Protected Conditions

Property, Harm, and Repair in a Theory of Meaningful Agency

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Abstract

This Article develops a theory of *protected conditions*: the relations through which meaningful agency is sustained. It sorts those relations into four domains ordered by proximity to the agent — interior conditions (memory, conscience, meaning, self-trust), bodily and near-body conditions, sustaining fields (home, land, work, the archive), and recognized conditions (records, status, legal standing) — and argues that as one moves outward, constitutiveness tends to fall while legibility to records-based adjudication rises. This asymmetry produces a distinctive mechanism of harm, the *recursive cascade*: a breach converts into an administrative artifact — a file entry, a screening score, a nonappearance — that travels apart from its cause and returns as evidence against the very claim of breach. The Article offers a trigger test for when this mechanism is engaged and a repair architecture matched to the pathway through which harm continues to act, applying the framework to family separation and to collective and Indigenous claims.

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I. Introduction

A tenant misses an eviction hearing after defective notice. The court enters default. The default becomes a record. The record appears in a tenant-screening report.[1] A future landlord reads the record as evidence that the tenant is unreliable. The tenant's loss of housing has become evidence against future housing. The harm has not ended; it has learned to travel.

That sequence is familiar because modern institutions act through artifacts. Files, notices, dockets, scores, classifications, deadlines, compliance entries, and status records allow institutions to coordinate judgment across time. They also allow harm to move. A breach can produce a record, absence, status, or compliance failure; that artifact can detach from the conditions that produced it; and later the artifact can return as proof against the person or relation harmed.

This Article calls that mechanism **recursive cascade**.

Recursive cascade is not simply downstream harm. It is not merely bad recordkeeping, procedural error, or administrative burden. It is the evidentiary return by which a breach-produced artifact becomes adverse proof. A missed hearing becomes unreliability. A missing document becomes nonexistence. A service failure becomes parental incapacity. A possession record becomes cultural authority. A compliance entry becomes character. In each case, an institution may mistake the residue of breach for neutral evidence.

The Article develops this claim through a broader theory of **protected conditions**. Persons and peoples do not act in the abstract. In this Article, meaningful agency means agency sustained through protected relations across domains, rather than an abstract capacity detached from the conditions that make action real. Agency depends on conditions: interior conditions of memory, dignity, attention, and meaning; bodily and near-body conditions of safety, mobility, health, and contact; sustaining fields of home, land, work, infrastructure, care, language, culture, and material support; and recognized conditions of status, record, standing, title, membership, and legal legibility.[2] These conditions are not all property in the same way. Some are not property at all if property means only alienable object-ownership. But property supplies one legal grammar for understanding how agency depends on boundaries, access, exclusion, use, repair, transfer, inalienability, and recognition.[3][4]

The Article's first contribution is therefore architectural. It offers a four-domain model of protected conditions: interior conditions, bodily and near-body conditions, sustaining fields, and recognized conditions. The model explains why some harms cannot be understood as losses of objects

[1] See Consumer Fin. Prot. Bureau, *Tenant Background Checks Market Report* 2–3 (2022); Fed. Trade Comm'n, *Using Consumer Reports: What Landlords Need to Know*; 15 U.S.C. §§ 1681m(a), 1681i(a); see also Mary K. Cunningham et al., Urb. Inst., *Opening the "Black Box" of Tenant Screening* (2022). These sources support the pathway risk and institutional setting, not the claim that every eviction record is inaccurate or every tenant-screening denial wrongful.

[2] See Amartya Sen, *Development as Freedom* (1999); Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (2000); Martha Albertson Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 Yale J.L. & Feminism 1 (2008). These sources are convergence points only: capabilities theory measures shortfall, while Protected Conditions diagnoses breach.

[3] See Margaret Jane Radin, *Property and Personhood*, 34 Stan. L. Rev. 957, 957–61 (1982). Radin is credited as a point of inheritance for personhood/property and anti-commodification pressure, not as the ground of the Protected Conditions model.

[4] See Wesley Newcomb Hohfeld, *Some Fundamental Legal Conceptions as Applied in Judicial Reasoning*, 23 Yale L.J. 16 (1913); Joseph William Singer, *The Reliance Interest in Property*, 40 Stan. L. Rev. 611, 699–701 (1988); Margaret Jane Radin, *Property and Personhood*, 34 Stan. L. Rev. 957, 957–61 (1982). For the named opposition reserved for the property-theory spin-off, see Thomas W. Merrill, *Property and the Right to Exclude*, 77 Neb. L. Rev. 730 (1998); Henry E. Smith, *Property as the Law of Things*, 125 Harv. L. Rev. 1691 (2012); J.E. Penner, *The Idea of Property in Law* ch. 4 (1997).

alone. They are breaches of the conditions through which persons and peoples remain able to act, contest, remember, belong, govern, and repair.

The Article's second contribution is mechanistic. It identifies recursive cascade as a recurring institutional failure: breach → artifact → return. The mechanism matters because legal systems often see artifacts more easily than the relations and conditions those artifacts represent. A record may be accurate and still misleading. A status may be formally valid and still breach-produced. A deadline may have passed and still require inquiry into the conditions that made compliance impossible. A file may be complete in institutional form while omitting the conditions that explain it.

The Article's third contribution is remedial. It argues that repair must be matched not only to the object lost, but to the condition breached and the pathway through which the breach continues to act. Where harm travels through records, statuses, deadlines, proof conditions, and proxy representations, compensation alone will often be incomplete. Repair may require correction, reopening, contextualization, recomposition, or some combination of these.

The Article proceeds in ten Parts.

Part II develops the Protected Conditions model. It explains the four domains and the core limit: bonds between persons are edges, not holdings. A parent-child bond, kinship relation, care relation, or relation of peoplehood may be represented by records, but it is not owned by one side. The model does not make children property. It explains why children cannot be property.

Part III defines breach, threshold harm, cascade, and contestability. The model does not activate for every preference, disappointment, or ordinary loss. It requires dependency and threshold harm: damage serious enough to leave a protected relation hollow, coerced, unstable, falsified, or practically unavailable.

Part IV isolates recursive cascade. It gives the trigger test: an institution relies on an artifact; the artifact can travel apart from its cause; the artifact can support an adverse inference; and the inference materially affects access, standing, repair, recognition, or a protected relation.

Part V explains institutional pathways. Records, statuses, and compliance entries become powerful because they move beyond their first forum and carry breach-produced artifacts into later judgment.

Part VI applies the model to family separation, termination, and the decomposed bond. This is the Article's hard case. Child safety is part of the model. The claim is that when separation produces records, absences, timelines, housing instability, service failures, or signs of attenuation, those artifacts must be cause-traced before they are treated as neutral evidence against the parent-child bond.

Part VII develops the repair architecture. Correction repairs the artifact. Reopening repairs procedural posture. Contextualization repairs inference. Recomposition repairs the relation as represented. The guiding rule is simple: repair must reach the condition breached and the pathway through which the breach continues to act.

Part VIII demonstrates the model on a single documented case. Running the architecture point by point against the empirical record of eviction, it shows the four domains breached at once, the upward cascade by which a call for help becomes an adverse record, the trigger test satisfied, and a harm — the record itself — that the leading distributive remedy leaves standing.

Part IX answers objections. It explains why the model does not turn every value into property, does not treat children as holdings, does not excuse noncompliance, does not reject records, does not authorize outsiders to define Indigenous or collective relations, does not collapse into capabilities or vulnerability theory, and does not break down when protected conditions conflict. The objections are not peripheral. They give the framework its boundaries.

The conclusion returns to the opening problem. If law lets a breach survive as evidence, then harm does not merely persist. It becomes administratively durable. Protected conditions names what must not disappear in that movement: the relation, the condition that keeps it real, and the pathway through which harm continues to act.

II. Protected Conditions Model

A. The standpoint of the model

Begin not with a dispute but with a person moving through an ordinary morning. She wakes with her memories, her intentions for the day, her sense of who she is. She takes her medication, pockets her keys, phone, and identification. She leaves a home, crosses a neighborhood she knows, and enters a workplace where she has standing to be. She clocks in; behind the gesture stand a wage record, a lease, a benefits file, a credential — systems that recognize her and authorize the day she is having. Nothing has gone wrong. No one has been harmed.

The model's first claim is that this — not the auction block, not the courtroom — is where a theory of property should begin: with the structure of agency-in-the-world. A person is constituted and sustained through relations to things across distinguishable domains, ordered from the agent outward. The standpoint is deliberately first-personal. The model maps how the world shows up *as mine, as me, as what holds me, as what stands behind me* — not how an appraiser would inventory the same scene. This is an old observation wearing new clothes: William James described the self as extending through the body, its clothes and immediate possessions, the home and works, and outward into reputation and accounts — a self with layers, thinning as it extends.[5] The model takes that seriously as structure rather than metaphor.

Two consequences follow immediately. First, "property" in this model is not a pile of objects but a *standpoint-relative field of relations* — the organized way an agent holds, depends on, inhabits, and is recognized through the world. Second, because the field has structure, things that happen within it — care, investment, inheritance, and also harm — happen *somewhere*, and can travel. The structure comes first; the traffic comes after. This Part builds the structure. Harm does not enter until section E, and then only as one of the things that moves through it.

B. The four domains

The model sorts the field into four domains, ordered by proximity to the agent.

Interior conditions. Memory, conscience, meaning, self-trust, intention, and authority over one's own understanding of one's life. These are not merely valuable to the agent; they are partly constitutive of her. They cannot be handed over, priced, or substituted, and in ordinary life they are

[5] See William James, *The Principles of Psychology* ch. X (1890); Russell W. Belk, *Possessions and the Extended Self*, 15 J. Consumer Rsch. 139, 139–40 (1988); Margaret Jane Radin, *Property and Personhood*, 34 Stan. L. Rev. 957, 957–61 (1982). These sources mark a neighborhood of extended-self and personhood-property thought; they do not ground the model.

Figure 1. The four domains (Part II.B). The field of relations, sorted by proximity to the agent: interior conditions, bodily and near-body conditions, sustaining fields, and recognized conditions. Across the tiers, constitutiveness falls while legibility to records-based adjudication and substitutability rise; beneath the gradient, the relation itself is inalienable at every tier. The recognized tier, though thinnest and least constitutive, gates access to the other three.

invisible to every institution she deals with. They are nonetheless *hers* in the most exacting sense the word has: she holds them, lives from them, and has standing against their invasion.

Bodily and near-body conditions. The body itself, and the small set of objects functionally fused to immediate agency: medication, identification, the phone that carries access and contact, keys, glasses, a mobility device, tools in hand. The defining feature of this domain is not the market value of its objects — most are cheap — but their fusion with present capacity. A phone in a drawer is an appliance; a phone seized from a person mid-crisis is an amputation of reach. The same object moves in and out of this domain depending on its relation to the agent's live functioning.

Sustaining fields. Home, land, workplace, the archive, the digital account — the environments within which agency is sustained *over time*. A field is inhabited rather than carried. It holds routines, stores the near-body objects, anchors the relationships, and gives the agent a place from which to act. Fields are replaceable in principle and ruinously costly to replace in fact, because what is lost with a field is not square footage but the accumulated organization of a life.

Recognized conditions. Records, wages, benefits, memberships, credentials, legal status — standing conferred by systems. This domain is the inverse of the first: least constitutive of the agent, most legible to institutions. Nothing here is the person; everything here is what systems consult *instead of* the person. Recognized conditions gate access to the other three domains — a record can open or close a home, a wage sustains a body, a credential admits one to a field — which gives this outermost, thinnest domain a disproportionate causal power over all the others.

Read together, the domains form a gradient — three dimensions graded, and one constant that the grading reveals. **Constitutiveness falls** as one moves outward: the interior is the agent; the record merely refers to her. **Substitutability rises**: memories are irreplaceable, records reissuable. **Legibility to records-based adjudication rises**: the interior cannot be entered into evidence; the record *is* evidence. (The body, to be sure, is intensely visible to particular institutions — the clinic, the jail — but it enters *adjudication* only as the chart, the report, the file: through records. The dimension that matters here is not perceptibility but what adjudication can consult.) And the constant: **the relation itself is inalienable at every tier.** Objects transfer; relations do not. A house can be sold, but not being-at-home; wages can be assigned, but not the standing of having earned them; a certificate can change hands as paper while the credential it certifies cannot move at all. The transferability of objects varies tier to tier without pattern, and the model claims no gradient for it. What it claims is the uniformity underneath: what a person *has*, in the sense this model cares about, is never transferable, at any distance from the agent. (Parts VI and VII will lean on this constant: family separation tests the relation, and repair must answer the relation rather than discharge itself at the object's price.)

