



The racialization of privacy: racial formation as a family affair

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Abstract

A right to family privacy is considered a cornerstone of American life, and yet access to it is apportioned by race. Our notion of the “racialization of privacy” refers to the phenomenon that family privacy, including the freedom to create a family uninhibited by law, pressure, and custom, is delimited by race. Building upon racial formation theory, this article examines three examples: the Native American boarding school system (1870s to 1970s), eugenic laws and practices (early/mid 1900s), and contemporary deportation. Analysis reveals that state-sponsored limitations on family privacy is a racial project that shapes the racial state. Performing an ideological genealogy with our cases, this article makes three contributions: it illustrates how the state leverages policies affecting families to define national belonging; it reveals how access to family privacy is patterned by race, ethnicity, gender, class, sexuality, and national origin; and it distills how Whiteness and a national racial hierarchy are socially constructed and maintained over time. With the racialization of privacy, we identify how the state seeks to reproduce institutionalized White supremacy and the effects this has on families. We argue that families are the linchpin in state-sponsored racial projects that construct the nation and that the racialization of privacy, as a form of inequality, is a defining characteristic of the color-line.

Keywords Race · Privacy · Family · Colonialism · Eugenics · Deportation

The Trump administration’s “zero tolerance” immigration policy which separated and detained Central American migrant families (announced in 2018) epitomizes what we

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term the *racialization of privacy*—in short, government intrusion upon private familial relations that bespeaks the status of racialized bodies in the United States. We contend that racial inequality is sustained through the racialization of family privacy. Many migrant families were fleeing violence in their home countries and wished to seek asylum based on claiming a credible fear of persecution or death if sent back. Trump’s zero tolerance policy hits at the intersection of the state, race, and the family and is predicated upon “ethnoracial exclusion” (Mukherjee et al., 2012)—a desire to maintain the population and powerbase as White. This policy drew widespread condemnation because it affronted the nation’s collective sense of family and the sanctity of parent/child relations. And yet state policies have a history of denying the right to family privacy (the ability to control personal family relations and the right to be left alone from government interference) to people of color. Notably, this is not the first time racialized families were forcibly separated.

We ask, what is the role of family in racial formation in the U.S.? We argue that the state works on and through families, via the notion of privacy, to construct a racial hierarchy. What is at stake is the freedom to create a family uninhibited by law, pressure, and custom (family formation). By denying or severely limiting family formation possibilities by race, state-sponsored laws and practices become tantamount to racial formation; and the principle of privacy, as it relates to family, enforces racial divisions. We call this overall dynamic the “racialization of privacy” which explains that in practice the right to privacy and family recognition is a privilege of Whiteness. The framework explains how over time state actions regarding the family such as controlling reproduction, policing racialized bodies, and separating families target racial groups and deny them privacy. People of color have been consistently denied the ability to form and maintain families; what is thought of as a universal right to privacy is a racially-specific privilege.

The concept of the racialization of privacy builds from Michael Omi and Howard Winant’s (2015) classic theory of racial formation. Omi and Winant explain that the state is “inherently racial” and we extend that observation by contending that families facilitate the state’s construction of the racial state. They explicate that racial formation is built upon “racial projects” which embrace both the “ways in which human identities and social structures are racially signified” (representation) and “the reciprocal ways that racial meaning becomes embedded in social structures” (Omi and Winant 2015: 13). This article examines how state action intertwines family-making and race-making. By populating racial formation framework with people and families, this article demonstrates that the institutions of both the state and *the family* are crucial to the construction of racial hierarchies and the racial state.

In identifying patterns over time, we conduct an ideological genealogy of how privacy is racialized. We trace how belief systems flow, maneuver, and proceed in time, linking past beliefs, policies, and state actions to later, related iterations. To track the trajectory of the racialization of privacy we lay bare the “historical imprint” left by our cases: colonial practices of Indian removal and eugenic reproductive laws, arguing that these practices write the script for later removal policies such as deportation. This is similar to how past “racial scripts” (the racialization processes that do the work of racial projects) are meaningful in the present because they are familiar tropes (Molina 2014: 7). Scripts that construct racialized subjects as “dangerous” and “dependent” are active racial tropes that cyclically come into play.

The racialization of privacy is characterized by three elements: state or policy intervention that affects families directly or indirectly; racialized vulnerability; and reification of negative racial stereotypes into material realities. State action governing families may bubble up from or trickle down to a racial “common sense” believed and practiced by the general population. Racialized vulnerability refers to racial status demarcating a group as subject to extra surveillance and punishment which places group members at higher risk for their family unity and autonomy to be jeopardized. Both a precondition and a consequence of the racialization of privacy, racialized vulnerability suggests that racial status in itself can be a liability and then state action sets in motion policies and practices that produce family privacy violations based on perceived racial threat to the nation. Reification is the process of an ideology being put into practice to create a material reality which, in turn, reinforces the ideology (Haney López 2006). In racialization of privacy, state action incorporates racial stereotypes to motivate and justify policies that churn out unequal effects on families. State actors see family as crucial to naturalizing racial differences and the political-legal actions affecting families obscure the manipulations of the state.

By using the term “racialization,” which suggests process rather than stasis, we intend it to denote action and dynamism and indicate that racialization of privacy is always in construction and ever-evolving. Racialization is intertwined with patriarchy, heterosexuality, capitalism, and colonialism. An intersectional analysis illuminates further how limits to privacy are on a spectrum shaped by racialized heteronormativity, gender inequality, and class stratification. Our intersectional analysis reveals that there are shades of privacy: privacy lies on a racial continuum with more or less privacy contingent on race (as well as other social dimensions) rather than privacy being a dichotomy of “haves” and “have-nots.” The state racializes privacy by mapping it onto racial populations based on intersectional racialized perceptions and fears. The racialization of privacy turns on the state’s continuous aim to build or “safeguard” the nation, the time period and prevailing racist notions shaping the measures the state effectuates. Thus, privacy is racialized, shaded by degrees and identities (privacy a continuum rather than a dichotomy), and dynamic in relation to historically-specific racial tropes and the state’s objective of constructing a transhistorical White racial state. Variations also appear, as observable when trends in racism shapeshift over historical time, moving from overt to covert forms and arguably back again. There are differences in the mode of policy deployment that crosscut our cases, moving from land seizure and conforming bodies in the name of a colonial state, to co-opting bodies to craft state “fitness,” to deporting bodies from the land.

Our cases are not the only examples of the racialization of privacy but we see them as an entryway to illustrate the important theme that the *right* and *ability* to shape and define one’s family is circumscribed by racist heteronormative state laws and policies that target economically vulnerable populations. The development of the White racial state is predicated upon structuring the family as a racial construct and we see our cases as state-sponsored “racial projects” (Omi and Winant 2015) that create or prohibit families, delimit privacy, and literally form the nation.

