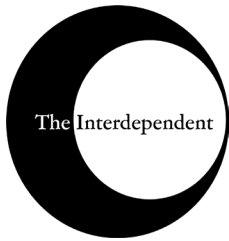


Justice or Just Us?

Social Death, Gang Injunctions, and the Creation of a Modern American Apartheid State



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Abstract

This article will discuss the practice of civil gang injunctions in Southern California, its history, and civil court procedures. It explores the gang abatement method's unconstitutionality through the lens of the First and Fourteenth Amendments of the United States Constitution, critiquing the unequal treatment of people of color in the justice system. Through philosophical theories of language and authoritarian control, the article will go on to discuss how a supposedly egalitarian nation like the United States could support and continue the utilization of such a harmful tactic. Finally, the article will contextualize gang injunctions with the South African practice of apartheid and argue that it fits the classification of an apartheid policy under the definitions of the international court and other international treaties.

Keywords

Gang Injunctions; Community Policing; Structural Racism; United States; South Africa; Apartheid; International Law; Racial Profiling; Systemic Bias; Criminal Justice System; Social Death; Unconstitutionality

Imagine yourself as a young Black man living in Southern California. You are a rising star on the high school football team and a dedicated member of the computer science club. You walk home from school every day with your best friends by your side. One day, police stop you on your walk; they ask for your name to check it against the California gang database [CalGang].

Then, an officer demands you to lift your shirt; he wants to inspect you for gang tattoos. You reveal a tattoo across your chest, “Dooley,” a family nickname you have had for so many years; its meaning and origin are lost on you. For the police, however, this is enough to confirm their suspicions of your supposed gang membership. They take you to the police station and add your name to the city’s gang injunction list—a civil lawsuit against a gang that restricts the activities of anyone declared a member within specific geographic boundaries.¹

For thousands of people across the United States, like for Rashad Newsome, this is harsh reality. Rashad was no longer a 19-year-old high school student with good grades and normal teenage interests; within one afternoon, he became an official member of the Grape Street Crips. While Rashad’s gang ties are only paper-deep, the negative effects of his gang label will follow him as long as his name is enjoined to the Grape Street Crips’ civil gang injunction.

Every job, school, and home Rashad applies to will inevitably check this database and see his name associated with a violent criminal organization. They will not see the internalized racism that led the police officers to assume Rashad’s gang ties. Nor will these institutions fully understand the inhibitions the young man will encounter in civil life as a consequence of his wrongful enjoinder to the injunction.

While alleged gang members are restricted from illegal activities, such as possessing drugs, drinking alcohol in public, and owning illegal weapons, many gang injunctions also forbid otherwise legal behaviors. They undermine civil rights, such as congregating in groups of two or more, wearing certain colors, standing in public for more than five minutes, or even riding the bus at the same time as someone else on the injunction list. The totalitarian nature of the gang injunction harkens back to the crux of its unjustness. The legal mechanism is antithetical to basic civil liberties

¹ Taylor Auten, “The Gang Injunction Malfunction,” *Brown Political Review* (November 30, 2016), <https://www.brownpoliticalreview.org/2016/11/gang-injunction-malfunction/>.

guaranteed in the United States Constitution and disregards international laws enacted to prevent discriminatory policies that subject individuals to a varied set of legal punishments contingent on factors outside of their legal violations. This system of gang abatement is unseen throughout American jurisprudence and the two-tiered justice system it establishes resembles the international court's definition of apartheid.

Through his gang injunction, Rashed Newsome's civil liberty and guarantee to equal protection under the law are immediately violated in two ways: he is regarded as a criminal firstly for being in a specific geographic location, and secondly for his appearance. Rashad Newsome's case demonstrates how a gang injunction can legally supersede a person's constitutional rights to free association and equal protection under the law.

This harm being caused to a myriad of individuals and communities is only possible because of the low margin of evidence needed for inducing gang injunctions in the first place. The low margin of evidence required to place an individual on gang injunction creates a perilous situation in which police are granted enormous leeway to deem law-abiding citizens as criminals based on their geographic location and physical appearance. Additionally, the suspension of standard justice system safeguards puts those on the injunction in peril of never getting off of it. Even former LAPD [Los Angeles Police Department] South Bureau Chief Early Paysinger noted, "I presume that periodically there are situations where unfortunately somebody [who is not a gang member] might be named [on the injunction]. Is that to say we target people? I don't think we do. But does it happen? Of course it does."²

This leeway allows gang injunctions to be used as a tool to create a two-tiered justice system that perpetuates Black youths' criminalization. Gang injunctions further isolate already impoverished and marginalized communities by relying on historically racist systems to restrict the movements of Black and brown youths. One of many preventative policing tactics, gang injunctions treat people as criminals before a crime has even been committed. This gang abatement method is one of the criminal justice system's most harmful supposedly race-neutral policies. The

² Auten, "Gang Injunction."

law is written to be generally applicable, but in reality, it aggressively targets minorities. Gang injunctions often depend entirely on individual police officers' testimonies, failing to anticipate risks of implicit biases that exist toward Black men.

Since the first injunctions in the late 1980s, policies have continually militarized police forces, resulting in tactics that ignore the causal roots of gang membership, exacerbate preexisting socio-economic injustices, and divide communities. The over-application of gang injunctions results in the criminalization of entire communities of Black people, limitation of innocent people's participation in a lawful society, and maintaining of racial social hierarchies.

Gangs

In order to understand why gang injunctions have become a standard method of gang deterrence, one must reference the complex topic of gang membership and gangs as they are defined by society. Socially, a gang can be defined as a group or society of associates, friends, or members of an organization. These organizations have defined leadership and internal structures. They claim control over territory in a community and engage, either individually or collectively, in illegal behavior. In practice, gang membership can be a difficult thing to identify and thus verify. It is even challenging for individuals to verify whether or not the state of California officially considers them to be a member of a particular gang.

The legal definition of criminal street gangs found in California Penal Code Section 186.22 (f) does little to clarify the vagueness of what a gang is, "An ongoing organization of 3 or more persons, with a common name, or identifying mark or symbol, whose members individually or collectively engage in criminal activity."³ Many groups fit this definition, including fraternities, which regularly carry out illegal activities under a collective identity with established hierarchical group structures. Despite the references to organized groups committing crimes, specifically violent crimes, there are no White supremacist organizations included on the gang injunction list.

