

## Revisioning Algorithms as a Black Feminist Project

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We live in an age of predictive algorithms.<sup>1</sup> Jurisdictions across the country are utilizing algorithms to make or influence life-altering decisions in a host of governmental decision-making processes—criminal justice, education, and social assistance to name a few.<sup>2</sup> One justification given for this algorithmic turn concerns redressing historical and current inequalities within governmental decision-making.<sup>3</sup> The hope is that the predictions produced by these predictive systems can correct this problem by providing decision-makers with the information needed to make fairer, more accurate, and consistent decisions.<sup>4</sup> For instance, jurisdictions claim that their turn to risk assessment algorithms in bail, sentencing, and parole is in order to de-bias decisions made in these areas. However, this hope has not borne out in practice. Rather than de-biasing decision-making, algorithms have tended to operate to reinforce it.<sup>5</sup> A primary reason is that these systems tend to produce disparate predictions that track existing social inequities and facilitate harmful outcomes for marginalized communities, particularly racially and otherwise politically oppressed communities.<sup>6</sup> To compound the issue, since these systems tend to be applied to an entire sector, the predictions produced operate to maintain existing inequities, social hierarchies, and the resulting political, economic, and social oppression of our current moment.<sup>7</sup> Professor Safiya Umoja Noble's work has provided us with a language and a framework to understand this state of affairs. She employs the term "algorithmic oppression," which she uses to refer to how algorithms "serv[e] up deleterious information about people" and resultingly "reinforce oppressive social and economic relations."<sup>8</sup> By cementing existing political, social, and economic hierarchies, these algorithmic systems—as Professor Dorothy Roberts explains—exacerbate marginalized communities' vulnerability to state-sanctioned violence, resource deprivation, and other precarious outcomes that hamper their ability to exercise full citizenship in this country.<sup>9</sup>

When viewed in tandem, the multifaceted effects of algorithmic oppression threaten to “lock in” our unequal status quo into the future.<sup>10</sup>

The stakes are high. Resisting and counteracting how algorithms lock in the structural inequalities and violence produced and mediated by our institutions, legal structures, and laws is imperative. This is particularly so given how algorithms continue to proliferate and the ideology that sustains their usage continues to deepen. Yet, as we contend with how to approach algorithmic oppression, Black Feminists provide us with a useful starting point. Their work reveals how algorithmic oppression is a system design stemming from the interests, attitudes, and values of those in charge of adopting, constructing, implementing, and overseeing algorithmic systems.<sup>11</sup> As Professor Roberts reminds us, “the outcomes of [algorithmic systems] depend on the particular ideologies, aims, and methods that govern [their] use.”<sup>12</sup> Given this, algorithmic systems are not predisposed to this function. It is possible to envision the paradigm governing the use of algorithmic systems in order to orient them toward more equitable, democratic, and just ends.

My scholarship in the field of law and technology coalesces around revealing and contesting how various dimensions of the paradigm governing algorithmic systems are incongruent with justice. My work seeks to orient this paradigm toward the liberatory ideologies and epistemologies of the oppressed communities working to reform or dismantle and reconstitute the institutions, the systems, and laws responsible for their oppression. Reflecting on the theme of this book, my work has been a Black Feminist project. Informed by Black Feminist praxis and theory, my work aims to put forth a set of democratic and epistemic practices around algorithms that can bring about the kind of algorithms that could aid racial justice, gender justice, class justice, and other justice-seeking efforts. In that spirit, this chapter explores how applying a Black Feminist approach to the paradigm governing algorithmic systems could blunt algorithmic oppression and produce the conditions needed for creating algorithms designed to challenge and contest unequal systems that subordinate politically oppressed people in our country. Using the example of criminal legal algorithms, it sketches out possible orientations for how to envision this shift. In so doing, this chapter is in community with a growing set of thought and praxis devoted to dismantling oppression in our reality and in our imaginaries. The chapter will proceed in two parts. The first half will provide background on the use of criminal legal algorithms. The second half will explore the implications of taking a Black Feminist approach.