The model therefore exhibits, before any harm has been introduced, a structural asymmetry, best read as a gradient rather than an exceptionless law: *the more constitutive a condition is of the person, the less legible it tends to be to the systems that judge her, and the less constitutive, the more legible.* The gradient is a tendency, not a rule; particular conditions can sit athwart it — legal standing is highly legible yet, once stripped, gravely constitutive — and the model accommodates such cases rather than denying them. Institutions, by their nature, read the outermost tier. Keep that asymmetry in view. It is an opening — but only an opening; whether anything walks through it depends on how institutions actually behave, which is a premise the model does not contain and section E will state in terms.

The domains are distinct but plumbed together, and the plumbing is observable in entirely neutral life. Relations migrate inward: a house, lived in long enough, becomes *home* — a field acquires interior weight. They migrate outward: a memory is externalized into a record; a skill is credentialed; a grandmother's presence settles into an heirloom that is, on paper, a near-body object worth forty dollars. Ordinary functioning runs on cross-domain assemblies — to be paid for a day's work is a single act involving the body, the field, and the recognized system at once. These channels of extension and migration are the model's connective tissue. They are how a person enlarges herself into the world. **Part III will show that cascade is not a new mechanism bolted onto the model: it is this same connectivity, operating under breach. Harm travels along the channels by which the person extended herself.** That is why the domain structure cannot be demoted to scenery — without the topology, "downward," "upward," "lateral," and "recursive" name nothing.

Two honest limits on the sorting. First, the count is a choice, not a discovery. Four domains is a pragmatic resolution; a different article could defensibly draw three or five, and the model's claims survive redrawing. Person-to-person bonds are not treated as a hidden fifth ring. They traverse the domains and require a different grammar because a bond between agents is reciprocal rather than held as an object by one side. Section F states that grammar directly. Second, the model is built from the individual standpoint, and the Article's stress tests apply it to a *people*. The translation is real but not free: a people has interior conditions (collective memory, authority over its own meaning), sustaining fields (land, territory), and recognized conditions (rolls, recognition, treaties), while the bodily domain translates only loosely. The collective application carries that burden explicitly; here it is enough to flag that it treats a people as an agent with its own standpoint — not as an aggregation of individual claims — and that the later objection on collective and Indigenous relations works the translation through.

C. The concept of property the model uses

Property is one legal grammar through which protected conditions become visible; it is not the only possible name for the structure.[6]

This Article uses property in a limited sense. It does not treat every valued condition as an owned object. It uses property as a grammar of standing, boundary, dependence, exclusion of interference, and repair where law or institutions already make agency legible through things, records, statuses, titles, possession, recognition, or control.

The model takes from Hohfeld the relational insight that property organizes relations among persons; it does not adopt Hohfeldian decomposition as its method. The unit here is the protected relation, not an itemized table of jural positions. The question is not which entitlement-box a condition occupies. The question is whether a relation depends on a condition, whether an external crossing has breached that condition, and what repair must follow.

Singer supplies the same caution from another angle. Property structures social relations; it is not merely a relation between a person and a thing. But the model must still keep its own trigger vocabulary. Reliance is a backward-looking expectation. Load-bearing dependency is structural and present-tense. A condition matters because this relation depends on it now to remain real, not only because someone once relied on its continuation.

[6] See Wesley Newcomb Hohfeld, *Some Fundamental Legal Conceptions as Applied in Judicial Reasoning*, 23 Yale L.J. 16 (1913); Joseph William Singer, *The Reliance Interest in Property*, 40 Stan. L. Rev. 611, 699–701 (1988); Margaret Jane Radin, *Property and Personhood*, 34 Stan. L. Rev. 957, 957–61 (1982). For the named opposition reserved for the property-theory spin-off, see Thomas W. Merrill, *Property and the Right to Exclude*, 77 Neb. L. Rev. 730 (1998); Henry E. Smith, *Property as the Law of Things*, 125 Harv. L. Rev. 1691 (2012); J.E. Penner, *The Idea of Property in Law* ch. 4 (1997).

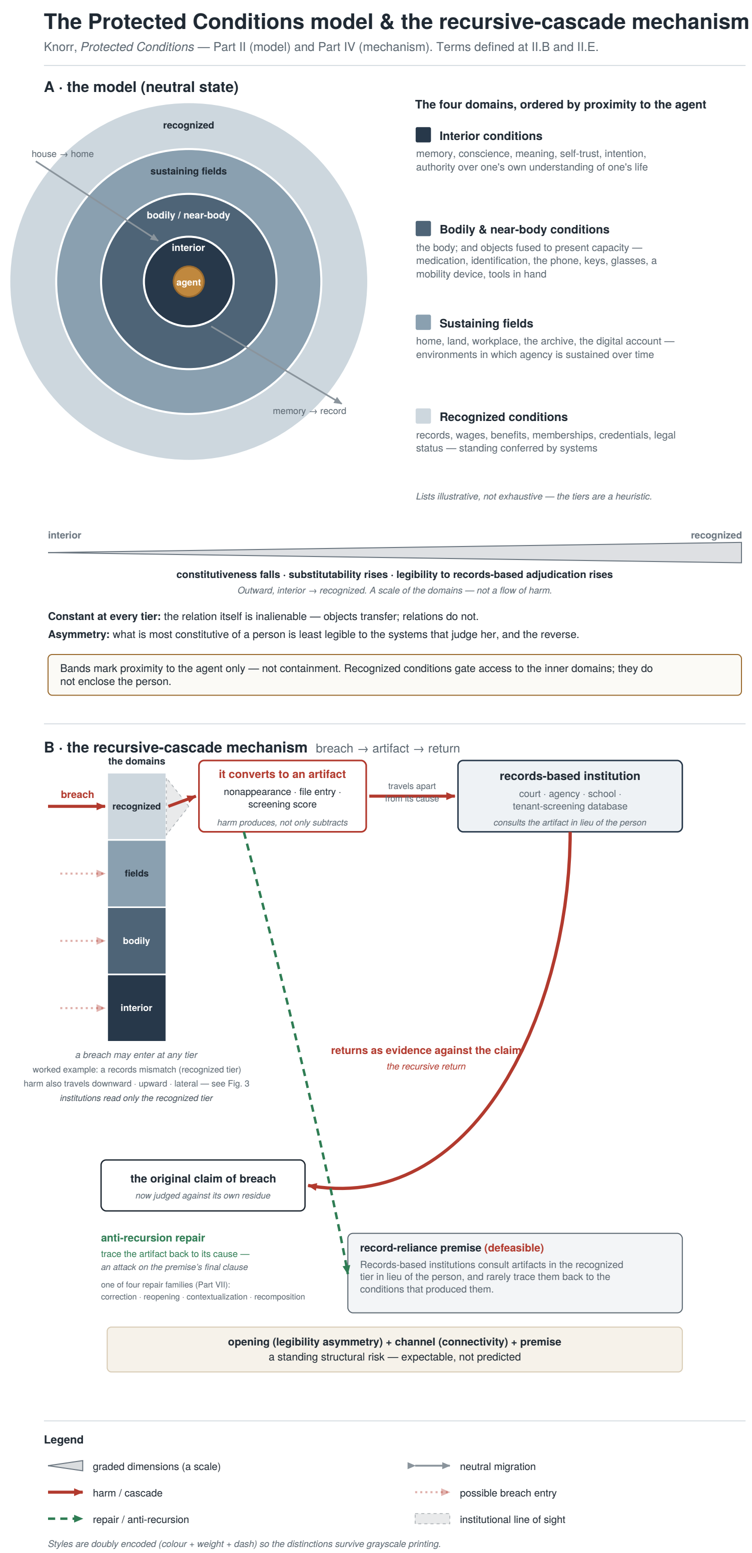

Figure 2. The Protected Conditions model (Part II) and the recursive-cascade mechanism (Part IV). Domains are ordered by proximity to the agent; moving outward, constitutiveness falls while legibility to records-based adjudication rises. Under breach, a condition converts into an artifact that travels to a records-based institution and returns as evidence against the original claim of breach.

Radin enters differently. She is not a reserve source and not the ground of the model. She is credited inheritance at the point where the model treats proximity, inalienability, and anti-commodification pressure as legally intelligible.[7] The model shares the insight that some relations to things become bound up with personhood. But it moves from personhood-property to protected conditions: not only which things matter to persons, but which conditions make relations of agency possible and which artifacts can later falsify them.

Merrill and Smith belong in a different place. They represent the formalist/exclusion-side objection a separate property-theory treatment would answer. They should not supply the live frame of Part II. This Article's frame is protected relations first, property grammar second.

A candid word about the word itself. The model is primary; the label is secondary. "Property" remains useful because many of the Article's cases are administered through property-adjacent institutions: eviction, possession, title, repatriation, rolls, wages, records, and access. But if property language becomes too freighted with object-ownership or market transfer, the framework already carries its replacement vocabulary: protected relations, protected conditions, breach, cascade, and repair.

D. Protected Conditions and the threshold test

Within the model, a **protected relation** is a relation across one or more domains that deserves protection — a family's relation to home, a worker's relation to wages and tools, a people's relation to land, memory, or membership. A **Protected Condition** is the minimum condition without which that relation goes hollow, coerced, unstable, or falsified: the floor below which the relation loses practical reality.

The framework would fail if "Protected Condition" became a name for everything valuable, so the threshold test has two triggers and one consequence. **Dependency:** the relation must depend on the condition to remain meaningful in practice; if the relation survives the condition's loss, the condition may matter morally but is not doing threshold work. **Threshold harm:** breach of the condition must render the relation hollow (formally intact, practically empty), coerced (continued only under pressure or forced dependency), unstable (exposed to arbitrary disruption without accountable correction), or falsified (a substitute passing as the real relation — possession passing as authority, a record's silence passing as consent). **Remedial consequence:** where both triggers are met, ordinary replacement or compensation will often be inadequate — an *implication* of threshold status, kept out of the test itself so that the condition is never defined by its remedy.

One feature of the test should be named so it cannot later be mistaken for a defect. The test is counterfactual and references failure — *what would happen to the relation if this condition broke?* — yet what it identifies is a feature of the intact relation. This is the ordinary logic of structural analysis: a load-bearing wall is identified by asking what collapses without it, but being load-bearing is a property of the standing building, not of the rubble. The threshold test reads the relation under an imagined stress in order to map its real architecture. It does not make harm conceptually prior to the relation; it uses harm's shadow to find the relation's frame.

[7] See Margaret Jane Radin, *Property and Personhood*, 34 Stan. L. Rev. 957, 957–61 (1982). Radin is credited as a point of inheritance for personhood/property and anti-commodification pressure, not as the ground of the Protected Conditions model.

E. A neutral model, and what runs through it

Everything to this point describes a structure, not a pathology. That is deliberate, and it is a claim about what kind of theory this is. The domains carry many kinds of traffic, and most of it is not injury: identification and attachment, by which things acquire interior weight; care, stewardship, and maintenance; labor and cultivation; transmission and inheritance, by which relations cross persons and generations; recognition, by which standing is acquired; and repair, the return traffic this Article reaches in Part VII.

One neutral case, carried through, shows the structure at work with no wrong in sight. A grandmother wears a ring for fifty years: a near-body object, long since carrying interior weight — her marriage, her sense of her own continuity. At her death it crosses the recognized tier: a will, probate, a line in an estate inventory reading *one gold ring, appraised $180* — a description that is perfectly accurate and captures none of what the ring was. That is the legibility gradient of section B operating benignly: the record-tier rendering of a relation says less than the relation, even when no one has done anything wrong. Her granddaughter receives it. For a season it is only an object in a drawer; then she begins to wear it; it migrates to near-body; and over years it takes on interior weight of its own — the grandmother's presence, the granddaughter's place in a line. Notice what did and did not transfer. The object moved through the system. The *relation* did not and could not — the granddaughter did not receive being-the-wearer-of-her-grandmother's-ring; she grew it. Transmission, in this model, passes objects through the recognized tier and leaves each generation to re-form the relation on the far side. Every structural feature the harm analysis will use is already visible here — cross-domain migration, the flattening of the record, the inalienability of the relation — operating in the model's ordinary, uninjured state. (Under adversarial conditions, the same flattening will reappear as what Part III calls *falsification*: a record that says less than what happened, treated as if it said everything. Nothing adversarial has happened to the ring.)

A model that could describe only harm would not be a model of property at all — it would be a taxonomy of grievance wearing property's clothes. This model is offered as the former: a neutral account of how an agent inhabits the world through domains, within which a theory of harm can then be *stated*, rather than a theory of harm from which a picture of the world is reverse-engineered.

When harm does enter the model, two things happen, and the distinction between them carries the rest of the Article.