Next we present the political-legal framework for privacy and develop our key term “racialization of privacy.” Then we turn to our illustrations, moving chronologically to show how early manifestations of the racialization of privacy frame later phenomena. Colonial U.S.-Native American relations shows how racist policies aimed at colonizing

Native populations displaced and disrupted Indigenous families. Eugenics in the Progressive era reveals how the ideology of biological racism (and classism and ableism) led to sterilization policies for the “unfit” while middle- and upper-class Whites were upheld as the ideal. Indian removal and eugenics lay the political and cultural groundwork for present-day deportation that disproportionately affects Latinos, a racial project that similarly bedevils the maintenance of families. These three episodes of U.S. socio-cultural-legal history illustrate that the racialization of privacy is a weapon of White supremacy and directly affects who possesses the privilege of family.

The racialization of privacy

Political-legal framing of family privacy

Our notion of privacy stems from lawyer Samuel Warren and Supreme Court Justice Louis Brandeis’ definition wherein they defend a right to privacy as a right to be “let alone” (Warren Brandeis 1890). This idea of privacy is intimately related to how the family is idealized as a private or separate sphere where members are supposed to enjoy privacy from state intrusion. The racialization of privacy asserts that the right to be “let alone” and have a family is tempered by race. Research on privacy tends to focus on “intrusions affecting autonomy” (Kasper 2005: 90). Privacy is a “negative conception” in that “the right to privacy was born out of the conditions for its violation, not its realization” (John and Peters 2017: 284). Increased surveillance capacities and information technology advances have intensified the debates around the right to be free from governmental breaches (Brown and Buckler 2017). This understanding of privacy as a negative conception undergirds our analysis of family privacy as conditioned by race. Racial difference is central to determining when, how, and to what extent the state “lets alone” certain families. We should note that our focus on racialized privacy incursions from a racial state is distinct but does not negate that privacy can operate within families (e.g., domestic violence, patriarchal racialized family structures, and heteronormativity (Collins 1998)) and on families (e.g. prison and welfare policies (Gilmore 2007; Richie 2012)) as an oppressive force.

Freedom from government intrusion has figured centrally in legal battles over privacy rights around family formation. The right to be let alone is related to the politics of choice that surrounds reproductive politics, however, these ideas of “choice” (or to be “let alone”) are apportioned by race. *Griswold v. Connecticut* (1965) established a right to privacy concerning intimate practices as “protected from governmental intrusion.” In *Eisenstadt v. Baird* (1972), the Supreme Court established the right of equal access to contraception, Justice Brennan adjudging, “If the right of privacy means anything, it is the right of the individual, married or single, to be free from *unwarranted government intrusion* into matters so fundamentally affecting a person as the decision whether or not to beget a child” (Hernandez 1976: 20, italics added). *Roe v. Wade* (1973) secured a woman’s right to privacy, prohibiting government intrusion into her decisions about reproduction. In the *Roe* verdict, Justice Harry Blackmun argued that past cases on marriage, contraception, and childrearing created a “zone of privacy” that was “broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.” Thus, in *Roe v. Wade*, women won the legal right to

choose abortion based on a notion of privacy from government interference. This history is well known, but the role of race in conceptualizing a right to privacy and family formation has thus far been under-examined.

Just five years after *Roe* was decided, in stark contrast, a team of Mexican-origin women lost a class-action suit against physicians at the University of Southern California – Los Angeles County Medical Center. In the 1978 case, *Madrigal v. Quilligan*, the judge ruled in favor of the doctors accused of coercively sterilizing the Mexican-origin women between June 1971 and 1974. The plaintiffs claimed that state, federal officials, administrators and doctors at the Los Angeles County Medical Center violated the Mexican-origin women’s constitutional “right to procreate and to due process of the law” (Hernandez 1976: 19). The women used the recent decision in *Roe v. Wade* (1973) to argue that they possessed the right to privacy relative to childbearing and their forced sterilizations were unlawful breaches of doctor authority. In deciding in favor of the doctors, the Court trampled on these Mexican-origin women’s bodies and private reproductive rights. Given that the *Madrigal* decision followed the *Roe* decision by five short years, the juxtaposition between Court rulings carving out reproductive rights for White women with resources while denying those rights from poor women of color is striking. The difference between *Roe v. Wade* and *Madrigal v. Quilligan* can be best understood in light of the racialization of privacy, race a key signifier of whose privacy, freedom, and family potential was realized and valued and whose was not.

We understand this history not merely as a struggle for privacy and for women’s control over their bodies—and the lesson that not all women do—but also as a struggle for the right to have a family of one’s own choosing without intrusion from public or private institutions. From a White female body’s perspective, *Roe v. Wade* is about an individual right to choose to reproduce. From a Mexican-origin female body’s perspective, the *Madrigal v. Quilligan* case centrally concerns the right to *have* a family of their own choosing. The language of “choice” (for abortion) that pervades reproductive rights eclipses the concerns of poor, non-White women whose oppression hinders their very ability to reproduce (forget “choice” to limit family size). A racialization of privacy lens shows how family formation freedom, or lack thereof, is an outgrowth of racial projects that ultimately constitute nation-making vis-à-vis families.

The racial state and family

We pursue three ideas from Omi and Winant as the basis of our argument: the racial state, psyches developed within an environment of racial despotism, and the racialized body/body politic. First, they observe that the racial state has “deep involvement...in the organization and interpretation of race” (Omi and Winant 1994: 53–54). Second, we pick up on their notion that racial divisions “[demand] an ongoing and intensive policing of racial boundaries” that are “hammered them into our psyches” (2015: 131). Third, the linkage of the national “body politic” to a “*racial* body politic” (2015: 145) sets the stage for fleshing out the multiple ties between the nation and the families contained within it that can propagate racialized bodies. In other words, grounded in these three ideas, “family” is a racial project that shapes the racial state and racial formation.

The definition of “family” is debated in social science and public opinion. Stances on who “counts” as a family runs the gamut, from an interactionist approach that rests

on functions members perform to structural definitions that privilege units that contain certain members (Powell et al. 2010). The structural perspective of family risks deeming as defective or invalid those families who do not contain certain members (Powell et al. 2010: 8), as when White, middle-class and wealthy heterosexually married couples with children are popularly viewed as prototypical or “ideal” families and all others deficient. We define family broadly (inclusive of “non-traditional,” “alternative,” and “postmodern” family forms) and as a unit that lives in the zone between private and public.

As many feminists of color have pointed out, controlling a woman’s fertility is inherently political and linked to the construction of the nation and national identity (Collins 1999; Davis 1981; Roberts 1997). We draw on this insight to highlight how the nation uses family vis-à-vis race as a way to (de)populate the racial state. By centering privacy, we show that family—specifically Western notions of the “nuclear family”—is key to racial formation and in so doing also illustrate that heteronormativity is a racialized structure of power (Ferguson 2004). From the state’s perspective, heterosexuality is privileged (because it is the site of reproduction)—but also, not all heterosexual relations are treated equally. As seen in how the state deploys its authority, the racialization of privacy relies on and defines “distinctions between acceptable forms of heterosexuality and those to be regulated” (Cohen 1997). In this rendering, state action is best imagined as manipulating family structure (e.g., the members they can contain), geographic location, and right (or lack of right) to existence.