³ California Penal Code Section 186.22 (f), California Legislative Information, https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=7.&part=1.&chapter=11.&article.

California has 65 recognized hate groups, the most out of any state in America and Southern California has the highest concentration of White supremacist activity in the entire state.⁴

Furthermore, a notorious biker gang like the Hell's Angels is not only able to freely display their logo, but also monetize, brand, and profit off of it.⁵ Such disparity in gang regulation reveals that, in practice, the concept of gangs has been racialized to specifically represent Black and Latino individuals. Evidently, gang injunctions are constructed on a fundamental fear of Black men. They seek to control the autonomy of people of color by criminalizing activities and behaviors that would be considered unremarkable in any other context.⁶

In order to understand their problematic nature, it is important to identify how law enforcement and jurisdiction deal with gangs and apply abatement tactics. Gangs are dealt with in three primary ways: prevention, intervention, and suppression. The California Gang Reduction, Intervention and Prevention (CalGRIP) grant program is a state-funded grant designed to reduce gang violence through these three strategies. Annually, CalGRIP is granted \$9,000,000 in an effort to reduce gang violence in California's largest cities. Most of these funds are dedicated to suppression tactics.⁷

Prevention acts as a mechanism to address the opportunistic influences of criminal decision-making. Preventative measures include culturally enriching social programs through education in order to keep at-risk youths away from gangs before even receiving punitive legal actions. While prevention acts before gang crimes have taken place, intervention operates after and serves as a healing method for affected communities through open dialogue and peacemaking circles. They encourage solution-based thinking and talking as a restorative and preventative practice.

While those two methods seek to heal communities, rather than shatter them based on racial systems of power, they are not used frequently enough. To the contrary, suppression is the most commonly utilized method of gang abatement. Suppression tactics are characterized by

4 "California," Southern Poverty Law Center, 9 Dec. 2021, <https://www.splcenter.org/states/california>.

5 "Merchandise," Hells Angels MC World, <https://hells-angels.com/our-club/support/>.

6 Ana Muñiz, *Police, Power, and the Production of Racial Boundaries* (New Brunswick: Rutgers University Press, 2015), 35.

7 "California Violence Intervention and Prevention Grant Program – CalVIP," State of California, Board of State and Community Corrections, https://www.bscc.ca.gov/s_cpgpcalvipgrant/.

the aggressive presence of law enforcement and enhanced policing tactics like regular patrolling, monitoring, and community outreach. Gang injunctions are a specific method of suppressive gang abatement. Law enforcement uses a gang injunction to prevent gang members from associating with one another as well as prohibiting other gang activities.

The effects of these aggressive gang suppression measures can backfire because police are perceived as a threat to an individual's freedom rather than a community resource. Gang injunctions and other suppressive methods are oppressive in that they override the constitutional rights all Americans are entitled to, such as the freedom of association granted by the First Amendment, and the Fourteenth Amendment, which guarantees the right to a fair trial and equal protection from the law.

Amendment Issues, *Gallo v. Acuna*, and a Two-Tiered Justice System

As previously mentioned, civil gang injunctions are peculiar primarily for two reasons: they criminalize behaviors that would otherwise not be considered criminal activities and only apply within certain geographic boundaries. The confluence of these two elements creates communities in which law-abiding citizens are faced with aggressive policing tactics and are treated as criminals. The prohibitions of gang injunction are generally broad and lack exceptions for activities and associations protected under the First Amendment of the Constitution. These legally permitted constitutional violations originated from the landmark case *People ex rel. Gallo v. Acuna* (1997).

The First Amendment of the United States Constitution guarantees citizens the freedom of expression and assembly.⁸ It is among the most important amendments to the Constitution because it allows for individual agency and is especially imperative for marginalized groups. Despite this importance, thousands of people in California have had their constitutional entitlements to these rights revoked. For this reason, *Gallo v. Acuna* is pivotal for understanding how gang injunctions evolved to become a form of legally permitted discrimination. The gang injunction described in

⁸ "First Amendment," Legal Information Institute (Cornell Law), https://www.law.cornell.edu/constitution/first_amendment.

the case was the first to restrict members from otherwise legal activities such as standing, sitting, walking, driving, gathering, or appearing anywhere in public with any other member of the gang known as Varrío Sureño Treces.⁹

On January 30, 1997, the Supreme Court of California held the gang injunction to be constitutional in *Gallo v. Acuna*.¹⁰ The California Supreme Court assessed that the First Amendment right to association does not extend to gang members as determined by an injunction. As a result, cities throughout California can prohibit gang members from congregating without violating their First Amendment rights.¹¹ This decision opened the door for rampant, legal First Amendment violations in the following decades, severing untold communities of Black and Latino Americans from the legal protection of the Constitution. Such legal standards came into existence to protect people from the powers of authority. When those standards are lowered, it is inevitable that innocent people will be deprived of essential rights. Which communities and individuals fall outside of the legal system's protection is an indication of how racial hierarchies are established and maintained. Those racial hierarchies manifest within a biased justice system that treats people based on their skin color, or geographical location.

From the unique rules the justice system has implemented to combat gang activities, it is evident that gang members are subject to a different justice system than other Americans—a justice system that puts greater emphasis on geographic location and appearance to determine the length of a prison sentence than on the nature of the crime. In her *Police, Power, and the Production of Racial Boundaries* Ana Muñiz highlights that gang injunctions represent an institutional reaction to the encroachment of Black people in wealthy neighborhoods in Southern California.¹² Obscuring of these racial boundaries resulted in the disruption of Black lives for the maintenance of racial hierarchies.

9 Rebecca Rader Brown, “The Gang’s All Here: Evaluating the Need for a National Gang Database,” *Columbia Journal of Law and Social Problems* 42, no. 3 (Spring 2009): 293-334.

10 *Gallo v. Acuna*, 14 Cal.4th 1090, 929 P.2d 596 (1997).

11 Bergen Herd, “Injunctions as a Tool to Fight Gang-Related Problems in California After People ex rel Gallo v. Acuna: A Suitable Solution?” *Golden Gate University Law Review* 28 (1998): 629-80, <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1736&context=ggulrev>.

