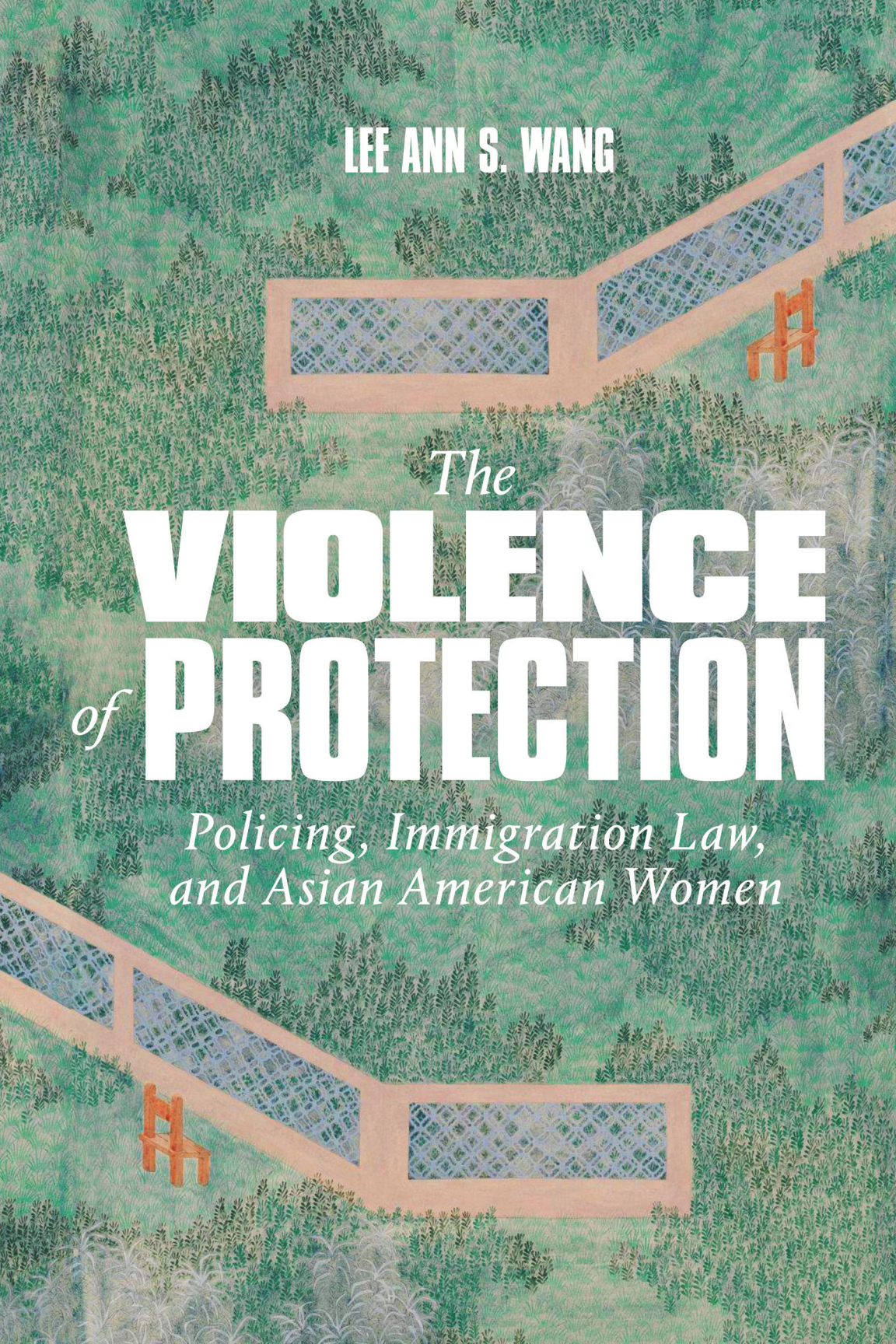
LEE ANN S. WANG
The
VIOLENCE
of PROTECTION
Policing, Immigration Law,
and Asian American Women

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LEE ANN S. WANG

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In loving memory of our Luna II 🐾

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Introduction

"They all want to save someone. . . . They come looking for the quivering victim . . . but my question to them is, first, do you know what you need to know about immigration law? Because that is what your client will need." These words were shared with me during an interview I conducted with PJ, an attorney in the San Francisco Bay Area who worked at a nonprofit organization focused on addressing gender and sexual violence in Asian immigrant communities. I was struck by the distinction PJ emphasized between saving and need. But as she shared interpretations of her work, this distinction became central to the struggle between herself and survivors, between survivors and the law, and among Asian American legal and social service advocates. PJ was grappling with differing political responses to the role of policing in their work with Asian immigrant communities. At the time, I interviewed and followed the work of Asian American attorneys, social workers, case managers, and community organizers who overlapped on the long road of care for survivors. I do not refer to care in

the sense of a self-help commodity or a multicultural object utilized by state and nonprofit entities, corporations, and even law enforcement. I am referring instead to care as a relational practice, an organizing politics within the political genealogy of abolition feminisms; care within and across communities that pauses, listens, refuses, and creates without any singular solution, expectation, or exchange. Care solves no problem because our ability to practice care, for ourselves and others, is the long struggle, not the temporary solution.

All the advocates I spoke with struggled to practice care while working for an agency or organization entangled within the neoliberal politics of the nonprofit industrial complex. Some of this struggle emerged in their work with clients and coalitional community members. Often the center of this tension hinged on the role of law enforcement—deciding whether to cooperate with or assist in police work and having to communicate with federal immigration enforcement. Organizations often relied on federal funding that in turn required them to form loose or formal partnerships with local police agencies. Others were part of networks to serve survivors detained by Immigration and Customs Enforcement (ICE) agents after an immigration raid on businesses or residences. Sometimes police officers or ICE agents were coalition members in antiviolence networks even while these same agencies were deporting and detaining migrant communities. Advocates shared reflections of struggle with their own self; they had to translate and represent survivors as deserving of protection to the very agencies that sought to deport them. Further, stories often interpreted advocacy work as a struggle with the practice of translating to survivors what was expected of them by the law, emphasizing the need for a certain kind of behavior and responsibility by someone already experiencing harm and grappling to survive that harm.

I conducted several interviews with PJ, and we saw each other occasionally over a period of sixteen months. She often spoke at length about survivors who walked away. PJ's role as a legal advocate focused on the survivor's legal status, as just one of many needs for survival that other case managers provided through women's shelters, mental health providers, and medical advocates at hospitals and emergency rooms local to the San Francisco Bay Area. And in some cases survivors who were her clients were referred by local police or federal immigration agents; these cases posed a different set of challenges: "There is always the chance they [the client] will walk away. . . . Attorneys experience that. . . . Most women want help right away, and they need [it], and that's why they call . . . but because of what the process requires . . . it's frustrating. . . . But a lot of clients walk away. It's more common than you think."

As PJ spoke, her stories reflected the stakes for someone who wished *to stay*, the risk involved in navigating all the varying state legal and social service agen-

cies that would allow one to stay, and also the cost of walking away when movement was already policed and monitored. For noncitizen survivors, the decision to come before the law can never be free of pressures related to immigration law or local policing.[1] Thus, organizing or advocating around gender and sexual violence for immigrants is always entangled with the enforcement of immigration law and its relationship to state violence.[2] In my view, the politics and social movements grown from abolition feminist thought provide a possible path to build frameworks that refuse the separation of interpersonal harm from the violence of wounds left by state structures and systems. Abolishing the reliance on punishment in our spaces, relations, memories, and practices is a move toward a different creation and can be world building. For me, that starts with a slow attempt to abolish not only the victim as a legal subject through which the law unfurls policing but also the victim inside our political practices. I interrogate legal protections designed for undocumented and immigrant survivors largely under the Violence Against Women Act (VAWA), a landmark federal statute that has been debated, celebrated, and also critiqued from within antiviolence movements for its restrictions against tribal jurisdiction, funding categories, immigration provisions, and its role in expanding policing over communities. How a nation-state rescues and saves reveals how it governs through its investments in settler colonialism, imperialism, criminalization, and prisons. This book is an attempt to build an abolition feminist approach to the study of gender violence, US immigration law, and policing and to explore what this means for contemporary Asian American feminist politics.

At the time of this book's writing, the incarceration of women in prisons has increased 585 percent in the past four decades. This is a direct result of federal and state resources to fund police presence in cities and neighborhoods; harsher sentencing laws that target Blackness; surveillance of those deemed to be threats to heteropatriarchy, whiteness, and capital accumulation; stricter parole boards; and racialized and gendered limitations to reduce access and eligibility for life-affirming needs. US policing overwhelmingly targets, and relies on, the punishment, death, and incarceration of Black communities. Most women incarcerated today are not white. Among women in the US, Black women face the highest rates of incarceration. And among girls, Native communities face the highest rates of incarceration nationally.[3] And even further, *survivors* of gender and sexual violence form the overwhelming majority of women in jails today. Over four-fifths of women in jails report experiencing sexual violence or intimate partner violence *before* prison or jail.[4] These statistical summaries highlight the relationship between gender and sexual violence and carceral institutions, certainly. But what feminist-of-color and queer-of-color critiques have sought to

really emphasize is that interpersonal violence is not isolated from state violence and that state violences institutionalized by racial systemic structures such as policing, prisons, and border enforcement are already sites of gender and sexual violence.[5] Such critiques argue against the framing of the "violent individual" somehow abstracted from historical and contemporary structures of violence, and instead emphasize the racial and gendered political, economic, and legal conditions under which some communities live with violence. If survivors are criminalized and punished inside prisons and jails, then it is a fallacy that prison walls keep criminals on the inside to protect victims on the outside. This is the myth of the perfect victim, and as this book will show, the myth plays a role in the racial politics of the Asian American model minority myth.