Families, just as they are racialized, are also stratified by class, with “wealth [as] a condition for privacy rights” (Bridges 2017: 12). Since race is gendered, the racialization of privacy can affect non-White men and women differently. Poor and non-White women, in particular as mothers, are denied privacy rights by the state because they are in need of aid, are “dependent,” and therefore under constant state supervision and regulation (Bridges 2017; Roberts 1997). Envisioning family as straddling private and public indicates that while it is conventionally seen (if not idealized) as private, some racially- and class-marked families are only minimally protected from (if not outright exposed to) government intrusion and regulation.

Policies of national belonging and state-building legitimize state intrusion based on narratives of “safety” and the state’s “duty” to protect its citizenry. In so doing, non-White families are made examples of by state power. This publicness, or spectacle of exertion of state power, is one way that racialization of privacy inculcates in the minds of observers (or “hammer into the psyche”) the realities of, and pseudo-justifications for, systemic racial inequality. While spectacle serves a purpose of constructing reality, so do insidious policies that work more tacitly to engrave racial difference in everyday life. These different levels reveal how privacy operates more like a scale or continuous variable than a binary of “privacy” or “no privacy.” By understanding racialization as related to shades of privacy, we better see layers of state operation and popular sentiment that collude to animate both racial categories and racial families.

Our racialization of privacy argument does not assume that there is a unitary state acting in a cohesive, singular manner to violate privacy by racial status and that this is a continuing sole motivation. Given that the evidence presented represents an array of state institutions—courts, federal, state and local legislators, law enforcement, and administrative officials—all of which construct mores that may be internalized and direct action, our argument runs deeper. Rather than blaming the state per se and

presuming it schemes to pursue racialized privacy violations in coordinated fashion, we instead understand the state to be enacting cultural “common knowledge.” In acting upon commonly-held—but by no means universally-held—assumptions about racial groups and their rights to families and privacy, the state encodes, concretizes, and legalizes/illegalizes rights by race. State action emerges from culturally and politically hegemonic racial ideologies or scripts that value Whiteness accords it privacy and devalues non-Whiteness and demeans it by restricting family privacy. Thus, the racialization of privacy emerges as an “operating logic” of various state bureaucracies (Armenta 2017; Rios 2017), namely, “prevention by removal” that takes the form of sterilization, genocide, or physical separation in our cases. Our historical perspective centers the socio-political context in which notions of family, race, and privacy are embedded and traces the continuation of the racialization of privacy and its continuation in new but related forms.

Native American boarding schools: Family separation

“The despotism of the color line...demanded an ongoing and intensive policing of racial boundaries, an ongoing racialization effort that ran not only between various groups and people but also *through* them. In other words, racial despotism did not only elaborate, articulate, and drive racial divisions institutionally, it also hammered them into our psyches....” (Omi and Winant 2015: 131)

In the late nineteenth-century, colonialism—a manifestation of the intransigent belief in the superiority, authority, and civility of Whites and Native Americans’ inferiority, backwardness, and barbarism—undergirded the federal government’s actions to sequester and intrude upon Indian families. White settler colonial notions of White supremacy, spawning the ideologies of biological and cultural racism, legitimized the destruction of Indian families. This section explores boarding schools as an early instance of coercive removal and family disruption that gave rise to the racialization of privacy that endures in different dressing today.

Racial divisions are not only embedded in institutions and policy but are “also hammered into our psyches,” as Omi and Winant suggest in the quotation above. Boarding school education intended to erase Native culture highlights how Native young people (as oppressed targets) and contemporary onlookers (general audience) witnessed the racial spectacle of White supremacy and empire by controlling, displacing, and preventing Native American family unity. With Natives the explicit recipients of “re-education,” the rest of the nation looked on to learn about the domination and disruption of Native families in the making of the racial state. Institutions and psyches are both integral to the colonial project. Institutions carry out policies and circulate ideologies and cultures that “hammer” racial divisions into psyches until they are naturalized and taken for granted.

Policies of Indian removal provide the scaffolding for racialization of privacy and establish the importance of control over families to the construction of the nation. Indian removal in its myriad forms – deterritorialization, genocide, boarding schools,

and Americanization—lays the groundwork for later state-sponsored family separation. In the 1830s, U.S. President Andrew Jackson promoted westward expansion aimed at facilitating White settlement, a move prioritizing White families and land usurpation over Indian families. Federal legislation removing Native Americans from their land and disrupting indigenous kinship networks was greased by the belief that Native Americans had only “possessory rights to the lands on which they lived and were subject to American sovereignty” (Wetzel 2015: 26). In displacing Native families, not only was there loss of land and space but also literal and figurative homes and communities.

With the passage of the Indian Removal Act in 1830, President Jackson enforced the physical removal of Native Americans “under the guns and bayonets of the U.S. Army” (French 2016: 41). A year later the Supreme Court dismissed the case of *Cherokee Nation v. Georgia* (1831) which would have forbade the State of Georgia “from interfering with the lands, mines and other property, real and personal, of the Cherokee Nation, or with the persons of the Cherokee people.”¹ Chief Justice John Marshall wrote that tribes such as the Cherokee constitute not foreign nations but “domestic dependent nations,” the relationship with the U.S. resembling “that of a ward to his guardian.” In framing the Cherokee as dependent, the colonial state, in a sense authorizes itself, even then obligated, to control the reproduction of Native American tribes in order to propagate the White colonial family and nation. Dependency as grounds for state interference and intrusion is a theme reproduced in our other cases. In laying out the colonial relationship, Chief Justice Marshall invokes a paternalistic family metaphor: “They look to our government for protection; rely upon its kindness and its power; appeal to it for relief to their wants; and address the President as their *great father*” (30 U.S. 1 [1831], emphasis in original, as cited in Wetzel 2015: 157). Federal policymakers defining Indians as “insensible wards,” on par with children in need on guardianship (Lomawaima 2006: 44), coopted the language of family power relations to etch lines of power. Following the logic of the racialization of privacy, this paternalism illustrates the ways in which the state produced the White colonial family by controlling the families of Native Americans. Families are central to the destruction and construction of nation: from an Indigenous perspective, the defense of Indigenous nations is centrally about “protecting their peoples, societies, and especially families” (Fenelon 2016: 2) whereas from a White colonial perspective, the building of a settler colonial nation is produced through both colonial White family propagation *and* Native American removal.

Native American children were removed from their families, culture, and language and placed in boarding schools so they might “mirror ‘white’ family models” and thus “be pulled into [the] U.S. ‘domestic’ orbit” (Peterson 2017: 12). This assimilationist agenda that broke up Native families and forced them into a White colonial family mold attempted to “hammer in” to Native and non-Native psyches a racial and family privacy hierarchy. Indigenous child removal from their families aimed to finalize colonization “by breaking the affective bonds that tied indigenous children to their kin, community, culture, and homelands” (Jacobs 2009: xxx). Upon removal of indigenous youth to boarding schools, Native parents were discouraged from visiting and sometimes did not know where their children were placed (Henson 2008: 236). Federal officials and caseworkers whom parents viewed as “policemen” (Unger 1977:

¹ <https://supreme.justia.com/cases/federal/us/30/1/>. Accessed 7/25/19.