12 Muñiz, *Police, Power, and Boundaries*, 35.

If these conditions seem illegal and unfair, it is because they are, as they violate the rights evident in the Fourteenth Amendment of the US Constitution:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.¹³

Taking a strong stance against gangs has been a useful rhetorical device for California's politicians for decades; the public supports the increasing militarization of the police because gangs are portrayed as a terroristic evil. As a result, the trend of community over-policing has increased since the 1980s, following legislation such as the Street Terrorism Enforcement and Prevention Act (STEP Act)¹⁴ and Proposition 21,¹⁵ leading to the dichotomy of gang abatement methods taking away foundational civil rights. Consequently, communities of color have paid the price and gang injunctions have created a two-tiered justice system.

Through their rhetoric politicians have unleashed a systemically discriminatory practice, which maintains racial hierarchies in a manner that aligns with the international court's definition of apartheid.

Understanding Structural Racism through Group Based Hierarchies

Racial inequality is a fundamental feature of the United States criminal justice system. Going back to American policing's inception as slave patrols in the South, the justice system has been used to control the movement of Black populations by labeling them as a threat to the public. This trend has continued, as is evident in *Gallo v. Acuna*, the landmark case in which the constitutional right of association was waived for gang members by labeling them a public nuisance. Since this case, gang injunctions have functioned in a similar manner to historically

13 "Fourteenth Amendment," Legal Information Institute, Cornell Law, <https://www.law.cornell.edu/constitution/amendmentxiv>.

14 California Penal Code, "Street Terrorism Enforcement and Prevention Act," §§ 186.20-186.33.

15 "Proposition 21, Gang Violence and Juvenile Crime Prevention Act," passed by California March 7, 2000; *Manduley v. Superior Court of San Diego*, 27 Cal. 4th 537, 544-45 (Cal. 2002).

racist policies like Black Codes and the 13th Amendment, which criminalized otherwise legally permissible activities such as loitering, congregating, and vagrancy.¹⁶ *Gallo v. Acuna* set the legal precedent for the use of gang injunctions as a tool of law enforcement. Scholars have argued that there are dangerous shadows of the past lingering within these policies.

One example of this argument can be found in “Black Codes and Broken Windows: The Legacy of Racial Hegemony in Anti-Gang Civil Injunctions” by Gary Stewart. Stewart argues that the use of gang injunctions in California perpetuates patterns of subordination against minority communities, similar to the way that historical racist policies have operated. Similar to Black codes of the past which sought to control newly free Black Americans, gang injunctions preemptively criminalize communities of Black people on the basis of their perceived criminality.¹⁷ Consequently, Black Americans’ freedom and civil rights are impacted in the pursuit of order.

In her “Rethinking the Constitutionality of Gang Injunctions” Janice E. Carrillo argues that gang injunctions function as a form of “modern-day Black Codes” that disproportionately impact communities of color. Carrillo contends that gang injunctions provide the perfect mechanism for a government to control and subjugate Black and brown people, particularly in the age of mass incarceration. As she explains, Black Codes “existed after the Civil War to regulate the behavior of newly freed Black people and essentially re-enslave them.”¹⁸ These quotations suggest that gang injunctions, particularly in their disproportionate impact on minority communities, can be seen as functioning in a similar manner to historically racist policies like Black Codes and the 13th Amendment.

Allowing a broad sweeping criminalization of an entire demographic with the combination of blunderbuss enforcement and an absence of the Right to Legal Counsel under the Sixth Amendment results in an unequally applied system of justice. Similar to these laws, gang injunctions are based on stereotypical beliefs of criminality among people of color. They promote fear towards people of

16 Xuan Santos and Christopher Bickel, “Apartheid Justice: Gang Injunctions and the New Black Codes,” *Race, Ethnicity and Law* (2017): 27-38, <https://doi.org/10.1108/s1521-61362017000022004>.

17 Gary Stewart, “Black Codes and Broken Windows: The Legacy of Racial Hegemony in Anti-Gang Civil Injunctions,” *The Yale Law Journal* 107, no. 7 (May 1997): 2249, <https://doi.org/10.2307/797421>.

18 Janice E. Carrillo, “Rethinking the Constitutionality of Gang Injunctions,” *Journal of Criminal Law and Criminology* 107, no. 4 (2017): 925-956.

color by placing a pejorative label on already marginalized citizens, further alienating them from the rest of society.

These discriminatory practices seem paradoxical to the egalitarian principles shared by Americans and apparent in the previously discussed amendments. Establishing separate and unequal laws for one racial group over another is ubiquitously accepted as a shameful but antiquated stain in America's dark history. How can American society then tolerate a system that disproportionately incarcerates a group of people? Julian M. Rucker and Jennifer A. Richeson offer an explanation for this disconnect.¹⁹ They believe that the answer lies in how Americans think about racism itself. Many view it as an individualized problem stemming from "a few bad apples," rather than the result of a discriminatory system structured to maintain a racial hierarchy. Rucker and Richeson contend that American society has adopted willful blindness towards the latter form of racism. This blindness is grounded in the psychological theory of social dominance.²⁰ Social dominance theory posits that group-based hierarchy is a fundamentally shared feature among societies. Typically, these hierarchies are based on age, sex, and oftentimes race. Even as an abstract concept, race is engendered with profound cultural significance in the global history of society.

Despite the biological irrelevancy of race, members of a group ground their social identity within it and are fearful of those who do not share their complexion. Throughout American history, White people have composed the dominant racial class; disproportionately allotting vast amounts of society's positive resources such as civil liberty, property, education, and opportunities among themselves. Simultaneously, people of color have been subjugated to the allocation of society's negative resources like a punitive justice system. Repeated over generations, this uneven pattern of resource distribution has marginalized Black and brown Americans. Attitudes towards racial groups are internalized in society, and through public support they are codified in law used to justify these biases.

This subordination defines structural racism. Individuals within both the dominant and

19 Julian M. Rucker and Jennifer A. Richeson, "Toward an Understanding of Structural Racism: Implications for Criminal Justice," *Science* 374, no. 6565 (2021): 286-290, <https://doi.org/10.1126/science.abj7779>.

20 Rucker and Richeson, "Understanding of Structural Racism," 286-290.

subordinate groups play roles in exacerbating this social stratification, although the reasons and mechanisms are different. For the dominant class, the maintenance of racial hierarchies is largely advantageous, resulting in better resources and lives for the members of one's social group. Additionally, accepting that one's accomplishments are influenced by generations of preferential treatment instead of merit is difficult to bear.²¹

This explanation may clarify why so many White, right-wing conservative politicians have adopted a strong counter-stance towards the inclusion of critical race theory in public education. In the 2021 Virginia gubernatorial election, Republican politician Glenn Youngkin leveraged the banning of critical race theory from the public-school curriculum to swing suburban voters. He was successful in misconstruing the theory as an attempt to remove racial harmony and replace it with White demonization. Even critical race theory's potential inclusion was immediately met with subsequent calls for its banishment, without many people understanding its purpose or composition. Teaching school children history that dared to reference America's dark and racist past was startling enough for critical race theory to become a hot-button issue.