Criminalization is racially disproportionate, but it is far more than that. The myth of a universal, color-blind, and gender-neutral victim reappears today in so many social policies and rights-based campaigns that themselves remain silent on the criminalization of Blackness, the racial logics that produce "good" and "bad" immigrants, the colonial structures that introduce sexual violence, and imperial humanitarianisms. Thus, legal advocacy practices that aim to utilize law are already part of the racial and gendered legal meaning making that is required to interrogate the bind between protection and punishment. We might consider advocacy to be more than logistical or merely practical under the cover of the political in part because advocates themselves are often simultaneously part of community organizing, creative practices, and movement building. Not all, but certainly many. In addition, the actual effort of advocacy—the *practice*—confronts systemic state violences and our relational politics in different and strategic ways. It is only when some attempt to protect the practice as a territory that state power is prioritized over the life chances and needs of those living with vulnerability. But it is also worth noting that a more complex view of advocacy or client service does not automatically give way to a radical potential somehow divested of systems and structures of violence.

In many states, migrants who face immigration-related problems are often first pulled in by local police because of non-immigration-related issues, such as when police respond to a domestic violence call at someone's home where the survivor is not a US citizen. The need for legal status is unavoidably tied to a need to be free of policing.[6] Some survivors' legal status can be completely dependent on having spouses or family members who are legal permanent residents or US citizens.[7] Dependency in this manner can exacerbate control and conditions of harm. Additionally, lack of legal status can often shade how police officers and immigration officers interpret narratives from immigrant communities: whether they can even speak as survivors of gender-based violence

while also being understood as someone living without legal status or citizenship. Where and how immigrant women encounter police influences the way survivors are heard, seen, or measured to be worthy of certain kinds of material protection from the law. Who can successfully become a proper victim before the law, what plight must they demonstrate evidence of, and what is the pledge that they must make to be protected?

The original passage of VAWA in 1994 was largely invested in pro-policing agendas regardless of the ongoing punishment practices targeting Blackness, establishing public safety campaigns, and normalizing the carceral state domestically and through humanitarian rescue projects abroad. The growth of VAWA via white feminist pro-policing agendas invested in victim narratives advanced neoliberal policies and programs of this era. These voices dominated over Black-women-led and multiracial movement building both inside and outside prisons focused on addressing the intersections of gender violence and incarceration rather than relying on criminalization and policing.[8] Kristin Bumiller has shown that white feminist anti-violence lobbyists and policy makers created an "abusive state," and Leigh Goodmark demonstrates the troubling alignment between anti-violence movements and law enforcement which result in the emphasis on perfect victims.[9]

Three decades after VAWA's passage, forty-six sexual assault and domestic violence coalitions signed a statement calling attention to their role in white-led public safety agendas—which ignored and erased abolition feminist Black, women of color, and Indigenous feminist frameworks—and failed reform policies based in policing rather than care and healing.[10] Notably, statements like these emerged in response to the voices of abolitionist organizers during the 2020 global uprisings for Black lives against police violence and decades of *dis*-service by state and federal social welfare agencies, health and mental health, housing, and education institutions.[11] Further, in response, social workers and scholars of social welfare argued that political calls to defund the police must also extend to historical and contemporary imbrications between social work and policing.[12]

To return to PJ's words, her emphasis was a call to turn our attention toward the constitution of the *need*. The legal nonprofit PJ worked with engaged not only with city and county agencies, police, and federal immigration officers regarding local-level politics but also with Asian American–serving community groups, youth, and student volunteers across the Bay Area. In our interview PJ's reflection about "everyone" questioned not only the politics of state agencies but her own communities, political coalitions, and the competing stances on police within contemporary Asian American politics. That is, for PJ, a distinct

difference emerges between the liberal humanitarian desire to rescue and the more material condition of a need. For immigrant survivors, those needs are specific and involve the already enforced and policed pressures of maintaining or obtaining legal status in the US and a tension endemic to the need itself, often satisfied by the law's production of a social difference among those who are deemed worthy of receiving that need and those who are not. In other words, *legal violence* is not the state of being excluded from receiving something of need; rather, it is the forced inclusion and enforcement as a subject on which a need is imposed to begin with. We might consider this to be the opposition between care and protection, or the opposition between a relational care versus "settler care," as Chris Finley has argued.[13] It is not merely the absence of a material resource that constitutes violence in one's life but also the presence of that need to begin with, particularly when the need is enforced through racial and gendered hierarchies.

PJ continued to describe how women frequently began a legal process and then walked away from it, given the considerable cost, time, and risk. With these few words, she described the broad landscape of legal practice—where humanitarian contradictions of rescue, success, and failure come together to negotiate racial identity, violence, sexuality—all while having to work within a state-sponsored system that is often the very aggressor against one's own clients. These are the kinds of conditions that stand at the center of a feminist of color critique of the law, a critique that does not wait for the appearance of a racial and gendered subject who is properly victimized but rather seeks to understand how gender- and sex-normative logics already drive the letter of the law, its historical legacies, and its contemporary institutions. As PJ suggests, what would it mean to focus not on the unveiling of the quivering figure but rather on how and why Asian immigrant women are positioned in need before the law to begin with? My interest is in examining how an immigration-related need—such as the need for legal status—ends up becoming part of the political project of racialized protection and punishment.

Book Description

This book is a legal ethnography of protections that unfold racial punishment to purportedly rescue immigrant women. The stories throughout analyze the legal and political conditions of Asian American advocates who attempt to access provisions provided under the Violence Against Women Act (VAWA) for their clients.[14] When VAWA was first legislated in 1994, it included a number of provisions designed to address the needs of immigrant survivors but only

those who already had legal status through channels legitimized by the state (i.e., those married to citizens and their children or family members).[15] This book is primarily interested in provisions for noncitizen survivors, developed as part of reauthorizations (approximately every five years) of VAWA, the Victims of Trafficking and Violence Protection Act (VTVPA), and the Battered Immigrant Women Protection Act (BIWPA) of 2000. Namely, the U and T legal status (often referred to as "visas") that provided temporary legal status for survivors—if they agreed to prove their will and credibility to cooperate and serve the needs of police and become certified by a law enforcement or immigration official. The cooperation requirement is required via certification for the U status and included differently for T status. And this cooperation component did not go uncontested: When it was first introduced, antiviolence advocates who testified before Congress questioned the cooperation requirement, highlighting the potential harm and trauma that requiring women to work with law enforcement would cause. Congressional members emphasized instead the need for an assurance that survivors would not fall back into "cycles of violence" and justified the creation of a certification of cooperation as that assurance. Thus, we might consider that the U and T's actual design is meant for those whom the state identifies as having a specific purpose. This is deeply troubling if that purpose is to improve the longevity of policing as the only way to temporarily survive.

This book focuses on these protections and the legal requirement to cooperate. But this book is not a legal studies project; in many ways, the book strives to find ways to talk about the law without talking *like* the law. Anchored in ethnic studies and gender studies, the book theorizes the racial assemblage underpinning the victim as a legal subject used to unfurl policing. My aim is to contribute a discussion on immigration to existing abolition feminist critiques of criminalization under VAWA. Some advocates saw no future for their work unattached to police and immigration enforcement, whereas others viewed their advocacy work as navigating between the politics of antiviolence and immigrant rights, and others saw it as distinctly feminist and abolitionist. This book draws on their interpretations of the reach of law and also serves as a response to them as well. How do we understand and write about such conditions for Asian American communities and others without reifying the very terms of law itself? The chapters throughout attempt to do so by tracing categories of the human that engender the legal subject position of victim, interrogating its racial figures, and tracing how the law graphs, or writes, legal fictions. The production of this legal phenomenon renders survivors as worthy or unworthy not of mere protection but of enlistment into cooperation with police in exchange for protection.

I argue that the "undocumented crime victim" is not a person but rather a legal subject. As this book argues, VAWA's design establishes not only expectations of worthiness for protection but also qualifications to be worthy for cooperation with law enforcement as well. The law narrates this legal scheme as a *mutual exchange*, and I argue that this requirement to cooperate makes evident that the visa scheme is a law enforcement tool *first*, above any of the varied needs immigrant women may have due to their legal status or conditions of gender and sexual violence. The chapters throughout interrogate the undocumented crime victim through which survivors must match up their experiences to the racial figures of the "cooperator" with police or the "modern-day slave" but never as a someone who is part of communities experiencing state violence. Thus, the violence of legal protection, as I examine, is less defined by the absent representation of survivor voices or experiences and more evident in moments when survivors are forced to match-up their experiences to the figures the law demands.