68) escorted Native American children from their homes, enforcing school enrollment. Despite the U.S.'s increasing militarized authority, some Native Americans resisted by re-claiming their children and pushing against racialized heteronormative conceptions of family. In response, in 1881, Congress aimed to squelch resistance and coerce compliance by declaring boarding school attendance compulsory. The Indian Bureau was authorized to deny treaty-guaranteed benefits if children failed to attend, including to withhold rations and clothing from those *parents* who did not send their children to school (Briggs 2020: 53). With family the focal point of disruption, families became the object of punishment. Punishment also comes in the form of forcible termination of parental rights: The Browning Ruling of 1896 annulled Indian parental rights regarding their children's education (Lomawaima 2006: 47). Even when the Browning Ruling was abrogated in 1902, forced student enrollment remained common through the 1950s, federal powers overruling Indian parents' powers over their children.

"Civilizing" Native Americans is a family-based state-sponsored racial project. A Bureau of Indian Affairs annual report to Congress (1889) portrayed Indians as lacking "home" and "family" (as measured by White settler standards), a "problem" whose "solution" lay in re-education (Rifkin 2011: 143, 150). Intimate spaces are central to colonization, historian Margaret Jacobs observing (2009: xxxi), "to accomplish their aims of 'rescuing' indigenous women and their children, White women reformers and many male authorities deemed it necessary to invade the most intimate spaces of indigenous houses and families. Reformers and authorities sought to undermine the intimate bonds between indigenous children and their families and to replace them with a new loyalty and affiliation to institutional authorities."

A direct reference to war, colonialism, and nation-making, the War Department ordered the opening of Indian boarding schools which were to function under military authority (Briggs 2020: 51). Operating from 1879 through 1918, the Carlisle Indian Industrial School in Carlisle, Pennsylvania was the first federally-funded off-reservation Indian boarding school in the U.S. Brigadier General Richard Henry Pratt, who founded the Carlisle School while still on active duty, famously summed up the ethos of the boarding school's "civilizing" mission as: "Kill the Indian and save the man" (Archuleta et al., 2000: 16). The U.S. Department of Indian Affairs withdrew Native children from their families from across the nation in an effort to deliver them from "ignorance and heathenism" and Americanize them (White 2016: 108). Non-traditional heterosexual relationships threatened "civilized" nation and therefore called for regulation in the name of protection. The allegation of Native American savagery meant the state had an interest in ransacking Native American families in order to save the nation. Indian boarding schools enacted "cultural genocide" as they "physically, ideologically, and emotionally, remove[d] Indian children from their families, homes and tribal affiliations" (Archuleta et al., 2000: 19). The Carlisle Indian Industrial School alone attempted to reeducate over 10,500 children (Petoskey 2016). In terms of scale and duration, "as late as 1971, more than 35,000 Indian children were in BIA [Bureau of Indian Affairs] boarding schools, representing 17 percent of the Indian school-age population of federally recognized tribes at the time" (Henson 2008: 237). Sustained government-backed efforts evince the government's view that "the last great Indian war should be waged against children" (Adams 1995: 337).

The history of U.S.-Native American relations rests on privileging White families and destroying Native families in the name of the colonial nation. The federal government not only carried out a mission of deconstructing families, but it imposed

heteronormativity upon tribes whose kinship networks instead rested on polygamy and homoeroticism (Rifkin 2011: 143). Family structure, gender expression, and sexuality were subjected to a settler-colonial program of re-education and “normalization” (Morgensen 2011). Prior to colonization, Native people enjoyed non-binary gender expressions, same-gender erotic bonds, and social organization that revolved around clan, not heterosexual marriage (Driskill 2016: 105). The boarding school program discussed earlier used husband-wife relations as the “paradigmatic model for appropriate social order,” heterosexual monogamous matrimony a goal of boarding school training (Rifkin 2011: 147). Boarding schools segregated by sex, enforced heterosexuality, and attempted to stamp out gender-queer identities (Morgensen 2011). Thus, colonization included the attempt to reach into private sexual spaces and superimpose a heteronormative definition of family on Natives nations who otherwise enjoyed a wider spectrum of sexual relationships, gender identities, and kinship configurations. While Native American counternarratives pushed against this assimilationist messaging of strict definitions of marriage, family, and sexuality, the federal government incursions were too strong. Native tribal communities were forced to reconfigure their social organization, illustrating how with privacy violations come efforts to retrain and confine subordinated classes of people into heterosexual “privatized couplehood” that mimics “imperial domesticity” (Rifkin 2011: 148).

The racialization of privacy requires investment and effort by dominant classes to be carried out. As such, White women were central to the implementation of these policies and became “agents of removal.” White women reformers at the helm of host families considered it their “maternalistic duty to rescue indigenous children from...a savage background” (Jacobs 2005: 454). Conceptions of gendered responsibilities and notions of White (civilized) motherhood were utilized to destroy one racial family and exalt another. White women claimed the moniker of motherhood, making motherhood a White racial construction and an agent of the colonial state. By way of colonialism, the White family was exalted and erased Native forms of motherhood and family, thereby justifying state regulation of Native families.

The U.S. government establishment of reservations and the boarding school system are colonial modes of social control that dislocated, segregated, and damaged Native American people and cultures. The racial projects of Westward expansion, settler colonialism, White capital accumulation, and perpetuation of White supremacy are predicated upon the erosion of Native Americans’ right to family privacy. Since race is not fixed but is “an unstable and ‘decentered’ complex of social meaning” (Omi and Winant 1994: 13), families, as centers of social meanings themselves, became a chief unit the state used in order to harness, construct, and define both race and nation.

Eugenics

“Through *policies* which are explicitly or implicitly racial, state institutions organize and enforce the racial politics of everyday life.... They organize racial identities by means of education, family law, and the procedures for punishment, treatment, and surveillance of the criminal, deviant, and ill.” (Omi and Winant 1994: 83, italics in original)

Colonialism spurred a set of state actions that broke up Native American families in the name of the U.S. nation. The eugenics movement added a different layer to the racialization of privacy by delimiting whose bodies are more or less regulated in the name of state stability. “Eugenics” describes a scientific movement that sought to improve human populations by the social control of human breeding, based on the assumption that differences in human intelligence, character, and temperament are largely due to differences in hereditary genes. Eugenics, the definition of which is “race betterment” or “good stock,” is based on the notion that race is a biological fact. Despite failed attempts to locate criminality in a gene or set of genes, biological notions about a genetic proclivity toward crime persisted and eventually authorized the state to deny thousands of people their right “to be let alone.” Pursuing an ill-founded logic that links biology to crime, eugenicists “organized racial identities” by locating eugenic projects in prisons, schools, and state hospitals, a practice that continues into the twenty-first century. If qualities like ignorance and vice were heritable, the long-term solution was not to fund better schools and better wages but rather a cleaning up of the gene pool by sterilization. Asserting that there was a biological (racial) root to problematic social behavior, and thus inheritable over biological family generations, proponents of eugenics supported policies that encouraged the reproduction of White people thought to be “fit” and prohibited reproduction of people of color. Eugenic practices that sought to regulate family reproduction illustrates how families are both *tools* and *products* of state racial projects, families intermediating ideological policy and individual (racial) lives.