First, **the model gives harm a grammar.** Outside the model, harm is generic — "loss," "injury," "damages," a magnitude. Inside the model, a harm has a *location* (which domain, which condition), a *direction* (which way it traveled along the connective channels of section B), a *depth* (how far inward it reached), and a *history* (whether it stayed local, spread, or returned). What anatomy does for injury, the model does for harm: a wound stops being undifferentiated pain and becomes a severed structure at a named site with knowable consequences. Part III's vocabulary — breach, seriousness, downward, upward, lateral, recursive — is this grammar, and it is available only because the neutral structure was built first.

Second — and this is the deeper point — **in its interaction with the model, harm becomes something more than subtraction.** In an unstructured picture, harm removes value: something is taken, broken, lost, and the world is the same world minus an amount. In a domain-structured world, harm can *convert*. The conversion runs on a premise about institutions that the model itself does not contain and that must therefore be stated rather than assumed. Call it the **record-reliance premise**: records-based institutions consult artifacts in the recognized tier *in lieu of* direct access to persons, and rarely trace those artifacts back to the conditions that produced them. The premise is empirical, ordinary, and defeasible — an institution that systematically traced its records to their causes would not satisfy it. Where it holds, the structural asymmetry of section B becomes an active channel: a harm in one domain can transform into an artifact in another. Displacement becomes a nonappearance; a breach-caused gap becomes a file entry; instability becomes a screening score; thinned participation becomes evidence of weak belonging. The harm has not merely subtracted — it has *produced* something: a record, a status, a defeater, with its own persistence and its own future effects, visible to the institution precisely because the suffering that produced it was not.

Sized honestly, then, the claim is this. The model does not *predict* recursive cascade from its topology alone. It identifies the **opening** — the legibility asymmetry — and the **channel** — the connectivity of section B; the **record-reliance premise** supplies the institutional behavior; and together the three make recursive cascade a **standing structural risk** wherever records-based institutions adjudicate the lives the model describes — expectable rather than anomalous, and locatable in advance. Part IV develops the mechanism on exactly these three legs. And the Article's remedial program can be read, from here, as an attack on the premise's final clause: anti-recursion safeguards, whatever their doctrinal form, are at bottom institutional devices for tracing artifacts back to their causes.

Two scope rules then govern the harm-application of the model. **At the interior, the framework triggers only on external breach.** Interior conditions can be invaded from outside — gaslighting, coercive reeducation, forced confession, erasure or falsification of one's record and with it one's account of one's own life — and against such invasions the boundary concept of section C gives the agent exactly what property's grammar promises: a protected boundary, standing, and remedy, gripped at the interface the breach itself supplied. But a person can also lose self-trust, meaning, or memory with no one having crossed any boundary at all, and the framework makes no claim on such endogenous suffering. It is real, and it is not a breach by another; the model's harm-application begins where the breach comes from outside — by another's act, or by an institution's or structure's design, default, or omission. Second, **breach is not attenuation.** Relations change through ordinary development, migration, generational drift, and cultural adaptation; such change may generate obligations of stewardship or transmission, but it is not a wrong, and the framework does not trigger on it. The trigger is breach — an external crossing of a Protected Condition's boundary — producing threshold harm.

F. Bonds Are Edges, Not Holdings

The four domains describe how an agent holds, inhabits, depends on, and is recognized through the world. They should not be mistaken for a theory that turns every important relation into a thing held by one person. Person-to-person bonds require a different grammar.

A bond between persons is not a holding. It is an edge between agents. A parent-child bond, a kinship bond, a care relation, or a relation of peoplehood may carry interior meaning, bodily presence, shared fields, and recognized records, but none of those is the bond itself. The bond traverses the domains without becoming an object inside one of them.

This distinction matters most where law relies on records. A birth certificate, custody order, visitation log, adoption decree, membership record, school file, archive entry, or benefits record may represent part of a relation. Such records can be necessary. They may protect persons, stabilize expectations, prevent arbitrariness, or preserve memory. But the record is a proxy. It is not the relation itself.

The point is especially important in the parent-child case. A child is not the parent's property. The parent-child relation is not an object owned by either side. It is a protected relation between persons, one mature and one developing, each with protected conditions of safety, continuity, care, memory, and belonging. Treating a child as a holding of the parent would be the very domination the model is designed to name, not a conclusion the model permits.

The model does not make children property. It explains why children cannot be property.

Later Parts return to this edge structure in the hard case of family separation, where public authority may judge a parent-child bond through records produced under conditions of separation. Before that hard case can be reached, however, the Article must identify when a protected condition has actually been breached.

With the structure built, the traffic named, and the scope set, the Article can turn to harm in earnest. Part III supplies the grammar of breach, seriousness, and cascade; Part IV develops the mechanism by which, in a world structured like this one, harm learns to testify against its victim.

III. Breach, Threshold, and Cascade

Part II identified the domains in which protected conditions appear. This Part asks when interference with those conditions becomes breach.

The question matters because the framework is not a theory of every frustration, preference, or loss. Many conditions matter to persons. Not every condition is legally or institutionally protected. Many interferences are real. Not every interference crosses the threshold at which the framework should activate. Without a threshold, protected conditions would become a vocabulary for disappointment. With too high a threshold, the framework would see only catastrophe and miss the ordinary ways agency is disabled before total destruction.

A protected-condition breach occurs when an external act, omission, classification, record, deprivation, or institutional practice damages a condition on which a protected relation depends, and the damage is serious enough to leave the relation hollow, coerced, unstable, falsified, or practically unavailable. The breach is not measured only by the visible object lost. It is measured by what the loss does to the relation.

A. Breach and Dependency

A condition is not protected merely because it is valuable. It is protected because a relation depends on it. The first inquiry is therefore dependency: what relation is being sustained, and what condition keeps that relation real?

A relation to home may depend on lawful access, stable occupancy, working utilities, record accuracy, and the ability to contest displacement. A relation to work may depend on wages, tools, bodily safety, schedule stability, and recognition of status. A relation to culture or peoplehood may depend on land, language, ceremony, kinship, memory, archives, and authority over meaning. A relation to a child may depend on safety, care, presence, communication, records, time, and non-falsified institutional judgment.

Dependency is not sentimentality. It is structural. The question is not whether the person cares about the condition, but whether the relation loses practical reality when the condition is removed, damaged, falsified, or governed by someone else. A person may care deeply about many things that are not protected conditions in this sense. The framework activates when the damaged condition is doing agency-supporting work.

This dependency requirement also prevents overreach. A tenant may prefer a larger apartment without suffering a protected-condition breach. A worker may dislike a schedule without breach. A person may feel attachment to an object without making the object inalienable. But if the apartment becomes unsafe, the schedule makes necessary care impossible, or the object is a cultural item whose removal severs a relation of ceremony, memory, or authority, the inquiry changes. The condition is no longer merely preferred. It is carrying the relation.

B. Threshold Harm

Even when dependency exists, not every interference is breach. The interference must cross a threshold.

Threshold harm occurs when the interference makes the relation hollow, coerced, unstable, falsified, or practically unavailable. These terms are not decorative. They identify different ways a relation can remain formally present while losing reality.

A relation becomes **hollow** when its legal or social form remains but the condition that gives it substance is gone. A parent may retain a formal case plan while separation, inaccessible services, or transportation barriers make meaningful participation impossible. A tenant may retain a right to contest eviction while notice, records, or displacement make contestation practically unavailable.

A relation becomes **coerced** when the person or people must accept the relation under conditions that defeat meaningful choice. A worker may "agree" to unsafe conditions when refusal means economic ruin. A tenant may "settle" an inaccurate record when the alternative is immediate displacement. A community may "consult" under conditions where the institution has already fixed the outcome.

A relation becomes **unstable** when the supporting condition is made unreliable enough that agency cannot be organized around it. A benefit that may disappear without notice, a housing record that cannot be corrected, or a status that can be reclassified without meaningful process may leave the relation formally recognized but practically insecure.

A relation becomes **falsified** when the record, category, or public account of the relation replaces the relation with an inaccurate institutional version. This is especially important in record-based systems. A file may say nonappearance, noncompliance, abandonment, weak affiliation, or lack of proof while omitting the breach-produced conditions that made appearance, compliance, presence, or proof impossible.

A relation becomes **practically unavailable** when the protected condition cannot be used, accessed, inhabited, invoked, or repaired in the real world. Formal entitlement is not enough if the person cannot reach the office, read the notice, correct the record, enter the building, maintain bodily safety, or contest retaliation.

The threshold is therefore functional. It asks whether the condition still allows the relation to operate as a real condition of meaningful agency.

C. Seriousness Modes

When a threshold is crossed, the breach may take different seriousness modes. The modes do not create separate causes of action. They discipline the inquiry into what kind of wrong has occurred.

Domination occurs when one actor gains controlling power over another's basic conditions of agency.[8] It appears when institutions or private actors can decide whether a person may remain housed, recognized, safe, present, or heard while the affected person lacks meaningful capacity to contest the decision.

Coercion occurs when acceptance is produced by pressure or the absence of a meaningful alternative. The issue is not merely that the person chose under difficult circumstances. The issue is whether the protected relation was made dependent on accepting terms that damage the condition that makes the relation real.

Erasure occurs when memory, identity, belonging, authority, record, or presence is removed, replaced, or made illegible. Erasure may be physical, as when objects, bodies, or people are removed from the field that gives them meaning. It may also be administrative, as when records omit the conditions that explain the record.

Extraction occurs when value, labor, data, knowledge, culture, land, or relational authority is taken without rightful relation or repair. Extraction is not limited to markets. It can appear where an institution uses a person's compliance, a people's knowledge, or a community's cultural materials while denying the authority that gives the relation meaning.

Destruction occurs when the condition is degraded, consumed, or rendered unusable. It may be obvious, as with destroyed property or environmental damage. It may also be relational, as when a support condition is damaged so severely that restoration cannot return the relation to its prior form.

Disabling interference occurs when a person or people is blocked from action, communication, self-government, contestation, or repair. This mode is especially important because it links breach to cascade. A breach that disables correction can later appear as silence, nonappearance, waiver, weak affiliation, or lack of proof.

These modes overlap. A single breach may dominate, coerce, erase, extract, destroy, and disable at once. The point is not to sort the breach into a single box. The point is to make visible what ordinary categories often compress.

D. Breach, Attenuation, and Internal Transformation

The model must also distinguish breach from attenuation and internal transformation.

Not every loss of continuity is a breach. A family may reorganize. A person may leave a place. A community may change ceremony, membership practice, language use, governance structure, or public presentation. A tradition may evolve through the authority of the people who live it. These changes may be painful, contested, or uneven without becoming protected-condition breach.

The line is authority and domination. Internal transformation occurs when a relation changes through the authority of the persons or people whose relation it is. Breach occurs when an external actor interferes with, misrecognizes, extracts, falsifies, seizes, or dominates the condition on which the relation depends.

This distinction is crucial for Indigenous and collective contexts. An outside institution does not get to call internal change breach simply because the institution expected continuity. Nor does it

[8] See Philip Pettit, *Republicanism: A Theory of Freedom and Government* (1997); Philip Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (2012). For procedural contestability and the risk of erroneous deprivation, see *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

get to treat its own record as the measure of whether the relation survives. The model protects collective relations by limiting outside authority, not by replacing internal authority with an external theory.

The same distinction matters in ordinary individual cases. A person may waive a claim, miss a deadline, end a relation, sell an object, move homes, or decline participation. Those facts are not automatically breach. The question is whether the act reflects meaningful agency under the relevant conditions, or whether the act is the trace of a prior interference that disabled meaningful choice or contestation.

E. Cascade

A breach may remain local and be corrected before it travels. Or it may move across domains and return in altered form. Cascade names that movement.

A **downward cascade** moves from recognized or institutional conditions into sustaining fields, bodily conditions, or interior conditions. A benefits denial may become food insecurity, then health decline, then loss of planning capacity. A court record may become housing exclusion, then displacement, then school instability, then fear.

An **upward cascade** moves from bodily, interior, or field conditions into recognized standing. Illness, trauma, displacement, transportation barriers, or caregiving burdens may produce missed appointments, incomplete forms, nonappearance, late filings, or missing documentation. Those artifacts then enter institutional records.

A **lateral cascade** spreads across adjacent fields. Loss of digital access may disrupt work, school, benefits, medical care, banking, and communication at once. Loss of transportation may affect employment, court attendance, visitation, medical care, and food access simultaneously.

A **recursive cascade** returns. The harm produces an artifact, absence, status, or compliance failure that later becomes evidence against the person or relation harmed. Recursive cascade receives full treatment in Part IV because it is the Article's central mechanism.