What has this meant for our understanding of legal protection and Asian American politics around policing? Asian communities are not targeted by VAWA, nor do Asian survivors make up the majority of the applicants for U or T visas; statistically, there is no significance. Regardless of whether an argument can be made for undercounting, underreporting, or disaggregating, we can adopt a different orientation that does not rely on the logic of critical mass to justify why gender and sexual violence is relevant to contemporary Asian American politics. Or why policing is relevant as well. In similar ways, the racial assemblage of how laws and policies constitute what counts as a crime and who ought to be a criminal operates through the discursive policing of Blackness, which then has racial effects that can reorder other bodies, peoples, places, and communities. Ruth Wilson Gilmore has written that we must refuse perilous routes that attempt to search for "degrees of innocence" to rationalize who should or should not be in prisons because "there are people, inevitably, who will become permanently not innocent, no matter what they do or say."[16] In critiquing VAWA's funding of expansive policing, Mari Matsuda has written that "patriarchy has governed our thinking about crime" by instilling "its favorites" in the punishment of Blackness.[17] Anthony Farley argues that law is like a training, that it trains a continuing desire for Black criminality.[18] Writing on anti-Blackness, Sarah Haley notes that the carceral forms through the presumption that Black reproduction "breeds criminals."[19] Romina Garcia has emphasized anti-Blackness as the gratuitous violence of Black illegibility within existing anti-violence political strands that shy away from critiquing punishment.[20] I read the racial assemblage of the bind between protection and punishment to be a form of anti-Blackness particular to VAWA's broader orientation. My hope is to start

from the position that VAWA's safety cannot escape its anti-Black form within modern American law because it relies on policing, and policing is structured through the systemic criminalization of Black people. For me, anti-Blackness is not the end point but rather the starting position from which I make a distinction, and simultaneously a connection, to eventually land on my critique of VAWA. While policing relies on the criminalization of Blackness, the racial assemblage of safety via legal protection continually includes and universalizes the victim as a legal subject, a policing subject that must deny its bind to a policed object. I draw this distinction so as not to sidestep the singular dynamic of anti-Blackness or conflate the racial structures of prisons with those of immigration detention, for example.

At its core, this book aims to critique the legal terms of the "victim" as belonging completely to the "criminal" subject in VAWA's pro-policing agendas (and to eventually theorize the abolition of the victim-bind). Whereas mainstream antiviolence politics have sought to humanize the victim by calling for its unsilencing, the policies that result from such politics have only resulted in reproducing universal notions of the victim. Further, only the normative subject of whiteness untouched by state-sanctioned violence can be successful in such universalisms. But as this book argues, if legal protections for survivors are bound to policing mechanisms, the universalism of the victim subject remains race and gender neutral toward criminalization lodged within the corpus of white humanity. Worse still, even a critique of such laws as dehumanizing toward communities of color still relies on the crime victim to depict and define the survivor as an excluded body opposite the human. I suggest instead that the victim is not the silenced or invisible subject opposite the human but rather that the victim is a category of the Human in Western thought, which establishes hierarchies of differentiated humanness, enforced by modern American law. Jodi Melamed and Chandan Reddy have written that categories and terms existing within contemporary politics "constitute the means of racializing human beings in order to differentially (de)value them, as necessary for existent and emergent modes of capitalist accumulation."[21] Thus, the violence I attend to is not the exclusion of Asian survivors from becoming fully realized as victims; to be clear, the violence I take issue with is the legal condition that demands that in order for a temporary form of survival to exist, one must match their interiority, their will, or what we perceive to be their empirical experience up to the expectations of what a worthy cooperator in policing should express.

Cheryl Harris has written that law is a set of expectations.[22] Not a set of rules, regulations, or hidden morals but a set of expectations tied to the objects of propertied interests. I hope to show that laws that become categorically legi-

ble as protections work through the expectation of value, that immigrants must exchange something to even come before the law, let alone receive protection. I argue that this "mutual" exchange between the state and survivors establishes a legal fiction. In a way intrinsic to its design, VAWA produces the undocumented crime victim as a figure that expands policing through the cooperation, willingness, and victimhood of survivors.

While many may caution us against critiquing the U and T visas because they are a practical tool during times of heightened anti-immigrant politics, I ask, what is so practical about turning survivors into cooperators? It has become all too acceptable to expect that immigrant communities must give something up to survive. Much of this book is a struggle to identify moments when the law fails but also when, and at whose expense, law has succeeded as a solution.

Criminalized Survivors

Over twenty-three states have mandatory arrest laws where any domestic violence call to police must result in an arrest.[23] The emphasis on arrest rather than other practices or resources has led to widely known incidents in which survivors become the ones who are arrested in order for police to fulfill a mandate.[24] Survivors acting in self-defense face increased chances of prosecution and incarceration. Existing laws impose lengthy sentences and do little to reduce violence, address racial and gendered disparities among those policed and incarcerated, or establish resources for communities.[25] Thus, advocacy efforts in some states have sought legislation for sentence reductions for survivors of domestic violence, rape, and other forms of gender-based violence who were criminalized while trying to defend or establish safety for themselves or family members in the face of abuse and harm.[26] California's prison system and police institutions continue to expand and promise public safety, but they have only resulted in the continual criminalization of Blackness to underwrite policing ideologies and narratives of support for immigration enforcement. Currently, it is much more likely to find federal funding designated to address "violence against women" distributed to police stations than to women's shelters or community resources driven by the work of people from those communities. It is no wonder, that no community has experienced an end to rape, domestic violence, or sexual assault. An organizing collective, Survived and Punished, has shown how prosecutors and parole boards consistently impose harsher sentences on survivors who act in self-defense and become targeted by law as *criminalized survivors*.[27] Alisa Bierria and Colby Lenz have argued that "failure to protect" laws, originally designed to address child neglect or abuse, are instead widely utilized by prosecutors to pun-

ish survivors acting in self-defense against abusers in domestic spaces.[28] The impact has overwhelmingly punished survivors of domestic violence and mothers.

Mimi Kim has argued that the reach of carceral logics is wide and manifests in a "fetishization of safety" within forms of community organizing and advocacy work that are otherwise critical of policing yet nonetheless find themselves facing what Kim calls the "carceral creep" within collective political formations.[29] A central division formed between those who embraced and those who refused police, and this division today remains one of the most central tensions among legal, social work, and community practices addressing gender-based violence.[30] Even further, white-dominated "violence against women" groups often maintain this division by suppressing abolitionist insights of women of color feminists who focus on the problems of state police and immigration agencies.[31] Beth Richie has argued that early antiviolence work achieved policy wins, but in the wake of these wins, the social movements of those most vulnerable were lost. Richie's framework repositions the trajectory of antiviolence law and policy as part of the historical building of a "prison nation" where the punishment of survivors and communities of color is a direct result of state divestment from the welfare, health and well-being, housing, and life-affirming needs of Black women and girls.[32] Black survivors are never quite rescued or saved as "victims" yet are often waged as spectacles to represent extremities of violence. Alisa Bierria has argued that Black survivors are vanished by certain kinds of social authoring often for the benefit of establishing the visibility of police-driven public safety narratives.[33] Thus, to even be recognized as a proper victim is to be in a position that is purely rescuable, not culpable, and thus largely distanced from symptoms of state institutions that are simultaneously humanitarian and punishing; this is a form of state violence.[34] What becomes lost is what Soniya Munshi has called the "multiplicities of violence"—structural, interpersonal, signified, and proliferated—which constitute the conditions immigrant communities of color face.[35]

Contrary to public perception, survivors do not turn immediately to law enforcement after experiencing harm, or ever.[36] While local police agencies are often quick to blame a lack of reporting on a survivor's individualized fear of the system, this ignores the institutional and accumulating harm immigrants and communities of color already face at the hands of everyday local policing, federal immigration enforcement, and collaborations between the two.[37] Andrea Ritchie has shown that for most immigrant communities, policing practices are the dominant force through which people first encounter state institutions of punishment against their legal status, gender, race, or sexuality.[38] Jonathan Simon has argued that American institutions of government utilized a specific

mythologized fear of widespread crime to implement an acceptance of governance at the everyday level. Marie Gottschalk shows that even national political debates over what counts as a crime and who counts as a criminal are often the first driving force preempting broader social and economic policy agendas.[39] Further, the social history or developmental history of crime is intertwined with the racial logic of criminalization that targets Blackness, or rather, as Alisa Bierria has argued, produces a social conflation of Blackness with criminality.[40] Thus, a politics against the central criminalization of Blackness in policing is not a distraction from the problems of immigration enforcement, but rather leads to substantive critiques against immigration law and immigration agencies that manage enforcement against noncitizen communities. Currently, law enforcement agencies have produced narrative devices that state that no one should fear calling the police, yet immigrants and those most vulnerable are more often expected to call the cops and, even further, are blamed for threats to public safety when they do not do so.

