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# Precarity and Resistance: A Critique of Martha Fineman’s Vulnerability Theory

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## Abstract

Contemporary feminist theory by and large agrees on criticizing the traditional, autonomous subject and instead maintains a relational, dependent self, but the vocabulary used to describe the latter remains contested. These contestations are seen in comparing the approach of some feminist legal theory, as demonstrated by Martha Fineman, to the approach of some feminist theory that draws on continental philosophy, as demonstrated by Judith Butler. Fineman’s concept of *vulnerability* emphasizes the universality of vulnerability in the human condition, arguing that a “responsive state” is most conducive to producing subjects who are “resilient” in the face of neoliberal pressures. We argue that vulnerability, as an existential as opposed to a political description, is a limited rubric under which to organize against neoliberal forces. Further, we contend that Fineman’s rhetoric of resilience risks reiterating a neoliberal logic of individualized self-management. In response, we look to Butler’s concept of *precarity*, which underscores particular social conditions, as opposed to universal ontological vulnerabilities, that debilitate certain subjects. At stake is how we respond to neoliberal forces today: a vocabulary of precarity poses a more effective challenge than one of vulnerability, for it opens onto not merely individual or institutional resilience but grounded, communal resistance.

Neoliberalism individualizes responsibility. Under conditions of “neoliberal morality,” Judith Butler explains, “each of us is only responsible for ourselves, and not for others, and thus responsibility is first and foremost a responsibility to become economically self-sufficient under conditions when self-sufficiency is structurally undermined” (Butler 2015, 25). Consider the following situation: a professor, a pastor, and a postal worker walk into a bar. They arrive from different parts of town. They were born in different places and are most comfortable in different languages. The professor teaches four classes each semester at three separate colleges, none of which provides health insurance. The pastor lives with members of her congregation in order to save on rent; she worries about being deported. The postal worker drives for a ride-sharing service in order to make ends meet; he has anxieties about his health given the pace of his working days, a result of the pressures of two-day shipping and seemingly infinite consumption. All have education-related debt and lack any kind of safety net. So, we see

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that the punchline is no joke. What each member of this group shares with the others is a feeling of insecurity: they are lacking financial stability, uncertain of future prospects, deeply dependent on others who are themselves financially unstable, and differentially susceptible to institutional forces around them. Our intention in this article is to acknowledge that the subject position inhabited by each of these figures is resilient, but not yet resistant. From their cellphone plan to their employment, each figure, as Lauren Berlant puts it, “makes short-term deals for limited obligation and thrives through the hustle over the long haul” (Berlant 2011, 76). This hustle leaves their bodies fatigued and their spirits diminished. Caught in what Robin Zheng has recently called “the problem of precarity,” they are all looking for another way to respond to neoliberalism (Zheng 2018, 236). Yet living in the US today, “one cannot disregard the fact,” as Simone Weil wrote in 1933, “that all the political currents which now affect the masses, whether they style themselves fascist, socialist, or communist, tend towards the same form of State capitalism” (Weil 2001, 18). Swimming against these currents, we intend to articulate a style with different tendencies; this is our aim in clarifying the implications of vulnerability and precarity.<sup>1</sup>

We proceed in two parts. First, we argue that, despite styling itself resistant, the rhetoric of resilience in Fineman’s vulnerability theory exemplifies what Weil diagnosed as the tendency toward state capitalism. We contend that Fineman’s discussion of resilience in fact reproduces neoliberal rationality and morality; the rhetoric of resilience emphasizes individualized responsibility, recovery, and triumph at the expense of more communal—and more resistant—responses to the neoliberal context.<sup>2</sup> Further, though it makes sense to look to resilience when vulnerability is understood as a universal element of the human condition and taken as the starting point for analysis, the appeal through vulnerability to a human condition tends to cover over nonuniversal, historically specific ways that certain subjects, such as Black people in the US, are *rendered more vulnerable* by way of racist policies and practices. One state-based example of these differential vulnerabilities is police violence, which fits under what Christina Sharpe calls “the precarities of the ongoing disaster of the ruptures of chattel slavery” (Sharpe 2016, 5).<sup>3</sup> Resilience, at best, enables one to cope within the context of neoliberal precarity without questioning the central tenets of an economic system that produces such conditions. A robust concept of resistance, by contrast, would interrogate and contest these tenets themselves, both pointing to needed work against the very conditions of possibility for such levels of precarity and addressing the particularities that the universal language of vulnerability misses. “Corporeal vulnerability is at once an ontological truism and an ethical provocation,” Ann Murphy summarizes well (Murphy 2011, 589). “Precarity,” we will argue, is also a political provocation.

The second part of the article develops a more robust sense of resistance through the language of precarity. Starting from what Butler calls “precarity” does not have the effect of suggesting that the individual become more “resilient” by way of more robust state support or otherwise; it immediately places the problem with state capitalism itself, whose forces, such as the police and prison systems, are central perpetrators of contemporary violence. Precarity, we argue in our conclusion, can work as an organizing principle across multiracial coalitions in the face of neoliberal pressures that have led to our present “state of insecurity” (Lorey 2015).<sup>4</sup> By presenting precarity, instead of vulnerability, as a rubric for coalitional organizing, we thus take on what Nancy Fraser has called the task of critical theory—“to analyze alternative grammars of the feminist imaginary in order to assess their emancipatory potential” (Fraser 2013, 1).