Cascade is not a severity multiplier. It is a movement inquiry. It asks where the breach went, what it became, whether it disabled correction, and whether repair must reach beyond the first visible loss.

F. Contestability

Contestability is the condition that allows a breach to be named, challenged, corrected, and repaired without retaliation.[9] It is not only a procedural value. It is itself a protected condition where institutions govern through records, status, deadlines, and proof.

In some settings contestability looks like notice, access to records, counsel, hearing, translation, accommodation, review, appeal, and anti-retaliation protection. In other settings it may look like customary process, kinship authority, ceremonial protocol, council deliberation, restorative procedure, or internal governance. The minimum is not procedural sameness. The minimum is that correction remains meaningfully available under the relevant normative order.

[9] See Philip Pettit, *Republicanism: A Theory of Freedom and Government* (1997); Philip Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (2012). For procedural contestability and the risk of erroneous deprivation, see *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

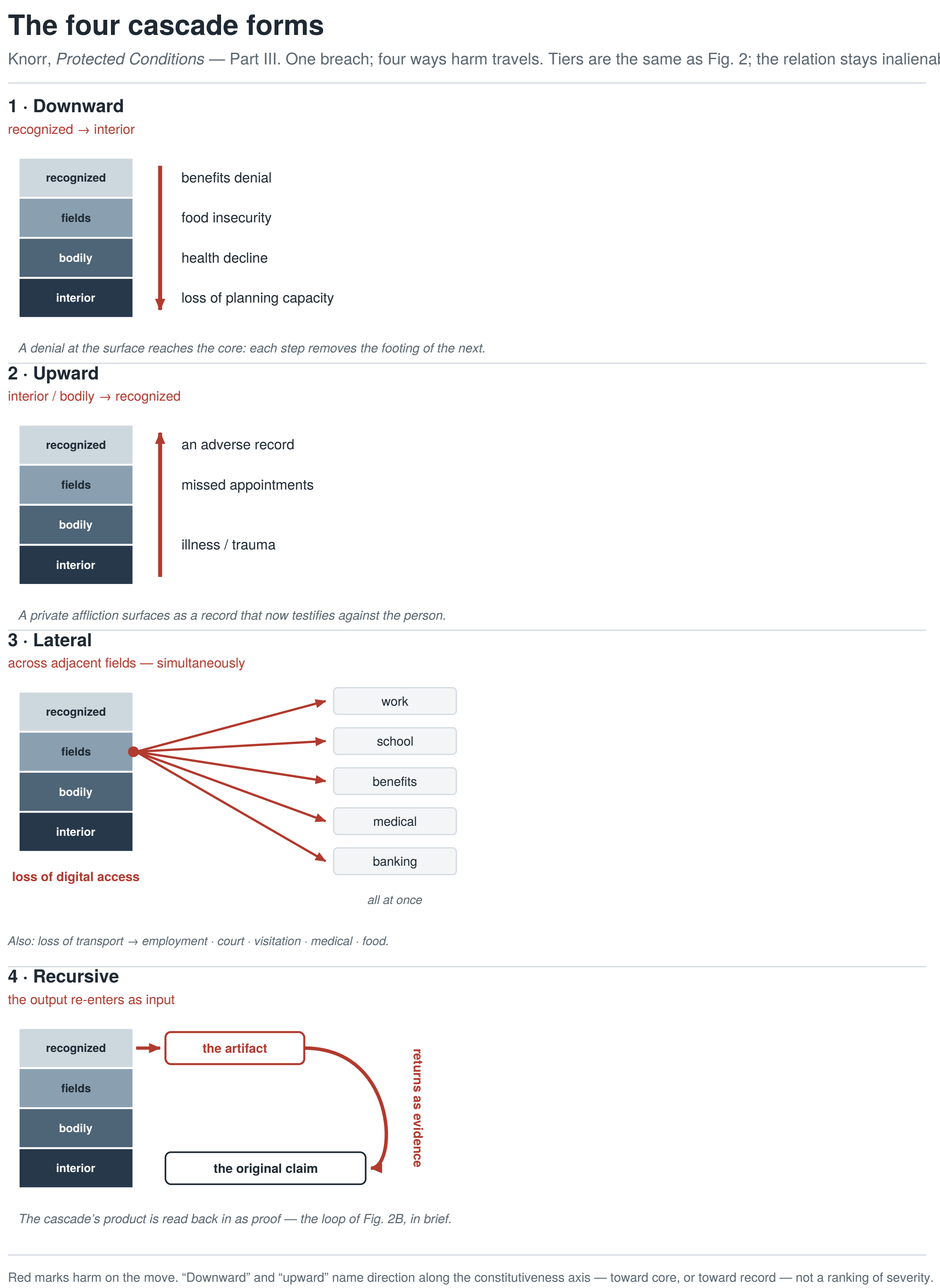

Figure 3. The four cascade forms (Part III) — downward, upward, lateral, and recursive. One breach; four ways harm travels along or across the domains.

Contestability matters because institutions often read its absence as neutral. Silence becomes acceptance. Nonappearance becomes waiver. Missing documentation becomes nonexistence. Incomplete participation becomes weak belonging. Lack of correction becomes proof that the record was accurate. But if the breach itself impaired the capacity to contest, then absence of contestation cannot be treated as independent proof that no breach occurred.

The model therefore asks who controlled the record, who could create or correct it, what evidence was excluded, what risks attached to objection, and whether relying on the record alone would leave the relation hollow, coerced, unstable, or falsified.

Most cascades describe how harm travels. The next Part addresses the most dangerous cascade form: recursive cascade, where harm not only travels but returns as evidence. In that setting, a breach-produced record, absence, status, or compliance failure may be treated as proof against the very person or relation injured by the breach.

IV. Recursive Cascade

Recursive cascade is the evidentiary return by which a breach-produced artifact becomes adverse proof. It is not simply that harm spreads. It is the pattern in which harm damages conditions of proof, participation, presence, compliance, or recognition, and an institution later treats that damaged condition as evidence against the person or relation harmed.

The sequence is simple:

breach → artifact → return.

The breach produces an artifact: a record, absence, status, classification, score, default, missed deadline, incomplete file, nonappearance, compliance failure, or weakened proof condition. The artifact travels. Later, an institution reads it as neutral evidence. The breach thereby governs through its own residue.

Recursive cascade matters because modern institutions decide through records. Files, notices, statuses, deadlines, compliance entries, data systems, court dockets, agency notes, scores, classifications, and documentary continuity are often necessary.[10] They coordinate decisions, protect persons, preserve memory, and check arbitrary power. But where the artifact was produced by breach, ordinary record reliance can convert injury into adverse proof.

A. The Trigger Test

A recursive-cascade inquiry is triggered when four conditions are present.

First, the institution relies on an artifact: a court record, agency file, school record, custody entry, benefits note, employment status, membership record, museum accession file, tenant-screening entry, risk score, or compliance history.[11]

[10] For representative legal settings in which institutional judgment operates through records, status entries, and documentary artifacts, see 15 U.S.C. § 1681i(a); Fed. R. Evid. 106(a); Fed. R. Civ. P. 60(b); Solon Barocas & Andrew D. Selbst, *Big Data's Disparate Impact*, 104 Calif. L. Rev. 671, 692–94, 701–02 (2016); Virginia Eubanks, *A Child Abuse Prediction Model Fails Poor Families*, WIRED (Jan. 15, 2018). These examples evidence particular pathways; the general artifact premise remains the Article's analytic architecture.

[11] See Consumer Fin. Prot. Bureau, *Tenant Background Checks Market Report* 2–3 (2022); Fed. Trade Comm'n, *Using Consumer Reports: What Landlords Need to Know*; 15 U.S.C. §§ 1681m(a), 1681i(a); see also Mary K. Cunningham et al.,

Second, the artifact can travel apart from its cause. It may move from court to tenant-screening database, from agency file to eligibility determination, from service-plan entry to termination hearing, from archive description to public interpretation, or from possession record to institutional claim of authority.

Third, the artifact can support an adverse inference: unreliability, waiver, abandonment, weak affiliation, noncompliance, lack of capacity, lack of proof, lack of care, or lack of entitlement.

Fourth, the inference materially affects access, standing, repair, recognition, or a protected relation. The artifact must do work.

When those four conditions are present, the institution should ask whether the artifact is neutral evidence or the residue of a breach.

B. Structural Pattern and Individual Claim

Recursive cascade must be handled at two levels.

As a **structural claim**, recursive cascade identifies a pattern in a system. Eviction records can travel into tenant screening. Administrative burdens can produce compliance failures. Service systems can generate noncompletion records. Classification systems can convert prior exclusion into future exclusion. Possession records can harden into claims of interpretive authority. At this level, the pattern supports system-level safeguards: record annotation, sealing, reopening rules, burden shifting, notice redesign, dispute rights, contextualization duties, and limits on adverse inference.

As an **individual claim**, recursive cascade requires case-specific connection. The fact that a system can produce recursive cascade does not prove that a particular missed hearing, absent document, incomplete service plan, or weak record was breach-produced. The claimant must point to independent indicia of breach: defective notice, inaccessible service, documented record mismatch, displacement, disability-related barrier, institutional delay, retaliation, exclusion from records, or other facts connecting the breach to the artifact.

This distinction keeps the model from becoming an excuse machine. A structural risk justifies safeguards. It does not decide every individual case. An individual claim may still fail if the artifact was not breach-produced, if the person had meaningful access to correction, if the adverse inference is independently supported, or if countervailing protected conditions require a different result.

C. What Recursive Cascade Is Not

Recursive cascade is not ordinary downstream harm. Downstream harm shows that one injury led to another. Recursive cascade shows that the later injury returns to the evidentiary field and changes how the original relation is judged.

It is not merely bad recordkeeping. A record may be inaccurate, incomplete, stale, or misleading without being recursive. The recursive feature appears when the record's defect or production conditions become evidence against the person or relation harmed by that defect.

Urb. Inst., *Opening the "Black Box" of Tenant Screening* (2022). These sources support the pathway risk and institutional setting, not the claim that every eviction record is inaccurate or every tenant-screening denial wrongful.

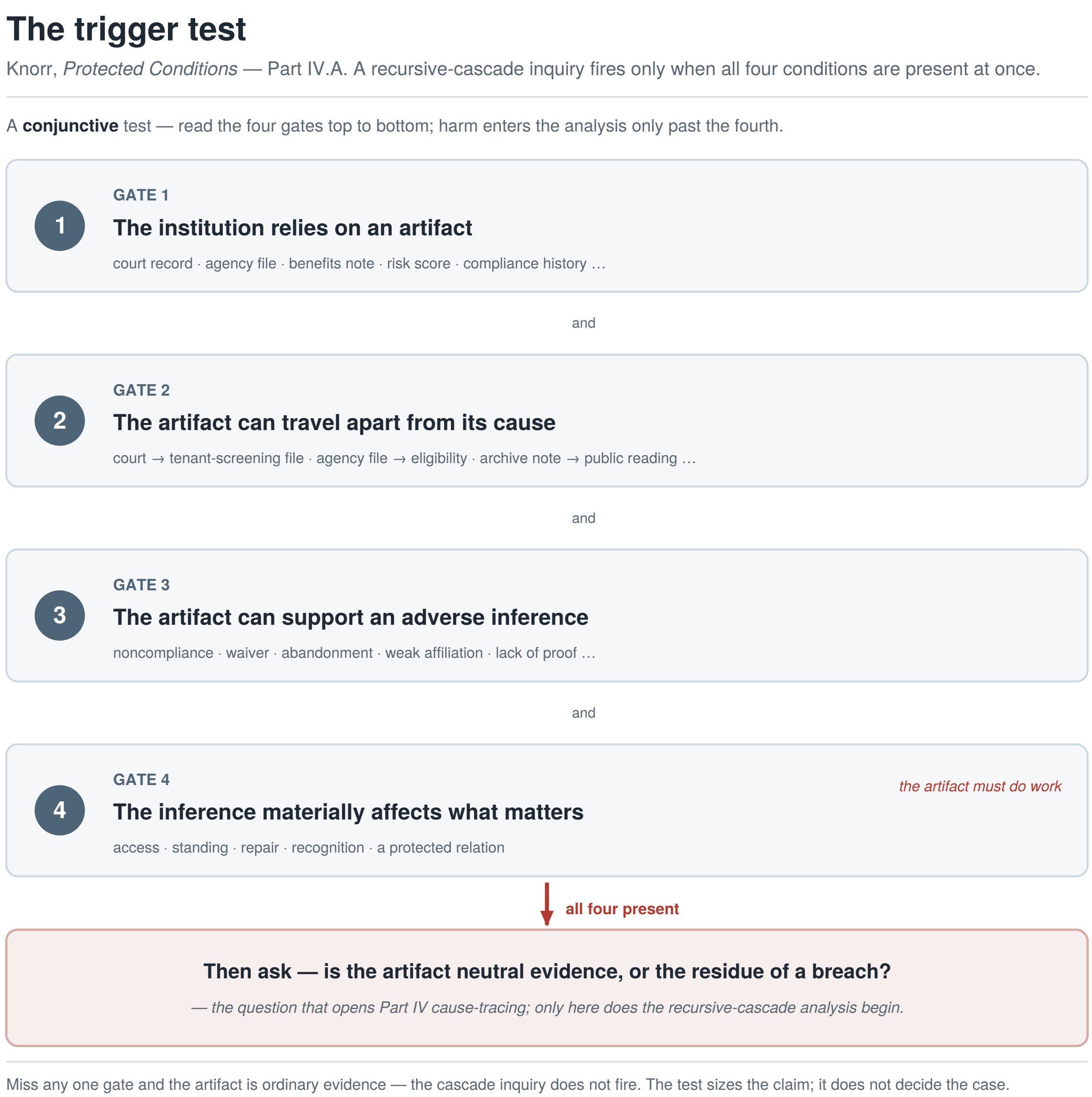

Figure 4. The trigger test (Part IV.A). The recursive-cascade inquiry fires only when all four conjunctive conditions are present at once; miss any one and the artifact is ordinary evidence.

