



Universiteit Utrecht

## Strategic Othering:

*Exploring the strategic use of  
race by the ACLU towards the ban of facial recognition surveillance*



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## Preface & acknowledgements

As first-generation university student, I am proud to present to you my master thesis written to fulfill the graduation requirements of the Conflict Studies and Human Rights program at Utrecht University. I was engaged in researching and writing this master thesis “Strategic Othering: Exploring of the strategic use of race by the ACLU towards the ban of facial recognition surveillance”, from February 2020 till August 2020. Writing a thesis in a global pandemic was rather challenging for several reasons. Ranging from an early termination of conducting field research in San Francisco, to not being able to buy good coffee and therefore was forced to drink ‘slootwater’.

Throughout writing this master thesis, I have received a great deal virtual support.

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Enjoy this reading!

Sincerely,

Naomi Thielman

# Abstract

Real-life implications of facial recognition surveillance are difficult to pinpoint as it is designed to operate without one knowing or being aware. Research has shown that these facial recognition programs used with policing tend to misidentify darker-skinned women up to 34% between the age of 18-30 as compared to lighter skinned women and light skinned males. Civil rights organization ACLU was pioneer in leading the ban of facial recognition surveillance in San Francisco. In order to do so, they signified ideas and categories about the black community.

The aim of this research is to analyze how these ideas and categories about the black community are used to construct and formulate arguments in favor of the ban. Therefore, the following research question is formulated: "How is dramaturgy used by the ACLU in their campaign to signify ideas and categories about the black community in order to construct arguments with the aim of banning facial recognition surveillance implemented by local law enforcement agencies in San Francisco, from 2018 till May 2019?". Dramaturgy as analytical frame is concerned with how social interactions give meaning to a situation, shape expectations, interpretations and create, maintain or destruct a common reality.

In order to answer this research question, critical discourse analysis was used to analyze the posts on the ACLU website about facial recognition surveillance. Results show that ideas and categories of the black community were used to strategically Other them, in order to position and legitimize their own involvement.

The ban got through in May 2019. Although there are no reported encounters with facial recognition surveillance from within the black community and was not perceived as a pressing issue, the ACLU calls upon their input for regulatory policies. Therefore, a recommendation for further research is to shift focus towards campaigns who focus on techno-racial inequality structures and perceived effectiveness of them according to the black community.

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# 1.Introduction

Recently, MIT researcher Joy Buolamwini examined facial recognition surveillance analysis software and concluded that both skin-type and gender matters in error ratings which can lead to discriminatory practices'.<sup>1</sup> The coded gaze' as she calls it, is the practice where these facial recognition programs used with policing tend to misidentify darker-skinned women up to 34% between the age of 18-30 as compared to lighter skinned women and light skinned males (Buolamwini & Gebru, 2018). In May 2019, San Francisco (CA) was the first city in the United States, followed by Oakland and Berkeley, to ban the use of facial recognition software used by the police. According to the ordinance, the governmental use of facial recognition technology was not only violating civil liberties and -rights but it would also disproportionately impacted people of color, more specifically, black women. Although several scholars have shown that facial recognition surveillance software holds a higher degree of leading to false positive matches with darker-skinned females (Buolamwini & Gebru, 2018; NIST, 2019; Klare, 2012; Zeng et. al.2019). False positive matches, or misidentification, potentially lead to false arrests. Yet, three states have yet enacted the ban of facial recognition surveillance in law enforcement and eight states have proposed some form of restriction of this software use based on these statistics alone.<sup>2</sup>

The American Civil Liberties Union (ACLU) as pioneer in realizing the ban, addressed this issue with the aim of breaking patterns of deference that hold inequalities in place; and more specifically, racial inequalities. But in doing so, the campaign did not only aim to create awareness in the black community that this was a racial issue by, first, using statistics, and second, by making claims and signifying ideas linked to race. It also challenged existing facial recognition policies in the city of San Francisco as this case touches upon the wider discussion of 'invisible' technology, the reproduction of inequality structures and resisting those structures. The ACLU touches upon the techno-security discourse which is perceived as a 'colorblind' practice, referring to the assumption that race does not matter in security issues and that biometrics used in the techno-security do not see 'color' and is neutral (Kamaloni, 2019).

Extracting bodily racial features into the digital sphere shows the slipperiness of race as object in techno-security research as it is not incorporated as determinant for technological response, while at the same time, it is exaggerating the salience of race. Examples of this, ranging from automatic soap dispensers that are unable to recognize a black skin<sup>3</sup>, Google Photos mislabeling black people as gorillas,<sup>4</sup> to the researched correlation between the (in)ability of a self-driving car to recognize black people as pedestrians (Wilson, & Hoffman, 2019). This not only shows that race in technology possibly holds real-life implications, but also that

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<sup>1</sup> ACLU (2020). '2019 proved we can stop face recognition surveillance'. Retrieved from <https://www.aclu.org/news/privacy-technology/2019-was-the-year-we-proved-face-recognition-surveillance-isnt-inevitable/> at 12-02-2020.

<sup>2</sup> Information is derived from EPIC, a public interest research center in Washington. It focuses on privacy and civil liberty issues to protect. Derived from <https://epic.org/banfacesurveillance/> visited at 4-02-2020.

<sup>3</sup> Mic (2015). "Reasons the soap dispenser does not work on a black skin". Derived from <https://www.mic.com/articles/124899/the-reason-this-racist-soap-dispenser-doesn-t-work-on-black-skin#.XeuPqZmzH> at 22-06-2020.

<sup>4</sup> Mic (2015). "Google misidentifies two African- Americans as gorillas". Derived from <https://www.mic.com/articles/121555/google-photos-misidentifies-african-americans-as-gorillas> at 22-06-2020.

technology potentially reproduces racial inequality structures as they also allow racial characteristics to become the material by which racial meaning is worked on. This is what I call a techno-racial inequality structure, which will be elaborated on later in this research.

The 'informationalization of race', which refers to the process where race becomes a "multi-valent assemblage of corporeal, digital and informational elements", makes it political and operational relevant (Skinner, 2020. 94). In other words, facial recognition surveillance became racialized. The racialization of an issue is defined as "a lens of perspective through which issues and debates become racially marked or signified" (Murji & Solomos, 2005. 21). At the same time, 'race' would never be incorporated as an axis of algorithm in security management. Nevertheless, this does not mean that other variables that *are* included, such as geographies, prior arrests, social network contacts or socio-economic status do not impact some social categories more than others. This has to do with a turn in the 2000's, when "smart-policing, intelligence-led policing and data driven policing" with the aim of enhancing efficiency, objectivity and risk assessment was introduced (Ferguson, 2017. 29). Instead of a crime focused targeting approach, it turned to a person-based predictive targeting method where big data is used to predict how violence and crime is going to spread. For example, in Chicago and New York, the highest poverty rates correlate with the communities of color (Ferguson, 2017). Where poverty is perceived as a risk for crime, using a socio-economic status as axis in decision-making and target selection, it is not unexpected that crime gets associated with the communities of color. Consequently, the colored community is more likely to become a target for crime. In other words, the soft biometric traits i.e. physical and/or behavioral features are used in surveillance as means to identify and monitor humans. Thus, it is not be unexpected that the ACLU also used ideas about social categories, i.e. the black community, in order to achieve the ban on facial recognition.

Nevertheless, one would not expect the U.S. would develop laws that regulate or limit the use of facial recognition technology without concrete examples of the negative social implications verbalized because, on the other hand, facial recognition surveillance is effective in for example, tracking lost children or criminals (Naker & Greenbaum, 2017). This highlights a tension of the ban where, the arguments in favor- as well as against the ban is a double-edged sword. Both arguments, in favor of the FR practices and the arguments against, stem from the same nature, namely protecting civil liberties and civil rights. On the one hand referring to the civil right for equal treatment and protection but, at the same time the right to public safety.

But since facial recognition as a biometric analyzing device is designed to operate from a distance and without the knowledge of a suspect, it was not unexpected that there is a lack of public awareness. According to the respondents from the research period in San Francisco, they indeed stated that they did not know, nor cared, that facial recognition surveillance could lead to false positives with black people, let alone, that it was banned.<sup>5</sup> Real-life implications of facial recognition surveillance are difficult to pinpoint as it lacks actual encounters, respondents perceived as part of the wider racial injustice dynamic with policing. Nevertheless, this draws attention to the way the anti-facial recognition campaign was constructed by the ACLU and which arguments *were* used besides statistics.