But what, precisely, is neoliberalism? To situate our argument in a neoliberal context, we would do well, at the outset, to define this term. Throughout this article, we understand neoliberalism to operate in both economic and cultural ways, ways that are tethered to and informed by each other. We adopt both Robin James's and Grace Kyungwon Hong's definitions of neoliberalism; their respective definitions bolster each other when placed side by side. James, for her part, defines neoliberalism as an economic mechanism. The market serves as the tool "we use to evaluate and assess everything," such that whatever fails to perform well on the "free" market is deemed unworthy of resources, attention, and investments (James 2015, 9). Hong locates neoliberalism as the successor to mid-twentieth-century liberation and civil rights movements, defining neoliberalism "foremost as an epistemological structure of disavowal, a means of claiming that racial and gendered violences are things of the past" (Hong 2015, 7). As an epistemological structure of disavowal, neoliberalism is "based on the selective protection and proliferation of minoritized life *as the very mechanism* for brutal exacerbation of minoritized death," thus holding out "the promise of protection from premature death in exchange for complicity with this pretense" (7). By placing James's and Hong's definitions alongside each other, we see that the market itself serves as the arbiter of both resources and values. In this way, the neoliberal project involves (1) marketization and privatization; (2) allocation of values, goods, resources, protection, and wealth to the winners of market competition *at the expense of the losers*; (3) strategic selection and rewarding of a small group of minoritized people who comply with the pretenses of this market logic; and (4) elevation of the winners as evidence for neoliberalism's supposed triumph over traditional practices of racialized, gendered, classed, and sexualized violence. These four steps enable neoliberalism to claim responsibility for the protection of marginalized groups in and through the very process of creating and exacerbating precarity, wealth extraction, and corporal violence. Challenging neoliberal logics as well as models of resilience that inadvertently comply with this logic, then, is crucial for feminist and antiracist resistance in the present.

### I. The Vulnerability Approach to the Neoliberal Subject

In her 2017 article "Vulnerability and Inevitable Inequality," Fineman provides a summary of her previous critiques of the traditional, autonomous legal subject. She argues that as an alternative to the traditional legal subject, her concept of "the vulnerable legal subject" can "facilitate the construction of an effective counter-discourse with which to confront neo-liberalism's fixation on personal responsibility and its insistence that only a severely restrained state can be a responsible one" (Fineman 2017, 149). Her "more inclusive and realistic legal subject" is an improvement upon the traditional subject because it "makes it clear that injury or injustice does inevitably arise when the state remains unresponsive to human vulnerability and dependency" (149). By setting up the problem this way, Fineman implicitly locates it in the *absence* of the state in its welfare iteration; the solution becomes a more "robust sense of state responsibility," thus moving from "the restrained state" to "the responsive state" (143; Fineman 2008, 5, 19). Fineman's legacy, in her own words, lies in "the development of a legal paradigm that brings vulnerability and dependency, as well as social institutions and relationships, together into an analysis of state responsibility" (Fineman 2017, 134). On her account, "the state is theorized as the legitimate governing entity and is tasked with a responsibility to establish and monitor social institutions and relationships that facilitate the acquisition of individual and social resilience" (134). To understand what she is

doing, we must understand (a) what she means by “vulnerability,” (b) what she sees as the proper role of the state, and (c) what she intends by invoking “resilience.”

### Vulnerability

For Fineman, vulnerability is “*the* primal human condition” (Fineman 2017, 141).<sup>5</sup> It is universal and constant throughout the life-course of the human being; on this account, humans are not self-sufficient or independent but instead deeply in need of the support of others—that is, humans are fundamentally dependent beings, and there is no position of invulnerability (cf. Fineman 2015, 105). Vulnerability results from the fact that humans are both embodied and embedded: “[A]s embodied beings, individual humans find themselves dependent upon, and embedded within, social relationships and institutions throughout the life-course” (Fineman 2017, 134).

Fineman distinguishes between two kinds of dependency, inevitable and derivative dependency. Inevitable dependency describes “the needs for care associated with certain biological and developmental stages of life,” as seen in infants and the elderly, as well as in middle-aged individuals who fall ill, for instance. The aforementioned embodied dependencies are also part of inevitable dependencies. In her groundbreaking *Autonomy Myth*, she writes, “Far from being pathological, avoidable, and the result of individual failings, a state of dependency is a natural part of the human condition and is developmental in nature”; “developmental dependency,” she continues, “should at least be regarded as both universal and ‘inevitable,’ and for these reasons, certainly not deserving of generalized stigma” (Fineman 2004, 35).

Derivative dependency, by contrast, is not universal, but this form of dependency is also stigmatized in a society that endorses the autonomy myth. “Derivative dependency arises when a person assumes (or is assigned) responsibility for the care of an inevitably dependent person” (36). Not everyone in society is a caretaker; many, especially men, receive care that enables them to advance their own projects, often at the expense of those of an unacknowledged caretaker. In a move we endorse, Fineman criticizes how, in US society, caring for one another has been both *privatized*, “assigning it to the family,” and *gendered*, “falling on the shoulders of those who were assigned the social roles of wife and mother”; further, we agree with her move to publicize care for dependency such that it becomes “the concern of society generally, with responsibility shared across social institutions” (Fineman 2017, 129). But we will challenge her move to the state as the only vehicle that can publicize these responsibilities.

For Fineman, the universality of inevitable dependency can be responded to sufficiently only by the state. Her argument rests on the premises that “inevitable dependency is of general concern and may, therefore, be conceived of as generalized or collective responsibility”; and further, that “undertaking caretaking exacts a unique cost from an individual caretaker, who becomes derivatively dependent on society and its institutions for additional material and structural resources necessary to do that work well” (Fineman 2004, 285). Her claim, in turn, is that *only* the state can address sufficiently the collective responsibility for caretaking work.

[T]he state is the only societal entity that *can* act for all. It is the only organization in which membership is mandatory and universal (we are all subject to the authority of the state). It is also uniquely and expressly constituted to define the collective rights and responsibilities of its members. Therefore, fulfilling the obligation to caretakers requires a state that assumes an independent and active regulatory role. (264)<sup>6</sup>

Before we suggest an alternative way of publicizing care work through the vocabulary of precarity, we will address more specifically Fineman's portrayal of the role of the state.