It is not simply due process failure. A formally adequate hearing can still rely on an artifact produced under breach conditions. Procedure matters, but procedural form alone does not cause-trace the evidence.

It is not an automatic defense. A missed deadline remains missed. A service remains incomplete. A document remains absent. The question is what inference may be drawn and whether the institution may rely on it without asking what produced it.

It is not distrust of records. Records are necessary. The claim is narrower: where records are portable, consequential, and capable of adverse inference, institutions must ask whether they are seeing the relation or a breach-produced artifact.

D. Forms of Recursive Artifact

Recursive cascade can appear through several artifact forms.

Nonappearance occurs when absence from a hearing, meeting, visitation, appointment, ceremony, school event, or administrative process is later treated as waiver, abandonment, noninterest, or lack of care, even though the absence may have been produced by notice failure, displacement, lack of transport, detention, illness, inaccessible scheduling, or fear of retaliation.

Missing documentation occurs when a person or people cannot produce records because the relevant institution controlled, lost, withheld, misclassified, destroyed, or never created them. The absence is then read as lack of proof.

Compliance failure occurs when a person fails to satisfy an institutional requirement under conditions the institution helped create: inaccessible services, impossible timelines, language barriers, disability barriers, poverty constraints, transportation gaps, or inconsistent instructions. The failure is then read as refusal, incapacity, or lack of commitment.

Status degradation occurs when a temporary or breach-produced condition hardens into a durable status: default, eviction record, suspended benefits, noncompliant parent, unreliable tenant, weak member, inactive participant, unauthorized occupant, or nonresponsive claimant.

Proxy scoring occurs when a score, classification, or risk category converts prior instability into future exclusion. The score may look objective while carrying forward breach conditions embedded in the data.

These forms may overlap. A displaced tenant may miss a hearing, lose documents, receive a default, appear in a tenant-screening report, and then be scored as high-risk.[12] A separated parent may miss visits, fail services, lose housing, receive negative compliance entries, and later face those entries as proof against the bond. A people whose cultural materials were removed may later face the removal's effects as proof that relation, continuity, or authority is weak.

E. Neighbor Literatures

Recursive cascade is adjacent to due process, administrative burden, epistemic injustice, and algorithmic/proxy governance.

[12] See Consumer Fin. Prot. Bureau, *Tenant Background Checks Market Report* 2–3 (2022); Fed. Trade Comm'n, *Using Consumer Reports: What Landlords Need to Know*; 15 U.S.C. §§ 1681m(a), 1681i(a); see also Mary K. Cunningham et al., Urb. Inst., *Opening the "Black Box" of Tenant Screening* (2022). These sources support the pathway risk and institutional setting, not the claim that every eviction record is inaccurate or every tenant-screening denial wrongful.

Due process addresses notice, hearing, impartial decision-making, and erroneous deprivation; recursive cascade isolates the later evidentiary return of breach-produced evidence. Administrative burden explains learning, compliance, and psychological costs; recursive cascade adds the return by which burden-produced failure becomes proof against the claimant.[13] Epistemic injustice explains wrongs to persons as knowers; recursive cascade adds the institutional life of artifacts that may travel more powerfully than explanation.[14] Algorithmic and proxy-governance scholarship shows how data systems carry prior disadvantage into future exclusion; recursive cascade is broader because it also appears in paper records, court files, agency notes, visitation logs, school records, and archive descriptions.[15]

The point is not to displace these literatures. The point is to name the mechanism they do not always isolate: the evidentiary return of a harm-produced artifact.

F. Anti-Recursive Safeguards

The first safeguard is **cause-tracing**. Before an artifact supports an adverse inference, the institution should ask what produced it: indifference or defective notice, nonexistence or institutional control over records, refusal or inaccessible services, weak relation or exclusion from participation.

The second is **record annotation or correction**. Where the artifact is inaccurate or incomplete, the record should be corrected. Where correction cannot fully resolve the problem, the record should be annotated so later decision-makers do not read it as complete.

The third is **reopening**. If a breach-produced artifact altered procedural posture, a default, missed hearing, lapsed deadline, or closed file may need to be reopened.

The fourth is **contextualization**. Some artifacts are accurate but misleading.[16] A nonappearance may be true. A missed visit may be true. A gap in documentation may be true. The question is whether the institution may use that truth without the conditions that explain it.

The fifth is **recomposition**. Where the artifact stands in for a relation, repair must reach the relation as represented. The institution may need to reconstruct the evidentiary picture, return authority, restore access, or stop treating its proxy as the relation itself.

These safeguards anticipate Part VII's repair architecture. Part IV names them only to show what recursive cascade requires: the institution must not allow breach-produced artifacts to govern as if they were neutral.

G. Transition

Artifacts become powerful because they travel. The next Part turns from the structure of recursive cascade to the pathways through which records, compliance entries, and statuses carry breach-produced artifacts into later judgment.

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[13] See Pamela Herd, Donald P. Moynihan & Hope Harvey, *Administrative Burden: Learning, Psychological, and Compliance Costs in Citizen-State Interactions*, 25 J. Pub. Admin. Rsch. & Theory 43 (2015). Administrative burden is adjacent; recursive cascade adds the return of a burden-produced artifact as evidence.

[14] See Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (2007). Epistemic injustice is adjacent; recursive cascade concerns artifact travel and adverse inference, not only credibility discounting.

[15] See Solon Barocas & Andrew D. Selbst, *Big Data's Disparate Impact*, 104 Calif. L. Rev. 671, 692–94, 701–02 (2016); Virginia Eubanks, *A Child Abuse Prediction Model Fails Poor Families*, WIRED (Jan. 15, 2018); Allegheny Cnty. Dep't of Hum. Servs., *Allegheny Family Screening Tool*. Barocas and Selbst carry the formal proxy/disparate-impact mechanics; Eubanks and the Allegheny materials carry the public-services feedback-loop example.

[16] See Fed. R. Evid. 106(a); *Mathews*, 424 U.S. at 335. These authorities support contextualization and inference repair by analogy.

V. Institutional Pathways: Records, Status, and Proof

A. Why Pathways Matter

Part IV defined recursive cascade as the evidentiary return by which a breach-produced artifact becomes adverse proof. This Part names the main routes by which that artifact travels.

These are not new domains. They are institutional pathways. A record, status, score, compliance entry, or absence may begin in one setting and become proof in another. The problem is not record use as such. The problem is record travel without cause.

B. The Record Pathway

The most direct pathway is the record. A default, eviction filing, missed appointment, agency note, school entry, medical notation, employment entry, or benefits file may later be read as a neutral account of conduct. If the record was produced under conditions of breach, it preserves the breach in portable form.

A record can become more durable than the relation it misdescribes. Later institutions may see the entry without seeing the housing crisis, displacement, family separation, translation failure, inaccessible process, or administrative delay that produced it.

C. The Compliance Pathway

A second pathway is compliance. Institutions judge through deadlines, service plans, appointments, forms, proof requirements, attendance, and completion entries. These tools can make administration possible and protect against arbitrary decision-making.

They also can carry breach. A person may fail to comply because the institution made compliance inaccessible, because notice failed, because services were unavailable, or because the relevant condition had already been destabilized. If the later institution treats that failure as neutral proof, the breach has returned through compliance.

D. The Status Pathway

A third pathway is status. Status compresses history into a label: evicted, noncompliant, absent, ineligible, unverified, terminated, abandoned, inactive, risky, disqualified. Once status attaches, later institutions may treat it as fact rather than as process.

That compression may be useful, but it can also falsify the relation. If the label was breach-produced, it can shape housing, work, benefits, care, family contact, membership, or remedy long after the original conditions disappear.

E. Transition to Bonds

These pathways matter across many settings. They become especially dangerous when the artifact does not merely affect access to housing, benefits, work, or recognition, but becomes a proxy for an edge between agents: a parent-child bond.

VI. Family Separation, Termination, and the Decomposed Bond

Part IV defined recursive cascade as the evidentiary return by which a breach-produced artifact becomes adverse proof. Part V showed how artifacts travel through institutional pathways. This Part tests that mechanism in the hard case of family separation.

Part VI is not a general theory of child-welfare reform. It is an evidentiary claim about separation-produced artifacts in legal severance proceedings.

As Part II explained, bonds are edges rather than holdings. Family separation is the hard case because that edge may be adjudicated through records. A parent-child relation is not something one party owns. It is a reciprocal protected relation between agents, one mature and one developing, each with protected conditions of safety, continuity, care, memory, and belonging. The child is not the parent's property, and the relation is not an object owned by either side. It runs between them.

This distinction controls the analysis. The claim is not that public authority may never intervene. Public authority may have duties to protect a child from danger, neglect, abuse, abandonment, or disabling conditions. That safety premise sits inside the framework rather than outside it. The claim is narrower: when public authority separates a parent and child, then later uses separation-produced artifacts as proof against the relation, recursive cascade is possible and must be controlled.

A. Legal Seriousness: Severance of a Bond

Termination of parental rights is among the most serious acts a legal system can perform against a family relation.[17] It does not merely regulate conduct. It may sever the legal relation between parent and child. That seriousness is why procedural and evidentiary safeguards matter.

The model adds a relational explanation for that seriousness. If a child is not property and the bond is not a holding, then termination is not the taking of an object from an owner. It is the legal decomposition of an edge between persons. The law may sometimes have reason to sever or permanently alter that edge, especially where the child's protected conditions require it. But the evidentiary basis for severance must not be built from artifacts produced by the separation itself unless those artifacts are cause-traced.

A separation can produce the very signs later used to justify severance: missed visits, incomplete services, unstable housing, loss of contact, emotional distance, inability to demonstrate care, weakened proof of attachment, or negative compliance records.[18] These signs may be real. The question is what produced them and what inference may fairly be drawn from them.

The model therefore does not deny legal seriousness. It sharpens it. Where the state first alters the conditions of relation and then judges the relation through the altered conditions, the risk is not merely error. It is recursive cascade.

B. Housing as Bond-Specific Artifact

Housing is not only a background resource in family-separation cases. It may become a bond-specific artifact.

A parent without stable housing may be judged unable to provide care, even when the housing instability is connected to poverty, displacement, domestic violence, discrimination, benefit delay,

[17] See *Santosky v. Kramer*, 455 U.S. 745, 747–48, 753–54, 769–70 (1982) (requiring at least clear-and-convincing evidence before a State may sever parental rights and emphasizing fundamental fairness in parental-status termination proceedings).

[18] See Tenn. Code Ann. §§ 36-1-113(g)(1)–(3), 36-1-102(1)(A)(i), (D)–(E), (I) (2024); Fla. Stat. § 39.806(1)(e)1.–3. (2025). These statutes show that visitation, contact/support, and case-plan compliance can become termination-relevant inputs, while preserving cause-tracing footholds such as willfulness, financial resources, and reasonable efforts.

eviction record, or the separation process itself.[19] The resulting record may say lack of suitable housing. It may later return as evidence that reunification is unsafe, impractical, or contrary to the child's interest.

This can be legitimate in some cases. Children need safe and stable housing. A court or agency cannot ignore dangerous housing conditions. But the inference is different when housing instability is treated as an uncaused fact. The question is whether the housing condition reflects danger to the child, lack of parental capacity, poverty without neglect, institutional delay, or a breach-produced barrier.