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<sup>5</sup> Derived from the data generated in March 2020 in San Francisco, California. In this research, I focused on the experiences of black women with everyday security after facial recognition was banned with local authorities.

The empirical complication in here lies in the way the ACLU campaign is in need for political unity, while trying to maintain the respect for diversity. Where scholars commonly distance themselves from an essentialist views on race, in this case it is needed in order to understand how race is used to reproduce or resist structures of inequality in technology. But, in making claims- and signifying ideas about the black community as arguments against facial recognition surveillance, the ACLU constructed them as a homogenous collective by essentializing the black community features and struggles. Accordingly, the latter shifts the focus to the performative character of language use. This way language was used as political and strategic means is underscored by the fact that the ACLU themselves identified a lack of 'voices' coming from the community who shared experiences about facial recognition surveillance, and its (negative) impact.<sup>6</sup> So in other words, language was used to resist an established yet 'colorblind' structure in the 'invisible' techno-security sector. Accordingly, the ACLU formulated collective struggles and ideas of the black community.

This power to define facial recognition technology as 'threat' on behalf of a social category, or even legitimizing one's involvement, could lead to social change (Schwalbe, 2014). In order to understand and interpreted how the ACLU was able to construct their campaign and perform resistance by making claims on the black community. The dramaturgical perspective as articulated by Goffman (1959) will be used to analyze this. It focuses on how ideas about identities and qualities are signified in interactions (by a performer, for an audience and within a setting) and get involved with the *reproduction* of inequality, but also the *resistance* to inequality (Schwalbe, 2014). I will use *dramaturgy* as analytical frame derived from predominantly sociologists Goffman (1995) supported by Schwalbe's (2014) ideas on resistance. In this, I'm referring to purposely signifying ideas and categories of identity aspects as performance, in order to resist an established order.

The main research question is formulated as followed:

*How is dramaturgy used by the ACLU in their campaign to signify ideas and categories about the black community in order to construct arguments with the aim of banning facial recognition surveillance implemented by local law enforcement agencies in San Francisco, from 2018 till May 2019?*

Accordingly, this research focused on four sub-questions:

1. How did the ACLU as organization positioned the actors involved in the campaign?
2. How did the ACLU position the practice of facial recognition surveillance?
3. What ideas and categories about the black community did the ACLU use in their arguments against facial recognition surveillance?
4. How did the campaign of the ACLU use arguments about the black community to resist structures of inequality?

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<sup>6</sup> ACLU (2018). "The high-definition, artificially intelligent, all-seeing future, of big data policing'," Derived from <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/high-definition-artificially-intelligent-all> at 20-11-2020.

In order to answer this research question, the campaign of the ACLU will be analyzed through the lens of dramaturgical performance. In the next chapter, this analytical frame and its methodology will be discussed.



## 2. Analytical frame & Academic Debate

In order to answer the research question mentioned in the previous chapter, this section will elaborate on the analytical frame, discuss the research strategy pursued and strategy of data generation. Goffman's dramaturgical perspective plays out on a micro level, i.e. between individuals, and not between a movement and a community on an online platform. As previously mentioned, *dramaturgy* will be used to analyze how the ACLU made claims about facial recognition surveillance by signifying ideas and claims *about* the black community. By the latter I am referring to 1) struggles invoked by socio-historic structures, 2) perceptions of contemporary racial injustices and 3) the social position of the black community, interpreted by the ACLU. In this chapter this dramaturgical perspective will be discussed, followed by the methodology discourse analysis. But first, critique and considerations about the dramaturgical perspective will be discussed.

### 2.1 Analytical frame - Dramaturgy

#### Critique and considerations

Using Goffman's dramaturgical perspective as analytical frame does not come without challenges. Goffman's academic contributions have been largely critiqued by other sociologists for its lack of theoretical base and conceptual inconsistencies (Psathas, 1996; Dell, 2016). Nevertheless, the dramaturgical perspective is still considered as influential as it addresses the intersectionality of behavior, identity construction and power relations in social situations (Dell, 2016; Manning, 2008). In other words, the dramaturgical perspective provides categories for doing descriptive analysis of behavior, rather than 'explaining' a causality. The inability to place Goffman's in a specific school of thought is, to me, evenly as questionable as it is interesting. It leaves room for 'customization', which enables academic freedom. On the same token, this academic freedom implies more control and influence of the researcher which could lead to a "pick and choose as you like" research approach. Therefore, confirmation biases could potentially contaminate inquiry, if not done systematically and organized. The decision to still use the dramaturgical perspective in this research, has to do with the ability of this perspective to address the complex structures that go beyond specific disciplinary approaches. As the ACLU is concerned with making claims and signifying ideas about the racial identity, they do not solely touch upon socio-historic- and political theoretical dynamics, but also technological assumptions and implications. In order to avoid the undesired "pick and choose" approach and minimize biases, I will critically assess the research decisions but also by taking a more structuralist stance on which I will elaborate later.

Dramaturgy as analytical frame is concerned with how social interactions give meaning to a situation, shape expectations, interpretations and create, maintain or destruct a common reality (Goffman, 1959). Dramaturgy focuses on so called 'impression management', where individuals or collective actors act in according to the social rules and norms that are appropriate for other actors involved and context. Therefore, Goffman states, every actor involved in a social interaction is 'performing' a role depending on their audience. The techniques one uses to perform and manage impressions, he calls 'sign vehicles'. As dramaturgy is derived

from theater, these 'sign vehicles' range from clothing, age or facial expressions and carry messages. So, for example, a royal wearing a crown tells us something about one's status and gives clues about how one wants to come across. Obviously, in this case 'sign vehicles' will not consist of clear signs. Rather, they will be perceived as references towards dynamics, through words.

In order to understand which 'sign vehicles' were used to make claims in the ACLU campaign, I will focus on the three main components of his dramaturgical theory: the Performer, Audience and Setting.

## *The Performer*

Performances are actions that construct a 'credible social performer', influenced and altered by its surrounding and depend on others they interact with. Goffman (1959) uses the concept to highlight that performances await a reaction, whether this is confirmative or not. In this research, the ACLU will be perceived as the performer. Nevertheless, the meaning of performer differs from Goffman (1959) definition as the ACLU is not an actor performing in a theatrical play but a civil rights organization. To put it another way, perceiving the ACLU as actor in a theatrical play would ignore the complexity of their societal role. Therefore, the ACLU is characterized as a 'performing body', which selectively presents, responds or interacts strategically to build a credible external case. To become a 'credible performer' one is concerned with "belief in the part one is playing" (Goffman, 1959:17). As the ACLU aimed to ban facial recognition surveillance using the claim that it is harmful to the black community, the audience has to be convinced too. Consequently, this is concerned with organization and power relations in society. To note, with this I am not denying that facial recognition surveillance *wasn't* harmful. Rather I am emphasizing that, similar to Goffman's (1959) performance explanation, convincing an audience was significant.

As the dramaturgical performance is originally the study of dramatical composition in theatre, there is an academic debate about the underlying implication that, the performance, by no means is 'real' (Manning, 2008). This implies that performances should be analyzed and researched for the sake of the performance in that moment and not to base judgement on as it is 'temporarily'. But In this research, I am not concerned with the how 'real' the performances are, since this would consequently deny its real life of the actual ban. Rather performances are perceived as the dynamic between the position of the ACLU as civil rights organizations, the actions taken up- and words used, to link the black community to facial recognition technology as a structure of inequality. This notion where race gets involved with politics is called *ethnopolitics* (Baumann, 1999). In other words, the ACLU campaign as performance is perceived as 'real', with real life consequences as it aims to change policies.