VAWA, Policing, and Immigration Restrictions

Originally enacted as Title IV of the 1994 omnibus crime bill (Violent Crime Control and Law Enforcement Act), VAWA is a comprehensive federal statute to address violence against women that has since been reauthorized under the Trafficking Victims Protection Act and other appropriations statutes.[41] The main focus areas of VAWA include domestic violence, sexual assault, dating violence, stalking, campus-based violence, and sex trafficking. It is also worth noting that the vast majority of federal funding authorized through VAWA emphasizes these goals through federal grants for law enforcement or partnerships with state and nonprofit organizations.[42] For example, the largest appropriation and programmatic funding category is designated for STOP (Services, Training, Officers, and Prosecutors) grants administered under the Office on Violence Against Women.[43] This grant program is primarily designed to improve the effectiveness of law enforcement and prosecution strategies "toward violent criminal activity" and to enhance services for "victims of violent criminal activity" against women. States, US territories, and Washington, DC, are eligible for STOP grants and must allocate 25 percent to law enforcement; 25 percent to prosecutors; 30 percent to victim services (of which only 10 percent of funding within this category can be allocated to community based organizations); 5 percent to state and local courts; and 15 percent to discretionary spending.[44] In 1994, the Violent Crime Control and Law Enforcement Act (VCCLEA) distributed federal funds to states to rehire police who had been laid off and created

over a hundred thousand new officer positions, allocated over one-third more funding to prisons than to preventive social and rehabilitative programs, and created the Office on Violence Against Women and the Office of Community Oriented Policing Services (COPS). Public partnerships with community policing were a priority for federal funds newly distributed to state and local governments, tribal governments, private and public entities, and multijurisdictional regions. The primary purpose was to increase the presence of policing via *cooperation* between law enforcement and community members.[45]

Both VAWA and the VCCLEA are anchored in the 1990s neoliberal ideologies and policy reforms which created particular institutional ties between punishment and social welfare. Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) as part of President Bill Clinton's neoliberal "make work pay" program in 1996; instead of building an accessible welfare system for food, shelter, health, and social needs, PRWORA required welfare recipients to work a minimum number of hours to be eligible to continue to receive benefits for basic needs.[46] This moment of welfare reform ended the first federal welfare program, established by the Social Security Act of 1935 and in force for sixty years, and established in its place Temporary Assistance to Needy Families (TANF), which distributed limited one-time federal block grants to states, which then determined how funds were distributed and whether state funds would supplement additional areas of need. Kaaryn Gustafson shows that rather than viewing the welfare system and law enforcement agencies as separate, the neoliberal reform established by PRWORA created structures of a new welfare system to embark on law enforcement practices of policing and criminalization against welfare recipients.[47] Dorothy Roberts's work documents a history of social workers entrenched as agents of this reform in deeply racialized and gendered ways that not only set heavier expectations on Black communities but established coercive conditions where those in poverty had to navigate a gendered welfare system that criminalized and policed their bodies and relations.[48] For example, shifting economic policies relied on neoliberal ideologies which argued that those who were poor were somehow responsible for their own poverty. These narrative ideologies often blamed the figure of Black women for "cultures of poverty" rather than the dire social policy changes that had begun to impact the entire nation. The law shifted the focus of welfare away from poverty relief, cash assistance, and benefits aimed to meet basic needs of subsistence toward policy implementations that divided the "deserving" from the "undeserving," measured by an individual's success at "responsibility" tied to work, normative performances of sexuality and social reproduction, and worthiness tied to the heteronormative family unit.

Under PRWORA, states had the option to implement lifetime bans on access for welfare benefits for anyone convicted of a drug felony. Several states still uphold this ban. Prior records, parole or probation terms, and warrants for arrest could be used by law enforcement to prohibit access not only to TANF but also to food stamps, social security, and housing. In addition, exchange of information between law enforcement and social services was enacted and aided in arrests. None of these law enforcement openings was primarily designed to aid or provide need-based assistance but rather to extend the reach of criminalization against poor communities of color. Racialized man-in-the-house rules targeted single mothers for the company they kept in their homes, family cap limits, biometric data collection, penalties for stating incorrect information on welfare documents (leading to "three-strikes-and-you're-out" outcomes), and many other administrative regulations developed from PRWORA and continue today in varying forms.[49] While welfare, immigration, and law enforcement laws and policies are constantly shifting, the legacy of this era continues into our present.[50]

PRWORA divided noncitizens, immigrant, and refugee communities into exacerbated categories of "qualified" and "unqualified" categories: Many were either newly but temporarily eligible for or restricted from accessing medical and welfare benefits based on when and how they crossed borders and whether their legal status was that of a "nonimmigrant" (generally rendered temporary) or "immigrant" (generally rendered as a potential pathway toward permanency). Qualified immigrants included refugees and asylees, legal permanent residents, and those with other forms of legal status obtained through federally managed humanitarian grounds. Unqualified categories encompassed those legally marked as undocumented or unauthorized, persons with temporary protected status, or those with temporary work visas and student visas. These were the first federally imposed uniform rules restricting states from allowing undocumented communities access to federal benefits.[51] The un/qualified distinctions created by PRWORA's language emerge here as eligibility requirements, but they are also categories of policing.[52] VAWA itself is not seen as relevant to immigration law per se, but it amends the Immigration and Nationality Act to include a number of provisions for survivors who are not US citizens.[53] Far beyond the inclusion/exclusion paradigm in immigration debates, VAWA provisions occupy the category of temporary inclusion, and the contingent temporality of these conditions highlights the primary purpose and timed value that immigrants register to the state. Here, the violence of US immigration law cannot be fully understood as merely a "broken system" that needs to be fixed but as a system that is doing the task of its design. For example, Harsha Walia reframes the very concept of

nation-state boundaries to be a set of border imperialisms whereby colonial anxieties within the nation-state work to enact racial imperial expansion.[54] Naomi Paik has argued that immigration restrictions are endemic to the nation-state forms which include policing and prisons.[55] Thus, Eithne Luibhéid and Karma Chávez show how ongoing removals, detention, and criminalization rely upon the categorization of gender and sexuality via the legal status of bodies.[56] US immigration law at its lowest and highest moments of restriction also holds within its history what Hiroshi Motomura has theorized as undocumented or unauthorized persons marked as already "outside the law" while simultaneously living under law's administration and organization via education and welfare institutions, through both access and restriction, benefits and exclusions.[57]

In 1996, Congress also legislated the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).[58] Leisy Abrego et al., have argued that AEDPA and IIRIRA together mark a distinct moment of legal violence while also part of a longer legacy of federal agency enforcement beginning in the 1980s that criminalizes immigration. IIRIRA expanded the ability of the state to criminalize noncitizens by recategorizing misdemeanors and minor offenses into "aggravated felony" charges, restricted due process and other legal avenues by which individuals could advocate or challenge their cases, and increased federal enforcement of movement across borders through new partnerships between federal immigration agencies and local law enforcement that would increase policing contact with noncitizens.[59] The act's infamous 287(g) program, and later Secure Communities program, authorized state and local law enforcement to enter agreements with federal agencies. The primary purpose of these agreements was to form partnerships that would allow for nonfederal agencies to participate in the enforcement of federal immigration law. Local agencies could question a person about their immigration status during an arrest or at other moments when immigrants came in contact with law enforcement, arrest a person for an immigration violation, and detain persons for federal immigration agencies. The act increased federal spending for immigration enforcement and raised the required financial level for US citizens and legal permanent residents who wanted to sponsor immigrants to the United States, thereby restricting the number of potential sponsors. Most central, IIRIRA created and expanded removal proceedings to determine whether persons could remain within the nation-state. Refugee communities were suddenly impacted by IIRIRA's creation of new categories of deportation and mandatory immigration detention triggered by minor offenses and were deported to countries they had not been in for decades. The law created an expansive list of violations that would trigger removal pro-

ceedings, such as "moral turpitude," prostitution, substance-related violations, use of firearms, fleeing an immigration checkpoint, and "aggravated felonies," which triggered faster removal and detention and banned migrants from ever returning to the country.[60] The enforcement of IIRIRA made it more difficult for potential migrants to go through the process of asylum, required mandatory detention of anyone deemed subject to removal, and targeted immigration documentation and paperwork as new forms of criminality. The above is merely a short summary of the law and policy agendas that tied welfare and rescue programs (such as saving women from violence) to policing, prisons, and immigration enforcement. With this early political context in mind, this book aims to highlight the violence of legal protection when tethered to that of punishment.