If the system requires a parent to demonstrate housing while also producing or worsening the conditions that make housing unavailable, housing becomes recursive. The absence of housing is no longer a simple fact about the parent. It is also a record of the field in which the parent is being judged.

D.N. is the individual-level exemplar because the court itself performed the attribution inquiry. The opinion treated the parents' lack of housing as a poverty-linked barrier rather than proof of parental unwillingness or incapacity, and it reversed a detriment finding that had treated nonreunification as if its cause were self-explanatory. The case matters here because the artifact remained real, but the inference drawn from it could not stand until its cause was traced.[20]

C. Compliance as Institution-Controlled Artifact

Service plans, visitation schedules, treatment requirements, classes, evaluations, and reporting obligations often become central evidence in family-separation proceedings.[21] They are designed to measure participation, effort, capacity, and risk. They can be necessary. They can also become institution-controlled artifacts.

Compliance is not a natural fact. It depends on notice, access, transportation, language, disability accommodation, scheduling, childcare, service availability, safety, trust, and the coherence of instructions. When those conditions are absent, noncompletion may reflect the system's design as much as the parent's will.

That does not mean noncompliance is irrelevant. A parent may refuse services, avoid contact, remain dangerous, or fail to act when action is possible. But if services are inaccessible, delayed, culturally inappropriate, poorly explained, internally inconsistent, or impossible to complete within the required time, the compliance record must be read through those conditions.

The recursive risk is direct: the institution sets the service pathway, controls the records of participation, and later offers noncompletion as evidence against the bond. The same institution may become record-maker, evaluator, and petitioner. That structure does not prove error. It requires cause-tracing.

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[19]See *In re G.S.R.*, 159 Cal. App. 4th 1202, 1212–15 (2008); *In re D.N.*, 56 Cal. App. 5th 741, 763–67 (2020). These cases are used narrowly for poverty/housing cause-tracing and erroneous attribution, not as the whole family-separation theory.

[20]See *In re G.S.R.*, 159 Cal. App. 4th 1202, 1212–15 (2008); *In re D.N.*, 56 Cal. App. 5th 741, 763–67 (2020). These cases are used narrowly for poverty/housing cause-tracing and erroneous attribution, not as the whole family-separation theory.

[21]See *In re Hicks/Brown*, 500 Mich. 79, 86–90, 893 N.W.2d 637 (2017) (reasonable efforts at reunification must include reasonable modifications/accommodations where needed for disability access).

D. Time as Artifact

Time is not only a neutral background condition in family-separation proceedings. It can become an artifact. In most recursive-cascade examples, the artifact is conduct-generated: a missed visit, a nonappearance, an incomplete service entry, a demeanor note, or a compliance failure. Time is the limiting case. It need not represent any new conduct at all. It accrues. It is a meter, not a record in the ordinary sense.

That makes the permanency clock especially important to the model. A statutory timeline may convert elapsed time into legal consequence even where the elapsed time says little, by itself, about the parent, the child, or the bond. The formal claim is statutory: federal law can convert a child's time in foster care into a petition-filing trigger, subject to exceptions.[22] The analytic claim is the model's own: when elapsed time is treated as evidence without cause-tracing, the system may convert its own pace into proof.

The point is not that permanency timelines are bad. They answer a real harm: foster-care drift. A child suspended indefinitely in temporariness suffers injury to protected conditions of stability, care, continuity, and future planning. The child's relation to permanency is a protected relation too. Part VI.D therefore does not ask the model to choose between the parent-child bond and the child's need for stability in the abstract. It asks how the evidence is being produced when those protected relations collide.

The problem arises when the clock cannot distinguish parent-consumed time from system-consumed time. A parent and child separated for many months may lose ordinary rhythms of care. The child may bond with other caregivers. The parent may struggle to maintain presence through supervised visits, limited communication, distance, poverty, service waitlists, agency delay, continuances, caseworker turnover, or inaccessible scheduling. Some of that time may reflect parental refusal or incapacity. Some may reflect the system's own pace. The legal risk is that the meter will count both the same. Program evaluations and the system's own conformity reviews document that service delay, non-provision, workforce instability, continuances, or other system-side barriers routinely consume reunification time; when that time later returns as parental failure, the clock has become recursive.[23]

ASFA already contains this insight in vestigial form. Its petition-filing mandate includes exceptions, including where the State has not provided the services deemed necessary for the safe return of the child.[24] Structurally, that exception is an anti-recursion foothold. It recognizes that the clock may be consumed by failures in the very system that later invokes the clock. Read through this Article's model, the exception asks the recursive-cascade question: what produced the artifact?

The same two-level rule applies here that applied to nonappearance and compliance failure. Structurally, a meter that converts elapsed time into adverse proof is criticizable when the system

[22]See 42 U.S.C. § 675(5)(E), (E)(i)–(iii) (15-of-22-month petition-filing structure and exceptions, including failure to provide services deemed necessary for the safe return of the child).

[23]See 42 U.S.C. § 675(5)(E); Catherine J. Ross, *The Tyranny of Time: Vulnerable Children, Bad Mothers, and Statutory Deadlines in Parental Termination Proceedings*, 11 Va. J. Soc. Pol'y & L. 176 (2004); Admin. for Child. & Fams., U.S. Dep't of Health & Hum. Servs., *Child and Family Services Reviews: Florida Final Report* 6–7, 20–22, 32, 38–39 (2023); U.S. Gov't Accountability Off., GAO-03-357, *HHS Could Play a Greater Role in Helping Child Welfare Agencies Recruit and Retain Staff* 3–4 (2003); Leonard P. Edwards, *Achieving Timely Permanency in Child Protection Courts*, Juv. & Fam. Ct. J., Spring 2007, at 1. These sources support statutory timing, documented service-system delay, workforce instability, and court-delay concerns; the analytic claim that time can become recursive is the Article's own.

[24]See 42 U.S.C. § 675(5)(E), (E)(i)–(iii) (15-of-22-month petition-filing structure and exceptions, including failure to provide services deemed necessary for the safe return of the child).

can consume the time it later counts. Individually, however, a parent must show that the time was in fact system-consumed or breach-produced: agency continuances, documented service waitlists, inaccessible visitation, failure to provide required services, or other case-specific facts. Without that showing, elapsed time may still matter.

The claim is therefore precise: not that clocks are bad, and not that permanency should yield to parental claims. The claim is that a clock that cannot distinguish system-consumed time from parent-consumed time converts the system's own pace into evidence on one side of a collision between protected relations it is supposed to adjudicate. Time then becomes recursive. It is the artifact that generates itself.[25]

E. The Child Does Not Disappear

A parent-centered theory would be defective. The child is not the object through which the adult's claim is vindicated. The child is a developing agent with protected conditions of safety, care, continuity, bodily security, emotional stability, memory, belonging, and future agency.

For that reason, recomposition cannot mean automatic reunification. If return would expose the child to danger, serious instability, abuse, or disabling conditions, the model does not require return. The child's protected conditions may require continued separation, guardianship, adoption, kinship placement, or another arrangement.

But the child's standpoint also does not authorize evidentiary shortcuts. A system cannot protect the child by falsifying the relation being judged. Nor can it treat separation-produced artifacts as neutral proof while ignoring how those artifacts were produced. The child's interest is not served by a record that cannot distinguish danger from poverty, refusal from inaccessibility, abandonment from exclusion, or lack of bond from state-produced attenuation.

Child safety is not an exception to the model. It is part of the model.

F. Public Authority as Record-Maker and Petitioner

Recursive cascade is especially dangerous where the same public system helps create the record and later relies on that record to seek severance.

An agency may control visitation schedules, service referrals, case notes, housing assessments, safety plans, transportation supports, documentation requests, and reports to the court. It may also decide what counts as compliance, which barriers are recorded, how parent explanations are framed, and which facts become durable file entries. Later, those entries may be presented as evidence that the parent failed to participate, failed to bond, failed to provide, or failed to benefit from services.

This structure may be unavoidable in part. Child-welfare systems need records. Courts need evidence. Agencies must report. But where the agency's own decisions shape the conditions of participation, the resulting records cannot be treated as if they arose from a neutral field.

[25] See 42 U.S.C. § 675(5)(E); Catherine J. Ross, *The Tyranny of Time: Vulnerable Children, Bad Mothers, and Statutory Deadlines in Parental Termination Proceedings*, 11 Va. J. Soc. Pol'y & L. 176 (2004); Admin. for Child. & Fams., U.S. Dep't of Health & Hum. Servs., *Child and Family Services Reviews: Florida Final Report* 6–7, 20–22, 32, 38–39 (2023); U.S. Gov't Accountability Off., GAO-03-357, *HHS Could Play a Greater Role in Helping Child Welfare Agencies Recruit and Retain Staff* 3–4 (2003); Leonard P. Edwards, *Achieving Timely Permanency in Child Protection Courts*, Juv. & Fam. Ct. J., Spring 2007, at 1. These sources support statutory timing, documented service-system delay, workforce instability, and court-delay concerns; the analytic claim that time can become recursive is the Article's own.

The model therefore requires a discipline of role-awareness. A record produced inside the separation system must be read with attention to who controlled the conditions that made the record possible. If the state altered the relation, controlled the evidence of the relation, and then seeks to sever the relation through that evidence, recursive-cascade safeguards are at their highest.

There is also a reason the Article does not build this Part around a single completed termination that it declares wrongful. A completed recursion may leave a record that says only what the artifacts said, and on appeal that record may be indistinguishable from a justified severance. Contestation itself may be under-resourced: due process does not categorically guarantee appointed counsel in every termination proceeding, and access to appellate review may turn on the ability to obtain the record. The reversals are therefore the visible failures of a process that often goes quiet; they show the correction doctrine firing where a tribunal could see the attribution problem.[26]

G. Bond-Specific Recomposition

The repair problem in family separation is not solved by correcting a single entry. A wrong date, missing service note, or inaccurate housing description may need correction. A missed hearing may need reopening. A misleading compliance history may need contextualization. But where the artifact stands in for the parent-child relation, repair must also be bond-specific.

Recomposition is not a command to reunify. It is a command not to sever through untraced proxies.

Bond-specific recomposition asks whether the evidentiary picture of the relation has been distorted by the conditions of separation. It asks whether visitation records, service plans, housing entries, time-in-care timelines, bonding assessments, and compliance histories have been read as if they were the relation itself. It asks whether the child and parent have been given a meaningful opportunity, consistent with safety, to demonstrate the relation under conditions that do not falsify it.

This may require more than one remedy. It may require correction of records, reopening of procedural posture, contextualization of noncompliance, additional services, adjusted visitation, kinship or cultural supports, delay where delay protects accuracy without harming the child, or a changed permanency path where recomposition would endanger the child. The remedy depends on the condition breached and the pathway through which the breach continues to act.

The central rule is modest but demanding: do not let separation-produced artifacts do the work of proving that the bond deserved separation.

H. Transition to Repair

Family separation shows why repair cannot be limited to compensation or object return. The harm may travel through records, time, status, and proof. The relevant artifact may be accurate and still misleading. The relation may remain formally visible while its evidentiary conditions have been altered.

The next Part turns from this hard case to repair more generally.

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[26] See *Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18, 31–32 (1981) (no categorical due-process right to appointed counsel in every parental-status termination proceeding); *M.L.B. v. S.L.J.*, 519 U.S. 102, 106–07, 110–28 (1996) (record-preparation fees could not bar indigent parent's appeal from termination decree).

VII. Repair: Correction, Reopening, Contextualization, and Recomposition

The preceding Parts showed how protected-condition harm may travel. A breach may damage a condition, produce an artifact, and return as adverse proof. If repair answers only the first visible loss, the breach may continue to govern through records, status, time, procedure, or proxy representation.

Repair must therefore reach the condition breached and the pathway through which the breach continues to act.

This Part translates that rule into four repair families: correction, reopening, contextualization, and recomposition. They are functions, not fixed remedy labels. A court, agency, archive, school, landlord, employer, museum, or other institution may perform them through different legal forms. The question is what work repair must do.

A. Why Compensation Is Not Enough

Compensation is often necessary. It may repair loss, restore access, support transition, or recognize injury. But compensation alone is incomplete when the breach continues through an artifact or institutional pathway.

Payment does not correct a circulating inaccurate record. Damages do not reopen a default produced by defective notice. Compensation does not supply context for a true but misleading statement. Money does not recompose a relation decomposed through proxies.

The repair inquiry begins by asking what condition was damaged and how that damage still operates.

B. Repair Must Be Condition-Matched and Path-Matched

A remedy is condition-matched when it addresses the condition breached. A remedy is path-matched when it addresses the pathway through which the breach continues.