As Manning (2008) argues: "to study an organization is to study not only what people do, but how they rationalize or explain the whys and wherefores of that work" (684). So, in other words, in order to analyze an organization or movement as performer, there are different interactions at play in micro- as well as macro level. In this, I am referring to the discursive dynamics about race and technology but also about legitimacy of the ACLU as civil rights movement. Unlike in Goffman's (1959) explanation of the performer, these dimensions

will be taken into account as these elements constrain, enable or conflict with performances. For example, the ACLU as civil rights organization can be positioned as a 'performing body' with their campaign as they 'behave' accordingly to contemporary 'social norms' of a post-racial society (Rich, 2013). A post-racial society, as coined by Rich (2013), is defined as a discourse on race of the 21st century in the United States, where the notion is that racial ancestry or phenotype in general does not, and should not, determine or influence one's opportunities in life. The paradox of this post-racial society discourse is that, although racist laws are no longer being supported by institutions, acts of racism still occur in society. The ACLU is sensitive to the fact that race potentially still influences one's life, although less 'visible'. So, in other words, the campaign of the ACLU against facial recognition surveillance use, is concerned with the 'discursive norms' about what racism is and how 'invisible' practices might involve race and consequently influence a racial identity.

The ACLU as civil rights organization reconstructs values, norms and assumptions of facial recognition by combining law, i.e. human rights, or rather perceptions of what those rights entail, with identity. It is in this that the ACLU can be categorized as a New Social Movement. As NSM's emerged in the 60's as result of the expression of marginalized social groups, they touch upon constitutional law and human rights in their practice of challenging cultural structures. NSM tactic often involves a focus on culture and meaning, linked to identity (Johnston; Larana & Gusfield, 1996). In definition NSM's are "challengers of codes and carriers of cultural change", where often the focus is on autonomy and recognition (Scholl, 2014. 4). Thus, making identity claims is considered the most distinctive feature of a New Social Movement (NSM). Identity is, therefore, not just 'instrumentally' used, but is also 'expressive' as it aims to penetrate the political realm (Stammers, 2009).

As previously mentioned, the ACLU's performance is one of resistance. Different from Goffman (1959) definition of 'performance' the ACLU campaign does not necessarily perform according to social rules, rather according to the narrative of civil rights movements as they are born out of protest and civil disobedience by African-Americans in the 60s. Civil rights movements are historically concerned with the change of the taken-for-granted social structures. For example, the Brown vs. Board of Education trial in 1954 led to the prohibition of the 'separate but equal' legal doctrine (Brown-Nagin, 2011). Consequently, the segregation of children in schools based on race became unconstitutional and the process school-desegregation was initiated. Inevitably, civil rights movements impact social life and touch upon established social- and cultural rules. Consequently, the acts of this civil rights movement are not *just* perceived as one of resistance, but the movement as an 'body that resists' through the use of performance. As the core of the performance is concerned with a public as well as a political character, it holds the notion that it strategically is challenging patterns that, in this case, hold inequalities in place. Strategically challenging the "definitions of reality purveyed by elites" is what Schwalbe (2014.167) calls 'strategic disruptions'.

Although Manning (2008) focuses on studying an organization as a whole, I am aware of the fact that the website-posts are written by individual authors which may emphasize different elements as they might differ in academic background. But, although these authors may have different specialist backgrounds, for example attorney or policy specialists, assumption here is that the display of that kind of information about the author is aimed to underscore and legitimize the claims that are being made.

## Audience

In an organization or social movement, impression management through the persuasion of one audience is a convincing technique for ‘another audience’ (Manning, 2008). To elaborate, the involvement of representative “audience”, potentially helps persuading others. For example, the support of organizations such as Color of Change or Data for Black Lives can be perceived as a ‘sign vehicle’ for growing legitimacy.<sup>7</sup> As Goffman (1959) argues, an audience is not necessarily witnessing or responding to the performance but is crucial in defining meaning of the situation. In this research, the audience can be perceived as actors that interact with the “performer” – in this case, the ACLU. Based on the aim of the ACLU campaign, I will consider two audiences, who differ in their position of creating meaning. One is the government who had to consider the banning facial recognition and eventually ban it by law. Therefore, this is an audience that responded solely to the sequence, or line, of actions by the ACLU. The other one is the black community, which was more involved with the claims that were made, based upon a collective- identity and struggles. Since the latter will be the primary focus of this research, the black community as audience will be elaborated on. To note, both audiences in this research do not exclusively interact with the performer, rather they are perceived as a “sequentially balanced interaction”, or network (Manning, 2008.680).

As mentioned, using identity claims in politics became more common after organization in the 60’s and 70’s shifted from a focus on economic redistribution to social redistribution (Scholl, 2014). With the latter referring to a shift in focus on redistributing wealth and income, to a focus on gender equality, world peace and racial equality (Scholl, 2014). Social movements with a specific focus on a racial group also enacted around that time. For example, the Black Power Movement, Black Lives Matter or the Black Panther movement, all began to use identity politics by emphasizing racial characteristics in the 60’s and early 70’s. Having a black skin color or black hair became a sign of black emancipation (Dixon, 2018). This is similar to the ACLU campaign as identity claims were made *about* the black community in order to achieve a goal, it does not necessarily exclude them as audience. Because, besides racial *characteristics*, they also emphasized *struggles* concerned with this racial identity. In other words, instead of drawing on potential harmful practices concerned with racial characteristics solely to make a ‘case’, it was also meant to gain support from people with the same racial identity.<sup>8</sup> Consequently in the search for support of this campaign, the link between the algorithmic error and a racial identity was emphasized which can be perceived as mobilizing tactic (Scholl, 2014).

The latter also touches upon a process of ‘Othering’, a term first coined by Edward Said in 1978. With Othering referring to a discursive practice that positions the Other in relation to the self. So inevitably, it implies a dialectic process where the construction of the Other through practices of knowledge production, positions the Self. To note, in Othering there is a power relation that legitimizes domination as these practices

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<sup>7</sup> The organizations Color of Change and Data for Black Lives both design campaigns with the aim of ending racial injustice in society in the United States. Both organizations have over 2 million members challenging political leaders, policies and systems of racial inequality in society with the aim of empowering communities of color. From <https://colorofchange.org/about/> and <https://d4bl.org/about.html> at 3-8-2020.

<sup>8</sup> ACLU (2020) “Man wrongfully arrested because face recognition can’t tell black people apart”. Derived from <https://www.aclu.org/press-releases/man-wrongfully-arrested-because-face-recognition-cant-tell-black-people-apart> at 9-11-2020.

‘essentialize’, or reduces, the Other as “a-historical” and a “quasi-metaphysical subject” (Said, 2003.97). In this case, by using racial characteristics It enables to position the black community as Others. At the same time, the focus on ‘racial struggle’ is accompanied by a notion of ‘recognition’ as it addresses socio-historical inequality structures that caused ‘racial struggles. Nevertheless, by focusing on a racial characteristic or struggles a distinction is created between you vs. them or the Other and the Self (Murji & Solomos, 2005). As in this case identity claims were made with the aim of empowerment, Othering will be perceived as ‘strategic’ in this research.

## *Setting*

“Setting” is the third component of dramaturgy as analytical frame. It is concerned with the techniques that the performer uses not only to govern social events, but also to label, position and identify and organize events happening in their life (Goffman, 1959; Dell, 2016). Goffman’s notion of “setting” can be perceived as the ‘theatrical decor’ in which the performer performs for the audience. In this case, the setting of the performance is on the internet. Therefore, the website will be considered as ‘setting’ of the campaign.

The internet as location for politics enables to give voice to groups that are excluded in society, where its power lies in the claim to provide significant information about, and from, specific groups (Dartnell, 2006). As defined by Goffman, a setting: “tends to stay put, graphically speaking, so that those who would use a particular setting as part of their performance cannot begin their act until they have brought themselves to the appropriate place and must terminate their performance when they leave it” (1959.22). In other words, Goffman emphasizes the physical layout of the performance. Since the ACLU’s campaign primarily played out online, I perceive their website as a primary ‘setting’ of performance.