### *The Role of the State*

By Fineman's lights, the role of the state is to "be responsive to the realities of human vulnerability and its corollary, social dependency, as well as to situations reflecting inherent or necessary inequality, when it initially establishes or sets up mechanisms to monitor these relationships and institutions" (Fineman 2017, 134). This is a specific form of responsibility. It is not the only conceivable form. Of the first two definitions of "responsible" in the *American Heritage Dictionary*, (1) "Liable to be required to give account, as of one's actions" and (2) "Involving important duties, the supervision of others, or the ability to make decisions with little supervision," Fineman's use of the term falls under the second (*American Heritage Dictionary* 2020). This responsibility is less about giving an account and more about supervision. The state must set up institutions and manage others through them. This is a bureaucratic and managerial definition of responsibility. "Because law should recognize, respond to, and, perhaps, redirect unjustified inequality," she writes, "the critical issue must be whether the balance of power struck by law was warranted" (Fineman 2017, 142). Her selection of what counts as "the critical issue" presupposes that there can be a balance of power under the law—a claim worth interrogating given the foundations of the US on the twin pillars of transatlantic slavery and genocide of Indigenous people, two examples of clear imbalance in regard to how power is exercised.<sup>7</sup>

Yet Fineman would disagree with our analysis, starting from a premise different from a critique of the state. In her "initial question" below, Fineman sets up the tensions in a way that will enable her turn to the state.

[E]very society is composed of individuals differently situated within webs of economic, social, cultural, and institutional relationships that profoundly affect our destinies and fortunes, structuring individual options and creating or impeding opportunities. The initial questions raised in a vulnerability perspective are structural: does the state monitor a given institution in a way that is responsive to human vulnerability? In other words, can the differences in treatment be justified? (145)

We take issue with several elements of this way of framing the issue. Although it is correct that individuals are differently situated in any given society, Fineman places agency with the vague "webs" that affect "destinies and fortunes." She does not, for instance, here use words like "racism," "oppression," or "colonization" to describe those webs, and her lack of specificity makes us wonder just who is doing the managing and monitoring and, in turn, whether we want to participate in it, much less endorse it. In the abstract of this article, Fineman writes: "While it is universal and constant, vulnerability is manifested directly in individuals, often resulting in significant differences in position and circumstance" (133). The passive voice—"is manifested"—suggests that vulnerabilities simply occur and that they are borne passively. In other words, there is a lack of attribution to the forces that generate particular vulnerabilities in oppressive circumstances. Further, the language of "destinies and fortunes" rings of luck, of mere chance. We want to avoid discussion of different situations through the language of destiny and fortune, because we think it hides particular, planned violences, especially gendered and racialized violences.

### *Resilience*

Because of how Fineman sets up the tensions of collective organization and social change, she defines resilience as a response to vulnerability in the context of neoliberalism. It is important to note at the outset that Fineman articulates her concept of resilience as a challenge to neoliberalism; she claims that resilience avoids appeals to personal achievement and instead places the burden on social institutions. The family and the school, for instance, are integral institutions in “building the necessary resilience for individuals to survive and thrive in society” (Fineman 2014, 103). By attempting to place the question of resilience on institutions, she wants to shift critical attention away from individual failure (for example, “he just didn’t pull himself up by his bootstraps”) and toward “the deficiencies of institutions and the failure of state regulation” (for example, “his family and school did not adequately support him”) (104). That is, when an individual does not succeed in society, we should look to institutions, and not the individual, as the cause. Indeed, individual choices can be made only once institutions, such as schools, have provided the resources required to make a choice (for example, food, here in the form of school lunches). But we note that in her language above, resilience nevertheless is what is built in individuals. She continues this language of resilience and the individual in a later article: “Although nothing can completely mitigate our vulnerability, resilience is what provides an individual with the means and ability to recover from harm, setbacks and the misfortunes that affect our lives” (Fineman 2017, 146). To our ears, the language of “setbacks” suggests minor challenges, as when one is set back from a desired arrival time by a detour on the highway or a delay at the train station. And once again, luck enters in the language of “misfortunes.” In this discussion of resilience, then, we hear not of specific oppressions, such as continued colonial violence, but instead of chance.

In the section of the article titled “Institutions and Resilience,” Fineman develops her account of resilience. She outlines five “resources or assets that societal organisations and institutions can provide,” namely, “physical, human, social, ecological or environmental, and existential” resources (Fineman 2017, 146). We can restrict our analysis to physical resources in order to make our point. In addition to addressing housing and food, physical resources, she argues, “also provide for our future well being in the form of savings and investments” (146). Savings and investments advance banks and markets; even if they are placed in a credit union or invested in so-called green stocks, they are part of an individual’s worth. Of course, these banks advance the projects of state capitalism (for example, funding the Dakota Access Pipeline, whose construction was enforced by state police). Therefore, these “physical resources” are consistent with how we defined neoliberalism above, insofar as the ability to save and plan for one’s future well-being is contingent upon compliance with and participation in a market mechanism that “decides,” through a distribution of market “winners” and “losers,” where and how these physical resources are spent. “Human resources,” she continues, “contribute to our individual development, allowing participation in the market, and the accumulation of material resources. Human resources are often referred to as ‘human capital’ and are primarily developed through systems that provide education, training, knowledge and experience” (146).<sup>8</sup> This language of resources as capital sounds out of place for a theory that claims to be a challenge to neoliberalism.