The “racial politics of everyday life” are on display in the eugenics movement in how it politicized (racial) reproduction. Eugenicists worried about “race suicide,” an idea originating in 1901 (Ross 1901) which encouraged Whites reproduce in order to outpace non-White reproduction. An indicator of the widespread hold the concept of “race suicide” had on society, Theodore Roosevelt declared that race suicide was “the greatest problem of civilization” (Leonard 2005: 209). Arguing that “social progress is a higher law than equality” (Leonard 2005: 210), Simon Patton, an economist and president of American Economic Association in 1908, supported the idea that *the state should replace nature* in defining who shall survive. The racial state thus charged itself with the responsibility of protecting White supremacy and White family formation prerogatives, which entailed withholding that liberty from non-Whites.

The first eugenic marriage law was approved in Connecticut in 1895. By the 1930s, forty-one states had passed statutes that required tests of mental capacity, testing for racially-coded terms such as “feebleminded” and “idiocy” (Yamin 2012). Some laws mandated proof of marriage applicants’ eugenic fitness by sworn written statements and blood tests. Punishments were also levied, some laws sentencing violators to a minimum of three years in prison. Both rewards and punishments were meted out in eugenic marriage laws, the state regulating family via both positive eugenics (encouragement of certain “fit races” to procreate) and negative eugenics (prevention of “unfit races” from reproducing).

In conjunction with state-sponsored propaganda aimed at preserving Whiteness, popular culture of the early 1900s was steeped in eugenic ideology. Similar to the spectacle of colonialism, eugenicists displayed the “primacy” of Whiteness. One example of the visible exertion of racial state power is “Fitter Family contests” held at state fairs: these contests judged contestants’ White lineage through genealogical

investigation and put their Whiteness (“fitness”) on display for reward. Fitter Family contests as eugenic propaganda helped entrench White supremacy, the myth of racial purity, and illustrate how family formation was at the center of the reproduction of Whiteness (Oveyssi 2015). The first contest was held at a state fair in Topeka, Kansas in 1920. By the end of the decade, Fitter Family contests were features of many state fairs and were so popular they were given front-page coverage in local newspapers. Awarding a Governor’s trophy highlights the role of the state in literally prizing one race—and families within that race—over others. Centering racialized heterosexuality and reproduction, prizes were also awarded to the “best baby” and young couples commencing “eugenic marriages.” “Racial politics” are plainly on display in “everyday life” at the state fair.

Fitter Family contests reveal how the dominant racial group is invested in reinscribing and naturalizing racial differences and of how the state viewed its right to oversee reproduction and literally judge offspring. Fitter Family contests’ connection to racially-inflected privacy is three-fold. First, Whites are implicated in the racialization of privacy by virtue of their benefit; Whites welcomed state intervention for the sake of their approval. Second, White families *volunteered* to selectively surrender their privacy of family records for the purpose of legitimization as White, a social reward. The choice of exposing private family life for public consumption and potentially earning a prize for Whiteness stands in stark contrast to the unwanted invasion of privacy and denial of privileges that accompanies non-Whiteness. Third, the state’s endorsement of eugenic ideology-initiated professions aimed to verify and police Whiteness.

As a form of knowledge construction and surveillance, new “social control professions” (e.g., social welfare workers) authored “family studies,” genealogical charts tracing racialized characteristics coded as criminal, feeble-minded, insane, alcoholic, and more (Rafter 1988: 48). These studies produced and reinforced a pseudoscientific knowledge invested in maintaining Whiteness as a national priority that percolated throughout society. Ideologically-driven practitioners exerted power over “unfit” families to facilitate some pairings and lines of procreation and prohibit others. One professional retained files on a thousand confirmed and suspected “defectives” for the purpose of social control: “If a system is ever perfected by which the state can exercise control of the feeble-minded at large, or if the time comes when attention is paid to the heredity of applicants for marriage licenses, this index will be invaluable” (Rafter 1988: 48). This is an example of how racialized populations were architected via “procedures for treatment and surveillance of the criminal, deviant, and ill” that produced or prohibited families in order to protect society. This theme of surveillance continues in contemporary manifestations of the racialization of privacy, such as deportations.

The most widely implemented eugenic policies were sterilization laws enacted by states across the country in the 1900s in a professed attempt to paternalistically “protect” the future White national citizenry. Affecting multiple racial and class groups, involuntary sterilizations were motivated by anxieties believed to threaten the stability of society such as: sexual deviance, the promiscuity of teenage girls, fears of biological deterioration, and a discourse of institutional cost saving (Stern 2016: 8). In 1909, California passed a law that legalized forced-sterilization and eventually two-thirds of American states did the same. In California, eugenics flourished from 1900–1940s

where over 20,000 people were sterilized prior to 1964.² Groups targeted for sterilization were classified as immoral, delinquent, or an idiot, such as immigrants, working-class European Americans, poor young girls, African Americans, Asian Americans and Mexicans (Gutiérrez 2008; Roberts 1997; Stern 2005). This narrative of delinquency did preparatory work for the racialization of privacy in that it dehumanized its victims by rendering them “unfit.”

Turning back to Native American populations, the government-run Indian Health Services targeted Native American women for sterilization because of their “high birth rate” (Lawrence 2000). This racialized judgement holds White women’s fertility as a benchmark at the same time as it flexes state authority over Native American women’s bodies (an encroachment magnified in light of Native sovereignty). The Indian Health Services sterilized between 25% to 50% of Native American women between 1970 and 1976 (Lawrence 2000: 410). Via a “health” service branch, the U.S. government invalidated Native American women’s family privacy and terminated their birthing capacity in order to racially shape the nation. State governments also used poverty as a shroud when targeting Native Americans for breaking up families, as when North Dakota passed a law making “chronic dependency” on welfare “evidence in itself of keeping an ‘unsuitable home’ and a reason to place a child in foster care” (Briggs 2020: 63).

Puerto Rican women fell under the same colonial and eugenic scrutiny, the state defining their reproduction as excessive, a cause of overpopulation, and in need of state control (Briggs 2002; Lopez 1993). Historically Puerto Rican women have one of the highest documented rates of sterilization in the world (Lopez 1993) (approximately one-third of Puerto Rican women of childbearing age from 1930s–1980s (Briggs 2002: 143)). In the 1950s and 1960s, the “overpopulation crisis” and Puerto Rico’s future were considered linked to women’s reproduction. With limited fecundity seen as a way to solve economic woes, the Puerto Rican government used local public health funds for birth control and sterilization programs (Briggs 2002: 151). Corporations harboring eugenic concerns were also at play. Disdainful toward the working-class, Clarence Gamble, of Procter & Gamble, wrote that “birth control, intensively applied, can control the dangerously expanding population of an unambitious and unintelligent group” (Briggs 2002: 125). With pharmaceutical companies sponsoring contraceptive research on the island in the 1940s and 1950s (Briggs 2002: 108, 124), Puerto Rico became a testing ground for birth control such as Depo Provera, intrauterine devices [IUDs], and the pill. These tests illustrate how state and market forces work together to undergird racialization of privacy and severely limit Puerto Rican women’s reproductive autonomy and rights to their own bodies and families. Showing multiple arms of the state at work, in New York City in the 1970s, judicial cases arguing forced sterilization featured poor Puerto Rican women whose welfare rights had been threatened (or were otherwise pressured) if they did not get sterilized (Lopez 1993: 302). Even absent coercion, Puerto Rican women’s high rates of sterilization are mediated by historical antecedents that devalue poor non-White women’s reproductive autonomy: Puerto Rican women’s familiarity with *la operación* (the operation), plus misinformation about sterilization procedures, poverty, and lack of access to affordable birth control, limits their knowledge about alternative options (Lopez 1993). The

² <http://www.uvm.edu/%7EElkaelber/eugenics/CA/CA.html>

racialization of privacy enforced by the state, and intertwined with corporate eugenicist funders, epitomizes the ways reproductive autonomy was denied to poor women of color.

