Digital Identity Entrepreneurs

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INTRODUCTION

"Analog girl in a digital world."

— Erykah Badu, *… & On*[1]

"He allowed himself to be swayed by his conviction that human beings are not born once and for all on the day their mothers give birth to them, but that life obliges them over and over again to give birth to themselves."

— Gabriel García Márquez, *Love in the Time of Cholera*[2]

Identity entrepreneurship has taken on dramatic new digital forms. Since Nancy Leong first articulated the phenomenon in 2016 as the process whereby "out-group members leverage their out-group status to derive social and economic value for themselves," identity entrepreneurship has expanded into a booming enterprise that penetrates every dimension of contemporary life.[3]

Today, identity entrepreneurship converges with a proliferating diversity and inclusion mandate and market, where big businesses are capitalizing on it–or the mere appearance of it–to "boost" their profits.[4] This is particularly the case within a digital landscape, where the presentation of diversity and inclusivity is easier to curate on timelines and a cottage

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[1] Erykah Badu, *… & On*, on Mamas Gun (Motown Records 2000).

[2] Gabriel Garcia Marquez, Love in the Time of Cholera 232 (Edith Grossman trans., Alfred A. Knopf 1988).

[3] Nancy Leong, *Identity Entrepreneurs*, 104 Calif. L. Rev. 1333, 1334 (2016).

[4] *See* Bianca Miller Cole, *8 Reasons Why Diversity and Inclusion Are Essential to Business Success*, Forbes (Sep. 15, 2020, 7:00 AM EDT), https://perma.cc/HZ3S-UC7B.

industry of individuals prepared to put their skin in the game is growing and in seemingly endless supply. Online and on our screens, the longstanding order of "racial capitalism" is being warped by a new frontier of "surveillance capitalism," where the product is both the digital consumer and the digital identity entrepreneur.[5]

This digital capital exchange is readily on display on our social media feeds. Global brands like Adidas showcase Muslim women with headscarves on their Instagram timelines to meet mainstream sensibilities of multiculturalism.[6] Abercrombie & Fitch, a clothing company with a track record of anti-Asian racism, features Asian models on their Instagram page to appear inclusive.[7] This new order of digital marketing creates avenues for social media "influencers" who fit the mold to fill these roles. This is the brave new stage of identity entrepreneurship, where the *analog* observations made by Nancy Leong in her book, *Identity Capitalists*, are digitally unfolding on screens to the tune of high social, economic, and existential stakes.[8]

In living color, and in real time, social media platforms have emerged into consequential terrain where the cross-industry enterprise of diversity and inclusion is shaping a new cottage industry for identity capitalists. This marketplace is not limited to private businesses, but also civic, advocacy, and other realms of virtual life where the value of subaltern identity–for both sides of the racial capitalist exchange–is at its apex. While digital identity entrepreneurship may appear to be a symbiotic relationship that benefits both parties in the exchange, its effects–echoing the observations made by Leong–are just as damaging online as they are beyond it.

The rise of digital media, converging with the expanding economy of diversity and inclusion, has birthed a new breed of identity capitalist–the digital identity entrepreneur. Upon the Internet, "the most unregulated social experiment of our time," the market of digital identity capitalism and exchange gives Leong's book even greater urgency in these strange times

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[5] *See generally* Nancy Leong, *Racial Capitalism*, 126 HARV. L. REV. 2151, 2194 (2013) [hereinafter Leong, *Racial Capitalism*] (articulating how the law drives the process of institutions, such as colleges and universities, deriving social and economic value from racial identity); SHOSHANA ZUBOFF, THE AGE OF SURVEILLANCE CAPITALISM: THE FIGHT FOR A HUMAN FUTURE AT THE NEW FRONTIER OF POWER (2019) (explaining the leading study on surveillance capitalism—the regime spearheaded by Google whereby Big Tech entities use predictive algorithms to ascertain individual consumption and behavioral patterns).

[6] *E.g.*, Adidas, Instagram (June 9, 2021), https://perma.cc/EEQ9-969F.

[7] *E.g.*, Abercrombie, Instagram (Jan. 10, 2022), https://perma.cc/2P79-YYNR.