The ‘setting’ in this case, is solely the platform from which information can be interpreted. But in addition, Goffman (1959) refers to ‘expressive equipment’ or ‘sign vehicles’ to convey a message according to the performance. In this “expressive equipment” refers to for example facial expressions, bodily gestures or clothing. Obviously, these elements are not present on a website. These ‘appearances’, as I perceive them, could be translated into use of language instead. Using the Web as platform for the proliferation of messages: “holds the ability to organize, produces and disseminate messages locally and globally (...) in order to “appeal, convince and attract, as well as legitimize ideas, values and movements” (Dartnell, 2006.20). These ‘expressive equipment’ will be conceptualized according to Schröder & Schmidt’s (2001) concept of violent imaginaries. This concept entails that violence needs to be imagined through narratives, performances or inscriptions in order to come ‘alive’. Since there are no community-based experiences with facial recognition, the possible impact or in this case its result, can be interpreted as ‘imagined’ violence towards people of color. With this referring to how facial recognition surveillance is enabling racial profiling and therefore is harmful for *all* of the black community.

The implication here is that non-state actors also hold the ability to raise new concerns, convey new ideas as sort of ‘electronic politics’ by using certain language. In order analyze how the ‘expressive equipment’ is used by the ACLU, it shifts the focus of interpretation towards discourse analysis.

To conclude, the three components of dramaturgy - *performer, audience and setting* - will be used to identify 'claims as claims' made on the black community, in order to resist legal use of facial recognition.

### 3. Research Design & Methodology

#### 3.1 Research Design

As mentioned, dramaturgy is concerned with how social interactions give meaning to a situation, shape expectations, interpretations and create, maintain or destruct a common reality (Goffman, 1959). In this research, the primary source of data will be text and language used on the website of the ACLU. Therefore, it is involved with the semiotic dimension, which refers to the “use of words in a meaningful way” (Silverman, 2016. 105). In this, referring to the construction of meaning, the articulation of ideas and structuring versions of the world. Nevertheless, use of words to signify ideas and claims about the black community in order to achieve a certain goal also implies the attribution of meaning, according to a given time.

Therefore, the time period from 2018 up and till May 2019 embodies the timetable in which the campaign was actively using claims about the black community with the aim of banning facial recognition. Aligned with Goffman’s (1959.15) view, a performance serves to influence “on a given occasion”. 2018 was perceived as starting point of the ACLU campaign where they specifically involve ‘race’ in their campaign. Although I am aware of the fact that the ACLU posted about facial recognition surveillance prior to 2018, they did not involve the black community up until the beginning of 2018. As their focus on banning facial recognition was primarily concerned with the consequential dimension for black community, I accordingly chose 2018 as starting point for post-analysis. In May 2019, the facial recognition ban went through so consequently, that is considered as the end of active campaigning. To note, this does not mean that the ACLU stopped posting about the ramifications of banning facial recognition surveillance, the ban in other states or its impact on the black community.

Moreover, for the analysis the website posts of the ACLU will be used. With this, online content that has been posted outside of the ACLU website will be excluded. To elaborate, this also entails the exclusion of in-text articles references of posts. In this decision, I am not denying the relevance of other organizations involved who also spread content or support the ACLU on this topic. But in analyzing performances of a specific organization online, consistency is required (Bullingham & Vasconcelos, 2013).

With the aim of understanding how texts and the language used, signify ideas and claims and shape the dramaturgical components, Goffman’s dramaturgical approach will be supplemented by critical discourse analysis (CDA).

#### 3.2. Methodology

##### *Critical discourse analysis - Goffman approach*

In this section, the strategy of data generation will be discussed accordingly to the analytical frame and research design. As mentioned, Goffman’s theory (1959) about dramaturgy focuses on the relationships

and interactions between individuals and society, on micro-level. Therefore, the ontology of his original theory was more rooted in the symbolic interaction as it is concerned with the exchange of- and management of meaning. But in this research, I will take a more structuralist stance in accordance to Giddens's theory (1974) as I focus on the construction of meaning by language, text and actions in the ACLU campaign. This approach emphasizes how agents and structures mutually constitute each other through a dialectic relationship (Giddens, 1974). This does not exclude any symbolic interaction in shaping the rules of social life, but the primary focus is on how these structures are used. As Demmers (2017. 129) stated: "It is through these symbolic *orders* and *codes* of conduct that power is exercised". Thus, this research regards the ACLU as an actor (performer) with agency, operating within discourses, i.e. structures containing symbolic orders and codes of conduct that shape their actions and consequently also influences them. As this research aims to understand how dramaturgy was used to discursively construct ideas and categories about a racial identity, critical discourse analysis (CDA) was chosen as methodology.

Discourse analysis is concerned with how a text and language (re)produce meaning, power and relations, CDA also includes the "representations of how things might or could or should be" (Demmers, 2017. 137). As the ban for facial recognition surveillance passed in May 2019 and the recent focus on the formulation of regulatory policies, implies that their campaign enacts actual practices. These enactments of discourse are referred to as 'materializations of discourse' by Fairclough (2001), which are discursive in and of itself as they become part of 'reality'. In this case, the ban of facial recognition surveillance can be perceived as a 'materialization of discourse' which became part of reality and consequently led to more awareness with regard to the non-neutrality of technology (Skinner, 2020). In order to understand how and why established techno-security projects are being resisted, a certain awareness of the project is needed (Crawford & Hutchinson, 2016). As the ACLU is involved in a process of social change and creating awareness online, it makes CDA a suited method in order to analyze posts.



## 4. Contextualization chapters

### 4.1. *Techno-racial inequality structure*

The question that underlies the lack of ‘localized perceptions of struggle’ or debate in the case of facial recognition surveillance is one that illuminates the difficulty of technological ‘colorblindness’. The aim of this chapter is to contextualize facial recognition surveillance and dynamics involved.

This color blindness is paradoxical as contributes to the reproduction of racial inequality that, in turn, (re)shapes technology as well as society (Daniels, 2015). In this referring to the consequential dimension where ‘race’ gets neglected or ignored which, at the same time, leads to the denial of ‘race’ having consequential impact. As Skinner (2020.87) argues: “race can be buried alive in the legal, discursive practical operations of the government”. In other words, at the core of this paradox lies the tension where *seeing* race or skin color is not perceived as a contemporary problem, while pretending race is *not seen*, is. To translate the latter to the perception of techno-security; it is perceived as neutral and objective in which ‘race disappears from the public radar as it is less obvious in the practice of facial recognition surveillance (Kamaloni, 2019). Consequently, technology creates a ‘real virtuality’ in a post-racial society.

The invisibility of technological structures explains the lack of debate as “the object of information, is never a subject of communication” (Bauman, et al. 2014; Benjamin, 2019.111). But, derived from previous research conducted in San Francisco, there is a possible other explanation. The majority of the black female respondents did not know what facial recognition was, nor did they know how it worked and they didn't even seem to care for this subject.<sup>9</sup> For example, the suggested organizations who focus on racial justice, such as *Young Women Free* and *Alliance 4 girls*, replied that they did not know that facial recognition was banned. An answer for this indifference and notion of resignation towards facial recognition surveillance, can be explained by the theory of ‘Surveillance-Apatheia’, coined by Darren (2020). It is defined as: “( ..) an attitude that individuals learn, which decrease the agitations and anxiety produced by surveillance systems and their associated practices. The attitude stems from the perception that there is little one can do to avoid them, so why concern oneself with deliberation and anxiety of them” (Darren, 2020.19). For example, some respondents from the research stated that there are companies who can still use facial recognition surveillance analysis and sell it to the police, which could point to fear, anxiety or a lack of trust in a positive outcome of this ban. So, in other words, the fear of possible continuation of using facial recognition surveillance in any shape or form illuminates a tension of the invisible link between race and the techno-security sector.

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<sup>9</sup> In March 2020 I went to San Francisco with the aim of doing research on the impact of the ban of facial recognition surveillance on black women. Several researches have shown that facial recognition surveillance software holds a higher degree of leading to false positives with darker-skinned females (Buolamwini & Gebru, 2018; NIST, 2019; Klare, 2012; Zeng et. al.2019). Due to the COVID-19 virus, an early fieldwork research termination in the San Francisco was required for health purposes. Therefore, it was not possible to conduct the number of interviews as planned or to continue the research accordingly to the findings.