For many Americans, it is difficult to accept the reality of racism in what many wish to consider a post-racial society. However, for those in the United States still experiencing discrimination based on their skin color or ethnicity, it is clear that racism is present in our system, even if individual acts of hatred are no longer socially acceptable.

Trapped in a Cage

To understand the long-term effects of being enjoined to a gang injunction and subject to the structural ties of racism, one need only look at the anecdotal statements of those affected. 23-year-old medical worker Denise Lazaro-Gonzalez was a new mother when she received court papers informing her that she had been added to a California gang injunction. The legal justification stated that Denise Lazaro-Gonzalez was a "known Westside gang member [...] has made admissions to the SBPD [Santa Barbara Police Department] of her Westside gang membership, has had numerous

²¹ Rucker and Richeson. "Understanding of Structural Racism," 286-290.

law enforcement contacts while associating with Westside gang members, has been observed in photographs displaying Westside gang hand signs, and has been arrested for gang related crimes including gang graffiti.”²²

The only time Denise was arrested was as a teenager. She faced a graffiti charge that could have landed her in prison for five years. Prosecutors told Gonzalez she could avoid going to prison if she confessed to her gang membership. However, she did not realize this confession would land her on a gang injunction that would be enforced years after she left the gang: “I’m pretty much in a cage that I can’t get out of [...] It’s like being a baby, you can only be in a certain area, and you can’t go past this line.”²³ Despite reforming herself and being a beneficial member of society, Denise is still haunted by the mistakes she made as a child. This is the reality for thousands of low-income people of color on California’s gang injunction list.

Years later, this young woman is affected in her job search, housing, and pursuit of education as institutions regularly reference the California gang database before hiring, admitting, or approving people. The weight of one decision can tarnish an individual’s ability to function freely in society for as long as the injunction stands. The benefits of keeping someone enjoined to a gang injunction list are clearly outweighed by the suspension of their civil rights. When accounting for the thousands of people still trapped in this cage, the presence of institutional racism becomes clear, and people are forced to experience what author Erica Borgstrom calls social death.

Social Death, Linguistic Values, and Media Cultivation Theory

For centuries, members of the subordinated racial classes have experienced unimaginable hardships predominantly based on their appearance. Rucker and Richeson state that this has profound effects on their self-perception as well. Being propelled into a civilization where your skin tone restricts your level of accomplishment has been traumatizing for many Americans. Being at the mercy of a system designed to keep you contained in failure and not having the chance to

22 Santos and Bickel, “Apartheid Justice,” 27-38.

23 Santos and Bickel, “Apartheid Justice,” 27-38.

better your life or that of your family suspends people in helplessness. It causes a psychological desire for command and predictability within controllable aspects of their lives. For many gang-inflicted communities, located in resource and opportunity-deprived neighborhoods, criminality is seen as the only recourse for social acceptance. Erica Borgstrom explains how dominant groups can inflict “social death” on minority groups. Social death is different from biological death, but often connected. She defines it as treating someone as non-existent or no longer human.²⁴ In the context of the American Constitution, social death can be seen as a removal of one’s entitlement to life, liberty, and the pursuit of happiness. To be non-American while inhabiting American soil means that an individual gains the status of “other.” This “other-ism” carries a loss of social connectedness to the greater American public.

To be cast as a societal outsider and a threat has detrimental effects on those in gang inhabited communities. Through subjective policing intervention, innocent people and actual gang members can be stripped of their identities and labeled as dangerous criminals. Under gang injunction laws, this label carries the forfeiture of basic constitutional protections, such as the First Amendment right of association, and violates the freedom of innocent people.

A 2017 audit by LAPD [Los Angeles Police Department] resulted in the dismissal of 7,300 individuals from gang injunctions. Despite this discovery, the city’s geographic injunction areas were left in place.²⁵ When entire communities of low-income Black neighborhoods experience unequal access to such fundamental rights, the justification must be examined. Based on Borgstrom’s framework, entire communities are declared to be socially dead through gang injunctions.

Frances Norwood theorizes that social death may be defined as an accumulation of losses, many of which occur before actual death: the loss of identity, loss of ability to do daily activities, and the loss of social relationships.²⁶ In the context of gang injunctions, social death is a loss of power,

24 Erica Borgstrom, “Social Death,” *QJM: An International Journal of Medicine* 110, no. 1 (January 2017): 5–7, <https://doi.org/10.1093/qjmed/hcw183>.

25 Emily Owens, Michelle Mioduszewski, and Christopher Bates, “How Valuable are Civil Liberties? Evidence from Gang Injunctions, Crime, and Housing Prices in Southern California,” unpublished draft, Department of Criminology, Law and Society and Department of Economics, University of California, Irvine (2019).

26 Frances Norwood, *The Maintenance of Life: Preventing Social Death through Euthanasia Talk and End-of-Life Care—Lessons from the Netherlands* (Durham, NC: Carolina Academic Press, 2009).

political agency, and personal identity. The loss of the ability to act independently and influence the outside world is perceived as a deserved penalty for being in a gang. As a consequence of the justice system, many convicted felons are deprived of the right to vote. Without a political voice, the Black communities of Southern California are at the mercy of lawmakers, without the agency to elect those who represent their interests and concerns. Instead, for decades, Black communities in Los Angeles have been confined to strictly patrolled domestic police states, while political actors have used the threat of their presence as a rallying point to garner public support. Thus, the rhetoric used to acquire political support becomes very influential for the future of heavily policed neighborhoods. Understanding how language communicates such ideas is critical. How can words fundamentally transform one group's perception of another to shape them as a threat to peace and valuable resources?