[8] *See generally* NANCY LEONG, IDENTITY CAPITALISTS: THE POWERFUL INSIDERS WHO EXPLOIT DIVERSITY TO MAINTAIN INEQUALITY (2021) [hereinafter LEONG, IDENTITY CAPITALISTS].

unfolding before our eyes, and on our screens.[9]

I.   The Cost of Identity

I first heard the term "influencer" in 2019. I was in Nairobi, Kenya, as part of a humanitarian trip raising awareness and funds for cataract-stricken refugees in the northeastern part of the country. The mission's head introduced me, and other members of the collective, as "influencers." It was a curious title, stripped of what we actually did as musicians and professors, actors and advocates. Our myriad roles were flattened into an ability to effect opinion or influence followers to pay attention to the plight of blinded Somali refugees and donate money for their corrective surgeries.

The cause was a noble one. But the term and title "influencer" introduced me to a developing market, off and particularly *online*, that capitalized on the social reach of online personalities. The more followers an influencer has, the more eyes on the cause or product featured on the individual's platform.[10] *Mediakix*, one of the first marketing agencies to focus on influencers, defines this new class of pitchmen and women accordingly:

> Social media influencers develop a following by sharing quality content that inspires, entertains, informs, and connects them with their followers. Influencers start social conversations, drive engagement, and set trends among a receptive audience, which positions them to work with brands on sponsored content.[11]

Individuals with significant followings on digital media platforms like YouTube, Twitter, and Instagram are the coveted new pitch-people for global brands like Nike, Nestle, and Microsoft, and their platforms are the visible terrain for product peddling and placement. The substance of what they do, in terms of vocation, is secondary to their ability to affect financial

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[9] SAFIYA UMOJA NOBLE, ALGORITHMS OF OPPRESSION: HOW SEARCH ENGINES REINFORCE RACISM 6 (2018).

[10] *See* CATHY O'NEIL, WEAPONS OF MASS DESTRUCTION: HOW BIG DATA INCREASES INEQUALITY AND THREATENS DEMOCRACY 70 (2016) ("We are ranked, categorized, and scored in hundreds of models, on the bases of our revealed preferences and patterns."). Algorithms stratify digital identity entrepreneurs, and oftentimes formally or informally rank them by the size of their following or their resonance and reach with a coveted demographic or market. This ranking system is part and parcel of a digital numerical order spawned by the rise of surveillance capitalism, whereby companies invest millions of dollars in online marketing campaigns based on algorithmic models.

[11] *What Constitutes An Influencer?*, MEDIAKIX, https://perma.cc/ZCK3-D2RZ (last visited Apr. 14, 2022).

gain for companies and influence consumerism.[12] But this binary in the billion-dollar business of digital influencing is a linked one, whereby the financial incentives tied to online performance directly shape the substance of one's presentation. In an age where the cost of online identity is rising alongside one's following, the lucrative potential tied to influencing has made it a new kind of career.[13]

The convergence of diversity consciousness and influencer marketing is ripe with opportunity for out-group online personalities. The diversity business is booming, and major, midlevel, and local companies are spending billions of dollars to feature their products alongside racial, sexual, and religious minority influencers.[14] Brands are paying for an "appearance of diversity [to] bolster[] their standing among customers," but are generally averse to the personal and political substance behind the coveted optic.[15]

In short, influencers, and their platforms (turned ad spaces), are "commodified" to sell a product, an idea, or a brand.[16] Thus, identity capitalism has a double-commodification effect online: first, of the person, or influencer; and second, of the person's platform and following. What effect does this have on the out-group influencer, and beyond that, the dominant perceptions of the group he or she belongs to?

The effects, within a digital capitalist landscape, are predictable and ripe with existential peril. Beyond just contracting to sell a product and become a product, the digital identity entrepreneur is also signing up to perform a role that gradually changes the entrepreneur's bona fide identity. Leong writes,

> If there is a market for identity, then we can think of identity as a commodity we all produce. . . . Identity production is complex and nuanced. Some identity characteristics are visible and mostly immutable–the color of someone's skin, the shape of their eyes, whether they can walk. Other identity characteristics are visible but can be changed–hair style, clothing, mannerisms. . . . While some characteristics are predetermined, how someone performs identity deeply

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[12] *See* Paris Martineau, *Inside the Weird, and Booming, Industry of Online Influence*, WIRED (Apr. 22, 2019, 6:00 AM), https://perma.cc/T6HK-MYZ5.