At the very least, Fineman’s market-friendly language tends toward state-sanctioned capitalism that is often presented as the only option for social organization today. Even if we read these claims as referencing not an individual but a more collective, or

institutional, sense of savings and investments, and even if we think of this market on the most basic and local level, it is clear that this discussion of “[r]esilience-conferring institutions” carries a “commercial flavor,” to use Weil’s phrase—that is, resilience is here “linked with the notion of sharing out, of exchange, of measured quantity. . . essentially evocative of legal claims”; such claims, crucially, “must rely on force in the background, or else [they] will be laughed at” (Weil 2005, 81). What Weil again helps us to see is that Fineman’s articulation of resilience relies on the force of the state in the background. This state force is often exercised against its most vulnerable subjects, precisely to enforce or protect those resilience-conferring institutions (for example, when water protectors at Standing Rock are jailed in order to advance the interests of the banks and funds that house savings and investments). As Fraser puts it, “social protections are often vehicles of domination, aimed at entrenching hierarchies and at excluding ‘outsiders’; and this is harmful to women even when reforms to state capitalism trade “women’s dependence on an individual male breadwinner” for “dependence on a patriarchal and androcentric state bureaucracy” (Fraser 2013, 44). “[I]t is disproportionately women who suffer the effects of bureaucratization and monetarization,” Fraser continues, such that “viewed structurally, bureaucratization and monetarization are, among other things, instruments of women’s subordination” (46). Yet Fineman presents the robust state as good, making few qualifications that address our concern about the violences of state capitalism or the androcentrism of state bureaucracy. Finally, the commercial flavor of resilience becomes most clear in her reference to “human capital,” thus showing that a rhetoric of resilience fits comfortably in a capitalist society. A few examples will bring this point into further relief.

It is not coincidental that “resilience” is the term of choice in Sheryl Sandberg’s and Adam Grant’s *Option B: Facing Adversity, Building Resilience, and Finding Joy* (Sandberg and Grant 2017). Tellingly, on the book’s website, there is a section on incarceration with the headline “Overcoming the effects of incarceration.” This puts the burden on the individuals afflicted as their loved one is behind bars; terms like “overcoming” thus privatize the struggle. They do not foreground the injustices that led to the person being behind bars in the first place, especially under conditions of what Michelle Alexander has called “The New Jim Crow” that allow for (state-backed) prison expansion (Alexander 2010), what Ruth Wilson Gilmore has called “golden gulags.” (Gilmore 2007). What we are seeing, in sum, is that the language of resilience, as James notes, “recycles damage into more resources” (James 2015, 7). According to this logic, “the person who has overcome is rewarded with increased human capital, status, and other forms of recognition and recompense, because, finally, and most importantly, this individual’s own resilience boosts society’s resilience” (7). Thus resilience is a “neo-liberal ethical and aesthetic ideal” (6).

Fineman would resist our charge. By beginning at the institutional, and not individual, level, she attempts to deny that her vocabulary of resilience fits *within* a neoliberal logic. In this way, she takes herself to be “shift[ing] the focus to the state and social responsibility because it recognizes that a deficit in resources often reflects an institutional or societal failing more than an individual one” (Fineman 2017, 147). In a neoliberal context of individualized responsibility, it cannot be repeated too much that one’s lack of resources reflects more on institutions than on the individual. But advancing this shift in emphasis does not require the rhetoric of resilience. And further, as Danielle Petherbridge has argued convincingly, too often the appeal to the vulnerable subject has “resulted in new forms of governmentality, paternalism, or forms of

sovereign power as a means of addressing the fear or threat of vulnerability” (Petherbridge 2016, 589).<sup>9</sup>

In sum, we have (1) argued that the rhetoric of resilience is a repetition of neoliberal logic, and (2) called into question the reliance on the “responsive state.” To her credit, Fineman anticipates the second part of our response. She notes, “Even self-identified progressive social reforms are suspicious of the state; the rhetoric of non-intervention prevails in policy discussions, deterring positive measures designed to address inequalities” (Fineman 2008, 2). We want to underscore that, given a history of state violences, this suspicion of the state is warranted. The state is an entity to make demands on more than to rely on. Fineman sees this point, too, arguing that her concept of vulnerability across the life-course serves grassroots political efforts: “Mobilizing around the concept of shared, inevitable vulnerability may allow us more easily to build coalitions among those who have not benefitted as fully as others from current societal organization” (17). Indeed it may, but the practical or coalitional question becomes about which concepts are the most effective in regard to mobilization. To our minds, mobilizing around a universal (shared vulnerability) can serve to weaken efforts around particular struggles, as when some organize around the universal “All Lives Matter” instead of the particular “Black Lives Matter.” To consider an alternative way of framing the debate, we look away from vulnerability and resilience and toward precarity and resistance.

## II. The Precarity Approach to Political Resistance

### *Butler and Vulnerability*

Before we leave the terrain of vulnerability, it is first helpful to examine how the term functions in Butler’s work. She retains crucial aspects of vulnerability, but she nonetheless insists on a more contextualized term for the purposes of social and political critique. In *Precarious Life*, she claims that “each of us is constituted politically in part by virtue of the social vulnerability of our bodies—as a site of desire and physical vulnerability, as a site of a publicity at once assertive and exposed” (Butler 2006, 20). Not unlike how Fineman presents it, here the language of vulnerability is a descriptor for a universal condition of being not just human, but a living thing in general. Accordingly, we see the language of vulnerability as problematic not because it is inaccurate, but because it is not yet precise enough. Vulnerability constitutes a universal criterion for what it means to be living in general. It offers an alternative to the “autonomous” subject of legal liberalism, and thus it has been important to political efforts to rethink the relationship between the individual and the collective. This is important political work. A limitation of vulnerability in its universality, however, regards motivating particular political efforts. Indeed, such a universality can function as a neutrality.

Butler finds vulnerability to constitute a more or less neutral condition of existence. Fineman emphasizes that vulnerability, though exemplified by the dependencies of childhood, illness, disability, and advanced age, is a feature of all humans in their life-course. All emphases select some elements and leave out others. What Fineman’s focus leaves out are some nuances within vulnerability, for human life includes a vulnerability to harm as well as a vulnerability to pleasure, love, joy, or other affirmative passions. Butler reminds us that we are always vulnerable to, or susceptible to, undergoing a range of feelings or affections from the outside. Openness to a certain degree of suffering is a condition of possibility for an openness to all of those experiences that render a life worth living. “To foreclose that vulnerability, to banish it, to make ourselves secure at the expense of every other human consideration is,” Butler observes, “to eradicate one



of the most important resources from which we must take our bearings and find our way” (Butler 2006, 30). We thus agree with Butler that the language of vulnerability is overly vague in a second sense, namely, insofar as it fails to draw a distinction between exposure to the “good” and exposure to the “bad”—that is, exposure to joy and to sadness, to pleasure and to pain, to love and to violence.