With respect to African Americans, the term “Mississippi appendectomy” (Washington 2006) referred to coercive sterilizations (hysterectomies and tubal ligations) performed on poor Black women (and other women of color, women with disabilities, and poor White women) against their will and without their knowledge through the 1960s. Pervasive in the Deep South, unwanted and unwarranted sterilizations were often performed on poor Black women who were hospitalized for a different reason, such as childbirth. Doctors used racially biased judgements about fertility, appropriate family size, race, class, and gender to rob poor Black women of their agency and ability to procreate (Dossey 2015; Stern 2005; Washington 2006). The bodily sovereignty of Whites with financial standing was honored whereas the bodies of women of color and poor Whites were subjected to involuntary invasive surgeries. Involuntary sterilizations of African American women continue into the late twentieth century.

Government and popular fears of chronic welfare dependency and overpopulation cuts across Native American, Puerto Rican, Mexican-origin, and Black women’s subjection to coercive sterilization. This similarity across cases highlights anxiety around non-White population growth that cares little about which non-White group to which pregnant or impregnable women belong. Nuances emerge, however, with the framing of Mexican and Mexican Americans as a “dangerous” social problem illustrating how their particular racial/ethnic procreative capacity is racialized, whereas Puerto Ricans were “dependent” and Native Americans were “savage.” First, Mexican women’s reproduction is represented as excessive and out of control in relation to the norm (White women’s fertility) (Chavez 2008: 72). Stigmatized as non-normative, Mexican reproductive capacity is then viewed as a threat to the White race—as a danger to Whites’ numerical dominance and cultural hegemony. Even as Latina heritage is “not a statistically significant variable for understanding fertility differences” (Chavez 2008: 107) with non-Hispanic White women, race, class, and gender stereotypes come in to play to deny Mexicans a right to privacy and family formation.

Vulnerable by class status, poor Whites were also subject to forced sterilization. Virginia’s Eugenic Sterilization Act (1924) mandated sexual sterilization of epileptics, the insane, the retarded and all those generally categorized as “socially unfit” in order to protect society from further reproduction of unfit citizens.³ This statute was tested in Supreme Court case *Buck v. Bell* in 1927 which upheld its legality, famously stating “three generations of imbeciles are enough.” The perception of the time was that “the white race was in danger of being weakened by inferior traits and that laws were needed to promote good racial hygiene and public health” (Obasogie 2017).

The *Buck v. Bell* case shows that poor Whites could be caught up in the racialization of privacy as well. For example, Carrie Buck, the plaintiff in the *Buck v. Bell* case that upheld coercive sterilization, was an 18-year old poor White woman thought to be feebleminded. White privilege is fractured by class status and elitist notions of intelligence. Poor Whites were subjected to forced sterilizations alongside women of color,

³ Act of Mar 20th 1924, ch 394, 1924 Va. Acts of 569, 570 repealed by Act of Apr 21, 1974, ch 296, 1974 Va Acts 445.

though abuses against non-White women were more widespread. Whites who have “failed” to live up to affluent and privileged connotations of Whiteness by being working-class or poor (McDermott 2006) thus fell outside of the protections of Whiteness. We read the historical record of forced sterilization of poor Whites in two ways. First, as “failed” Whites due to their class status, poor Whites lay vulnerable to reproductive abuses from which racial plus class advantage shielded their wealthier White counterparts. As White failures, poor Whites did not deserve protection against intrusions of privacy; the state could sterilize them too. Second, by virtue of the fact that poor White women were treated akin to African American, Native American, and Latina women relative to negative eugenic programs, these poor Whites were arguably racialized as non-White. Whiteness carries more privilege when accompanied by middle-to-high class standing. Whether seen as “failed” Whites or whether their poverty racialized them as non-White, thus stripping them of White privilege, poor Whites also suffered sterilization abuses in the name of bettering humankind in the early 1900s.

Involuntary sterilizations, eugenic marriage laws, family genealogies, and Fitter Family contests are examples of how state institutions implicitly and explicitly enforced racial politics of everyday life. Eugenic practices served to prevent and control the reproduction of families that were deemed by the state, and in “common knowledge,” to be “biologically unfit.” The racial projects of eugenics, White supremacy, and welfare professions are based on the literal prevention or praise of families, marked by race and class. Regulation of families and access to privacy (including bodily autonomy) were implemented by eugenicists and policymakers with the objective of devising a nation of a (racially) “fit” populace.

Deportation

“The phrase ‘body politic’...refers not only to the collective body, the ‘nation’ or its equivalents; it also refers to the politicized body....” (Omi and Winant 2015: 145).

This dual meaning of “body politic” hits a central point of the racialization of privacy: because certain physical bodies, as members or prospective members of the “national body,” carry varying racialized connotations that inform their (de)valuation, state laws differentially protect or enact violence on them. We argue that the racialization of privacy, as seen in deportation, functions as a reification (Haney López 2006) process that transforms ideas into concrete forms. We posit two elements of a self-reinforcing reification process that cement the stratification of privacy in the present moment. First, the mass removal of Latin American parents from civil society through deportation reveals that they lack privacy rights and protections. The state initiates a self-reinforcing logic: it can intervene and forcibly remove segments of the population precisely because it curtails their right to privacy. Black and Latino people in the U.S. become easy “human targets” (Rios 2017) because they are surveilled, overpoliced, and not granted the right “to be let alone.” Second, the spillover effects of deportation dumped on families who struggle without a family member not only makes these lives that

much harder but also renders these families vulnerable to greater state surveillance and intervention.

Deportees are more than that label: they are also family members. Yet, according to the state, immigrant families are not families but “illegal” families trying to take advantage of the U.S. (Gash and Yamin 2019). Through deportation, the state bars people from creating or maintaining their families. Deportation removes individuals from society and delineates between those in and outside of the national body politic. This draconian exclusionary practice functions on the assumption that Latinos do not possess family privacy or national membership, hence at any moment they may be taken from their homes or jobs without warning.

Following the historical imprint of Native American removal and eugenics, non-White immigrant populations are treated as dispensable because they are viewed as a harm or burden to society. Laws since the mid-1990s that increased the likelihood of involuntary removals of Latin American immigrants are forms of institutionalized racism that primarily affect Black and Latino families. The number of detainees has ballooned by over 40% during the first two years of Trump’s presidency (Kassie 2019), with over 48,000 people in immigration detention in February 2019. The deportation system stresses Latin American families by physically separating them, stymying their income streams, and thwarting emotional bonds, all the while reinscribing race with notions of worthiness/citizenship with unworthiness/deportability. Engraving a racial hierarchy, the state awards the privileges of physical presence, family formation, and privacy to Whites and suspends these same privileges for Latin American families.