### CRIMINAL LEGAL ALGORITHMS

My work focuses on *criminal legal algorithms*, a term that encompasses risk assessment algorithms used in policing, bail, sentencing, and other areas of criminal administration.<sup>13</sup> These predictions are used by police, judges, and other system actors to inform the decisions around the use or nonuse of criminal legal resources. As Professor Jessica Eaglin explains, enacting jurisdictions theorize that

the predictions produced by these algorithms will shape and rationalize system actors' decision-making toward outcomes consistent with protecting public safety.<sup>14</sup>

The proliferation of algorithmic systems has generated significant criticism. Algorithm critics worry that algorithmic systems will maintain or further exacerbate existing inequalities within criminal administration.<sup>15</sup> In practice, criminal legal algorithms have not dismantled the racial and class dimension of how policing, surveillance, incarceration, or other criminal law resources are deployed.<sup>16</sup> One reason is that, as Professor Erin Collins's work shows, the reliance on algorithmic systems has operated to prevent a critical interrogation of the ideological commitments that concentrate criminal law resources on racially marginalized and other politically oppressed bodies and communities in the first place.<sup>17</sup> As it currently stands, criminal legal algorithmic systems aid, rather than reduce, the subordinative effect of the criminal legal system on marginalized communities.

Attending to how algorithms support the subordinative function of the criminal legal system requires more than what is offered by technocratic-based reform efforts. These efforts tend to point in the direction of making algorithms and the paradigm governing them more participatory, more transparent, more accurate, or more subject to oversight regimes.<sup>18</sup> As I have suggested in prior work, these reforms are worth pursuing, since their actualization would reduce algorithmic oppression on the margins.<sup>19</sup> The problem is that these efforts are insufficient because they sidestep the democratic and epistemic dimensions of algorithm oppression and resultingly keep it in place. In the following subsections, I will briefly lay out these dimensions as they will set us up for understanding how a Black Feminist paradigm could usher in more equitable algorithms.

### *Democratic Dimension*

The democratic dimension of algorithmic oppression concerns the fact that the paradigm governing algorithms is democratically exclusionary to racially and otherwise politically marginalized communities. In *The Democratizing Potential of Algorithms?*, I discuss how marginalized communities are excluded from the construction, implementation, and oversight of algorithmic systems.<sup>20</sup> The democratic exclusion experienced by marginalized communities within the paradigm governing criminal legal algorithms is not unique. It is consistent with the democratic exclusion that these communities experience in our society more generally. As Professor Jocelyn Simonson has forcefully argued in the criminal legal arena, criminal legal institutions democratically exclude the marginalized people that are the most likely to be subjected to state-based regulation and violence.<sup>21</sup> Instead, these institutions tend to be responsive to those who benefit from the status quo, which helps explain why our criminal legal system concentrates state violence on marginalized bodies and the political, economic, democratic, and social consequences of that violence in marginalized communities.

When understood in this light, the problem is not that the paradigm governing criminal legal algorithms is not designed to facilitate the participation of marginalized communities within it—though that is an issue. The problem is that the democratic exclusion within this paradigm maps onto and exacerbates the democratic exclusion that these marginalized communities already experience in criminal law governance. In so doing, it operates as an additional barrier to attempts by marginalized communities to contest and overcome the harmful ways in which the criminal legal system has operated in their neighborhoods. To provide context, marginalized communities have developed a body of resistance tactics in the face of exponential rates of incarceration, police violence, and surveillance.<sup>22</sup> The current paradigm governing algorithms undermines this critical work, since resistance tactics are powerless against decisions predicated on the result of an algorithmic prediction.<sup>23</sup> At the same time, the democratic exclusion of marginalized communities within the paradigm means that these communities cannot stop algorithmic predictions from hampering their on-the-ground racial justice efforts. The result is that algorithmic systems and the paradigm that governs them operate as an additional barrier to attempts by marginalized communities to reform or abolish and reconstitute the criminal legal system.

### *Epistemic Dimension*

The epistemic dimension of algorithmic oppression concerns the fact that the paradigm governing algorithms is epistemically exclusionary to marginalized communities. In *Discredited Data*, I focus on how this epistemic exclusion plays out in algorithmic construction.<sup>24</sup> As a starting point, algorithmic construction refers to the steps that developers take to build and train algorithmic systems. During this stage, developers are tasked with making critical decisions around problem formulation as well as data collection and data utilization. The choice of data has emerged as an important focal point for how algorithmic oppression occurs. As researchers Kristian Lum and William Isaac have raised, one reason for which algorithmic systems produce disparate results is the data used to construct and train them.<sup>25</sup> Because the data used in algorithmic construction is shaped by social hierarchies in our society, the predictions produced reflect these hierarchies. In other words, bias in, bias out.<sup>26</sup> However, as I have explained in prior work, biased data is not the only epistemic problem impacting algorithmic construction.<sup>27</sup> Another epistemic problem is that developers exclusively rely on a certain set of knowledge sources to obtain their data.<sup>28</sup> In the criminal law realm, these sources are criminal legal institutions, such as the police, pretrial service agencies, courts, and parole boards.<sup>29</sup> This reliance on what I term “carceral knowledge sources” occurs despite the fact that the data derived from the knowledge produced by these knowledge sources are well-known to be inaccurate, incomplete, and biased in regard to racially and otherwise politically marginalized people.<sup>30</sup>