Third, and finally, if vulnerability constitutes a universal condition of living, then the “denial of vulnerability through a fantasy of mastery . . . can fuel the instruments of war” (29). The willed denial of vulnerability often feeds into the very drive to control and to manage—drives that (re)produce conditions of what Butler will come to call precarity. In leaving vulnerability behind in favor of the term *precarity*, then, we affirm the descriptive accuracy of vulnerability as a *universal* condition of living beings, and for this very reason, challenge its efficacy for critical and particular political interventions.

We can summarize our claims by way of analogy. If an artist were asked to present contemporary social life, and if they painted a single tree nearly uprooted by the wind, they would symbolically get right several elements of the present: the individualization of neoliberalism, the deracination of refugee crises, the attempt to hold on and to stay grounded in changing environments. But they would miss the drones above, the flashes of billboards and phones, the hustle of gig-taxis, the interstates and factories generating the emissions that heighten the storms. Describing the present through the language of vulnerability, fragility, or contingency is like this landscape painting; ultimately, it naturalizes political forces we want to foreground, name, and attribute by way of highlighting their construction. Thus we can make a distinction: vulnerability is something to be affirmed as a necessary condition of living—as an openness to life, community, contingency, and otherness; precarity, by contrast, is something to be resisted as an unnecessary and unequal distribution of risk across diverse populations.

### *Precarity and Precariousness*

For Butler, precarity is closely linked to another term, *precariousness*. We have suggested that the framing of universal vulnerability pays little attention to differences within vulnerability, such as a vulnerability to those things that we affirm (it is because we are exposed to others that we gratefully receive their care) and those things that we avoid or negate (it is also because we are exposed, susceptible, or vulnerable that we can be harmed and abused). The language of precariousness enables us to make this distinction. Precariousness is still a universal term, for it “implies living socially, that is, the fact that one’s life is always in some sense in the hands of the other” (Butler 2009, 14). Butler puts this even more explicitly: “[P]recariousness has to be grasped not simply as a feature of *this* or *that* life, but as a generalized condition whose very generality can be denied only by denying precariousness itself” (22). Precariousness thus signifies a generalized exposure to risk, an existential vulnerability to loss, injury, and death. It is, then, a generalized vulnerability to *harm*, as opposed to a generalized vulnerability to either harm *and* its others—love, care, joy, and so on. Still, precariousness does not yet constitute a salient political concept, precisely due to this generalizability.<sup>10</sup>

In turn, Butler deploys the term *precarity* to signify the politically produced condition of unequal or differentially allocated degrees of precariousness. We quote Butler at length from her later work, *Notes toward a Performative Theory of Assembly*:

“Precarity” designates that politically induced condition in which certain populations suffer from failing social and economic networks of support more than

others, and become differentially exposed to injury, violence, and death. . . . [P]recarity is thus the differential distribution of precariousness. Populations that are differentially exposed suffer heightened risk of disease, poverty, starvation, displacement, and vulnerability to violence without adequate protection or redress. Precarity also characterizes that politically induced condition of maximized vulnerability and exposure for populations exposed to arbitrary state violence, to street or domestic violence, or other forms not enacted by states but for which the judicial instruments of states fail to provide sufficient protection or redress. (Butler 2015, 33)

Whereas precariousness is a universally shared condition, precarity constitutes a differential allocation of precariousness. We all share in the condition of precariousness by virtue of being finite bodies susceptible to injury and harm. We do not, however, share *equally* in this condition, because sociopolitical conditions differentially allocate access to material needs such as food, water, shelter, health care, and more—as the efforts to respond to the water crises of different kinds in post-Katrina New Orleans and more recently in Flint, Michigan demonstrate. Populations forced into greater risk of harm, injury, violence, or neglect thus live in conditions of greater precarity than those who typically enjoy stable access to material goods. For the purposes of our argument, what is especially important to note about “precarity” is its relation to the state. State violence, as Butler notes, is arbitrary—unrestrained by some higher authority. The state is the prime conduit of how precarity is *politically induced* and not naturally or existentially present.

With the above distinction between precariousness and precarity in mind, the political project can no longer be framed as a desire to rid oneself of either vulnerability or precariousness, for such a project cannot but help chase the specter of individual autonomy and security. Nevertheless, because precariousness constitutes a generalized condition, “one objects to the differential allocation of precariousness and grievability” (Butler 2015, 22). Hence the political project becomes one of “minimiz[ing] precariousness in egalitarian ways” (Butler 2009, 21). If the repudiation of vulnerability and subsequent maximization of security produces concomitant populations who suffer as their land and resources are stolen or refused, then the minimization of precariousness in egalitarian ways calls for an equal distribution or allocation of resources across populations. This minimization refuses the drive for autonomy at the same time that it refuses privileging one population over others. That is, it owns up to its dependence on others precisely as it builds community with them—living, dying, and mourning together. It is not clear to us that the state is the optimal, much less the only, vehicle for achieving this distribution or community.

### *The Politics of Precarity*

We find that the language of precarity and the political project that follows from it responds more vitally to the neoliberal present than that of vulnerability for a number of reasons. First, precarity calls attention to the ways in which conditions of differentially allocated precariousness are politically *produced* by specific agents, motives, institutions, and practices, rather than obscuring the roots of such conditions in existential and universal terms (“all are vulnerable”). Second, responding to precarity calls for collective action and resistance as opposed to individualized or privatized resilience. For example, rather than responding to the slow disappearance of tenure-track jobs in

academia with simply a stronger “work ethic” and competitive drive against one’s peers, we should instead organize our academic labor, create community-oriented research groups, advocate for open-access publishing, and, when necessary, look toward and create alternatives to the university in general. Third and finally, the political projects and practices that emerge from a critique based on precarity avoid the framing of *relying on* and instead emphasize *making demands of* the state and other normative institutions. These institutions are complicit with, if not the source of, politically produced conditions of differential precariousness. The political projects we endorse take the risk of collective experimentation and political improvisation in the search for new forms of communitarian living—forms that refuse privatization, capital, and the enclosure of worlds.