[13] *See* Peter Suciu, *Is Being A Social Media Influencer a Real Career?*, FORBES (Feb. 14, 2020, 7:00 AM EST), https://perma.cc/2W8V-XURC.

[14] Pamela Newkirk, *Diversity Has Become a Booming Business. So Where Are the Results?*, TIME (Oct. 10, 2019, 6:10 AM EDT), https://perma.cc/UW6R-UTQ5.

[15] Leong, *Racial Capitalism*, *supra* note 5, at 2165.

[16] LEONG, IDENTITY CAPITALISTS, *supra* note 8, at 77–79.

influences the way that others perceive that identity.[17]

Within the world of digital identity entrepreneurship, how someone performs an out-group identity in line with mainstream diversity and inclusion sensibilities makes that individual more attractive to a brand. In turn, opening up financial opportunities that shape online performances can cause identity entrepreneurs to deviate from their genuine senses of self, or alienate them from members of their communities, among other identity costs and compromises that come with the digital identity entrepreneurship tap-dance.

II. Beyond Influence

Shortly after Donald Trump announced a "total and complete shutdown of Muslims entering the United States,"[18] I met with a young Muslim journalist interested in my thoughts on the proposal. We were in contact via Twitter for years, but finally met offline to discuss Trump's presidential bid and the renewed moment of popular Islamophobia it inspired. Fifteen years after the 9/11 terror attacks, Muslim identity was the subject of intense political and popular scorn.

The journalist fielded questions while seated across from me, typing notes, and wearing the very light blue *hijab*[19] she featured on her social media profile photo. We discussed a range of topics tied to the presidential election, surveillance, the Black Lives Matter protests, and the basis of our meeting– or what I thought was the basis–the proposed "Muslim Ban."[20] I shared a response to a question that spurred a perplexing response from the journalist, who had built sizable followings on Twitter and Instagram over the years. "I try to stay away from politics," she said. Deadpan, and without pause.

I stopped. Not knowing what to say, or whether I could say anything to make sense of an absurd play that had no script. There we were, a Muslim American journalist seated across from a Muslim American law professor, in a Lebanese restaurant in the heart of the most concentrated Arab and Muslim community in the United States, during a moment when a presidential candidate had just announced an immigration measure that

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[17] LEONG, IDENTITY CAPITALISTS, *supra* note 8, at 77–78.

[18] *See* Jessica Taylor, *Trump Calls for 'Total and Complete Shutdown of Muslims Entering' U.S.*, NPR, (Dec. 7, 2015, 5:49 PM ET), https://perma.cc/2KB8-PVQD (recounting a real time description of the proposal that would become the "Muslim Ban" Executive Order signed by President Trump during the first week of his administration).

[19] Headscarf (Arabic).

[20] The name many attributed to Trump's proposal, turned Executive Order 13769.

targeted our very identities and communities, which proved to be the hallmark of his campaign and eventual administration.[21]

Our very being, particularly then, was political. Our terrestrial and digital activities, since the inception of the War on Terror fifteen years earlier, were assessed through a pointedly political lens.[22] The faith we adhered to, especially when conspicuously expressed or exercised, was tied to terror by surveillance programs introduced by Republican and Democratic presidents. However, what I learned in the days after that interview crystallized what the journalist meant by that curious revelation.

More than a journalist, the young Muslim woman I met was a digital identity entrepreneur. She "worked" her identity to fit in with powerful institutions and actors at the very top, conscious of the costs that a political pivot would have with the out-group communities on the ground.[23] Certainly, choosing to be "apolitical"–particularly during that moment–was in and of itself a powerfully revelatory political position. And one, in line with my research into identity performance and digital citizenship, I was keen on investigating. So, I returned to the platforms where I first encountered the journalist: Twitter and other social media platforms where she plied her trade.