Angélica Cházaro argues that immigration law produces the category of the "criminal alien" to determine eligibility, grounds for removal and so forth. Cházaro warns that immigration reform runs the risk of reproducing this very same "criminal alien" paradigm when logics of criminalization are used to determine who is removeable over others.[61] Leisy Abrego has further argued that even if someone is lawfully present with temporary legal status and allowed to remain within the nation-state, the inclusion is beholden to continued surveillance and management of those outside citizenship. The condition of legal liminality, as Jennifer Chacón has argued, produces liminal legal *subjects* who face challenges not because of the absence of rights but because of ongoing administrative management and exposure to criminal enforcement.[62] Thus, to truly critique the punishment of immigrant communities, Martha Escobar calls for abolition frameworks as the necessary path that can build political power and community formations without reproducing assimilationist agendas that justify the nonremoval of some and not all.[63] Escobar further emphasizes that the prison industrial complex is central but should not be conflated with US immigration agencies.[64]

The AEDPA expanded the monitoring of immigrant communities under counter-terrorism narratives by restricting habeas corpus relief. The statute rolled back US international human rights commitments by limiting a person's ability to challenge the terms of their detention, widening the prosecution of individuals residing within the US for actions committed outside US borders, expanding state power to categorize nongovernmental organizations or countries as terrorist groups and thus producing sanctions against them, and establishing cooperative partnerships between nation-states toward prosecution and criminalization. Rana Jaleel further highlights that rape and sexual violence become violations of international law and human rights agendas in

the 1990s, tied to Cold War negotiations that entangle the recognition of sexual violence with militarized humanitarianisms and global security agendas, colonialism, and genocide.[65] Heightened racial surveillance and Islamophobia were entrenched through new national security laws and policies that racially profiled S.W.A.N.A. communities through alien registration programs, stop-and-frisk practices, border crossing and travel regulations, to name just a few.[66] These counter-terrorism agendas also promoted old tropes of women as victims of their own culture and threats to global international security regimes, religious order, and Western imperialism/humanitarianism. Thus, Nadine Naber has argued that anti-imperial approaches are necessary within women of color feminist politics that engages these ongoing surveillance practices in order to address how humanitarianism and imperialism function together to maintain and reproduce universalist narratives that seemingly allow for the recognition of violence yet mask gendered orientalist propositions. And vice versa, feminist and queer of color politics on culture must be central to any anti-orientalist framework or effort to critique the universal.[67] Particularly because state recognition of "culture" maintains universalisms even if material changes are established. For example, the relevance of culture, positioned as antithetical to the universal, can never materially or discursively emerge as a discrete whole outside universalisms in legal meaning making. That is, when culture emerges within law, for example, it is not a moment of the law's appreciation of a community's culture. Rather, Leti Volpp has shown that courts have selectively *invoked* culture to satisfy an explanation of immigrant behavior, whereas culture is rarely invoked to explain the actions of American citizen-subjects.[68] Thus, the law maintains a division between rational non-marked behaviors against the "bad behavior" of Others that require cultural explanations of the legal subject. These logics of orientalism in immigration debates emerge often through the "simple logic" that Sherene Razack has argued frames immigrants as a constant and unchanging threat to any nation-state.[69]

As this book argues, the site of safety and rescue highlights the need not only to continue the critique of criminalization and immigration enforcement but to do so without reifying the sexualized, gendered, and racial logics of victimhood that become naturalized by the legal subject position of the victim in law. Thus, a critical approach to VAWA shifts and opens up existing scholarship on violence against women but also contributes to interventions within scholarship on immigration law and borders.

Methodology: Abolition Feminisms, Feminist Refusals, and Legal Ethnography

Angela Davis, Gina Dent, Erica Meiners, and Beth Richie write that abolition feminism is a relationality; they trace the relations in theory and thought that formed between and simultaneously through feminist antiviolence movements which critique safety and protection and abolition movements to end punishment and prisons. An abolition feminist lens, for them, emphasizes the work of "reframing the terrain" on which struggle takes place.[70] If we are to think through the conditions immigrant survivors face, this requires the reframing of the terrain to include a critique of protection and to expand the terrain of Asian immigrant rights agendas to take gender and sexual violence as central to analyses and political formations. Alisa Bierria, Jakeya Caruthers, and Brooke Lober emphasize that abolition feminism is not so much about an orientation toward the end resolution but rather about abolishing that which is "so deeply rooted that it disciplines meaning itself."[71]

Much of the ethnographic writing in this book refuses protection as legal meaning making in order to retell a path to abolish the victim within our politics and to unsettle how the legal subject of the victim shapes how we relate to others and is consistently sanctioned by the state. I discuss abolition feminisms as a practice and orientation that imagines futurities without the normalization and naturalization of punishment: not a correction or improvement of punishment but a commitment to the unknown and yet-to-be-articulated possibilities. Abolition feminisms also theorize violence in a particular way, where the political, personal, or collective goal is often not focused on eradicating violent subjects from society but, rather, on knowing what it means to live with violence so that we can creatively and accountably live otherwise. I do not engage abolition feminisms as a theory that can lend itself to more particular ethnic empiricisms; rather, intersecting movements of antiprison, anticarceral, decolonial, transnational, queer and trans of color, disability justice, and feminist antiviolence movements allow us to see how structures and institutions are violent when they continually reinforce racial hierarchies among us in order to protect and rescue us. If a feminist and queer politics relies on punishment or if an anticarceral or antiprison position sidesteps protection, neither contends with the racial critique of abolition feminisms.

I understand abolition feminist thought to have never been without its epistemological roots in Black feminisms as they engage with movements to address gender-based violence and prison abolition. My concern is not so much around pairing abolition feminisms with Asian American feminisms or creating an eth-

nically specific abolition feminism. To be clear, I am not arguing that one's specific histories or communities are not pertinent to notions of the self. But I am saying that even before we do anything with lived experience, we must grapple with the fact that there is a level of violence that occurs when the only way one can speak before the law is to match experience to the expectations of a legal figure that already precedes.[72] Often protection falls under the radar of critiques of the violence of immigration. However, abolition feminist theorizations relentlessly remind us that we do not protect each other; we care for each other. The law protects, and we do not; the law cannot escape its own interiority of punishment, but we can build otherwise. This line of thinking unbinds protection from care, law from relationality, and does so without blame or shame for those who still work with or have little choice but to utilize law even while experiencing punishment by state agencies.

For me, an abolition feminist critique *of law* starts with the solution itself, in particular, political discourses that rely on an acceptance of punishment and the promise of public safety that places demands upon the vulnerability of those with the least resources to act properly, cooperate, and improve safety for everyone else. I refer to "cooperation" as a legal fiction.[73] For me, legal fiction is a genre of law's writing to establish definitive rules and regulations that produce violence, but not because of any error or misrepresentation between lived experience and law; rather, in this genre of law, racial figures are constantly produced by fixed legal subject positions on which the maintenance of the legal bind between protection and punishment is dependent. Violence occurs when experiences are only legible as a universal and racially neutral figure attached to an object in order to either disprove unworthiness or demonstrate worthiness to qualify for a legal benefit. For example, the figure of the "cooperator" attached to the improvement or benefit of policing shades and controls the limits through which survivors can enter the legal subject position of the crime victim. Without reconceptualizing the "mutual exchange" between police and survivors as a legal fiction, the bind between protection and punishment is completely and tragically normalized.

Several refusals orient the theories, ethnography, and writing practices that make this book. The first is a refusal of survival narratives as a *precursor* to the violence of law. While dominant women's rights campaigns repeatedly call for the unsilencing of rape victims, this particular set of politics results primarily in efforts to gain more recognition from the law and ultimately the state. As such, the kinds of voices that can be successfully transitioned from being silenced to unsilenced are often those that provide spectacular evidence, the most damaged experience, and the most rescued possibility. This latter point is the most vivid

anchor of the book's focus on legal protection as an exchange that produces racial violence and exacerbates the policing of gender. Indeed, an arsenal of feminist decolonial and anti-imperial works have argued that the very telling and viewing of sexual violence is already part of the broader gendered structures of the Western gaze, homonormative political campaigns, humanitarian morality policing, colonial savior distortions, and the very impossibility of sexual violation against the not quite human. My focus is on how the law desires these voices insofar as they provide stories of experience that match up to racial figures produced by the letter of the law. The concern is less with a critique of authenticity and more with the function of violent experiences as the prerequisite stronghold for any writing on law and gender-based violence. As a refusal practice focused on law, the book strives to work through gender violence without reinforcement from survivors' voices as evidence. To be clear, I am in no way arguing against the power of voice or survivor narratives. I am instead attempting to interrogate beyond experiences that are vividly violent and toward a different site of law—where the making of a legal subject must match up to a racial figure.

Laura Kang has argued that the "Asian/American" woman is a troubling subject when configurations and interpretations of image, identity, and subjectivity do not line up with each other. Here Kang asks, How is the discernment of Asian American women made through the nonequivalence of the Asian and American body? Further, Kang writes, "If there must be a field of study called 'Asian American women's history,' it must work *through* scrutinizing—and not compensating—for the particular limits of the archives and their possible (re)-narrations as tangled up with the hierarchical particularization of national bodies and subjects."[74] From here, the unsilencing of a particular ethnic voice (either in singularity or in its liberal twin, allyship) continues to hold experience captive to the existing archived terms of law if inclusion and incorporation are not interrogated. My ethnographic writing throughout this book is less about victim experiences and more about violences of nuanced convergence between the letter of the law and advocacy practice, and, the political tensions between immigration rights, antiviolence, and abolition orientations within and across Asian American contemporary political movements. I chose to conduct an ethnography of law's writing and the graphing of legal rules and regulations that become interpreted, articulated, and translated by the practitioners who attempt to use them. And in my fieldwork I observed that *protections* incorporated, and even desired, women's stories—but primarily those restrictively bound to punishment. Because of this, the project's refusal to rely on victimization as a precursor is not so much a rejection of experience or denial of violence but a refusal of what Joan Scott has called "the evidence of experience."[75] When excavations of

experience stand in for race in the law, this approach runs the risk of reinforcing legal records rather than challenging them.