The first question asks what support of agency was damaged: housing, bodily security, record accuracy, procedural posture, kinship contact, cultural authority, service access, or recognized standing. The second asks how the damage continues: database, docket, file, deadline, default, status, score, archive description, possession record, visitation log, or compliance history.

Both questions are necessary. A housing subsidy may stabilize shelter while an eviction record continues to block future housing. A service referral may help a parent while old noncompliance entries govern the case. A museum may preserve an object while its accession record continues to claim interpretive authority. Conversely, record correction may address the path but leave the underlying condition unrepaired.

The repair rule is therefore:

> Repair must reach the condition breached and the pathway through which the breach continues to act.

C. Correction: Repairing the Artifact

Correction repairs the artifact.

It is appropriate when the record, file, status, score, entry, description, or classification is inaccurate, incomplete, outdated, mismatched, or attributed to the wrong cause. Correction may require

Figure 5. Repair matched to the breach (Part VII). Each cascade problem is met by a repair family that reaches the pathway through which the breach continues to act — correction, reopening, contextualization, and recomposition.

deletion, amendment, annotation, dispute notation, reclassification, replacement, or creation of a missing record.

Correction is most familiar in record systems: tenant-screening reports, benefits files, school records, service plans, archive descriptions, and museum records.[27] It is not merely clerical. In recursive cascade, the artifact may be the vehicle through which harm continues. If the artifact is wrong, repair must stop the wrongness from traveling.

Correction has limits. Some artifacts are accurate but misleading: a missed visit, unattended hearing, passed deadline, or possession record may be true. In such cases the problem may be posture, inference, or relation.

D. Reopening: Repairing Procedural Posture

Reopening repairs procedural posture.

It is appropriate when a breach-produced artifact caused loss of procedural position: default, waiver, missed deadline, closed file, lapsed appeal, completed removal, denied benefit, terminated eligibility, or final order. If the posture was produced by conditions that disabled meaningful participation or contestation, repair may require reopening rather than explanation.

Finality serves real values: stability, reliance, efficiency, and protection from endless relitigation.[28] But finality should not protect a posture produced by defective notice, inaccessible process, institutional delay, retaliation, disability barrier, language exclusion, or other breach condition.

Reopening does not decide the merits. A tenant may still lose. A claimant may still be ineligible. A parent may still fail to show safe reunification. But the decision should not rest on a posture the breach created.

E. Contextualization: Repairing the Inference

Contextualization repairs inference.

It is appropriate when the artifact is accurate as far as it goes but misleading without its conditions of production. The question is not whether the artifact occurred. The question is what it means.

A missed appointment, service failure, low participation record, documentation gap, or possession record may be true but misleading if notice was defective, services were inaccessible, participation was conditioned by fear, distance, disability, poverty, or exclusion, the institution controlled the archive, or possession is mistaken for authority.

Contextualization does not erase facts. It prevents unsupported inferences from them. It may require explanation, notation, burden shifting, evidentiary limits, source disclosure, decision-maker instruction, or a rule against adverse inference unless cause has been traced.

The artifact need not be false to be dangerous. It need only travel apart from the conditions that explain it.

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[27] See 15 U.S.C. § 1681i(a)(1)(A), (a)(5)(A)(i)–(ii), (b)–(c). FCRA supplies an example of correction as artifact repair, not the whole repair architecture.

[28] See Fed. R. Civ. P. 60(b); *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950); *Holland v. Florida*, 560 U.S. 631, 649 (2010). These authorities support reopening and procedural-posture repair by analogy, not a universal reopening rule.

F. Recomposition: Repairing the Relation as Represented

Recomposition repairs the relation as represented.

It is appropriate when an artifact or pathway does not merely affect an object, benefit, or procedure, but stands in for a relation: a parent-child bond, kinship relation, community membership, peoplehood, cultural authority, relation to ancestors, relation to land, or relation to an object whose meaning exceeds possession.

Recomposition asks whether records, categories, possession files, compliance histories, timelines, or proxy measures have been treated as if they exhausted the relation. If so, repair must recompose the relation's representation before it is judged.

In family separation, recomposition may require the court or agency to reconstruct the evidentiary picture of the parent-child relation in light of separation conditions, service access, visitation constraints, housing barriers, child safety, kinship supports, and time under altered conditions. Recomposition is not a command to reunify. It is a command not to sever through untraced proxies.

In collective or Indigenous contexts, recomposition means returning authority over relation where outside records have displaced it; it does not mean external reconstruction of the relation's meaning. A museum, court, agency, archive, or scholar may identify that an external record has distorted a relation. That does not authorize the outsider to define the relation. Repair may require correction, consultation, repatriation, deference, return of authority, or withdrawal from interpretive control.[29]

Recomposition is demanding because it reaches the point where record, relation, and authority meet. It must therefore be controlled by non-domination. The institution repairing the breach must not seize the authority of the relation it claims to protect.

G. Matching Repair to Cascade Form

The repair families correspond to different cascade problems: wrong artifact, locked posture, misleading truth, or proxy relation. Many cases require more than one. A tenant-screening case may require correction, reopening, and contextualization. A family-separation case may require correction of case notes, reopening of a missed-hearing posture, contextualization of noncompliance, and recomposition of the parent-child bond. A collective-authority case may require record correction, access or display limits, and recomposition through return of authority rather than outsider reconstruction.

The key is not to multiply remedies. The key is to match repair to the way harm continues.

H. Limits on Repair

Repair has limits.

First, repair must not endanger another protected condition: a child's safety, a victim's bodily security, a community's internal authority, or a person's freedom from coercion.

Second, repair must not presume that return is always possible or desirable. Some relations cannot be restored to their prior form. Some objects cannot be returned. Some time cannot be undone. Some injuries require substitute arrangements, acknowledgment, support, or future-facing safeguards.

[29] See 43 C.F.R. § 10.1(a)(1)–(3), (d)(1)–(3). NAGPRA is used as a bounded example of consultation, deference, duty of care, and limits on outside control; it is not the whole theory of Indigenous authority.

Third, repair must not become domination. In collective and Indigenous contexts, correcting records, returning materials, deferring to internal authority, or withdrawing from interpretive control may be required. But repair cannot become a new basis for defining the relation itself.

Fourth, repair must respect finality where finality has not been produced by breach and reopening would impose unjustified harm on others. The model does not authorize endless relitigation. It authorizes inquiry where the posture treated as final may itself be breach-produced.

Fifth, repair must remain administrable. The model does not require maximal investigation in every case. It requires cause-tracing where a portable artifact supports an adverse inference and there is reason to believe the artifact may have been breach-produced.

These limits do not weaken repair. They make repair answerable.

I. Transition

The repair architecture completes the model's constructive work. Protected conditions identifies what is damaged. Breach and threshold identify when the framework activates. Recursive cascade identifies how damage returns. Institutional pathways show how artifacts travel. Repair names what must be done so the breach does not continue to govern through its own residue.

What remains is to see the framework at work on a single documented case, and then to test it against its objections.

VIII. The Model Against the Record

The preceding Parts build an architecture: a graded field of relations, a mechanism by which breach becomes traveling evidence, a test for when that mechanism is engaged, and a repair matched to the pathway. This Part puts the architecture to a single documented domain and lets the evidence answer it point by point. The domain is eviction, and the record is Matthew Desmond's — an ethnography of displacement in Milwaukee, supported by his and others' quantitative work.[30] The Part is a demonstration, not an extension. The model leads and the case answers; each subsection closes on what the model adds to what the case already shows; and the final subsection marks the line the demonstration does not cross. If the model is right, it should not merely be consistent with the best empirical account of eviction. It should name a structure that account documents without quite naming, and locate a harm that account's own remedy does not reach.

A. The field, answered: eviction across the four domains

The model's first claim is that what a person holds is not a stock of things but a graded field of relations, and that a home sits in the sustaining-fields tier, plumbed to every other. Eviction is the case that shows the field whole, because the loss of a home registers in all four tiers at once.

In the recognized tier, eviction produces a record. A public court-records system may carry an eviction for years — including evictions that were dismissed and charges that were never proven — under a disclaimer that unproven matters have no legal effect, a disclaimer that landlords and employers read and then set aside, and that the tenant cannot practically remove.[31] In the sustaining-

[30] MATTHEW DESMOND, EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY (2016).

[31] See DESMOND, EVICTED, ch. 7 ("The Sick") (describing a public court-records system that displayed evictions — including dismissed evictions and unproven charges — under a presumption-of-innocence disclaimer that landlords could disregard and that tenants could not practically have removed). Desmond documents the consequence in his quantitative work: an eviction record blocks access to decent affordable housing and renders tenants ineligible for many assistance programs. Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 Am. J. Soc. 88 (2012).

fields tier, the loss is the home as platform: in one of Desmond's scenes a mother, told to leave, reflects that staying had meant her children did not have to change schools — the field's worth measured not in square footage but in the schooling, the proximity, and the standing it had been holding up.[32] In the bodily and near-body tier, eviction is the physical scattering of a life — a household's belongings carried to the curb or to storage by movers working beside sheriff's deputies, the forced and repeated relocation that disassembles the near-body world of objects through which a person acts.[33] And in the interior tier, eviction exacts a toll on the spirit that the model would predict and the evidence confirms: roughly half of recently evicted mothers report multiple symptoms of clinical depression, about twice the rate of comparable mothers who kept their homes, and a group of psychiatrists, after several patients died by suicide in the days before a scheduled eviction, identified eviction itself as a serious antecedent of suicide.[34]

That last finding is the model's thesis in miniature. The psychiatrists were careful to record that none of the patients had been facing homelessness; it was not the prospect of having nowhere to sleep that drove the harm but the eviction itself — the severing of a constitutive relation. This is what the model adds to the catalogue of consequences. The four are not separate misfortunes that happen to coincide. They are one breach propagating across a single graded field, and the injury at its center is to a relation, not to a resource — which is why, as the subsections that follow show, a remedy aimed only at the resource cannot reach it.

B. The cascade, answered: the nuisance sequence

The model holds that under breach harm travels, and that the upward cascade runs from the interior and bodily tiers into the recognized one. A documented sequence makes the claim concrete. In one of Desmond's chapters, a neighbor's repeated calls to the police about a woman being beaten in the apartment above generate a nuisance citation against the landlord; when the landlord proposes only to warn the tenant, the police district rejects the proposal and will accept nothing short of eviction — the city, in effect, requiring the removal as the price of abating the nuisance.[35] The cause that produced the calls, a man's violence, drops out of what the housing system reads; what remains on the record is nuisance activity attributed to the tenancy.

This is the upward cascade in its starkest form: a breach in the bodily and interior register — physical safety — surfaces as an adverse housing record. It is also the structural asymmetry exactly. Safety is among the most constitutive conditions a person has and among the least legible to a records-based housing system, which can register it only once it has been converted into a count of calls — and once converted, it is read against her. Nor is the scene anomalous. In an analysis of every nuisance citation issued in Milwaukee over two years, roughly a third were generated by domestic violence, most landlords resolved the citation by evicting or threatening to evict the tenant, properties in Black neighborhoods were cited at disproportionate rates, and landlords took

[32] DESMOND, EVICTED, ch. "A Nuisance" (a tenant's reflection that remaining in the home had spared her children a change of schools).

[33] See DESMOND, EVICTED (the eviction move itself — a household's belongings carried to the curb and to storage by movers working alongside sheriff's deputies).

[34] DESMOND, EVICTED, Epilogue ("Home and Hope") (reporting that roughly half of recently evicted mothers exhibit multiple symptoms of clinical depression — about twice the rate of comparable mothers who were not displaced — and that, after several patients died by suicide in the days before a scheduled eviction, psychiatrists identified eviction as a "significant precursor of suicide," noting that none of the patients faced homelessness); see also Matthew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing, Hardship, and Health*, 94 Soc. Forces 295 (2015).

[35] DESMOND, EVICTED, ch. "A Nuisance" (the sequence in which a neighbor's calls to the police about a domestic-violence assault generate a nuisance citation that the police deem abated only by the tenant's eviction).

steps to discourage tenants from calling the police at all.[36] The mechanism the scene dramatizes is documented at scale; what the model adds is its name and its place in a general structure — one cascade form among four, not an idiosyncrasy of housing law.

C. The trigger, answered: the record through the four conditions

The trigger test asks four conjunctive questions, and the eviction record answers yes to each. An institution relies on an artifact: the nuisance citation, and downstream the eviction record itself, stand in for the tenancy in the judgments that follow. The artifact travels apart from its cause: the citation records nuisance, not a battery; the eviction record records a judgment, not the defective notice, the medical emergency, or the withheld repair that may have produced it. The artifact supports an adverse inference: the tenancy becomes a policing problem, the applicant a bad risk. And the inference materially affects a protected relation: it gates the next tenancy, and through the home the sustaining field beneath it.