So, if banning facial recognition surveillance from a grass-root level was not *perceived* as a way to increase protection from racial profiling, nor decreasing the chance of being racially profiled, why bother addressing it? Naturally, based on data from one research it is insufficient to fully state that signs of unawareness or disinterest from the community helps us understand why there is no debate. On the contrary, the lack of debate or a lack of interest does not necessarily embody the significance of the issue. Similar to how 'not noticing' does not equals the scope of influence. Rather, it this illuminates the tension where a power dynamic that remains invisible, needs visible resistance in order to 'exist'. This shifts the focus to the ACLU who did campaign against this techno-security structure which potentially reproduces racial inequality but remains invisible. A techno-security structure (re)producing racial inequality is what I call a techno-racial inequality structure.

## 4.2. *The ACLU – Public safety in a digital age*

Historically, civil rights movements draw attention to the problems of “taken-for-granted social structures” which impact specific social group (Brown, 2003. 291). The aim of this chapter is to briefly elaborate on the ACLU as organization and provide more information on their campaign.

In 1920 the American Civil Liberties Union (ACLU) was born out of protest against the unlawful arrests of foreign citizens in the “Palmer Raids”.<sup>10</sup> The conditions under which these arrests happened, was considered inhuman and a small group of activists decided to support the immigrants. So, in other words, the ACLU was born out of protest against unrightful law enforcement, the fight for civil rights and freedom of minorities. From that point onwards “the ACLU is committed to restoring fundamental freedoms lost as a result of policies that expand the government’s power to invade privacy, imprison people without due process and punish dissent”.<sup>11</sup>

The ACLU of Northern California first reported in 2016 about the decisive role of predictive, technological methods in policing. They draw attention to the consequences for the civil rights and civil liberties when using these predictive policing methods such as facial recognition surveillance. The core of their concern lies in the fact that these predictive methods rely on a database from a “racially biased police force”.<sup>12</sup> Therefore, they question whether or not the use of facial recognition will be feedback loop in the reproduction racial inequality structures. As they stated: “predictions are only as good as the underlying data used to make them”.<sup>13</sup> Furthermore, it is rather notable that this issue did not take up a dominant position in the public

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<sup>10</sup> The ‘Palmer Raids’ occurred in the time of the “red scare” after World War I. In this, referring to the raids and arrests of over 500 foreign citizens being deported. Without the constitutional protection, the circumstances in which these arrests occurred were considered inhumane by activists. Consequently, the ACLU was born. Derived from <https://www.aclu.org/about/aclu-history>

<sup>11</sup> ACLU (n.y). “ACLU History”. Derived from <https://www.aclu.org/about/aclu-history>

<sup>12</sup> ACLU (2016). ‘Power loves the Dark’. Derived from <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/power-loves-dark/> at 5-08-2020.

<sup>13</sup> Ibidem. 05-08-2020.

debate<sup>14</sup>. So, after conducting their own research on this subject, they demanded Amazon to put a break on the sell of facial recognition surveillance software, as it would “disproportionately misidentify black and brown people”.<sup>15</sup> In other words, statistics primarily shaped the base of their campaign.

In addressing the dangers and consequences of facial recognition surveillance use with the police for the colored community, it is not surprising that the ACLU also gains support of organizations concerned with racial justice and civil rights. In May 2018, several organizations concerned with civil rights, civil liberties, racial justice and immigrant rights joined forces with the ACLU and collectively wrote the first letter to the founder and chief executive Officer of Amazon.<sup>16</sup> Through this, publicity grew through responses from tech-giants like Google and Microsoft declaring to stop the software use.<sup>17</sup> In addition to this, examples of similar identification problems with the software in other domains, such as at the airport, concerts and even Facebook<sup>18</sup> were investigated by the ACLU. When on May 19<sup>th</sup> 2019 the San Francisco Board of Supervisors voted in favor of the ban of facial recognition surveillance, the ACLU responded: “this law sets a strong standard for public safety in the digital age”.<sup>19</sup>

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<sup>14</sup> ACLU (2019). “ACLU statement on Unanimous Vote to Advance San Francisco Surveillance Oversight Law and Facial Recognition Ban”. Derived from <https://www.aclunc.org/news/aclu-statement-unanimous-vote-advance-san-francisco-surveillance-oversight-law-and-facial> at 5-08-2020.

<sup>15</sup> ACLU (2020). “Microsoft Says it supports Racial Justices. Will it Refuse to Power Discriminatory Police Surveillance”? Derived From <https://www.aclu.org/news/privacy-technology/microsoft-says-it-supports-racial-justice-will-they-refuse-to-power-discriminatory-police-surveillance/> at 5-08-2020.

<sup>16</sup> ACLU (2018). “Coalition Letter”. Derived from [https://www.aclunc.org/docs/20180522\\_AR\\_Coalition\\_Letter.pdf](https://www.aclunc.org/docs/20180522_AR_Coalition_Letter.pdf) at 05-08-2020.

<sup>17</sup> ACLU (2019). “Coalition Letter to Amazon Urging Company commit not to release face surveillance product”. Derived from <https://www.aclu.org/coalition-letter-amazon-urging-company-commit-not-release-face-surveillance-product> at 05-08-2020.

<sup>18</sup> ACLU (2019). “A federal court sounds the Alarm on the Privacy Harms of Face Recognition Technology”. Derived from <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/federal-court-sounds-alarm-privacy-harms-face/> At 5-08-2020.

<sup>19</sup> ACLU (2019). “San Francisco Board of Supervisors Approves Historic Face Surveillance Ban and Oversight Law”. Derived from <https://www.aclunc.org/news/san-francisco-board-supervisors-approves-historic-face-surveillance-ban-and-oversight-law>. At 5-08-2020.

## 5. Analysis

In this first chapter, the focus will be on the positioning of the ACLU as performer, their legitimation for involvement as they shape the base for constructing their audience. To become a 'credible performer', an organization or movement should be concerned with the way they become *situational* meaningful to their perceived audience (Manning, 2008). The ACLU as performer or performing body is challenging normalized means used in the techno-security. In order to challenge this, the ACLU is concerned with the discourse around 'race', as discourse 'writes' social rules which tell what is perceived right of wrong in society (Brown, 2003).

### 5.1. "True" public safety

In the definition of racial profiling as a: "discriminatory practice where any police-initiated action is solely based on race, ethnicity national origin, gender or religion and is unreasonably used in law enforcement" (Birzir, 2012. 13-14). But in the case of facial recognition surveillance, the 'invisibility' makes it difficult to pinpoint who exactly is racial profiling. So consequently, the question arises 'what' or 'who' one is campaigning against in order to stop legal use of facial recognition surveillance software?

In June 2018 the ACLU posted an article about the facial recognition surveillance. For the first time, they positioned themselves within the debate about facial recognition after over 150.000 people signed a petition to stop the sell of facial recognition software 'Rekognition' from Amazon to the police.<sup>20</sup> In this post, they're predominantly concerned with, not just explaining the danger of the software, but moreover with constructing Amazon as the enemy of 'true public safety': "By making this dangerous technology cheaply and easily available, Amazon is uniquely positioned to spread face surveillance throughout government agencies, and it has been working behind the scenes to do so for years. Documents obtained by the ACLU reveal Amazon is aggressively marketing its Rekognition face surveillance tool to law enforcement in the United States, and even helping agencies deploy it. True public safety – especially for people of color (...) requires that we stop the spread of face surveillance before it is too late".<sup>21</sup>

Derived from the quote, the ACLU is not just positioning the software as dangerous or the ones employing it, i.e. police departments, but emphasis is on the ones selling facial recognition software. Language used such as 'dangerous', 'aggressively', 'easily available' can be interpreted as used to create the association between endangering public safety for the people of color and Amazon deploying *and* enabling that by selling facial recognition software. In addressing the engagement of Amazon in this practice, they seem to aim to counter the notion of 'neutrality' or 'innocence' of the "Earth's most customer-centric company" as they

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<sup>20</sup> ACLU (2018) "Over 150,000 people tell Amazon: Stop Selling Facial Recognition Tech to Police". From <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/over-150000-people-tell-amazon-stop-selling-facial/> at 24-07-2020.