Swiss linguist and philosopher Ferdinand de Saussure presents a relevant idea regarding how words carry value and meaning in human society. In their most basic form, words serve as an organized thought expressed through sound to signify an object or idea in the real world. Saussure posits that language allows us to communicate the value and meaning of objects and that these expressions form their own reality. A disconnect exists between what we see in front of us, what we perceive it to be, and how that idea is then expressed to the rest of the world. Language creates a realm in which human thought influences the meaning of an object of equal realness to the physical thing itself. Take, for example, a knight without a chessboard; by itself, it is not an element of a game. Outside of the board, it means nothing to the player, but it becomes real and has value ascribed to it within the context of the game. Suppose it is lost during the course of a game. Not only could the knight be replaced by an identical figure, but by any object so long as the same values are attributed to it. There is no real knight, only the idea of a knight, wooden vessels we engender with attributes formulating complex networks existing only in humanity's imagination.²⁷

The same principle is true in language—arbitrary elements become recognizable ideas when held in conjunction with other preconceived notions of our society. This representative network

²⁷ Ferdinand de Saussure et al., "Chapter IV: Linguistic Value," in *Course in General Linguistics* (New York: Columbia University Press, 2011).

works collaboratively with tangible reality to form an equilibrium of society's shared knowledge. Language's power is in its ceaseless tendency to connect an object, stagnant and authentic, with something as malleable as an idea. Over time, language standardizes otherwise diverse notions of individual thought. When expressed among large enough groups of people and repeated frequently, the object's meaning becomes shaped by the collective identity shared among that group. Labels like "gangster," "drug dealer," and "terrorist" become ideological crutches, compensating for a lack of substantive evidence against innocent people judged as criminals. These terms grow beyond the confines of individuals, gaining independent characteristics, easily cast upon the ones that society labels threats or lesser than others. The individual is stripped of their identity and replaced by a caricature deserving of scrutiny, exclusion, and the maximum disciplinary power of the law.

Young Black men are universally stereotyped as criminals in the United States, specifically as gangsters. The title of gangster is unrecognizable without a Black body, as is evident in California's exclusion of other organized crime groups such as the many White supremacist factions. Being a gangster or, more generally, a criminal is affixed with its own notions of immorality and shame. To many lawmakers and the greater public, the label justifies targeted state violence and the general populace's abandonment of governmental rights and resources. The violation of legally normative notions of morality is seen as self-afflicted, but in relation to gang injunctions, this is not always the case. Innocent Americans can be targeted by the police due to extremely vague and stereotypical characteristics that the LAPD has determined to indicate gang involvement:

"white T-shirts," "thin belts," "wearing baggy or 'sagging' pants," and "having baseball caps turned at an angle." Clothing color is also listed as an identifier, with blue, black, red, white, green, brown, and purple explicitly noted. The list of vague identifiers doesn't even stop there, as tattoos and jewelry (qualified as either "expensive or cheap") are also included.²⁸

These vague criteria illustrate how vulnerable Black and brown communities have been rendered unprotected. Over-policing, rampant racism, and the falsely ascribed language place them at risk of incurring severe legal penalties. However, it is naive to think that this was not the intention of the LAPD's policing practices. Combating a criminal entity as expansive and nebulous as a street

28 Auten, "Gang Injunction."

gang is incredibly difficult. To make it easier for officers, they have been given broad discretion to label people as gangsters without much concrete evidence.

When harmful or inflammatory language is repeated through reputable sources, like the media or even in laws, people internalize what and who they should be threatened by. The response to these threats is boundless, as is evident by the support of racist policies like gang injunctions. Media is a critical asset for influencing public opinion and shapes the perception of marginalized communities through language and representation, as Saussure expounds. When negative images and news stories portray young Black men as criminals and gang members more often than anything else, it can affect the public's perception. Mary Beth Oliver defines the resulting outcome as cultivation theory. Essentially, constant portrayals of Black Americans as uniquely dangerous, with innuendos suggesting their threatening nature, influence how people perceive this demographic:

Dixon and Linz (2000) examined two weeks' worth of local news portrayals in the Los Angeles area, noting the race of the perpetrator and victim featured in crime stories, the type of crime portrayed, and the manner in which these figures corresponded with arrest records in the local area. Their analysis indicated that Blacks were more likely to be shown as perpetrators than as victims, whereas the opposite was true for whites. In addition, while African Americans were overrepresented as perpetrators of crime in comparison to arrest records, whites were under-represented as perpetrators but were overrepresented as victims.²⁹

In the case of gang injunctions, it was not until gang violence began to affect affluent neighborhoods that the issue received widespread attention.

In 1988, the murder of 27-year-old Karen Toshima in a gang shoot-out in a trendy shopping area adjacent to the University of California, Los Angeles, brought the issue to the forefront. As Time Magazine reported, “[n]ewspapers and television headlined the story for days. Police patrols in Westwood tripled, and the [Los Angeles Police Department] assigned a 30-member anti-gang unit to capture Toshima's killer.³⁰

Additionally, the organization of America's justice system means that this media influence has harmful implications since citizens serve as jurors. As Black men are often shown to be criminals on the news, the general population is more likely to perceive Black men as dangerous criminals.

29 Mary Beth Oliver, “African American Men as ‘Criminal and Dangerous’: Implications of Media Portrayals of Crime on the ‘Criminalization’ of African American Men,” *Journal of African American Studies* 7, no. 2 (2003): 11.

30 Lindsay Crawford, “No Way out: An Analysis of Exit Processes for Gang Injunctions,” *California Law Review* 97, no. 1 (2009): 161-193.

In criminal cases, these jurors are more likely to convict Black men of violent crimes and support punitive policies that put more Black men on trial. Consequently, Black men experience more limited financial and educational opportunities because many institutions across society have maintained such a negative perception of their demographic. This has forced many underprivileged Black men to turn to organized crime as a source of income.

Street Terrorism Enforcement and Prevention Act (STEP) and Policing Biases

Reducing gang crime in California has been a delicate balance between the maintenance of individual freedoms and society's entitlement to remain crime-free. California lawmakers implemented policies to curb gang activity such as the Street Terrorism Enforcement and Prevention Act (STEP) in 1989.³¹ This act targets gang members' ability to associate with each other and laid the legal foundation for the suspension of First Amendment rights intrinsic to gang injunctions. The argument set forth in the act is that the Constitution does not protect the freedom of association when it is used to commit a crime. However, extensive geographical restrictions of gang injunctions have prohibited named gang members from expressing their right to associate with family members and friends as well, for fear of violating their injunction. This certainly is not preventing criminal activity and in fact, this social distancing removes gang members' agency in a way that is harmful to the familial structures of Black families as a whole.