Eve Darian-Smith has argued that legal ethnographies as a genre shift from exploring the causal effects of the technical or institutional site of law toward an orientation of the legal and social subject.[76] The writing of narrative, relations of power, personal and social response, and historical formation "against culture," rather than its essentialism, gives way to legal phenomena of different scholarly forms extending outside and beyond the letter, formal legal actors, or the case record.[77] Susan Coutin and Barbara Yngvesson argue that law neither discovers nor invents social realities. Instead, legal ethnographies emerge through multiple locations and temporalities, where even the "field" from which data are collected shifts due to ethnographic practices that in effect materialize around the ethnographer.[78] The critique of positivist empiricism in law should also include an analysis of race. Thus, I understand critical race theory to be a body of literature which argues that race and racism are endemic to law rather than external to it. Writing against critical legal theorists who render race to be tangential to law, critical race theory argues instead that race and racism are not only evident in but entirely inherent to the foundations of American law in rights, liberties, property, and personhood.

Further, Denise Ferreira da Silva highlights that critical race theory's particular formulation relies heavily on the exclusion of racial differentiation from law as the basis for critique. If the rights-bearing subject (as the primary subject) must first be excluded from law, and if that exclusion can be legible only through one's racial differentiation, then this line of critical race theory runs the same "socio-logical" liberal rendering of race in absentia.[79] Ferreira da Silva argues instead that the racial (and not race differentiation) produces the domain of universality (law) rather than only making such universalisms evident when excluded by the presence of a racial body. In my view, the relationship of experience to the victim as a legal subject is particularly relevant to this debate. For Sora Han, the foundation of modern American law rests in what she formulates as the fantasy of color blindness in law's writing (i.e., judicial opinions) which establishes authority through an arrangement of past and future. Thus, Han writes that there is an "originary limit" of modern American law that legal practices must always *write*: "The fantasy of colorblindness, as an iterative form of physical foreclosure imposed on the legal text works against this plural temporality, and holds out a more manageable diagnostic understanding of the history of legal reform, whether episodic, cyclical, or progressive."[80] For the study of race and law, then, Han puts forward a framework where the examination of race is not so easily resolved at the site of the material condition, nor is it wholly

apparent as a critique of social effects, racism of the past, or prescribed impacts. Rather, a critical theorization of race must attend to what Han calls the "poetics of the plea," which ultimately attends to law's language, reads engagement with law as an inventive practice and political struggle, and brings forward the site of law as a practice of writing. This path is paramount, and I draw heavily from this approach. I have noted throughout that anti-Blackness is a central framework that makes possible a critique of the *policing* function of visa provisions, which are not traceable on the surface of VAWA law as a protection. And thus the racial bind between policing (punishment) and visas (protection) cannot be easily found in bodily evidence or the material application of law's letter because VAWA laws are designed in the reverse.

From the beginning, I never sought to record the stories of survivors. Rather, I hoped to show that a study of gender violence and law had a place without relying on the voice of survivors or stories of violence, trauma, or harm. Because I saw how the law constantly desired representations of damage and depletion of a very gendered kind, I attempted to practice a refusal of this proposed necessity. My attempts were filled with difficulty along every moment of this path, but this difficulty was never about the challenges of ethically representing what advocates said or accurately depicting the scenarios they were in. Rather, I was confronted with what it meant to ethnographically participate with someone while having disagreements about the law, to write about the harms of a law while also being a part of social movements and organizing efforts to support those who partially benefited from such laws, and to think through what someone else is saying without losing or betraying what you yourself are saying. Advocacy services are perhaps self-evidently not poetic; they are rarely thought of in such a way. But paying attention to the *graphing* of legal ethnography became the only way I was able to theorize race, gender, and the violence of law through law's writing and the way we write about the law.

Legal ethnography, as I conduct it, focuses on impasses between letter and practice—by tracing how the law writes racial figures to establish the constant limit of legal protection. Initially, my research began with a set of questions about whether immigrant women were truly being protected by the law, what the law was doing to survivors, and whether it could be changed. But as advocates began to share their interpretations and stories with me, there was often a slight break, an awkwardness, between words they chose as their own and those they simply had to repeat because there were no other words provided by law—*victim*, *criminal*, *perpetrator, unauthorized*. It was impossible for them to talk about the work of advocacy without constant qualifiers before and after certain repeating terms. Struggles such as these shape much of the theoriza-

tion surrounding the approach to ethnographic story not only in terms of my approach to what was spoken but also in terms of the very location of words in legal practices and the letter of the law.

The advocates I interviewed often shared interpretations and insights about certification requirements as they walked me through the step-by-step process. The descriptions included stories about law as not merely a rule that stands on its own but a set of expectations that shaped how one could actually advocate for a client, the struggle of having to assist a client in presenting their interiority or willingness in tangible material terms despite the intangible and immaterial subject position that the law had already demanded. Their stories raised another question: What makes someone free from legal status? Expectations of interiority are another site of legal violence through which undocumented immigrant women are shuttled between innocence and culpability. Advocacy work for survivors entails not only adjustments around legal status but mental health and health services, housing needs, childcare, work authorization, transportation, cash assistance, wellness—and countless other areas of immediate assistance.

During my fieldwork I conducted weekly participant observation and semi-structured interviews and follow-up visits with nonprofit staff in the San Francisco Bay Area serving primarily Asian immigrant women and their families.[81] Separately, during this time and prior, I was active in local and national collective organizing spaces addressing gender and sexual violence, prison abolition, and reentry that shaped my thinking and writing. But in my ethnographic practices, I focused most of my time with an Asian American–serving law center, and from there I moved around a lot, from San Francisco, East Bay, and South Bay, to interview staff at different nonprofits all focused on serving Asian clients. I attended and helped organize community events, some of which were tied directly to legal advocacy work and others of which were focused on feminist of color abolitionist and antiprison efforts. Because the organization's legal work encompassed partnerships with social service agencies, women's shelters, and community services, I often engaged with case managers and staff from other organizations. Unlike in most ethnographic studies, the practice of legal protection is less able to fit the model of a discrete nonprofit organization or state institution but rather encompasses a shifting set of efforts centered on a stage of legal phenomena across multiple institutions of state violence.

When I first worked with a domestic violence organization in San Francisco, I learned about the new U and T visas and how advocates understood them and anticipated their possibilities. I returned a year later to more fully research the unfolding of the U and T visas for this book. I spent one year, and then an-

other, volunteering with an Asian American–serving legal center while attending events and programs and interviewing community programming staff and attorneys at the organization, as well as caseworkers and attorneys across ten other organizations in San Francisco, East Bay, and the South Bay. I conducted weekly participant observation over a two-year period, conducted two rounds of thirty-two semistructured interviews, attended events and workshops, data-based cases, assisted with office tasks, and helped with fundraising events. This book's ethnographic writing follows shifting laws while also attempting to anchor analysis in the clustering of Asian American advocacy efforts, which also constantly moved. The advocates I interviewed and observed came from a range of client services; some had begun their work only a year earlier, and others had been with their organization for over a decade. As is common with nonprofit work in the United States, there is high turnaround and almost all of the advocates I spoke with now work at different organizations or in completely different areas of employment. Thus, the temporal conditions of advocacy work varied greatly, as did their sociopolitical constructions.

The term *advocate* in this book refers to a wide range of people based on their engagements with legal institutions and laws. I have chosen to write with the word *survivor* throughout. However, the law's own terms will always refer to immigrant or undocumented survivors as a *crime victim* as this is the legal subject position in which one must stand to access VAWA, and it will use *noncitizen* or *foreign national*, as defined legally, to refer to those who are not US citizens and are thus the target of the provisions I focus on. The chapters throughout aim to raise the supposed seamlessness, the ease, and the legal moments of "matching" by tracing the legal fictions of VAWA's design and the racial figures that presuppose it. Nothing in this book can fully resolve the tension between the words *survivor* and *victim*, nor is any aspect of this book focused on this resolution. Rather, I write with *survivor* to signify a feminist refusal of victimhood and victimization as descriptors of migrant women, on the one hand, and to allow for an opening to theorize the episteme of the victim as a legal subject, on the other. But more important, much of the work in this book shows that to write with *survivor* as a word is not to intend or aim for a substitution but rather to attempt a project of abolishing the victim as a legal enclosure.