A careful examination of her social media pages and online activity revealed what she meant by "I stay away from politics." First, she took no clear political stances, taking "cover" from the ascriptions and associations specific positions would invite.[24] Second, she avoided politically provocative issues, such as the Israel-Palestinian conflict or supporting a specific presidential candidate. Third, she stood aloof of mainstream Muslim American civic and advocacy organizations, and sometimes, openly criticized them. Fourth, her online platform–particularly Instagram– featured meticulously curated scenes with herself, and her hijab, at the center. Fifth, her followings were primarily made up by celebrities, prominent fashion brands, personalities with large followings, and other

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[21] *See* Khaled A. Beydoun, *"Muslim Bans" and the (Re)Making of Political Islamophobia*, 2017 U. ILL. L. REV. 1733, 1756 (2017).

[22] *See* Susan M. Akram & Kevin R. Johnson, *Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims*, 58 N.Y.U. ANN. SURV. AM. L. 295, 295 (2002). For a comprehensive account of the anti-Muslim policy and popular animus that took shape in the two decades after 9/11, *see generally* KHALED A. BEYDOUN, AMERICAN ISLAMOPHOBIA: UNDERSTANDING THE ROOTS AND RISE OF FEAR (2018).

[23] *See* Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259, 1266 (2000) (crafting the concept and theory of working identity, which is the process by which minorities negotiate identity performances in line with workplace culture).

[24] *See* Kenji Yoshino, *Covering*, 111 YALE L.J. 769, 772 (2002).

influencers. Sixth, and cumulatively, her online presentation and performance successfully lured partnerships with global brands. The online person she curated resulted in partnerships with popular magazines, fashion brands, hotels, gatherings with socialites, and more.

As much influencer as journalist, the woman performed an identity that would entice companies seeking to capitalize on her brand of Muslim womanhood and invite brand partnerships stripped of the political baggage other online Muslim personalities may bring. In *Acting Muslim*, a law review article in conversation with Leong's racial capitalism/identity entrepreneur framework, I label the journalist's (apolitical) presentation and performance as "conforming Islam."[25] This is "conduct whereby a Muslim American actor manipulates a disfavored expression of identity so that it coalesces with mainstream societal sensibilities or political norms."[26] Off and particularly online, the journalist stripped her Muslim identity and the hijab of its imputed political meaning by staving clear of hot-button political issues, flattening the article and her identity into a commodity availed for the bidding of brands, corporations, and others. This digital identity entrepreneurship, during a moment of *trumped* up Islamophobia when the majority of Muslims took to online platforms to protest the "Muslim Ban" and like spirited measures, distinguished her as the kind of Muslim corporate brands could safely partner with.[27]

This digital identity entrepreneurship enterprising is hardly unique to Muslim Americans. As Leong carefully documents in *Identity Capitalists*, personal performance ties to incentives spans the existential and intersectional spectrums. Furthermore, let me be very clear, this emergent market of digital identity entrepreneurship is not exclusively confined to commercial interests and financial incentives. The very same process is unfolding within government, the educational context, and perhaps most troublingly,   the   nonprofit   industrial   complex.[28]   Diversity   and

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[25] *See* Khaled A. Beydoun, *Acting Muslim*, 53 Harv. C.R.-C.L. L. Rev. 1, 12–14 (2018).

[26] *Id.* at 50.

[27] The perils associated with online protest for out-group online users are worth mentioning. Social media platforms are sites of pervasive and piercing cyber hate, which often pointedly violent on members of racial, religious, and sexual minority groups. For an early treatise documenting the rise of cyber hate, *see* Danielle Keats Citron & Helen Norton, *Intermediaries and Hate Speech: Fostering Digital Citizenship For Our Information Age*, 91 B.U. L. Rev. 1435 (2011); s*ee also* Sahar F. Aziz & Khaled A. Beydoun, *Fear of a Black and Brown Internet: Policing Online Activism*, 100 B.U. L. Rev. 1151, 1153 (2020) for an analysis of how federal and local law enforcement surveil the online activism of Muslim and Black people.

[28] For a typology of modern activist nonprofits that challenge the nonprofit industrial complex, *see* Michael Haber, *The New Activist Non-Profits: Four Models Breaking from the Non-*

multiculturalism are hot commodities within these disparate halls of power, and individuals and influencers keen on trading a safe, assimilable and uncontroversial brand of diversity are, in the words of Curtis Mayfield, "moving on up"[29] but leaving so much of their community, loved ones, and *selves* behind.