A politics of collective experimentation stands in contrast to contemporary interventions that frame exposure to risk as a direct result of the *withdrawal* of the state (the rolling back of various welfare programs such as but not limited to social security, Medicare and Medicaid, unemployment, insurance programs, and so on). The latter framing implicitly treats precarity—again, the *differential* distribution of existential risk—as a prepolitical condition that the state then comes to cover over, remedy, or otherwise address. Thus, vulnerability to such risk comes to be seen as the natural result of the *absence* of the state. Such frames treat precarity as simply “out there,” uncaused by political, state-based, or institutional factors. If precarity is framed in this way, then the natural response would be to call for more state intervention, what Fineman describes as “the responsive state.” Political theorists on the Left often frame these calls in terms of state-sponsored welfare programs and job security, but we have seen time and again that the other side to this call—the other side to reliance on the state as the agent responsible for reeling in rather than causing precarity—rests in border security, police enforcement, and military intervention. We note here, for example, that Angela Nagle, a lauded journalist claiming to be on the Left, recently published a piece in *American Affairs* calling for strengthened security at the US–Mexico border *precisely on the grounds* that open borders threaten the viability of state-sponsored welfare programs and domestic job security (Nagle 2018).<sup>11</sup>

We resist these characterizations for reasons that are now obvious. To treat precarity as a natural result of the withdrawal of the state is to naturalize differential exposure to risks that are, more accurately, politically produced, and often state-produced, conditions. To naturalize such conditions is to imply that life could not be otherwise. Such frames thus presuppose the order of the nation-state at the same time as they presuppose the existence of socially produced populations based on race, class, gender, sexual orientation, citizenship status, ability, and so on. Vulnerability is natural; neoliberal precarity is produced. If precariousness describes a differently shared existential risk in which every human being partakes, then precarity can be understood, as Butler explains, as “the politically induced condition that would deny equal exposure through the radically unequal distribution of wealth and the differential ways of exposing certain populations, racially and nationally conceptualized”—and to this we would also add populations conceptualized in terms of gender identity, labor conditions, ability-status, and sexual orientation—“to greater violence” (Butler 2009, 28). What purpose do national borders serve other than the separation of human beings into groups with greater or lesser exposure to precariousness? Is not the border itself an instrument of precarity—the differential allocation of exposure to violence, starvation, and illness?

We maintain that precariousness is a shared and generalizable condition, and we maintain further that precarity, as the socially and politically produced allocation of

risk, is a direct result of political and legal apparatuses including but not limited to national borders, the police, the military, corporate powers and insurance companies, medical bureaucracies, tax codes, passports and other forms of identification, and so on. We recognize the very production of precarious populations to be a socially produced (and thus changeable) condition that results not merely from the *withdrawal* of the state, but from the work of the state and state apparatuses themselves, what Saidiya Hartman summarizes under the heading “predatory state forms.”<sup>12</sup> To be sure, such a conceptualization by no means implies that we would advocate for a quickened withdrawal of welfare programs that have survived the last forty years of neoliberal cutbacks. Fineman would remind us here that not only individuals but also institutions can be vulnerable; indeed, one of her chief concerns about neoliberalism is that privatization eviscerates already vulnerable public institutions. Insofar as vulnerability fails to attend to the dynamics of predatory and not just protective (we ask: of whom?) state forms, we find it helpful as a starting point for generalizable conditions of what it means to be a living thing but limited as part of a critical political vocabulary. Precarity better attends to the political situation at hand.

Let us summarize our critique of the vulnerability approach to critiquing neoliberalism through three points. First, the framework of resilience proves more conducive to individualized projects of self-making—once again, projects that necessarily come at the expense of others down the street or on the other side of the globe. Because precarity attends to politically produced group dynamics, it provides an alternative to the resilient, entrepreneurial self, and instead insists upon collective resistance to the very conditions in which we find ourselves. If resilience desires accommodation and adaptation—a privatized palliative to the global disaster—then resistance seeks changes that are critical more than functional: political participation beyond reformist norms, and collective change against the trends of neoliberal isolation—a refusal of and direct challenge to the conditions that have produced this disaster.

Second, while there are no words, phrases, or frameworks that are safe from neoliberal cooptation, the language of resilience seems to directly and uniquely cater to the neoliberal status quo. As Butler puts it, “neoliberal rationality demands self-sufficiency as a moral ideal at the same time that neoliberal forms of power work to destroy that very possibility at an economic level” (Butler 2015, 15). Thus, neoliberal forces can sell an ideal of self-sufficiency while simultaneously destroying the very conditions for life, “using the ever-present threat of precarity to justify its heightened regulation of public space and its deregulation of market expansion,” all the while selling the notion that your and others’ precarity is a direct consequence of your or their actions (15). Neoliberalism privatizes both fault and “success.” The language of resilience directly agrees with this investment, as does the language of privatized responsibility. This is psychologically harmful: “[T]he more one complies with the demand of ‘responsibility’ to become self-reliant, the more socially isolated one becomes and the more precarious one feels” (15). Such models of privatized resilience and individual responsibility produce the neoliberal subject as an insidious combination of self-manager and commodity. One manages oneself to sell oneself on the market, and this self-commodification is supposed to serve as one’s redemption from conditions of precarity. This model of resilience and responsibility “redefines responsibility as the demand to become an entrepreneur of oneself under conditions that make that dubious vocation impossible” (16). By turning the world into a market in such a manner, political and economic forces absolve themselves of any culpability, once again obscuring the real locus of precarity—obscuring, that is, the political as such.