President Trump’s “zero tolerance” immigration policy exemplifies the racialization of privacy for the purpose of demarcating inclusion and exclusion (deportation) from the nation. In “zero tolerance” the state authorized the fracturing of Central American migrant families (read: would-be “American” families if granted asylum). The U.S. Department of Health and Human Services, the agency that oversees the care of children in federal custody, verifies that 2737 children were forcibly separated from their parents under the policy (Jordan 2019). However, thousands of children may have been separated in 2017, before accounting was required. And, given the lack of a formalized tracking system, numbers and whereabouts of separated children are unknown. This is similar to the policy of removal of Native American children from their families as a way to further state interests. Despite a court order for reunification in June 2018, several hundred children remain lost or separated from their parents (in addition to loss of records, some parents may have been deported without their children) (Kopan 2018). In a highly bureaucratized society like the U.S., failure at record keeping regarding *human lives* makes plain the argument that migrant, Latino lives do not matter. The trauma of family separation is made possible by the persistent dehumanization of Central American migrants, such as when President Trump spit that Latin American migrants are “animals infesting” *our* nation (see Santa Ana 2002).

These Central American migrant families’ plight illustrates the racialization of privacy: upon being racialized as Brown, foreign, unworthy, and unwelcome, these migrants’ right to family is torn asunder by policies of the racial state. The forcible separation of Brown families and the containment in deplorable concentration camp-like conditions in detention centers that many decried as inhumane bespeaks the low value given these families. Separated children have been housed without familial adult supervision and made to testify in court by themselves. These horrors the state willfully

cast upon these racial minority migrant youth reflects numerous values of the U.S. government: the White supremacist judgement that Central Americans are not equally entitled to family unity or liberty and the assumption-turned-prescription that non-Whites are savage and can be treated as such. In this view, the Trump administration's policy of family separation, poor recordkeeping that hampers the reunification of families, and child detention in overcrowded, unsanitary immigration detention centers can be viewed as the inverse of the "Fitter Family Contests" prevalent in the early 1900s reserved for Whites. The through-line assumption is that Whites should compete for purity and fitness while the rabble—non-Whites—can be treated as if they have no rights or abilities deserving of protection. The Trump administration's flouting of the Flores Agreement (permits detention of minors "no longer than 72 hours" and requires that facilities housing minors following arrest provide access to food and drinking water, medical assistance, and contact with family members who were arrested with the minor (Costello 2019: 5)) reifies this population as simultaneously undeserving of health, family unity, and admittance to the "racial body politic" of the U.S.

The Trumpian tactic of announcing in advance that Immigration and Customs Enforcement (ICE) will carry out nationwide raids targeting undocumented people in ten major cities amplifies the racialized vulnerability of Latino family members (Dickerson and Kanno-Youngs 2019). Past immigration sweeps have blatantly disregarded Latinos' citizenship status, including the deportation to Mexico during the Great Depression of half a million people without respect for legal status, a group that included Mexican undocumented immigrants, legal permanent residents, and U.S. citizens of Mexican descent (Hondagneu-Sotelo 1997: 117). Echoing this historical precedent of prevention by removal and racial spectacle, the Trump administration broadcasts the racialized scare-tactic by not only announcing the round-ups days in advance but also publicizing the likelihood of "collateral" deportations, meaning that "[ICE] authorities might detain immigrants who happened to be on the scene, even though they were not targets of the raids" (Dickerson and Kanno-Youngs 2019). The perpetual threat of parents being swept up in raids—from workplaces, from streets, from within homes—is a striking example of the racialization of privacy. Racialized vulnerability, as a condition of Latinos' racial status, is structurally embedded in conceptions of family privacy.

If the nation is a "family," laws conspire to keep it White. Interpreting U.S. citizenship as White (Flores-Gonzalez 2017; Omi and Winant 2015; Schildkraut 2014) undergirds proposals to expunge a non-White subset of the population from the nation. With "illegality" associated with Mexican or Latino heritage, police and immigration enforcement ends up profiling and targeting this group (Armenta 2017), thereby reinforcing Mexican/Latino foreignness, deportability, and lack of privacy. Once "illegality" is fused with "Latino," attention is directed toward Latino undocumented immigrants, leading to their increased risk of interaction with immigration enforcement officials, higher deportation rates, and separated families (Enriquez et al., 2017). As a material symptom of racialization of privacy, "racialized illegality" is a mechanism that perpetuates the racialization of privacy (Enriquez et al., 2017). A building block of racial formation, the racialization of privacy cuts across cases to define who the state determines should belong to the nation; in this case, Latinos are constructed as perilous and forever "illegal."

Racial formation structures families. And families organize national racial formation. President Trump threatens to cleave entire families of Latino immigrants from the

nation via deportation all the while using disingenuous language of family unity. In August 2015, Donald Trump stated his plans to deport all undocumented immigrants from the U.S. en masse, saying, “We have to keep families together, but they have to go” (Chavez 2017: 36). Nativist rhetoric based on xenophobic fears not only idealize a White supremacist past but push a Whites-only-as-citizens agenda forward. Targeting “anchor babies,” Representative Steve King (Re. IA) reintroduced the Birthright Citizenship Act (HR140) to end birthright citizenship for children born on U.S. soil to undocumented immigrants. On May 12, 2017, King declared on social media that “culture and demographics are our destiny. We can’t restore our civilization with somebody else’s babies” (Haagmarch 2017). Using a veiled reference to eugenics, families remain the lynchpin in this nation-making racial project. This language of “somebody else’s babies” centers citizenship in Whiteness as well as demonizes non-White fertility as a threat, foreign invasion, or re-conquest (Chavez 2008; Santa Ana 2002). As a century ago, current immigration and citizenship rights debates centrally concern how families “reproduce” race and thus (re)shape the nation. Seen as a tool with which to (de)populate the nation, the state differentially grants families the right of privacy from state intrusion and family formation based on race, a thin veil for worthiness of belonging in the nation.

Conclusion

We argue that families are the lynchpin in state-sponsored racial projects that construct the nation. At stake in the racialization of privacy is that the ability to have, maintain, and participate in family is circumscribed by race. We show how the state can leverage policies that affect families and in so doing construct national belonging as White. In tracing pivotal historical moments that illustrate a nexus of the state, race, and family, we draw out the role family plays in racial formation. Layering in family, we build on Omi and Winant’s notions of a racial state supported by racial despotism “hammer[ed] into psyches” and the racialized body politic. We argue that families of color have been racially constructed as a “harm” to society (e.g. “savagery,” “feeble-mindedness,” “overpopulation,” “dependency,” and “criminality”) by way of state power that authorizes racialized vulnerability and family surveillance, constriction, and punishment. This manifestation of racial ideology via state power is reified and made visible in what we call “the racialization of privacy.” Our cases illustrate how the state intervenes in the family privacy of different racialized groups in various ways to build or maintain the nation through “prevention by removal” policies that operate using three techniques: domestic separation, physical sterilization, and national deportation. Government-sanctioned racialization of privacy is meant to support and protect the White, settler-colonial racial state.