The exclusive reliance on carceral knowledge sources comes at the expense of obscuring different knowledge sources, particularly knowledge sources tethered to marginalized communities (which I term “community knowledge sources”). Community knowledge sources are routinely ignored and discredited by developers.<sup>31</sup> This discrediting cannot be explained by a preference for quantitative data, since developers also utilize the qualitative data produced by carceral knowledge sources within algorithmic construction.<sup>32</sup> The cause of this exclusion is epistemic oppression. Coined by Professor Miranda Fricker, epistemic oppression refers to the exclusion of subjugated communities from dominant knowledge production and validation processes.<sup>33</sup> The harm of this epistemic oppression is that it ensures that powerful groups “have some sort of unfair advantage in ‘structuring’ our *understandings* of the social world.”<sup>34</sup> As I have argued in prior work, this unfair influence distorts the range of possibilities achievable through algorithms, because it tethers algorithms to the status quo, even though other ways of knowing could generate better outcomes than currently exist.<sup>35</sup> The result is that algorithms reinforce the epistemic oppression that has and continues to hamper efforts by marginalized communities to shift the epistemes, imaginaries, and ideologies that keep inequality in place in our current time.

#### WHEN BLACK FEMINISM ENTERS THE FRAME

I have laid out the democratic and epistemic dimension of algorithmic oppression using the example of criminal legal algorithms and the paradigm that governs their utilization. The rest of the chapter explores the implications of applying a Black Feminist lens. As a first step, it is necessary to define Black Feminism. Although there is no single answer, Black Feminism is premised on resisting and countering oppressive structures and the violent ways of knowing and being that support them. The project of Black Feminism is to create a political movement against capitalism, racism, gender hierarchy, heteropatriarchy, and other systems that subordinate Black women.<sup>36</sup> It also seeks, as Professor Ula Y. Taylor notes “to develop institutions to protect what the dominant culture has little respect and value for [which is] black women’s minds and bodies.”<sup>37</sup> Though originating from the distinct experience of Black women,<sup>38</sup> Black Feminism shares space and is in conversation with Critical Race Theory, QueerCrit, TribalCrit, Afrofuturism, Indigenous futurism, and other liberatory imaginaries.

Defining the Black Feminist tradition is difficult given the diversity of perspectives taken by Black Feminists. However, there are at least four common themes that unify Black Feminist theory. First, there is no common or universal form of oppression. As Professor bell hooks explains, each oppressed community experiences oppression differently.<sup>39</sup> Black Women experience a distinct form of oppression that endows them with a particular standpoint and perspective about it and how to resist it.<sup>40</sup> At the same time, as Professor Patricia Hill Collins reminds us,

the diversity of identities among Black women results in different expressions of this standpoint.<sup>41</sup>

Second, resisting oppression requires naming and rejecting the ways of knowing and being that support and naturalize oppressive outcomes in society. As Professor Collins notes, social institutions produce knowledge that reinforces existing inequalities in service of white supremacy.<sup>42</sup> This understanding enables a dismantling of the privileged position that knowledge produced by institutions hold in shaping our reality. Third, Black Feminists recognize knowledge is positional.<sup>43</sup> Objective knowledge does not exist. All knowledge is reflective of the perspectives of those who produce it.<sup>44</sup> Finally, Black women alongside all subjugated people are credible, reliable, and legible epistemic agents.<sup>45</sup> They are knowers of their own oppression, despite attempts by dominant knowledge production and validation processes to discount and discredit their knowledge.<sup>46</sup>

Applying these themes to the paradigm governing algorithms provides us with an important starting point for a reorientation.