III. So Far Gone

Beyond influence and the financial bounty and fame that comes with it, the opportunity costs associated with out-group digital identity entrepreneurialism can be considerable. For the Muslim journalist, members of the broader Muslim American population openly criticized her "apolitical" posture, her following and influence within the online faith group community declined, and within activist spaces, her name was often raised as a cautionary tale. The stigma inflicted upon out-group communities breeds a collective memory that can be harsh and unforgiving, and oftentimes, that persists long after the financial incentives associated with digital identity entrepreneurship have dried up. The risks and trade-offs are plenty for the enterprising digital personality looking to build streams of income into an online platform.

For the digital identity entrepreneur, the costs of the identity exchange are usually outweighed by its social and financial value. As Leong observes, "Identity entrepreneurship is perilous in ways that extend far beyond the individual identity entrepreneur. As a condition of their continued success, identity entrepreneurs may find themselves defending behavior and policies that are, they come to believe, indefensible."[30]

There is a permanence to digital identity entrepreneurship that generally evades analog manifestations. Virtual footprints, old posts, and, even after past tweets are erased and old posts removed, screenshots can capture missteps and digital history forever. These new tools can freeze the identity of an online influencer, even when the individual has pivoted away from a perspective, or more wholly, a particular online performance or presentation.

Perhaps even more ominously, the digital identity entrepreneur's performance is no longer performance but who that person is, and who that person has become. The identity entrepreneur's physical appearance and views, and political perspectives and associations, are remade by the powerful digital pull of economic incentives, brand deals, and diversity

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profit Industrial Complex, 73 U. MIAMI L. REV. 863 (2019).

[29] CURTIS MAYFIELD, *Move on Up*, *on* CURTIS (Curtom Records 1970).

[30] LEONG, IDENTITY CAPITALISTS, *supra* note 8, at 93.

driven campaigns where *the entrepreneur* is as much the product as the item being pitched.

The person remade by the digital performance, for clicks and dollars, may be so far gone from the person looking at a profile from behind the screen. The reflection in that black mirror, turned marketing tool, may offer a picture that looks little like the person standing before it.

CONCLUSION

> "Choose your self-presentations carefully, for what starts out as
> a mask may become your face."[31]

We have entered into a new phase of identity capitalism, one where social media, video, and digital interactive platforms are the new marketplaces. For groups stigmatized because of their race or religion, gender or sexuality, the converging moment of diversity and inclusion presents new opportunities to sell a most prized commodity: themselves.

Race is never static, and its contours are being blurred even further by digital stimuli. In *Race After Technology*, Ruha Benjamin observes, "[R]ace itself is a kind of technology–one designed to separate, stratify, and sanctify the many forms of injustice experienced by members of racialized groups, but one that people routinely reimagine and redeploy to their own ends."[32] Global brands and corporations have "reimagined" race, and other stigmatized identities, to the tune of diversity and inclusion–a song and dance that reduces identity into a highly coveted optic, but little else. This optic, carefully packaged and promoted alongside sneakers, sodas, and sedans, comes with considerable financial reward for those who want to fit the racial mold. Enter the digital identity entrepreneur, keen on reshaping and "redeploying" an online identity to play the role and reap the benefits.[33]

The performances are the same, but the stages are different. These digital stages, unlike their analog predecessors and counterparts, come with distinct pitfalls and perils for the identity entrepreneur. These dangers may

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[31] ELIOT R. SMITH, DIANE M. MACKIE & HEATHER M. CLAYPOOL, SOCIAL PSYCHOLOGY 123 (Psychology Press 4th ed. 2015) (attributing this point to sociologist Erving Goffman); *see* ERVING GOFFMAN, PRESENTATION OF SELF IN EVERYDAY LIFE 236 (Anchor Books 1959) ("[T]o the degree that the individual maintains a show before others that he himself does not believe, he can come to experience a special kind of alienation form self and a special kind of wariness of others.").

[32] RUHA BENJAMIN, RACE AFTER TECHNOLOGY 36 (2019).

[33] *Id.*

prove even more costly than Leong documents in her important book, which will prove to be even more foundational as new fronts of racial capitalism unfold and warped frontiers of digital identity entrepreneurship take form.