In contradistinction to (privatized) resilience, the language of (communal) resistance at least nominally recognizes that political, social, and economic agents themselves produce and uphold the conditions of precarity. Thus, communal resistance asks not for an individualized, privatized response to precarity—one that would simply adjust to these conditions rather than contest them—but rather for a challenge to both these conditions and those who are invested in upholding them. Resistance is communal insofar as it refuses the self-commodification of entrepreneurial subjectivity, and seeks out, both locally and internationally, others to whom one is linked by virtue of their mutual exploitation, their mutual heightened exposure to risk. If resilience turns its back on others in order to shore up a sense of self-reliance, then resistance actively seeks out others for mutual support. The call for communal resistance is thus a call to seek out and create the conditions of possibility for a life worth living, a life freed from the politically produced constraints of precarity.

Third, and finally, if it is the case that the state is complicit with, if not the main source of, precarity production today, then a politics that calls for a grand restoration and expansion of state power cannot suffice as a strategy of resistance. Fineman understands this concern, noting that state responses to claims of vulnerability often include “surveillance and regulation” that are either “punitive and stigmatizing” (as in the case of prisoners or single mothers) or “paternalistic and stigmatizing” (as in the case of the elderly or people with disabilities) (Fineman 2014, 109). But she nevertheless returns to the state, in part because she understands it as the only option in regard to protecting the public as such: “[C]oercive institutional supervision can only be undertaken by the state in its capacity as the legitimate manifestation of public authority” (Fineman 2008, 18–19). It is true that calls for the state to reform its institutions often constitute a forced choice for precarious populations, as when Indigenous nations must fight for their land in court. Butler reminds us that precarious populations

often have no other option than to appeal to the very state from which they need protection. In other words, they appeal to the state for protection, but the state is precisely that from which they require protection. To be protected from violence by the nation-state is to be exposed to the violence wielded by the nation-state, so to rely on the nation-state for protection *from* violence is precisely to exchange one potential violence for another. There may, indeed, be few other choices. Of course, not all violence issues from the nation-state, but it would be rare to find contemporary instances of violence that bear no relation to that political form. (Butler 2009, 26)

Our point is that, given the deep imbrications of contemporary violences and the state form, we should refrain from concluding that appeals to the state are the only political option, much less that the state is the only legitimate manifestation of the public. Precarity serves as an organizational frame for publicizing vulnerabilities in a way that calls into question the legitimacy of the state in its present form.

Precarity, as a shared condition between and across various populations, serves “as a site of alliance among groups of people who do not otherwise find much in common and between whom there is sometimes even suspicion and antagonism” (Butler 2015, 27). Indeed, the political strategy we are outlining refuses to rely on preestablished group identities that often fall on national or ethnic lines. The political group is produced in the performative assembly, taking on a fragile character that emerges both out of shared precarity and shared resistance to the conditions that produced such

precarity. This character is not so much “a collective identity” as it is “a set of enabling and dynamic relations that include support, dispute, breakage, joy, and solidarity” (27). There is thus a veritable realism to political improvisation, insofar as it neither pretends to know the answer in advance, nor preemptively commits itself to one form of resistance over another. Yet it does this at the same time that it recognizes the complicity of traditional forms of liberal politics, which cannot help but affirm modes of state control and policing.

### III. Strike and Struggle

A question worth revisiting by way of conclusion is a practical one: Are there modes of publicizing care that provide an alternative to individualized, state-based models and instead suggest common practices of resistance? Lorey spells out the political implications of Butler’s concept of precarity, describing the neoliberal present as “[s]ocial practices that are oriented not solely to the self and one’s own milieu, but rather to living together and to common political action, recede ever more into the background and become ever less imaginable as a lived reality” (Lorey 2015, 90). In presenting a feminist response to the logic of neoliberalism, it is especially important both to imagine and to make legible this alternative “lived reality.” In the final instance, not only does precarity describe the neoliberal present with more accuracy than the language of vulnerability, but it also stays closer to that lived reality by way of functioning as an organizational principle.<sup>13</sup>

Lorey presents “new forms of organizing” in relation to precarity: “Precarious working and living conditions are taken as the starting point for political struggles, in order to find possibilities for political agency in neoliberal conditions” (8). It is important to note that this theorization does not deny a key claim of vulnerability theory, namely, that “survival depends from the beginning on social networks, on sociality and the work of others” (19). Rather than denying this claim, Lorey puts it in different terms, which we have outlined above through Butler’s *precariousness*. With Lorey, we are seeking “new modes of securing and protecting against precarity . . . in the recognition of an ineluctable state of *precariousness*” (7). Terminological differences matter: whereas vulnerability places state-sanctioned violence in the background, precarity foregrounds the struggle between the precarious and the settled. Whereas the key neoliberal tension for Fineman’s vulnerability theory is between decreased state support and individual and institutional resilience, for Lorey the key tension is between government and insurrection: “The way that precarization has become an instrument of government also means that its extent must not pass a certain threshold such that it seriously endangers the existing order: in particular, it must not lead to insurrection. Managing this threshold is what makes up the art of governing today” (2). This management involves neoliberal nuances. Neoliberalism is not simply withdrawal of the state from all spheres; part of what Fineman’s language of “the restrained state” misses is that the neoliberal state still funds the police and the military, thus advancing discipline and surveillance. “[T]he more social safeguards are minimized, and the more precarization increases,” Lorey observes, “the more there is a battle to maximize domestic security” (64). Security, we are quick to ask, for whom? An analysis that attends to race and gender understands that security for some often comes at the expense of security of (historically oppressed) others. Lorey, too, emphasizes this point: migrants, for instance, are forced to act according to an “assimilative integration” so as to avoid the label of “security risk” (64).

