledges.
\item \textsuperscript{144} \textit{Id.}
\item \textsuperscript{145} Carl E. Schneider, \textit{On American Legal Education}, 2 \textit{ASIAN-PAC. L. & POL’Y J.} 75, 7776 (2001).
\item \textsuperscript{146} \textit{FOUCAULT, POWER/KNOWLEDGE}, \textit{supra} note 7, at 113.
\end{itemize}
toward importing the powers of music into their scholarship, the law continues to delay. Music offers the opportunity not only to add knowledges to the fray, but also to debase the exclusionary power of legal discourse by challenging the very assumptions and self-reaffirming privilege upon which legal thought too often rests.