Chapter Descriptions

Chapter 1 provides the book's theory of writing about law, the argument of ethnographic impasse, and refusal as an approach toward voice and evidence.[82] Chapter 2 focuses on racial figures tied to cooperation and mutual exchange

with policing and legal protections designed to provide solutions for survivors without legal status. Chapter 3 theorizes the crime victim as a legal subject attached to the racial figure of the "modern-day slave," injury, and contractability in antitrafficking campaigns. The conclusion sets abolition feminist critiques against victimhood in conversation with contemporary pro-policing politics emerging within political reform efforts and discourses attached to the label of anti-Asian hate.

Conclusion

What, then, is legal protection, and what are its legal fictions? To be configured by the law's writing, to be legible by the making of legal meaning, and to undergo the conditions of an entire legal enterprise? To be the thing that a legal fiction identifies as its figure? Legal fiction as not fictive but a genre of law's writing, its material form, where the possibility of a subject outlines the narrative discourse of meaning and the rule of law. Or in other words, what kind of law is before us when the function of its object invents a new kind of subject that repeats the memory of its form? In the absence of any kind of body that matches up to the law's configurations, we can only, and not without difficulty, trace legal fictions that outline the figures that restrain women's lived experiences—these disciplines of the human category move migrants into the "body of the civil" and are a form of enforcement that reflects the already racial and gendered violence of law's writing. Legal protections that present themselves as solutions are perhaps always at the forefront of any critical inquiry that takes racial differentiations to be objects that give meaning to law's violence. For while the law is relentlessly redundant about who ought to be punished and what should count as crime, it is far less forthcoming about when and how it protects. And for this reason, approaches to the role of race and sexuality through which legal meaning is made have often had to theorize and create around law's fixed words. Punishment has always been a part of how immigrants, refugees, and diasporas navigate movements through US borders. However, policing, in particular, is less discussed in Asian American studies.[83] This book suggests a different orientation, one that practices a politics of refusal against the colonial logic of empirical evidentiary necessity and turns instead toward an embrace of the struggle to engage with abolition feminisms.

My work leading up to this book grapples with the insufficiencies of the ontology of the survivor, the limits of the subject whose excavated existence was supposed to correct that of the victim, and has largely done so. Yet, if to survive is to live beyond the life of others, if death must always be present for this sur-

vival, then the direction from which survival unfurls comes from the kind of violence that is never temporary and indeed promises to never be so. When law enacts and materially *enforces* investment in our survival and when that investment is determined by the longevity of the law and not the life of a person or a community, racial violence and sexual violence do not end.

Notes

INTRODUCTION

1. See Silliman and Bhattacharjee, *Policing the National Body*; and Lindsley, "Gendered Assault on Immigration." For a discussion of the historical legacy of systems of immigration control, incarceration, and colonialism, see Hernández, *City of Inmates*.

2. I use the word *immigrant* when I am referring to a set of political movements (as in the phrase *immigrant rights*) or a set of community politics that have already identified as such and when referring to a subject position within the law. When this book analyzes nonimmigrant visas in comparison to immigrant visas, these two categories of visas are determined by the state's management of legal status. I write with the word *undocumented* because I am analyzing the politics around the absence of legal status as opposed to the legal definition of unauthorized aliens, and the political frameworks that have developed in relation to these existing legal categories. When referring to undocumented survivors, I am aligning with political movements to lift up those without legal status and to critique the very terms of enforcement that regulate status. I also use the word *migrant* to refer to people who have experienced the forced displacement and movement of peoples across nation-state borders. This book is in no way interested in measuring behaviors or characteristics related to any group of people categorized by such terms.

3. Budd, "Incarcerated Women and Girls."

4. Swavola et al., *Overlooked*; American Civil Liberties Union, "Prison Rape Elimination Act"; and Dholakia, "Women's Incarceration Rates."

5. The work of organizers and writers who have made this analysis possible is vast. See the community accountability statements from INCITE! Women of Color Against Violence and Critical Resistance and collectives of writings in INCITE!, *Color of Violence*; INCITE!, *Revolution Will Not Be Funded*; Chen et al., *Revolution Starts at Home* ; Kaba and Hassan, *Fumbling Towards Repair*; Dixon and Piepzna-Samarasinha, *Beyond Survival*; and Ben-Moshe, *Decarcerating Disability*. For me, INCITE! and the work of Survived and Punished and Creative Interventions anchors my focus on political movement building in relation to advocacy, service, and the everyday.

6. Sokoloff and Pearce, "Locking Up Hope."

7. Bhuyan, "'Battered Immigrant'"; and Kwong, "Removing Barriers."

8. Thuma, *All Our Trials*.

9. In addition, Elizabeth Bernstein has argued that carceral logics are embedded in feminist humanitarian projects reliant on Western moral and religious campaigns aligned with the expansion of nation-state borders. Bumiller, *In an Abusive State*; Goodmark, *Troubled Marriage*; Bernstein, *Brokered Subjects*; and Bernstein, "Militarized Humanitarianism."

10. The statement was released at the height of the global uprisings for Black lives in the wake of political organizing against the Minneapolis police murder of George Floyd and the many Black deaths by the carceral state.

11. Regarding neoliberal political and economic restructuring, and the limits of political strategies that aim to include queer and trans communities in existing administrative violences, see Spade, *Normal Life*. For additional discussion of alternative organizing strategies, namely, mutual aid as a political practice, see Spade, *Mutual Aid*. For discussion of multiculturalism in US political discourse and racial representation, neoliberalism, and the liberal state form, see Melamed, *Represent and Destroy*.

12. M. Kim et al., *Abolition and Social Work*; Roberts, *Shattered Bonds*; and Roberts, *Killing the Black Body*.

13. See Finley, "Ghostly Care," writing on Leanne Betasamosake Simpson's decolonial love. See also Piepzna-Samarasinha, *Care Work*. Leah Lakshmi Piepzna-Samarasinha has asked what it would mean to have a collective responsibility toward care, in writing about ableism in community organizing work, as well as engagements with the state, and uplifting the work of disability justice and disabled queer folks of color.

14. As I discuss throughout this book, even though VAWA provisions currently do not restrict applicants or recipients based on their gender, race, or sexuality, it is the sign of woman (or more specifically the damage unto woman) that is often the subject of political debates on public safety, punishment, and legislative debates surrounding VAWA. I will refer to *women* or *woman* throughout my discussion because the advocates I interviewed primarily served Asian immigrant women and their communities. Victims of Violence Against Women Act, Pub. L. No. 103-322, tit. IV, § 40001, 108 Stat. 1902 (1994), and the Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000).

15. Capps et al., *Profile of U.S. Children*. The 1994 VAWA allowed benefits and eligibility for benefits and the possibility to self-petition for legal permanent resident status, which is a form of legal status, without having to rely on the citizen or legal permanent resident who originally sponsored them (and could be causing them harm).

16. Gilmore, *Abolition Geography*, 484.

17. Matsuda, *Where Is Your Body?*, 40–41. Matsuda writes specifically on the targeted criminalization of Black men.

18. Farley writes, "White-over-black is a desire, an orientation. It is the result of a training." Farley, "Accumulation," 58.

19. Haley, "Flesh Work."

20. Garcia, "'All Canned Foods.'"

21. Melamed and Reddy, "Using Liberal Rights."

22. Harris writes that property does not precede law, that property is itself a legal con-

struct that protects expectations, measures those, and values those expectations as property. "In fact, the difficulty lies not in identifying expectations as part of property, but in distinguishing which expectations are reasonable and therefore merit the protection of the law as property. Although the existence of certain property rights may seem self-evident and the protection of certain expectations may seem essential for social stability, property is a legal construct by which selected private interests are protected and upheld." Harris, "Whiteness as Property," 1729–30.

23. Mahoney, "Failure to Protect Laws."

24. Prah, "Domestic Violence."

25. Oparah, *Global Lockdown*.

26. Komar et al., *Sentencing Reform*. See also Stoever, *Politicization of Safety*; and Goodmark, *Imperfect Victims*.

27. Bierria and Lenz, *Defending Self-Defense*.

28. Bierria and Lenz, "Battering Court Syndrome."

29. M. Kim, "From Carceral Feminism"; and M. Kim et al., "World Without Walls."

30. M. Kim, "From Carceral Feminism."

31. Richie, "Reimagining the Movement."

32. Richie, *Arrested Justice*.

33. Bierria, "Missing in Action."

34. Women of color feminists working early on within antiviolence movements have argued that gender and sexual violence is symptomatic of racial capitalism, colonialism, war, and imperialism, rather than intrinsic to individual behavior. See INCITE!, *Color of Violence*; INCITE! and Critical Resistance, "Statement on Gender Violence"; INCITE!, *Revolution Will Not Be Funded*; and Oparah, "Rethinking Antiviolence Strategies."

35. Munshi, "Multiplicities of Violence."

36. Richie et al., "Colluding."

37. Mijente et al., *Who's Behind ICE?*

38. Ritchie, *Invisible No More*.

39. Simon, *Governing Through Crime*; and Gottschalk, *Prison and the Gallows*.

40. Bierria, "Missing in Action." See also Celeste Winston's discussion of abolition and public safety agendas, Black flight and placemaking, and theorization of marronage. Winston, *Lose the Hounds*.