<sup>21</sup> ACLU (2018) "Over 150,000 people tell Amazon: Stop Selling Facial Recognition Tech to Police". From <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/over-150000-people-tell-amazon-stop-selling-facial/> at 24-07-2020.

emphasize Amazon's involvement in the (re)production of discriminatory structures.<sup>22</sup> In other words, the ACLU seems to label Amazon strategically in order to "induce others to contravene the norm of politeness and express anger", and disrupt their self-proclaimed identity of customer-centric implying that of neutral (Schwalbe, 2014. 167).

Consequently, the ACLU seems to construct the notion where Amazon is being the perpetrator and therefore needs to be stopped. In this it is notable how Amazon's identity of 'perpetrator' or 'enemy' is generalized based on arguments about how Amazon is deliberately endangering communities of color by selling of facial recognition surveillance software.<sup>23</sup> So in other words, the ACLU is not necessarily constructing a 'new identity' of Amazon but moreover seems to try shifting their *public identity*. In this referring to the public perception of Amazon as company (Scholl, 2014).

The latter can be viewed as a 'strategic disruption' in order to "induce others to contravene the norm of politeness and express anger" (Schwalbe, 2014. 167). For example, in opposing the arguments of the ACLU, Amazon stated that the software was "easy and accurate" in "identifying people of interest who endanger public safety" and not *necessarily* people of color.<sup>24</sup> In response to this, the ACLU stated that Amazon "did not seem to be getting the message" as they did not plan to stop the sell of the software.<sup>25</sup> The message that they refer to is how the software is threatening civil rights and public safety, and specifically the rights and public safety of the colored community. But using a word like 'message', refers to the exchange of a piece of (yet unknown) information.<sup>26</sup> This implies that, although Amazon is producing the security software that is used by the government, the ACLU is strategically and publicly challenging their monopoly on knowledge about their product. In other words, by using strategic disruption the ACLU is publicly *frame* Amazon's accountability for the algorithmic outcome and therefore potential reproduction of racial inequality structures, on the one hand, but also *claim* their incapability of being accountable for something like that. Accountability refers to the situation where one can be subject to the request to explain one's behavior (Schwalbe, 2014). In this case, the latter draws attention to how the meaning of 'public safety' is being transformed by the ACLU since Amazon is 'not willing to stop the sell' and 'not getting the message' about how harmful their software potentially is.

The ACLU therefore positioned 'public safety' as 'not for everyone' according to Amazon which consequently implies that this facial recognition software is not enabling 'true' public safety, rather 'selective' public safety. In order to visualize this, the ACLU conducted its own research with the software. They used 28 members of Congress and a database of mugshots. Before addressing results, it is notable that the ACLU had chosen to use members of Congress for this 'test' as they are involved with legislation and passing laws. This

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<sup>22</sup> ACLU (2018) "Amazon Teams up with Government to Deploy Dangerous New Facial Recognition Technology". From: <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/amazon-teams-government-deploy-dangerous-new/> at 27-07-2020.

<sup>23</sup> Ibidem. 24-07-2020

<sup>24</sup> ACLU (2018) "Amazon Teams up with Government to Deploy Dangerous New Facial Recognition Technology" from: <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/amazon-teams-government-deploy-dangerous-new/> at 29-07-2020.

<sup>25</sup> Ibidem, 24-07-2020

<sup>26</sup> The word "Message" derived the Cambridge English Dictionary means 'a short piece of information that you give to a person'. From <https://dictionary.cambridge.org/dictionary/english/message> at 29-07-2020.

act could be interpreted as a strategic one. For one, with the purpose to gain support from individuals involved with law passing. But also, to emphasize that it is potentially harmful for *all* black individuals but also threatens civil rights. This example also shows how ethnopolitics are involved in this campaign.

Results showed that the incorrect matches consisted of people of color.<sup>27</sup> In the attribution of meaning to these results, the ACLU emphasized the historicity of present-day confrontations with racial inequality: “If law enforcement is using Amazon Rekognition, it’s not hard to imagine a police officer getting a ‘match’ indicating that a person has a previous concealed-weapon arrest, biasing the officer before an encounter even begins. People of color are already disproportionately harmed by police practices, and it’s easy to see how Rekognition could exacerbate that”.<sup>28</sup> Therefore, by linking the ‘black body’ to practices of inequality, they position facial recognition surveillance in the wider dynamic of police violence.

So, to conclude, the ACLU did hold Amazon *accountable* for the reproduction of racial inequality structures by selling potentially harmful software for people of color. Yet, they were positioned as *incapable* of understanding the need to stop as they would lack knowledge about their product. Whereas surveillance is a security measurement used as a protective tool for the society as a whole, it does not mean that the society that is under surveillance, is a homogenous group. The latter is emphasized by the ACLU by underscoring socio-historic structures of racial inequality. Therefore, next chapter will be concerned with how the ACLU is positioning their audience, i.e. the black community, as ‘other’ in this debate.

## 5.2 Emphasizing the practice of Othering

In the campaign of the ACLU they emphasized the legitimacy to act, which was embedded in the (constructed) vulnerability of the Other, shaped through race related historic events. In this, I am not denying that the black community is not a vulnerable group in society. Rather, in highlighting the ‘moral’ of the civil rights movement allows to contextualize and connect the use of words with associations with and ideas about the black community. This was also used as argument by the ACLU: “Racial justice and civil liberties advocates nationwide are demanding that Amazon stop making face surveillance technology available to the government. They are guided by a long history of surveillance technologies being used against vulnerable communities, including protest groups like Black Lives Matter, immigrants, and religious minorities”.<sup>29</sup> Derived from the quote, referencing to the other actors who are concerned with racial justice they not only legitimize their own involvement. At the same time, it amplifies how a colorblind, technological practice such as facial recognition surveillance is predominately problematic for colored people, and always have been. So, in other

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<sup>27</sup> ACLU (2018). “Amazon’s Face recognition falsely matched 28 members of congress with mugshots. From <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/amazons-face-recognition-falsely-matched-28> at 30-07-2020.

<sup>28</sup> Ibidem, 30-07-2020.

<sup>29</sup> ACLU (2018) “Over 150,000 people tell Amazon: Stop Selling Facial Recognition Tech to Police”. From <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/over-150000-people-tell-amazon-stop-selling-facial/> at 24-07-2020.

words, the ACLU problematized facial recognition surveillance by positioning people of color as vulnerable. The assumption here is that, one who is identified as 'vulnerable' or rather as target of a potential discriminatory and invisible practice such as facial recognition, needs help.

As Demmers (2017.124) states: "power consists in the ability to make others inhabit your story of their reality". In other words, in the ability to *create* of a reality, lies power. In this case, the ACLU is questioning 'intentions' of the ones using the facial recognition software. In order to substitute this suggestion, they drew a parallel using Martin Luther King Jr. King Jr. as leader of the civil rights movement in his time (1955), advocated for black rights and equality. As a black political leader, the ACLU argues, King Jr. had to deal with surveillance of the FBI in his time. In a post of the ACLU titled as: "Martin Luther King Jr. offers a lesson on why we should be worried about Amazon and the FBI", the FBI is deploying the facial recognition software made by Amazon.<sup>30</sup> Notably, using the word 'lesson' as it implies a relevant parallel between the contemporary situation of how facial recognition surveillance was targeting black communities historically. The underlying assumption here is not only that we *could* draw lessons from this historical situation, but also that one *should*. For example: "The FBI that spied on King and today classifies Black civil rights activists as 'extremists' is now partnering with Big Tech to amass unprecedented surveillance powers that history has taught us will be used to target communities of color".<sup>31</sup> In this sentence, they refer to the notion where historically, technology was used to deliberately target the black community and continues to do so. In this, not only the FBI is positioned as an enemy of 'communities of color' since they would use the facial recognition software of Amazon, but they also deliberately continue to target 'communities of color'. Interestingly, the facial recognition surveillance itself is here again not necessarily positioned as harmful. Rather, the ones arming the government and the ones using it, "despite warnings from lawmakers, academics, consumers, employees and shareholders" are.<sup>32</sup> Using the word 'despite' substitutes the notion that the software is deliberately and intentional used, *although* several warnings about the potential harm for communities of color. The implication here is that there are other perceived reasons for continuation of facial recognition surveillance despite the warnings. Consequently, the focus is being drawn towards what these motives and intentions are according to ACLU?