One of Fineman's brilliant moves is to reverse how care is thought about, suggesting that there is a "care subsidy" to all other economic activity. By looking beyond the liberal reforms Fineman endorses, Lorey radicalizes this reversal by suggesting a "care strike," meaning not a suspension of care work but rather shifting that work to the center, to public scenes, as an interruption of the "order" of the present (97). In her words:

The strike applies to political and economic dispositions that devalue care as being private, feminine, and unproductive, thereby depoliticizing it. These are perspectives through which care work is perpetually made invisible, so that its associated conflicts are consequently not perceived. The care strike is intended to emphasize exactly these debates and struggles. (97)

The care strike is an example of communal resistance; it provides a resistant mode of publicizing care. As opposed to responses to neoliberalism that reinscribe individuality or that return to the state, the care strike *collectively publicizes* labor starting from local communities. Taking the Precarias of Spain as an example, this includes a kind of activism/research in which practitioners ask each other, "What is your precarity?" and "What is your strike?" thus moving communicatively and communally from an individualized response to a shared sense of precarity—and in turn *manifesting* that precarity publicly (97–98). To return to our introductory point: if we are to resist logics of neoliberalism according to our collective ability, then we must seek out as well as communicate and organize with others across usually uncrossed lines.

## Notes

1 In the pages of this journal, Danielle Petherbridge has noted that "[t]he category of vulnerability has also formed the basis for arguing for a normative form of intersubjectivity or interdependence, which might form the basis of an account of sociality, justice, or politics, manifested, for example, in an ethics of care or based on a theory of recognition. It has also been viewed as a means of challenging the modern liberal notion of the individualistic and sovereign subject, replacing it with one based on interdependence and responsibility" (Petherbridge 2016, 591). Our point is that how we frame the latter (vulnerability as challenge to sovereignty) sets up the success of the former (pursuits of justice).

2 With Rocío Zambrana, we could say that Fineman's rhetoric of resilience is an example of how "purportedly unambiguously emancipatory norms are not only co-opted by, but deeply implicated in neoliberal ideology" (Zambrana 2013, 95).

3 It is for this reason that Sharpe makes a distinction we follow, distinguishing "between what I am calling and calling for as care from state-imposed regimes of surveillance" (Sharpe 2016, 20).

4 Thus precarity is taken as a rubric for coalitional organization, what Catherine Keller has discussed in terms of a struggle for a "new public." "Precarity, rather than the good, is getting common," she writes, and "the response only counts as *political* when it gathers its public—as a 'we'—in and through shared struggle"; "Only by embracing the fragility of our selves and of our worlds," she concludes, "can we organize and advance an egalitarian, pluralist, and materially viable 'new assemblage'" (Keller 2018, 35, 22, 36).

5 Indeed, she argues that sociality itself arises from vulnerability: "It is human vulnerability that compels the creation of social relationships found in designated social institutions, such as the family, the market, the educational system, and so on" (Fineman 2017, 142).

6 Given, to name just one example, how Indigenous nations have contested the sovereignty of the US state, we are suspicious of Fineman's universal claim here that the state can act "for all." We see the state as acting in the interest of some over and against others, in this case in the interest of settlers over and against Indigenous nations.

7 On the penultimate page of her *Autonomy Myth*, Fineman does address the analogy between unrecognized female labor that supports the male-dominated family and unrecognized colonized labor that supports the colonial state; in both cases, we can use accurately the language of social debt. "A consideration of the international implications of rethinking the state's responsibility with regard to

dependency and subsidy is beyond the scope of the book,” she writes (Fineman 2004, 290). Nevertheless, she continues, “[f]uture work, however, may explore the many ways in which our economic and material success [in the US] is grounded on the provision of subsidies from other nations: goods and services that are appropriated through a system in which Western domination is built on centuries of colonization and exploitation that to some extent parallels the appropriation of women’s labor in the family” (290). Questions concerning coloniality further complicate any claim to a just “balance” under the law.

8 In a footnote that comments on “[t]he degree of resources an individual has” in terms of “resources or assets,” she includes “accumulated wealth” as well as “human capital” (Fineman 2014, 114 and 114, n. 74).

9 Petherbridge continues in a helpful elaboration: “individuals and groups are understood to be vulnerable in the face of war, terrorism, and natural disaster, for example, and this leads to responses such as increased surveillance and forms of bio-power aimed at the governance of every aspect of embodied and biological life. The other side of this trend, for example, evident in disaster research, is to posit a notion of ‘resilience’ as a compensatory category, which often implies a notion of boundedness, closure, or protectionism” (Petherbridge 2016, 590).

10 We must nevertheless note that the distinction between precariousness and precarity is an analytic one. Social and political structures produce rebound effects on otherwise existential or, potentially, ontological categories. As Isabell Lorey points out, precariousness blurs into precarity within neoliberalism: “In the current dynamic of governmental precarization, it becomes increasingly difficult to distinguish between an *abstract anxiety* over existential precariousness (anxiety that a body, because it is mortal, cannot be made invulnerable) and a *concrete fear* of politically and economically induced precarization (fear of unemployment or of not being able to pay the rent or health-care bills even when employed); both of these negative cares overlap” (Lorey 2015, 88).

11 Nagle also presented her left case against open borders on the Tucker Carlson show with the host gleefully nodding along to every point. For a sophisticated Left critique of the welfare state on the grounds that it is a form of state control, and in particular control of working women, see Kirstin Munro, “The Welfare State and the Bourgeois Family-Household.”

12 Listen to “Wayward Lives, Beautiful Experiments, feat. Saidiya Hartman” on Rustbelt Abolition Radio, <https://soundcloud.com/rustbeltabolitionradio/wayward-lives-beautiful-experiments-feat-saidiyah-hartman>.

13 A point about legibility is required. In the process of writing this essay, we discussed contemporary political pressures with a number of people around us; *precarity*, quite frankly, is not a term frequently used in colloquial speech in the US today. It is a term with more traction in the European context, but it is not one that, say, the figures we presented at the bar in our Introduction would tend to employ. Fineman’s vulnerability approach, in fact, is superior to the rhetoric of precarity in the respect that many people actually articulate their concerns in terms of vulnerability. In terms of an organizing term, *insecurity* is likely stronger than *precarity*. Many find themselves insecure in the wake of the 2008 recession and the Covid-19 pandemic—saddled with debt, fatigued from contingent employment, and so on. A point of departure regarding the organizational work that this essay invites could begin from the shared *insecurities* felt by varied actors today.

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