41. Violent Crime Control and Law Enforcement Act, Pub. L. No. 103-322, 108 Stat. 1796 (1994); and Violence Against Women Act, Pub. L. No. 103-322, tit. IV, § 40001, 108 Stat. 1902 (1994). The majority of grants funded through VAWA are administered by the Office on Violence Against Women. The reauthorization in 2022 extended existing programs and created additional programs to expand what qualified as criminal activity, established tribal authority to enforce tribal laws pertaining to gender-based violence and related crimes under certain conditions, expanded tribal criminal jurisdiction over those marked as non-Indian, increased territories' eligibility for grant programs, established new provisions for rape kit backlogs, and enhanced measures focused on trafficking in persons and sex trafficking, to name just a few.

42. For a breakdown of all VAWA appropriations in the 2013 reauthorization and a

summary of prior reauthorizations, see Hanson and Sacco, "Violence Against Women Act (VAWA) Reauthorization"; and Kemper and Sacco, *The Violence Against Women Act (VAWA)*.

43. VAWA authorized $215 million in 2019, $215 million in 2020, $215 million in 2021, $217 million in 2022, and $255 million in 2023 to STOP (Services, Training Officers, and Prosecutors) Violence Against Women Formula Grants. See Kemper, *The 2022 Violence Against Women Act (VAWA) Reauthorization*.

44. A full summary is available in Kemper, *The 2022 Violence Against Women Act (VAWA) Reauthorization*.

45. Violent Crime Control and Law Enforcement Act of 1994, Title I: Public Safety and Policing.

46. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996).

47. Gustafson, *Cheating Welfare*; and Gustafson, "Degradation Ceremonies."

48. Roberts, *Killing the Black Body*; and Roberts, *Shattered Bonds*.

49. Ocen, "New Racially Restrictive Covenant"; and Ocen, "Punishing Pregnancy."

50. Kandaswamy, *Domestic Contradictions*; Hinton, *From the War on Poverty*; Fujiwara, *Mothers Without Citizenship*; and Park, "Challenging Public Charge Policy."

51. Perreira and Pedroza, "Policies of Exclusion"; Fortuny and Chaudry, *Overview of Immigrants' Eligibility*; and Abrego et al., "Making Immigrants into Criminals."

52. Macías-Rojas, "Immigration"; and Macías-Rojas, *From Deportation to Prison*.

53. Mostly legislated through the Battered Immigrant Women Protection Act of 2000, which reauthorized VAWA, these provisions are, generally, the ability for survivors to self-petition to become lawful permanent residents (green card) without relying on a US citizen or another legal permanent resident for the application, a waiver of inadmissibility, temporary legal status, derivative status for family members, and in some cases assistance with housing and work authorization. VAWA self-petition applicants must be victims of battery or extreme cruelty committed by a US citizen spouse or former spouse, parent, child, or lawful permanent resident spouse, former spouse, or parent in order to be eligible to self-petition for permanent resident status. In some cases, the applicant does not have to be married. Grounds for inadmissibility can impact whether someone is eligible. There is no annual cap on the number of VAWA self-petitions that can be approved. See U.S. Citizenship and Immigration Services, "Green Card for VAWA Self-Petitioner"; and the Battered Immigrant Women Protection Act, Pub. L. No. 106-386, tit. V, 114 Stat. 1464 (2000).

54. Walia, *Undoing Border Imperialism*.

55. Paik, *Bans, Walls, Raids, Sanctuary*.

56. For discussion of queer migrant social movements and collectives organizing and responding to heteronormative structures of border regulation and management, see Luibhéid and Chávez, *Queer and Trans Migrations*; and Chávez, *Queer Migration Politics*. On the role sexuality plays in immigration agencies, borders, and control, see Luibhéid, *Entry Denied*.

57. Motomura, *Immigration Outside the Law*.

58. Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996);

Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996).

59. See Abrego et al., "Making Immigrants into Criminals."

60. Kerwin, "From IIRIRA to Trump."

61. Cházaro, "Challenging the 'Criminal Alien.'"

62. Chacón, "Producing Liminal Legality."

63. Escobar, *Captivity Beyond Prisons*. See also Chacón, "Managing Migration Through Crime."

64. Abrego et al., "Making Immigrants into Criminals"; Escobar, *Captivity Beyond Prisons*; Abrego, *Sacrificing Families*; and Abrego and Negrón-Gonzales, *We Are Not Dreamers*.

65. Jaleel, *Work of Rape*.

66. See Volpp, "The Citizen and the Terrorist"; Abu-Lughod et al., *Cunning of Gender Violence*; Dubrofsky and Magnet, *Feminist Surveillance Studies*; Maira, "'Good' and 'Bad' Muslim"; Abdulhadi et al., *Arab and Arab American Feminisms*; Jamal and Naber, *Race and Arab Americans*; and Naber, *Arab America*.

67. Naber, "Decolonizing Culture"; Naber, *Arab America*; and Naber, "So Our History."

68. Volpp, "(Mis)Identifying Culture"; Volpp, "Blaming Culture"; and Volpp, "Framing Cultural Difference."

69. Razack, "'Simple Logic'"; Razack, "Domestic Violence"; and Fellows and Razack, "Race to Innocence."

70. Davis et al., *Abolition. Feminism. Now*, 34.

71. Bierria et al., "Introduction," 1.

72. Existing scholarship has critiqued "cultural competency," and I certainly am in line with these arguments. However, here I focus on the violences that arise in the matching up of experience to the legal subject.

73. By *legal fiction*, I do not mean literary studies of law in works of fiction or sociological and legal studies writings that aim to identify fictitious or factually insubstantial claims or racial misrepresentations.

74. Kang, *Compositional Subjects*, 163.

75. Scott, "Evidence of Experience."

76. Darian-Smith, "Ethnographies of Law."

77. See Coutin, *Legalizing Moves*; and Coutin, *Exiled Home*.

78. Yngvesson and Coutin, "Schrödinger's Cat."

79. Ferreira da Silva, "Towards a Critique."

80. Han, *Letters of the Law*, 2.

81. All individuals and organizations mentioned here remain anonymous. I conducted semistructured interviews and participant observation from 2010 to 2012 and follow-up interviews in 2013.

82. Portions of this chapter were originally published in my 2016 article "Unsettling Innocence: Rewriting the Law's Invention of Immigrant Woman as Cooperator and Criminal Enforcer."

83. Dylan Rodríguez has argued for the need for critical excavation of certain theories

of exceptionalism and paradigms entrenched within the field. Rodríguez, "Asian American Studies."

1. WRITING AGAINST LEGAL FICTIONS

1. Arvin et al., "Decolonizing Feminism."

2. Scott, "Evidence of Experience."

3. For discussion on the nonprofit industrial complex and the measurements that police success, see Koyama, "Disloyal to Feminism"; and Oparah, "Rethinking Antiviolence Strategies." For discussion of damage-based frameworks, see Tuck, "Suspending Damage." Transnational feminist writers, third world feminists, and postcolonial critiques have brought forward writings to think through this difficulty. See also Amireh, "Palestinian Women's Disappearing Act"; Hemmings, *Why Stories Matter*; and Spivak, *Can the Subaltern Speak?*

4. Georgis, *Better Story*.

5. Hartman, "Venus in Two Acts," 11.

6. L. Smith, *Decolonizing Methodologies*, 37, 35.

7. Grace Carson has argued that policing and incarceration have always played a role in US colonial legal formations and thus limit tribal sovereignty. Sarah Deer argues that sexual violence is relevant to tribal sovereignty because tactics of sexual violence were used as part of colonial violences against Indigenous peoples and, most explicitly, that VAWA has been a site where federal agencies established jurisdictional authority over tribal courts and the lives of Indigenous survivors. Carson, "Tribal Sovereignty"; Deer, *Beginning and End of Rape*. See also Deer, "Decolonizing Rape Law." For further discussions on white feminist "violence against women" approaches and Indigenous feminist critique, see Hunt, "Representing Colonial Violence"; and Moreton-Robinson, *Talkin' Up*.

8. Simpson, "On Ethnographic Refusal."

9. Million, *Therapeutic Nations*, 86.

10. Hartman, *Scenes of Subjection*, 79.

11. Hong, "Intersectionality and Incommensurability." See also Hong, *Death Beyond Disavowal*.

12. Han analyzes *Gong Lum v. Rice* (275 U.S. 78 [1927]) and the legal claims of the Chinese plaintiffs, who, in Han's reading, argued against segregated schools because they were not allowed to enroll in an all-white school and be protected from Black people equally to the way white people were protected. While some have memorialized this case as an example of Asian Americans resisting the power of law, Han provides a different reading. As Han critiques, Asian American jurisprudence in this example defines itself against discrimination not through a white/not-white but a Black/not-Black claim. Han, "Politics of Race."

13. Han, *Letters of the Law*, 11.

14. Weheliye, *Habeas Viscus*, 4.

15. Samera Esmeir has also written on the juridical humanity of colonialisms. Esmeir, *Juridical Humanity*.

16. Crenshaw, "Mapping the Margins." See also Crenshaw, "Demarginalizing the Intersection."

17. Crenshaw, "Demarginalizing the Intersection."