The paradigm governing algorithms must account for differently situated oppression: An important theme of Black Feminism is that there is no common oppression. This means that the paradigm governing algorithms must be made to account for difference. No one group can stand in for another. This lesson is important given how technology companies have often engaged in tokenism as a stand-in for transformative change. Diversity for diversity sake, as Professor Ruha Benjamin points out, cannot address algorithmic oppression.<sup>47</sup> This is particularly so given that diversity schemes tend to be intentionally designed to privilege the most privileged members of an oppressed group.<sup>48</sup> A Black Feminist approach would aim for the inclusion of all oppressed people at every stage of the paradigm governing algorithms with a particular focus on those oppressed on various axes.

*The paradigm governing algorithms must reject violent ways of knowing and being:* Another important theme connected to Black Feminism is that oppression shapes every aspect of the paradigm governing algorithms. This thinking has manifested itself in the makeup of those in control of algorithmic adoption, design, implementation, and oversight, which is primarily white, affluent cisgendered men.<sup>49</sup> While this makeup can be attributed to the lack of educational opportunities afforded to oppressed communities, it is also the result of a white, male, capitalistic, and otherwise oppressive way of thinking about algorithms. A Black Feminist approach would upend this approach. One mechanism to accomplish this feat would be to adopt a power-shifting model to the paradigm governing algorithms which I have raised in past work.<sup>50</sup> Power-shifting, a concept theorized by Professors Jocelyn Simonson and K. Sabeel Rahman, seeks to use institutional design as one tool among many to redress racial and other power imbalances created by substantive and procedural inequities.<sup>51</sup> In the arena of algorithms, adopting a power-shifting approach would mean ceasing complete or substantive control over algorithmic systems to the communities that have been most harmed by it.

*The paradigm governing algorithms must turn to subjugated knowledge:* Black Feminists call for a turn to subjugated knowledge. They push for the disruption of dominant knowledge production practices that have oriented our society toward anti-Black and otherwise subordinative outcomes. A Black Feminist approach requires us to epistemically disinvest from courts, institutions, and other knowledge production sites that have been critical in structuring the current crises impacting marginalized people.<sup>52</sup> Beyond the knowledge produced by Black women, the move also invites engagement with the knowledge of those most affected by state violence, surveillance, and containment practices. This call for engagement with the epistemes of those subordinated within racialized, classed, and gendered hierarchies follows the traditions of critical theories that ask us to “look to the bottom”<sup>53</sup> as a method to not only destabilize existing social hierarchies, but also to rebuild our society on more equitable and democratic terms.<sup>54</sup> This turn is not a simple process. In regard to the paradigm governing algorithms, it requires us to create new institutions designed to promote subjugated knowledge. Moreover, it means disrupting hierarchical knowledge production practices within marginalized communities<sup>55</sup> that have epistemically oppressed those traditionally unable to actualize full membership in these communities.<sup>56</sup> As I have suggested in prior work, one concrete way to accomplish this feat would be to develop a community jury system “in which community members task themselves with the obligation to present their own knowledge . . . at various intervals during the year while being compensated for their labor.”<sup>57</sup>

## CONCLUSION

The creation of algorithms informed by Black Feminism would be revolutionary—perhaps too radical for our current system, given this society’s current commitment to white supremacy and other violent ways of being. However, as I have noted in past work, even if these algorithms are never used by system actors, they would still constitute a statement by marginalized people that the system is out of line with their values, views, and pursuit of freedom—a fact that beneficiaries of the system need to be reminded of.<sup>58</sup> Moreover, such algorithms would not function to maintain social oppression. That being said, imagine if such algorithms were used. They could act as a democratic check on unequal laws and legal processes if accounted for by system actors. When combined with resistance efforts underway by marginalized communities, such algorithms could present a path toward meaningfully reforming or dismantling the criminal legal system and other unequal systems. This is the power of tapping into Black Feminism and other subjugated ways of knowing. They allow us to imagine how to build a more equitable future. Maybe algorithms and other currently oppressive technological systems could become vehicles of liberation. Unlocking that potential requires turning to the ways of knowing and being of those in the fight for more a just world.

## NOTES

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1. See Danielle Keats Citron, *Technological Due Process*, 85 WASH. U. L. REV. 1249, 1253, 1276–77 (2008); Ryan Calo & Danielle Keats Citron, *The Automated Administrative State: A Crisis of Legitimacy*, 70 EMORY L.J. 797, 800 (2021).

2. See Dorothy E. Roberts, *Digitizing the Carceral State*, 132 HARV. L. REV. 1695, 1695 (2019) (reviewing VIRGINIA EUBANKS, *AUTOMATING INEQUALITY: HOW HIGH-TECH TOOLS PROFILE, POLICE, AND PUNISH THE POOR* [2018]).