The title of this act itself warrants examination. The word *terrorism* is included purposefully. A terrorist is someone who uses violence or unlawful intimidation with the purpose of furthering their political aim.³² The inclusion of the word terrorism implies that gang members seek to disrupt the peace and structure of civil society, having a political agenda and portraying them as supposed enemies of society. It paints an image of immorality and extremism. Applying Saussure, language creates a specific perception of marginalized communities that influences how the public sees reality; that is, a false reality is created that enforces systemic racism and injustice. This

31 California Penal Code. Section 186.22 (f), 1988, California Legislative Information, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=7.&part=1.&chapter=11.&article=

32 "Terrorist Definition & Meaning." Merriam-Webster.com. <https://www.merriam-webster.com/dictionary/terrorist>.

false reality misrepresents the motives of many gang members, who oftentimes are deprived of economic opportunities or social acceptance outside of gang life. As Saussure's theory states, language can overpower the reality of a situation, object, or in this instance, someone's entire life and replace it with a narrative that demonizes an individual's role within society. Acts such as STEP, which effectively eliminate an individual's personal freedom, elicit questions: Is the purpose of the criminal justice system reformation or denigration? Is it to remove gang members from society, or remove the label of a gangster from the individual? When we revisit what racial group is implied by gangsters, it becomes clear that the 1988 STEP Act is a racially motivated policy meant to solidify society's fear of Black men and justify their removal and confinement.

This solidification of the fear of Black men through law enforcement and media intertwines in the practice of gang abatement and is extremely harmful as media cultivation theory manifests with police personnel themselves. Black communities are being criminalized through the tactic of preventive policing. Their guilt is presumed as they are added to the gang injunction list, and their innocence can only be proven later after they challenge their inclusion. The process of being enjoined to a gang injunction dissolves the myth of an equal justice system for communities of color. As criminalized people, they are denied the rights of personhood other Americans have. Their identity leaves them susceptible to wrongful imprisonment as they are viewed as possible gang members, and this presumption of criminality supersedes anything else. Additionally, as low-income communities, their financial status leaves them vulnerable to abuses by the legal system as they may not have the resources to contest the gang injunction, instead being forced to take plea deals to obtain freedom and return to normal life.

These factors make recently revealed misuses of the California Gang Database by LAPD officers even more despicable. In a 2020 report from the *LA Times*, it was revealed that 3 LAPD officers had falsified reports certifying people as gang members. The officers submitted reports that people confessed to being gang members when no such confessions were made. These false reports can have serious implications. "Beyond coloring any future interactions with police, the information can hurt people's immigration standing and their ability to find employment and

housing, reform advocates say.”³³

The article highlights the auditing tactics that the LAPD used to investigate these officers. But what it really shows is how easily these reports can be fabricated and how few safeguards are in place to check the information entered. The California Department of Justice has found that nearly 25% of the 78,000 entries in the CalGang database are false, meaning they are entirely made up.³⁴ Given that we can presume the California DOJ’s estimate to be fairly conservative, the logical conclusion is that these instances of police falsification are not isolated incidents but rather small samples of a far more significant problem.

As mentioned earlier, the police officer’s opinion is evidence enough to add alleged gang members to the database. It stands to reason that the implicit bias of these police officers toward young Black men allowed them to justify these false reports. In this context, the criminalized identity of young Black men denies them the equal opportunity to be judged equitably under the law. While the systemic structure of the punitive justice system is to blame for subjugating impoverished Black communities, it is the agency of individual officers which genuinely puts them at risk of false convictions. People subjected to law enforcement’s scrutiny because of their appearance are not given an opportunity to comply with the rule of law. Their criminality is based on their bodies, not their actions, and this is an immoral fault of the justice system that creates an extensive system of power through an authoritarian ideological discourse.

South African Apartheid

Apartheid and its ideological discourse were first expressed in South Africa with the formalization of the official state policy under the assumption of power by the White Afrikaner National Party in 1948. Apartheid originates from the Afrikaans word for “separateness” and is also

33 Kevin Rector and Leila Miller, “3 LAPD Officers Charged with Falsifying Records to Claim People Were Gang Members, Associates,” *Los Angeles Times*, July 10, 2020, <https://www.latimes.com/california/story/2020-07-10/3-lapd-officers-charged-with-falsifying-records-to-claim-people-were-gang-members-associates>.

34 Eric Leonard, “State Pulls LAPD Info from Gang Database after Officers Charged with False Reports,” NBC Los Angeles, NBC Southern California, July 14, 2020, <https://www.nbclosangeles.com/investigations/lapd-calgangs-officers-arrested-charged-los-angeles-police-xavier-becerra/2395873/>.

used to mean “separate development.”³⁵ In practice, apartheid is a systematic, institutionalized, and oppressive program of discriminatory practices used to preserve domination. It is this characteristic in systems of government, laws, policies, and institutions that distinguishes apartheid from other forms of internationally prohibited racial discrimination.

The origins of apartheid can be found over the course of three preceding centuries of European settlement and colonization. During this period, native South Africans were stripped of their land, liberties, and political rights. However, apartheid advanced these injustices by institutionalizing racial discrimination. This was initially done through White domination by the unequal distribution of access to social resources. Later, apartheid in South Africa extended to include territorial separation and social segregation which the National Party labeled as “separate development.”³⁶

The apartheid system in South Africa was composed of three elements: discrimination, territorial fragmentation, and political repression. These elements were codified through the introduction of laws and enforced by legally sanctioned institutions. While societal norms and practices, similar to the way that American society willfully does not see structural racism and accepts gang injunction, also bolstered these elements of separation, these legal institutions made apartheid especially visible and terrible to the international community.

In South Africa, a system of racial classification was introduced to determine the social, economic, and political status of South Africans. The inherent value of these classifications meant that not only was it a system of stratification but of discrimination. Those who were identified as ‘colored,’ or ‘Bantu’ were subjugated to an inferior social status that precluded lesser civil rights.³⁷ It is language that contributes to how people are perceived. Furthermore, well-paying, and highly desirable jobs were legally reserved for Whites. Additionally, housing was strictly separated by race as well; residential areas in towns and cities were reserved by zoning laws into separate

35 John Dugard and John Reynolds, “Apartheid, International Law, and the Occupied Palestinian Territory,” *European Journal of International Law* 24, no. 3 (August 2013): 867-913, <https://doi.org/10.1093/ejil/cht045>.