Socio-historical structures are significant for how a black person could be perceived nowadays (Fredrickson, 2002). The 'black body' historically is a significant identity marker which allows others to categorize individuals as it contains the symbolic link to slavery, racial segregation and inequality (Fredrickson, 2002). Although the laws for racial segregation were abolished in 1965, years of racial inequality was reproduced in discourse instead of in laws. So, in tandem with the black emancipation movements in the 60s and 70s, 'black inferiority' was translated into stereotypes. For example, black people in the media were presented as dangerous, angry or addicted (Moody, 2012). Consequently, these negative connotations

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<sup>30</sup> ACLU (2019) Martin Luther King Jr. offers a lesson on why we should be worried about Amazon and the FBI <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/martin-luther-king-jr-offers-lesson-why-we-should/> at 30-07-2020.

<sup>31</sup> Ibidem. at 30-07-2020.

<sup>32</sup> Ibidem. at 30-07-2020.

attached to characteristics of the black body as a product of the socio-historic structures became pervasive stereotypes which enabled the continuation of discriminatory structures (Bonam, 2017; Welch, 2007). The pervasiveness of black stereotypes is also addressed in a post by the ACLU: “Although the majority of individuals who shot and killed police officers in 2016 are white, the FBI appears to be allocating investigative resources to surveil Black people based on unsupported allegations that a shared ideology linked to “Black identity” is motivating violence against law enforcement”.<sup>33</sup> Derived from this sentence, they position the surveillance of black people by the local authorities as ‘unlawful’. Unlawful in the sense that the link between violence and ‘being black’ stems from perceptions about the “black identity” and not data-driven nor intelligence-led. So, in other words, the ACLU is emphasizing how surveillance operates differently among society i.e. not just because of algorithmic errors, but also racial stereotypes.

To conclude, by emphasizing the ‘Other’ in different ways, the ACLU seems to be instigating the notion that it is not just ‘statistical Othering’, i.e. biased results of facial recognition, but also ‘societal Othering’ as problematic in the use and deployment of facial recognition surveillance. With ‘societal Othering’ referring to the socio-historic structures that also encompass prejudices on the basis of a racial identity. Without stating the obvious, the ACLU reinforced boundaries along racial lines to emphasize the ones benefiting from the facial recognition surveillance as protective means, and the ones who do not. In this, they denounce the notion of facial recognition surveillance neutrality, objectivity and the ability to protect the whole of society.

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<sup>33</sup> ACLU (2019). “ACLU and Center for Media Justice Sue FBI for records on Surveillance of Black activists”. From <https://www.aclu.org/press-releases/aclu-and-center-media-justice-sue-fbi-records-surveillance-black-activists> at 7-08-2020.



## 6. Conclusion

In this research, the dramaturgical perspective of Goffman (1959) was used to analyze how the ACLU signified ideas and categories about the black community in order to construct arguments with the aim of banning facial recognition that was used by local law enforcement agencies in San Francisco between 2018 and May 2019.

In multiple ways, the ACLU has used language to signify ideas and categories about the black community in order to position other actors involved but also to create a reality around facial recognition surveillance. In this research, I have identified two intertwined dynamics in which both racial characters and socio-historical structures, shape the base. A core element of the latter is the process of 'Othering'.

By using the 'vulnerability' of the black community, consequential to the misidentifications of facial recognition surveillance software, the ACLU problematized *the users* as well as the *software*. In other words, the ACLU did not only make identity claims on the black community in order to define their own position. Findings show that the emphasis of the ACLU campaign was predominantly on 'Othering' the black community. Not because the ACLU necessarily perceived them as 'Others' in this techno-security case, but because it shaped the context in which the other actors were positioned as outsiders. By emphasizing socio-historic structures, the black community was positioned as 'vulnerable' in the debate around facial recognition surveillance.

In focusing on the *users*, the ACLU framed Amazon and the FBI as enemies of 'true' public safety as facial recognition surveillance only enabled 'selective' public safety. In this, the ACLU emphasizes how the black community is excluded from public safety but also potentially harmful. By contextualizing this against the background of racial inequality structures and by drawing a parallel between historical- and contemporary practices, the ACLU created an *accountable yet unwilling* reality around the users. With this referring to, on the one hand, being responsible for the algorithmic misidentifications. Yet, on the other hand, unwillingness to stop the sell and use of it. In other words, they position the users as prohibitors of equal public safety.

The latter was substituted by conducting their own research using the facial recognition software. Since the ACLU as civil rights organization was born out of protest against unrightful law enforcement and the fight for freedom of minority, their involvement gained more legitimacy. This act showed how ethnopoltics were used with the aim to gain legislative support. Therefore, ethnopoltics were not only used to emphasize the need of the ban, but at the same time, legitimize their own involvement and exclusion of other actors with an opposite opinion.

Consequently, by the emphasis on racial characteristics and socio-historical structures of racial inequality to frame themselves and others, facial recognition surveillance software was positioned as no longer neutral or objective. With the latter claiming that the surveillance is, according to the ACLU, not intelligence-led nor data-driven. Rather they emphasize how race is indeed practice incorporated as an axis of algorithm in security management. Consequently, actors involved opposing the ban or using the software were positioned as enemies or perpetrators of *racial equality*. So, in using dramaturgy the ACLU was able to use 'race' as sign vehicle to create a reality around facial recognition surveillance, their own position and other actors with the use of language.

## 7. Reflection on the data

An interesting notion derived from the data is that the black community was a subordinate audience in contrast with the focus on actors denying that facial recognition surveillance potentially could be harmful. An explanation for this could be due to the lack of actual, known encounters of black people who perceive facial recognition surveillance to be discriminatory. At the same time, I find this an interesting outcome. For one, in order to formulate proper regulations the ACLU stated in a letter that the voices of the community need to be part of this because: *“they [surveillance technologies] are a threat, and they will be more so when each of those technologies can be linked together, this conversation must become a loud and vigorous national debate”*.<sup>34</sup> So, in other words, local protest is needed in order to formulate proper policies to prevent wrongful tracking or misidentifications in the future. To put it in other words, race and racial characteristics balance between being an identity marker attached to a body but also a tool used to achieve a political goal. This illuminates that race, is not *either* an identity marker *or* a political tool. Rather, these characteristics cannot be analyzed without taking the other one into account.

Without denying good intentions of the ACLU, I question the effectivity of pursuing the facial recognition surveillance ban with the purpose of decreasing racial inequality structures. For one, since the emphasis is on how facial recognition surveillance is harmful for the black communities, the ACLU neglects the fact that it is still a security tool used to protect society. In other words, facial recognition surveillance does not fail every time, with every black person.

Secondly, as Schwalbe (2014:170) argues, the power of bodily features as sign is important to highlight when using the body as ‘peremptory signifier’ in order to resist. The power dynamic of bodily features can be read as signs which affect the meaning of situations and actions. Therefore, this needs to be taken into account in order to prevent the reproduction of inequality structures (Schwalbe, 2014). For example, on a larger scale the same thing is happening now with the worldwide resistance against police brutality. The black community took matters into their own hands by demonstrating and rioting after the death of George Floyd.<sup>35</sup> When the body is used as peremptory signifier in order to resist but is discredited by the audience “a process leading to self-fulfilling prophecy can arise” (Schwalbe, 2014: 170). This can also be identified in the social media trend where people use #AllLivesMatter, in response to the #BlackLivesMatter. By using this, they neutralize and divert attention from violence against black Americans from- and deathly

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<sup>34</sup>ACLU (2019). The high-definition, artificially intelligent, all-seeing future of Big Data policing. Derived from <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/high-definition-artificially-intelligent-all> at 19-11-2020.