3. See *id.*, at 1696.

4. Ben Green, *The Flaws of Policies Requiring Human Oversight of Government Algorithms*, 45 COMPUT. L. & SEC. REV. 1, 1 (2022).

5. See Roberts, *supra* note 2, at 1713 (“Moreover, [these algorithms’] forecasts of the future are based on data that were produced by existing racial discrimination in systems such as policing, housing, education, health care, and public assistance. The future predicted by today’s algorithms, therefore, is predetermined to correspond to past racial inequality”).

6. See Sonia K. Katyal, *Private Accountability in the Age of Artificial Intelligence*, 66 UCLA L. REV. 54, 69 (2019).

7. See *id.*

8. Safiya Umoja Noble, *ALGORITHMS OF OPPRESSION: HOW SEARCH ENGINES REINFORCE RACISM* 4, 10 (2018).

9. See Roberts, *supra* note 2, at 1699, 1708, 1713–14.

10. See Rebecca Crootof, “*Cyborg Justice*” and the Risk of Technological-Legal Lock-In, 119 COLUM. L. REV. F. 233, 235 (2019).

11. See NOBLE, *supra* note 8, at 4–7.

12. Roberts, *supra* note 2, at 1697.

13. See *id.*, at 1716. For clarity, the term *risk assessment algorithms* refers to algorithms that employ a statistical method and use information about an individual or location to produce a prediction about that individual or location in the future.

14. Jessica M. Eaglin, *Technologically Distorted Conceptions of Punishment*, 97 WASH. U. L. REV. 483, 504 (2019).

15. See Bernard E. Harcourt, *Risk as a Proxy for Race: The Dangers of Risk Assessment*, 27 FED. SENT’G REP. 237, 237 (2015) (warning that “risk today has collapsed into prior criminal history, and prior criminal history has become a proxy for race”).

16. See generally Jessica M. Eaglin, *Racializing Algorithms*, 111 CALIF. L. REV. (June 2023).

17. See generally Erin R. Collins, *Abolishing the Evidence-Based Paradigm*, 48 BYU L. REV. (2022). But another reason concerns the biased reaction that system actors have toward algorithmic predictions. As the work of Megan Stevenson explains, system actors tend to have an unprincipled approach to applying algorithmic predictions, particularly where those predictions would lead to less racially coercive results, such as the release of a marginalized defendant. See, e.g., Megan T. Stevenson & Jennifer L. Doleac, *Algorithmic Risk Assessment in the Hands of Humans* 24–31 (IZA Inst. of Lab. Econ., IZA DP No. 12853, 2019), <https://www.econstor.eu/bitstream/10419/215249/1/dp12853.pdf> (exploring the role of judicial discretion in following or ignoring algorithmic predictions).

18. See for example Barry Friedman & Maria Ponomarenko, *Democratic Policing*, 90 N.Y.U. L. REV. 1827 (2015) (problematizing the lack of democratic input around police use of surveillance technologies); Andrew Guthrie Ferguson, *Surveillance and the Tyrant Test*, 110 GEO. L.J. 205 (2021) (advocating for a multifaceted approach to oversight of algorithmic systems).

19. Ngozi Okidegbe, *Abolitionist Democracy for the Data Driven Age* (work in progress).

20. See generally Ngozi Okidegbe, *The Democratizing Potential of Algorithms?*, 53 CONN. L. REV. 739 (2022) [hereinafter Okidegbe, *Democratizing Potential*].

21. See Jocelyn Simonson, *Democratizing Criminal Justice through Contestation and Resistance*, 111 NW. U. L. REV. 1609, 1617–21 (2017).

22. *Id.*

23. Ngozi Okidegbe, *Of Afrofuturism, of Algorithms*, 9 CRITICAL ANALYSIS L. 35, 41 (2022) [hereinafter Okidegbe, *Of Afrofuturism*].

24. See generally Ngozi Okidegbe, *Discredited Data*, 107 CORNELL L. REV. (forthcoming 2022) [hereinafter Okidegbe, *Discredited Data*].

25. See Kristian Lum & William Isaac, *To Predict and Serve?*, SIGNIFICANCE (Oct. 2016), at 14, 16, 18 (describing and demonstrating how algorithmic outputs reinforce bias); see also Sandra G. Mayson, *Bias in, Bias out*, 128 YALE L.J. 2218, 2224 (2019).