36 Dugard and Reynolds, “Apartheid, Law, and Palestinian Territory,” 867-913.

37 John Dugard, *Human Rights and the South African Legal Order* (Princeton: Princeton University Press, 1978), 89-102.

suburbs for Whites. These areas were better developed and more prosperous. Legal restraints were placed on the movements of Black people in towns and cities as well. Blacks were required to carry a permit at all times, which indicated their permission to be in towns and cities. Not having such documentation could be a severe offense. If a Black person failed to produce their pass to a police officer, it constituted a criminal offense.³⁸ Thousands of Blacks were sentenced and imprisoned each year for the violation of these passes.

Apartheid laws in South Africa created a false reality that reinforced racial superiority and inferiority. In South Africa, the Black population was the majority, comprising 80% of the population. In an effort to repress the political power of this majority, the government fragmented the land Blacks were relegated to. The Black population was thus divided into ten tribal groups, each with separate homelands. These separate homelands were partially self-governing, with their own governments and court systems, but they were all ultimately controlled by the more powerful South African government. This partial independence was not the gift of liberty it initially appeared to be; all people connected to these ethnic homelands, including those who lived and worked in White South Africa, lost their South African nationality. Instead, they were citizens of these unrecognized pseudo-states. Through this imposed statelessness, the South African government created the means to rid itself of South Africa's Black population, resulting in the final pillar of South Africa's apartheid regime: political repression.³⁹

Even though gang injunctions do not directly fragment Black communities through legislative measures as has been the case in South Africa, they do separate families and communities and especially restrict the supposed gang members' freedom of assembly. In both cases, the separation serves as a mechanism of creating racial power dynamics and maintaining control over the oppressed group.

As previously alluded to, South Africa enforced apartheid through a police state which operated under restrictive laws. These draconian policies gave ample power to police and removed

38 Dugard and Reynolds, "Apartheid, Law, and Palestinian Territory," 867-913.

39 Dugard and Reynolds, "Apartheid, Law, and Palestinian Territory," 867-913.

the ability to review convictions from the courts.⁴⁰ Political opponents of the state were often placed under house arrest and restricted in their freedom of movement, careers, and right to associate with others. Those political measures relate to the theory of social death by Borgstrom. Restrictive laws in the case of South African apartheid prohibited the oppressed groups to have any kind of political, social, or even individual identity, thus leading to a social death within society that only allowed classification based on racism and without self-determination.

While social death was one consequence of the apartheid regime, it also exercised more inhuman methods of political control, such as indefinite detention without trial. As police acted without judicial oversight or political accountability, many became the victims of widespread torture and unexplained deaths under administrative detention.⁴¹ Under the willful ignorance of this regime, police were authorized to kill political activists and carry out the disappearance of many more.

The international community denounced such actions, and the policies of apartheid in South Africa were criticized by the political subdivisions of the United Nations since its inception. When pleas to abandon these policies failed, the UN sought to ban and criminalize apartheid.

International Human Rights Laws and Gang Injunctions

The first international law that expressly mentioned the practice of apartheid was the *International Convention for the Elimination of All Forms of Racial Discrimination*, which the United Nations entered into force in 1969. The preamble of the Convention states that signatory parties wished to express their discontent with “manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation.”⁴² Subsequent international human rights agreements such as *the Convention on the Elimination of Discrimination Against Women*,

40 Dugard, *Human Rights and Legal Order*, 89–102.

41 Dugard, *Human Rights and Legal Order*; 108-22,132-35.

42 United Nations General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 660 UNTS 195, adopted on December 21, 1965 and entered into force on January 4, 1969.

adopted in 1979, also explicitly referenced apartheid, stating that “the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation, and domination” is essential to the full enjoyment of the rights of men and women alike.⁴³

Other international policies took the denunciation of apartheid further. *The International Convention on the Suppression and Punishment of the Crime of Apartheid*, adopted in 1976, sought to make it possible “to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of apartheid.”⁴⁴ This convention sought to go beyond the prohibition of apartheid by declaring it a crime against humanity, thus subjecting it to universal jurisdiction, prompting all involved state parties to adopt measures to discourage and punish it.

The certification of apartheid as a crime against humanity was continued in the 1998 *Rome Statute of the International Criminal Court*, which clarified the definition of apartheid and provided a list of inhuman acts which when committed for the purpose of establishing and maintaining domination of one racial group over another through systematic oppression, composed a system of apartheid.⁴⁵ The Rome Statute is one of the most current apartheid documents and as such is most applicable to the argument of apartheid crimes in Israel and the United States. Other articles of the Rome Statute such as Article 7(2)(h) similarly define apartheid as criminal acts committed in the context of an institutionalized regime of systematic oppression by the dominant racial group committed to the maintenance of the regime.⁴⁶

Gang injunctions in Southern California violate international human rights law by disproportionately impacting communities of color and denying individuals their right to due

43 United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, adopted on December 18, 1979 and entered into force on September 3, 1981.

44 United Nations General Assembly, *Convention on the Suppression and Punishment of the Crime of Apartheid*, 1015 UNTS 243, adopted on November 30, 1973 and entered into force on July 18, 1976.

45 International Criminal Court, Art. 7(1)(j) Rome Statute of the International Criminal Court, A/CONF.183/9, 2187 UNTS 90, (July 1, 2002).

46 Dugard and Reynolds, “Apartheid, Law, and Palestinian Territory,” 867-913.

process.⁴⁷ According to the data from the California Department of Corrections and Rehabilitation (CDCR) as of August 2019, over 90% of individuals in state prisons with a gang enhancement are either African American or Hispanic.⁴⁸ This overrepresentation of minorities indicates that gang injunctions have a disproportionate and discriminatory impact. Furthermore, gang injunctions rely heavily on police testimony, which can be biased against communities of color. According to a report by the *Los Angeles Times*, the Los Angeles Police Department has a long history of racial profiling and bias against Black and Latino communities.⁴⁹ This implicit bias raises concerns about the accuracy and fairness of police testimony in gang injunction proceedings.

The United Nations Human Rights Committee has emphasized that individuals have the right to a fair and public hearing by an independent and impartial tribunal, as guaranteed by Article 14 of the International Covenant on Civil and Political Rights.⁵⁰ However, gang injunctions present a barrier to a fair hearing by relying on unsubstantiated claims and denying individuals the right to challenge evidence. Furthermore, the United Nations Special Rapporteur on Racism has noted that measures that disproportionately affect racial and ethnic minorities, including gang injunctions, can amount to racial discrimination under international human rights law. Gang injunctions' sweeping restrictions on individuals' freedom of movement, association, and expression, infringe on protected human rights.