We use “racialization” to connote a fluid and flexible understanding of privacy that is shaped by intersectional identities and in dynamic relation to historical context and racial tropes. Regulation is often class-based, supported by the explicit and implicit investment and participation of dominant classes in hierarchal understandings of race and family. Privacy, understood as spanning a racial continuum, is circumscribed by racialized heteronormativity, gender inequality, and class stratification. Racialization of privacy points to how access to the benefit and protections of privacy in the U.S. is

wielded by state actors in a constant effort to buttress White supremacy through the use of group-specific and context-specific machinations.

State interference with family formation is a racial project that uses families to further enshrine White supremacy as the national core. State interventions have often not been private instances, but public and visible displays, often occurring without warning and creating a spectacle of racial state power. Yet laws affecting families *directly* and *indirectly* correlate with racism that has become institutionalized and encoded in culture (Bonilla-Silva 2013). Extensions or applications of the racialization of privacy that trace how racist legal mechanisms transmogrify over time would further demonstrate how the racialization of privacy vis-à-vis the state apparatus churns on unabated, simply taking on a publicly palatable appearance befitting of the historical-legal context. Even as we focus on the racialization of privacy with respect to family, the relevance and application of the racialization of privacy extends beyond family to threaten or secure privilege in other domains of social life.

In this high-technology modern moment, the technology-aided surveillance that bloomed into “surveillance capitalism” (the use of information technology to “modify human behavior” for revenue) can be used to assemble and marshal data about families to establish state control over them (Zuboff 2015: 75). In this “information civilization” (Zuboff 2015), the intended “modification” of human behavior could be to terrorize or render docile racialized others. An example of technology-aided surveillance, President Trump proposed to use Deferred Action for Childhood Arrivals (DACA) information to deport DACA students, highlighting their racialized vulnerability and that their access to privacy and family can easily be suspended. This reversal of privacy underscores how increased surveillance technology enables policy (over)reach in ways that jeopardize Latino families and other (principally people of color) caught up in total institutions such as prisons and detention centers. Ironically, the federal government can maintain records about the location of immigrant families but it can also lose, expunge, or not keep records that would reunite separated immigrant children with their parents.

When we began writing this article the spectacle of the racial state enforcing family separations of Central American immigrant families was just unfolding. Now we end with the COVID-19 crisis where we see that Black and Brown bodies and families are disproportionately affected by this disease. Racial capitalism and systemic racism have exposed families of color to precariousness, premature death, and excess death. Racial capitalism “is a *fundamental cause* of disease” and influences COVID-19 disease inequities through factors affecting the poor and people of color such as front-line employment, medical bias, and access to medical knowledge and freedom (Pirtle 2020: 1, emphasis in original). As “essential workers” employed during the COVID-19 pandemic, systemic racism and racial capitalism place Black and Brown family members at higher risk for contracting the illness. When “staying at home during a quarantine is a privilege,” it is “Black [and Brown] workers, and consequently their families, [who] are over-exposed” (Ray 2020). We offer that racialized privacy may be an important component of racial capitalism that merits future research.

Governmental and medical responses to the pandemic are another place where racialization of privacy is visible. Underfunding the Indian Health Services which leads to inadequate ventilator supply, combined with social determinants of health that place Native Americans at elevated risk, has resulted in the Navajo nation suffering a higher

per capita rate of infection than any U.S. state (Hlavinka 2020). Affecting the Pueblo nation in New Mexico, hospital staff in Albuquerque separated Native American mothers from their newborn babies out of suspicion that they are infected with COVID-19 because of their perceived race and their zip code proximity to a reservation (Furlow 2020). From funding and supply-allocation decisions to the racial profiling of maternity patients the racialization of privacy continues unabated in the COVID-19 pandemic, resulting in excess death and family separation of Native Americans beginning at birth.

The antidote to racialization of privacy that supports a White racial state could lie in the universalization or deconstruction of privacy. We are not advocating for one strategy over the other but consider that both might be potentially useful in upending the racialization of privacy. Universalizing privacy would mean all families have equal access to it whereas deconstruction would entail unraveling privacy as a resource that privileges some while harming others. Because privacy will never *not* be riddled with power in a heteropatriarchal White racial state, might the conception of a multiracial state be a way to inspire new visions of relations? A precondition for the establishment of a multiracial state is the eradication of cultural and policy props that perpetuate White supremacy and the upholding of a middle-class White nuclear heterosexual family as an ideal. Given the intersectional connection between race, gender, class, and sexuality, opening up gender and sexuality are ways to decolonize and combat racism (Ross and Solinger 2017). Racialization of privacy is an intersectional notion at its heart and we offer it as a generative way to address intersecting inequalities. For example, ensuring that LGBTQ families have equal access to marriage, adoption, and reproductive technologies challenges the antiquated definition of “legitimate” family as not only White but also heterosexual. Making certain that the educational system does not traffic in racialized, gendered, classed, and heteronormative stereotypes (including with respect to sex education) can delink groups from prescribed intimate/family futures (Garcia 2009). Economically-resourcing and racially integrating schools and neighborhoods would also empower people to make less-constrained decisions about their family lives.

Another possible solution to the racialization of privacy is the view that the family can house protection and solace from a racist external world. Indeed, as advocated by reproductive justice activists, the right to “safe and dignified” family management could constitute a fundamental human right (Ross and Solinger 2017: 10). The very act of having a family of color of one’s choosing is itself an assertion of agency and dignity. Family can also be a site of resistance to the very racialization of privacy that this article documents, women of color in particular using their status in the “private” sphere to socialize kin on ways to navigate or disrupt racialized state and social systems (Davis 1972; Vasquez 2010; Dow 2019). Motherhood can be an activist identity leveraged to challenge and transform systems of oppression (Gilmore 2007). Decisions around family formation are also agentic ways to try to avoid systems of oppression and craft relationships that resist domination (Vasquez-Tokos 2017).

A question remains, however, as to how deeply racial the racial state is. How impervious or receptive to change is it? Might a groundswell of support for radical social change from multiply-marginalized communities spur reform? Current calls for criminal justice and police reform aim to address the inequities that follow the racialization of privacy. The state is often assumed “to be a neutral force, when, in

fact, it is actively sanctioning and/or producing racial violence in the form of death and degraded bodies” (Pulido 2017: 525). This casting of the state as inflicting racial violence calls into question its utility as an ally for radical politics. In line with Black feminist scholarship, it is precisely the knowledge grounded in oppression that offers fertile insight: “Black women are, then, witnesses who can see and even name forms of violence that other subjects cannot see, or simply refuse to see” (Nash 2019: 119). Multiracial coalitions building upon experiences with state-mandated racial projects may be a way to build a blueprint for a multiracial future liberated from the strictures of the racialization of privacy.

Racial formation is a family affair: laws and racial ideology work on and through families to perpetuate race as a “master status” (Omi and Winant 2015) laced with degrees of privilege and oppression that leaves certain families vulnerable to state intrusion in the name of nation-making. Racialization of privacy sits at the core of family formation agency and racial inequality. Families’ differential access to privacy by race crystallizes how the state deploys policies of racialization that builds a nation while also affecting people’s lives in the most grand and intimate ways.

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Conflict of interest The authors declare that they have no conflict of interest.

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