26. Mayson, *supra* note 25, at 2224.

27. See generally Okidegbe, *supra* note 24.

28. See *id.*, at 4–6 (introducing the “data source selection problem”).

29. See *id.*, at 15–22 (discussing these carceral knowledge sources in depth).

30. See *id.*, at 22–23 (explaining why exclusive reliance on carceral knowledge sources is an important component to the problem of algorithmic discrimination).

31. *Id.*, at 37.

32. *Id.*, at 37–38 (“Developers often formally and informally consult institutional actors such as judges, prosecutors, and defense lawyers”).

33. Miranda Fricker, *Epistemic Oppression and Epistemic Privilege*, 25 CANADIAN J. PHIL. 191, 191 (1999) (theorizing about epistemic oppression’s impact on knowledge production processes).

34. *Id.*

35. Okidegbe, *supra* note 24, at 39. This point is informed by Briana Toole, *From Standpoint Epistemology to Epistemic Oppression*, 34 HYPATIA 598, 611 (2019).

36. See Ula Y. Taylor, *Making Waves: The Theory and Practice of Black Feminism*, 28 BLACK SCHOLAR 18, 18–19 (1998).

37. *Id.*

38. See generally Patricia Hill Collins, *Learning from the Outsider Within: The Sociological Significance of Black Feminist Thought*, 33 SOC. PROBS. S14 (1986).

39. See BELL HOOKS, *FEMINIST THEORY: FROM MARGIN TO CENTER* 4–9 (2015).

40. Collins, *supra* note 38, at S16.

41. *Id.*

42. See PATRICIA HILL COLLINS, *Black Feminist Epistemology*, in BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT 251, 251 (2nd ed., 2000) (noting that knowledge production practices are not neutral and instead are shaped by the intersecting privilege or oppression that the producer experiences in society).

43. See *id.*

44. See *id.*

45. See Collins, *supra* note 38, at S16–18.

46. See *id.*

47. Ruha Benjamin, *RACE AFTER TECHNOLOGY: ABOLITIONIST TOOLS FOR THE NEW JIM CODE* 15 (2019) (“Just having a more diverse team is an inadequate solution to discriminatory design practices that grow out of the interplay of racism and capitalism”). See also, Leila Marie Hampton, *BLACK FEMINIST MUSINGS ON ALGORITHMIC OPPRESSION 2* (2021) (accompanying remarks at the 2021 ACM Conference on Fairness, Accountability, & Transparency [FAccT ‘21]).

48. Olúfemi O. Táíwò, *Being-in-the-Room Privilege: Elite Capture and Epistemic Deference*, 108 THE PHILOSOPHER (2020) (discussing the fact that the viewpoints of the most privileged members of

an oppressed group are afforded deference and epistemic privilege in comparison to the viewpoints held by the most marginalized members of an oppressed group), <https://www.thephilosopher1923.org/essay-taiwo>.

49. See Kate Crawford, *Artificial Intelligence's White Guy Problem*, NEW YORK TIMES (June 25, 2016), <https://www.nytimes.com/2016/06/26/opinion/sunday/artificial-intelligences-white-guy-problem.html>.

50. See generally Okidegbe, *supra* note 20.

51. See K. Sabeel Rahman & Jocelyn Simonson, *The Institutional Design of Community Control*, 108 CALIF. L. REV. 679, 699–719 (2020) (advocating for endowing oppressed communities with control over governmental institutions implicating in racial and class subordination).

52. See Amna A. Akbar, Sameer M. Ashar & Jocelyn Simonson, *Movement Law*, 73 STAN. L. REV. 821, 859–65 (2021).

53. Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324–26 (1987).

54. See Akbar, Ashar & Simonson, *supra* note 52, at 859–65.

55. See Olúfemi Táíwò, *Being-in-the-Room Privilege: Elite Capture and Epistemic Deference*, THE PHILOSOPHER, <https://www.thephilosopher1923.org/essay-taiwo> (accessed Sept. 8, 2022).

56. See Okidegbe, *supra* note 23, at 47–48 (“One could also imagine that the idea of data itself would be expanded to take into account ways of knowing about public safety that are inclusive of all people, even those at the periphery of marginalized communities, such as people living with psychological disabilities, transient people, and other people who have traditionally been unable to actualize their full membership within a community”).

57. *Id.*, at 47.

58. *Id.*, at 48.