<sup>35</sup>George Floyd, an African American man, was killed during an arrest in Minneapolis. The officer who killed him knelt on his neck for 8,5 minutes. CNN (2020). Protests across the globe after George Floyd’s Death. Derived from <https://edition.cnn.com/2020/06/06/world/gallery/intl-george-floyd-protests/index.html> At 12-08-2020.

encounters with the police. Consequently, this emphasizes a dividing line between predominately black and white Americans.<sup>36</sup>

When translating this to the ACLU campaign and their strategic Othering practice without involvement of the black community, chances are that black Americans who need to be involved in the formulation of regulatory policies will not come forward. Derived from previous research conducted on facial recognition surveillance and its impact on black women, structures of racial (in)security were emphasized. On the one hand, they appeared to be highly visible and therefore more vulnerable to algorithmic misidentifications. At the same time, security was found in the community and the habits taught by them in order to self-securitize. On the same token, this same community is, relatively to the white community, more subject to discriminatory practices based on their skin color in policing practices.<sup>37</sup> In other words, facial recognition surveillance or its ban was not perceived as a pressing issue.

On the contrary, the ban on facial recognition surveillance and efforts that went into it also create awareness and could open up the debate about techno-racial inequality structures within the black community. As mentioned, surveillance as colorblind technology leaves race 'invisible'. Consequently, encounters with technology are categorized as an experience. But with statistics as prove for race being as influential in these structures, could leave more room for the black community to get involved. Therefore, a recommendation for further research is to shift focus towards campaigns who focus on techno-racial inequality structures and perceived effectiveness of them according to the black community.

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<sup>36</sup> CNN (2020). Why saying 'All Lives Matter' misses the big Picture. Derived from <https://edition.cnn.com/2020/06/23/opinions/all-lives-matter-misses-the-big-picture-baker/index.html>

At 12-08-2020.

<sup>37</sup> From Racial & Identity profiling advisory board - Annual Report 2020.

# Bibliography

- Benjamin, R. 2019. *Race after Technology: Abolitionist tools for the New Jim Code*. Newark: Polity Press.
- Benford, R. 1992. Dramaturgy and Social Movements: The social construction and communication of power. In *Social Inquiry*. 62 (1).
- Beutin, L. 2017. Racialization as a way of seeing: The limits of Counter-Surveillance and police reform in *Surveillance & Society*. 15(1).
- Birzer, M. L. 2012. *Racial Profiling: They stopped me because I'm...!*. United States: Taylor & Francis Inc.
- Bonom, C.M., Taylor, J. V., Yantis, C. Racialized physical space as cultural product. 2017. In *Social and Personality Psychology Compass*. 11(9),
- Browne, S. 2016. *Dark matters: on the surveillance of blackness*. New York: Paw-prints.
- Brown, D.K. 2003. Goffman's Dramaturgical sociology: Developing a meaningful Theoretical context and Exercise involving "Embarrassment and Social Organization". In *Teaching Sociology*. 31(3).
- Bullingham, L., Vasconcelos, A. 2013. The presentation of self in the online world: Goffman and the study of online identities. In *Journal of Information Science*. 39(1).
- Buolamwini, J., Gebru, T. 2018. Gender Shades: Intersectional Accuracy Disparities in commercial gender classification in *Proceedings of Machine Learning Research*. 81 (1).
- Crawford, A., Hutchinson, S. 2016. Mapping the contours of 'everyday security': Time, space and emotion. *British Journal of Criminology*. 56(6).
- Daniels, J. 2015. My Brain Database Doesn't See Skin Color: Color-blind racism in the technology industry and in Theorizing the Web in *American behavioral Scientist*. 59 (11).
- Darren, E. 2020. Techno-Securitization of Everyday Life and Cultures of surveillance Apatheia in *in Science as Culture*. 29 (1).
- Dartnell, M. 2006. *Insurgency online: web activism and global conflict*. Canada: University of Toronto Press.

Dell, J. 2016. Extending Goffman's Dramaturgy to Critical Discourse Analysis: Ed Burkhardt's Performance after the Lac Megantic Disaster. In *Canadian Journal of Communication*. 41 (4).

Demmers, J. 2017. Theories of violent conflict: an introduction. London: Taylor & Francis Group.

Dixon, M. 2018. The influence of Slavery on the Black Body: Black Lives Matter's intersectional Methodology and New Advancements. Phd diss., University of New York.

Fairclough, N. 2001. Critical Discourse Analysis as a method in social scientific research. In R. Wodak and M. Meyer (Eds.). *Methods of critical discourse analysis*. London: Sage Publications.

Fredrickson, G.M 2002. *Racism: A short history*. United Kingdom: Princeton University Press.

Graham, S. D. N. 2005. Software-sorted geographies in *Progress in Human Geography*. 29(5).

Goffman, E. 1959. *The presentation of Self in Everyday Life*. New York: Doubleday Anchor Books.

Hohle, Randolph. 2012. *Black Citizenship and Authenticity in the Civil Rights Movement*. London: Taylor & Francis Group

Johnston, H., Larana. E., Gusfield, J. 1996. *New Social Movements: from ideology to identity*. Philadelphia: Temple University Press.

Kamaloni, S. 2019. *Understanding Racism in a post-racial world*. London: Palgrave Macmillan.

Klare, B.F., Burge, M.J., Klontz, J.C., Bruegge, V & Jain. A. K. 2012. "Facial recognition performance: role of demographic information "in *IEEE transactions on information forensics and security*. 7(6).

Kloppenburger, S., Ploeg van der, I. 2020. Securing identities: biometric technologies and the enactment of Human Bodily Differences in *Sciences as Culture*. 29(1).

Lynch, J. 2019. *Face off: "Law enforcement use of face recognition technology"*. Retrieved from <https://www.eff.org>

Manning, P. 2008. Goffman on Organizations. In *Organization studies*. 29(5).

Naker, S., Greenbaum, D. 2017. Now you see me: Now you still do: Facial recognition technology and the growing lack of privacy. *Boston University Journal of Science and Technology Law*. 23(1).

National Institute of Standards and Technology (NIST). 2019. Face recognition Vendor Test (FRVT) Part 3: Demographic effects. Retrieved from <https://www.nist.gov/programs-projects/face-recognition-vendor-test-frvt-ongoing>

O'Neil, C. 2016. *Weapons of Math Destruction: How Big Data Increases Inequality and Threatens Democracy*. New York: Crown Publishing Group.

Omi, M., Winant, H. 1994. *Racial Formation in the United States*. London: Routledge.

Petit, P. 2020. Everywhere Surveillance: Global surveillance regimes as Techno-securitization in *Science as Culture*. 29 (1).

Psathas, G. 1996. Theoretical perspectives on Goffman: critique and commentary. In *Sociological Perspectives*. 39(3).

Said, E. 2003. *Orientalism*. United Kingdom: Penguin Books.

Scholl, C. 2014. *The New Social Movement*. United Kingdom: Elgar Publishing.

Schröder, I., Schmidt, B. eds. 2001. "Introduction: Violent imaginaries & Violent practices" in *Anthropology of violence and conflict*. New York: Routledge.

Schwalbe, M., Shay, H. 2014. Dramaturgy and Dominance. J.D McLeod et. Al. (Eds.). *Handbook of the Social psychology of Inequality*. United States: Springer Sciences.

Sharma, S. 2003. Beyond "Driving while Black" and "Flying While Brown": Using intersectionality to uncover the Gendered Aspects of Racial Profiling in *Columbia Journal of Gender and Law*. 12(2).

Silverman, D. 2016. *Qualitative Research*. New York: Sage Publications Ltd.

Skinner, D. 2020. Race, racism and identification in the Era of Techno security in *Science as Culture*. 29(1).

Srivastava, P., Hopwood, N. 2009. A Practical Iterative Framework for Qualitative Data Analysis in *International Journal of Qualitative Methods*. 6(1).

Stammers, N. 2009. *Human Rights and social movements*. USA: Pluto Press.

Szalma, J.L. .2009. Individual differences in human–technology interaction: incorporating variation in human characteristics into human factors and ergonomics research and design in *Theoretical Issues in Ergonomics Science*. 10(5).

Weber, J., Kämpf, K.M. 2020. Technosecurity Cultures: Introduction in *Science as Culture*. 29(1).

Welch, K. 2007. Black criminal stereotypes and racial profiling in *Journal of contemporary criminal justice*. 23(3).

Wilson, B., Hoffman, J. Morgan, J. 2019. Predictive Inequity in Object Detection. Georgia: Georgia Tech.

Zeng, Y., Lu, E., Sun, Y. & Tian, R. 2019. Responsible Facial Recognition and Beyond.