In light of these international human rights standards, it is clear that gang injunctions violate fundamental principles of due process and non-discrimination. As Southern California continues to grapple with the impacts of gang violence, it is crucial to consider alternative approaches that respect human rights and are rooted in evidence-based strategies. The suffering of millions of

47 United Nations Human Rights Committee, "General Comment No. 32 on Article 14: Right to Equality Before Courts and Tribunals and to a Fair Trial," CCPR/C/GC/32, August 23, 2007.

48 Sam Levin, "The US Gang Law That Sees Young Black Men Jailed for Life 'By Accident,'" *The Guardian*, November 26, 2019, <https://www.theguardian.com/us-news/2019/nov/26/california-gang-enhancements-laws-black-latinos>.

49 Leila Miller and Richard Winton, "LAPD Could Take Action Against Officers in Gang-Framing Case Within Days, Chief Says," *Los Angeles Times*, January 15, 2020, <https://www.latimes.com/california/story/2020-01-15/lapd-could-take-action-against-officers-in-gang-framing-case-within-days-chief-says>.

50 United Nations Human Rights Council, "General Comment No. 32 International Covenant on Civil and Political Rights, Article 14: Right to Equality before Courts and Tribunals and to a Fair Trial," July 2007, <https://cambodia.ohchr.org/sites/default/files/Softlaw/GC%2032-A5-En.pdf>.

Black South Africans must serve as a stark warning of how easily legal institutions can spawn harmful practices by overtly fearing those they are meant to protect. Summarily, the practice of gang injunctions in the United States is not in accord with international human laws and courts as specified in the Rome Statute. Gang injunctions in the United States can therefore be categorized as methods of apartheid and act against those internationally acknowledged principles that are meant to prevent apartheid as happened in the case of South Africa.

With the collapse of the apartheid system in South Africa in 1994 came the dissolution of the UN treaty-monitoring body for the International Convention on the Suppression and Punishment of the Crime of Apartheid. The UN stated, “thus far there is no claim by any State party that apartheid, as defined by the Convention, exists anywhere else than in southern Africa.”⁵¹ This claim has been challenged by legal experts and international activists, as many believe isolated incidents of apartheid can be found in Israel/Palestine from the 1980s to 1990s period. This narrative of Israeli apartheid has gained more support and calls for recognition in recent decades.

Additionally, South Africans who have visited the West Bank and Gaza Strip have spoken about the painful memories these territories remind them of. Since the late 2000s, the relevancy of apartheid to this occupied land has gained momentum in the international law community as well. In 2008, Former President of the UN General Assembly Miguel d’Escoto Brockmann spoke of the importance of the UN using the apartheid label to describe Israeli policies in occupied Palestinian territory:

I believe it is very important that we in the United Nations use this term. We must not be afraid to call something what it is. It is the United Nations, after all, that passed the International Convention against the Crime of Apartheid, making clear to all the world that such practices of official discrimination must be outlawed wherever they occur.⁵²

Such recognition begs the question: If elements of an occupation constitute a form of apartheid that violate international law, then what are the legal consequences of this action? The international

51 United Nations Human Rights Council, “Report of the Group of Three Established under the Convention,” E/CN.4/1358 (Geneva: UN, February 1, 1980), <https://digitallibrary.un.org/record/11522?ln=en>.

52 United Nations General Assembly President, Miguel d’Escoto, “Speech of the President of the UN GA, Miguel d’Escoto,” UN Headquarters (New York: November 24, 2008), https://www.humanrightsvoices.org/assets/attachments/documents/7245_Brockmann_GA.pdf.

courts must reevaluate the existence of apartheid regimes elsewhere in the world in order to recognize the wrongdoings that take place through measures like gang injunctions in the United States.

Gang Injunctions: Apartheid in America

The institution of gang injunctions in Southern California has continually proven itself to be another discriminatory practice—systemically and systematically. Systemic racism refers to the unintentional perpetuation of discrimination against particular groups within societal and institutional structures. In contrast, systematic racism refers to deliberate and organized efforts to exclude, marginalize, or oppress certain groups. In the context of gang injunctions in LA, systemic racism is evident in manipulating the legal system, whose express goal was the ease of assigning a criminalized label to individuals of color. Systematic racism is exemplified by police officers fabricating evidence to frame innocent individuals as gang members, specifically targeting and criminalizing marginalized communities, such as Black and Latinx populations. Implicit bias, even in its most subtle manifestation, becomes exponentially more perilous when coupled with the authority of individual police officer testimonies. Systemic racism, like a great stone wheel, is immovable and unyielding without the ushering of agents who activate it; through their testimonies and decision-making, they drive the movement of the wheel and enable its destructive effects to persist.

The initial institution of civil gang injunctions was based on a desire to preserve white wealth in affluent neighborhoods and confine people affected by gang violence to isolated, heavily policed zones with unique laws that suspend their civil liberties. This detrimental practice has heavily fueled the punishment and incarceration of people of color, without devoting meaningful resources to freeing individuals trapped in cycles of crime and racism. As those affected by it are mostly people of color, it is clear the policy of gang injunctions is an instrument of institutional racism.

Every facet of a civil gang injunction highlights the devaluation of those who society deems

to be undesirable. This practice clearly fits the international court's definition of apartheid found in Art. 2 of the Apartheid Convention and Art. 7(2)(h) of the Rome Statute: "For such inhuman acts to amount to apartheid they must be committed systematically, for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group or groups."⁵³ It has evolved to create a draconian, Panopticon existence for people of color in those geographic areas. Gang injunctions clearly illustrate who the government of California believes is entitled to rights, freedom, and forgiveness. Gang injunctions are a form of apartheid, and their continued usage bodes poorly for the maintenance of the egalitarian values the United States claims to represent. Generations of Black men and other people of color have had their potential limited. They have been bound to a life of poverty and criminality in order to maintain the comfort of those who fear them. By proactively criminalizing behaviors that may be precursors to crime, California has created and enforced a state of social death for thousands. The international community must not fear the recognition of this truth. Those who perpetrate such harmful policies must hear the stories of those trapped in cages and realize that gang injunctions cannot possibly be the answer.⁵⁴

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⁵³ Rome Statute of the International Criminal Court, (1998).

⁵⁴ Dugard and Reynolds, "Apartheid, Law, and Palestinian Territory," 867-913.