Running the test on a real record does more than illustrate it; it shows the test discriminating. The four conditions are not met by every adverse fact. A nuisance citation that stayed within its forum, or that supported no inference beyond itself, or that bore on no protected relation, would not fire the inquiry — it would be ordinary evidence. What makes the eviction record trigger the model's scrutiny is that it does all four things at once: it is consulted in place of the person, it has shed its cause, it carries an adverse meaning, and it reaches a protected relation. The test earns its keep by sorting the record that must be cause-traced from the citation that need not be.

D. Repair, answered: the record the voucher misses

The eviction literature also marks the boundary of a purely distributive remedy, and with it the model's distinctive contribution. Desmond's proposed remedy is distributive and, on its own terms, formidable: a universal housing voucher that would loosen the market pressures driving displacement and guarantee a floor of shelter.[37] It restores the resource. The model has no quarrel with the voucher as far as it reaches; its point is that the model adds a repair target the voucher does not reach — the eviction record itself. A family re-housed by a voucher still carries the eviction on its record, and that record goes on doing the work the recognized tier always does — gating the next application, surfacing in the next eligibility screen, narrowing the next landlord's search. The resource is restored; the artifact is left untouched.

This is the harm the model isolates and the repair it prescribes. Repair must reach the pathway through which the breach continues to act, and here the pathway is the record. The corresponding repair is therefore not a further transfer but an operation on the artifact itself: correction where the record is wrong, sealing or expungement where its continued circulation is the injury, contextualization where it is accurate on its face but misleading in its effect. The expanding movement to seal and expunge eviction records is, in the model's terms, the distributive remedy's missing half — the part that reaches what a voucher leaves standing. And the interior finding from subsection A supplies the reason the two halves are not interchangeable: because the injury is to a relation and

[36] Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 Am. Soc. Rev. 117 (2013) (analyzing every nuisance citation issued in Milwaukee across a two-year period; nearly one-third were generated by domestic violence, most property owners abated the citation by evicting or threatening to evict the tenant, properties in Black neighborhoods were disproportionately cited, and landlords discouraged tenants from calling the police).

[37] DESMOND, EVICTED, Epilogue ("Home and Hope") (proposing a universal housing-voucher program). On reaching the record that a voucher leaves intact, see the expanding body of state and local measures to seal or expunge eviction records.

survives in a record rather than consisting in the loss of a resource alone, a resource-only remedy is structurally unable to complete the repair. This is the sense in which the Article does work the leading account does not — not by contradicting it, but by carrying its remedy the one step further it declines to take.

E. The scope of the demonstration

A demonstration is disciplined by what it refuses to become. This Part has used eviction to show the model working; it has not advanced a theory of eviction, and it proposes no housing-policy program. Those are different projects, answerable to different questions, and the line between them is worth drawing because it is what keeps the case evidence rather than subject. The empirical study of eviction as a social phenomenon — its causes, its distribution, its rate — belongs to the sociology this Part draws upon, not to the model. The design of housing and records-reform policy — what a voucher should cost, how a sealing statute should be drafted — belongs to a normative and institutional argument this Article points toward but does not undertake. What the model contributes here, and all it contributes, is structure: it shows that the displacement Desmond documents has the shape the model predicts, and that the remedy the field favors stops one step short of a harm the model can name. Held to that, the demonstration strengthens the theory without enlarging its claims. Carried past it, the same materials would no longer be illustrating this thesis but stating another, and would be better served by a study of their own.

IX. Objections

The preceding Parts developed the model, tested it against recursive cascade, applied it to family separation, and translated it into repair. The objections that follow are not peripheral. They mark the framework's boundaries. A theory of protected conditions fails if it turns children into property, treats every harm as breach, rejects records as such, excuses noncompliance, or authorizes outsiders to judge collective relations. The answers below preserve the model by limiting it.

A. Is This Really Property?

The first objection is that the model is not really about property. It includes memory, home, bodily supports, records, family relations, cultural authority, and recognized standing. These may be important, the objection says, but calling them property stretches property beyond usefulness.

The objection identifies a real risk. If property means only alienable object-ownership, then much of the model is not property in that sense. A memory is not owned like a chair. A child is not property. A people's relation to ceremony is not reducible to title. A legal status is not a commodity. The model should not pretend otherwise.

But the Article does not use property only in the commodity sense.[38] It uses property as one legal grammar for protected relations: boundaries, standing, exclusion, access, use, repair, transfer, inalienability, and institutional recognition. Property law already does more than protect market exchange. It also marks relations among persons, things, places, records, and institutions. It decides who may enter, use, remain, exclude, inherit, transfer, contest, or recover.

[38] See Wesley Newcomb Hohfeld, *Some Fundamental Legal Conceptions as Applied in Judicial Reasoning*, 23 Yale L.J. 16 (1913); Joseph William Singer, *The Reliance Interest in Property*, 40 Stan. L. Rev. 611, 699–701 (1988); Margaret Jane Radin, *Property and Personhood*, 34 Stan. L. Rev. 957, 957–61 (1982). For the named opposition reserved for the property-theory spin-off, see Thomas W. Merrill, *Property and the Right to Exclude*, 77 Neb. L. Rev. 730 (1998); Henry E. Smith, *Property as the Law of Things*, 125 Harv. L. Rev. 1691 (2012); J.E. Penner, *The Idea of Property in Law* ch. 4 (1997).

The Protected Conditions model therefore does not claim that every protected condition is property in the same way. It claims that some harms become legible when property is understood as a relation between agency and the conditions that make agency possible. The point is not to turn all meaningful relations into assets. It is to identify why some conditions require legal protection because their breach disables the person's ability to act, contest, remember, belong, or repair.

If a reader rejects the property label for interior or relational conditions, the Article's core claim can still stand as a theory of protected relations. Property is one legal grammar through which those relations become visible; it is not the only possible name for the structure.

The boundary matters. The model does not expand property so that everything valuable becomes owned. It narrows the inquiry to conditions that support meaningful agency and whose breach crosses the threshold described in Part III. Property language is useful only where it helps identify protected standing, breach, and repair. Where it would distort the relation, the model must say so.

B. Does the Model Prove Too Much?

A second objection is overbreadth. If protected conditions include interior meaning, bodily supports, sustaining fields, recognized status, and bonds, then almost any disappointment or inconvenience might become a protected-condition breach. The model may seem to prove too much.

That objection is serious. A theory that treats every frustration as breach becomes unusable. The model therefore requires dependency and threshold harm. As Part III explained, a protected condition is not breached merely because an agent prefers a better condition, suffers ordinary loss, or encounters friction. The condition must be sufficiently connected to meaningful agency, and the interference must cross a threshold of seriousness.[39]

The threshold does real work. A tenant may prefer a larger apartment. That preference alone does not show a protected-condition breach if the current apartment remains safe, lawful, stable, and practically usable. A worker may dislike a schedule. That does not by itself show breach unless the schedule disables necessary care, bodily safety, religious practice, legal compliance, or another protected condition. A person may feel attached to an object. That attachment does not automatically make the object relation-inalienable.

The model therefore distinguishes ordinary preference from dependency, and ordinary loss from threshold harm. It also distinguishes breach from transformation. A relation may change internally without being breached externally. A tradition may evolve. A family may reorganize. A person may leave a place. A people may alter practice through their own authority. None of that is breach merely because an outsider sees change.

The overbreadth objection is answered by the model's activation rules. The question is not whether a condition matters. Many things matter. The question is whether the condition is sufficiently tied to meaningful agency, whether the interference crosses the relevant threshold, whether the harm travels through a protected pathway, and whether repair is institutionally justified.

Protected Conditions is therefore not a theory of every harm. It is a theory of certain disabling harms to the conditions through which persons and peoples act in the world.

[39] See Amartya Sen, *Development as Freedom* (1999); Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (2000); Martha Albertson Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 Yale J.L. & Feminism 1 (2008). These sources are convergence points only: capabilities theory measures shortfall, while Protected Conditions diagnoses breach.

C. Do Protected Conditions Conflict?

A further objection is that the model breaks down precisely where it should be most useful. If memory, body, home, record, bond, and collective relation are all protected conditions, then conditions will sometimes clash, and a theory of protected conditions must say what happens then. Either it picks winners — in which case it is a disguised priority theory wearing the language of relations — or it falls silent, in which case it is indeterminate exactly when a decision is needed.

The objection is fair, and the answer begins by separating two kinds of clash that look alike. Many apparent conflicts are not conflicts of protected conditions at all, and the model's existing distinctions dissolve them. A relation that changes through the authority of those who live it is not a breach of anyone's condition merely because another party expected it to continue; Part III's distinction between breach and transformation removes that case. A claim that only grazes another has not crossed the threshold that makes a protected-condition breach; Part III's threshold requirement removes that one. And a tension between a collective and one of its members defers to internal authority over internal meaning rather than to an external referee — the point developed in the later objection on collective and Indigenous relations. A large share of what looks like competing protected conditions turns out, on the model's own terms, not to compete.

What remains are genuine clashes: two valid, threshold-crossing conditions that cannot both be taken for granted. The model is not silent about these, because it has already worked one in detail. The family-separation Part holds a parent's bond and a child's safety together — neither dismissible — and refuses to let either be settled by the artifacts a separation produces: it commands neither reunification nor severance, but requires that the records, absences, and timelines on which a severance would rest be cause-traced first. The model meets genuine clashes case by case; what it has not yet done is state the rule that case, and others like it, share.

The rule follows from the asymmetry. A records-based institution facing a clash is structurally drawn to whichever claim is more legible, because legibility is what such institutions read. Its default resolution is therefore not neutral: it quietly favors the party whose interest already wears a record, a status, or a number — the recursive cascade in two-party form. The model's first move in any clash is accordingly corrective rather than decisive. Before anything is balanced, the legibility distortion must be removed: ask what each side actually holds and how constitutive it is of that party's agency, and ask whether either competing claim is itself a breach-produced artifact wearing the costume of an interest. Only then is the clash adjudicated — on constitutiveness and on breach, never on which side the institution finds easier to see. That correction resolves a substantial share of real clashes, and it resolves them in the model's own voice rather than a borrowed one.

Where a clash can be met without a clean winner, it should be. A conflict that runs through a reciprocal bond is not a question of who owns the bond but of what each party owes the relation and whether the relation can be recomposed; the reciprocal grammar set out in Part II and the recomposition family in Part VII supply that path. And no resolution of a clash may itself become a domination — the limit that governs repair governs conflict as well.

The model does not, however, supply a priority rule for the hard residue: two genuinely constitutive, genuinely un-breached, simply incompatible claims. That is a problem of allocation — of first possession, recording, and priority among good-faith claimants — and allocation is the home ground of classical property theory, not of a theory of breach. For the tragic clash the model offers a structure: protect the most constitutive condition that can in fact be protected, prefer recomposition to a winner-take-all award, and permit no domination. It does not offer a formula, and it should not pretend to. Naming that limit is not a gap in the theory but the same discipline the conclusion states in general terms — a framework that names protected conditions must also know the questions that are not its own.

D. Does the Model Treat Children as Property?

A third objection is that applying the model to parent-child relations risks treating children as property. That objection would be fatal if it were true. But it misunderstands the model.

As Part II explained, bonds are edges rather than holdings. A parent-child relation is not an object owned by the parent, and the child is not part of the parent's estate, identity, or dominion. The relation runs between persons: one mature, one developing, each with protected conditions of safety, continuity, care, memory, and belonging.

The model does not make children property. It explains why children cannot be property.

This also clarifies the family-separation argument. The claim is not that public authority interferes with parental property. The claim is that a parent-child bond is a protected relation between persons and that separation-produced records must be cause-traced before they are used as evidence against that bond.

The child's standpoint is internal to the model. If return would endanger the child's protected conditions, the model does not require return. Child safety is not an exception to protected conditions. It is one of them.

E. Is Recursive Cascade Just Due Process, Administrative Burden, or Epistemic Injustice?

Another objection is that recursive cascade is only due process, administrative burden, epistemic injustice, algorithmic bias, or ordinary evidentiary error under a new name.

It is adjacent to those literatures, but not identical to them. Due process asks about notice, hearing, impartial decision-making, and erroneous deprivation; recursive cascade asks whether the evidence used in that process was itself produced by breach. Administrative burden explains learning, compliance, and psychological costs; recursive cascade adds the return, where burden-produced failure becomes evidence against the person or relation harmed. Epistemic injustice concerns wrongs to persons as knowers; recursive cascade concerns the institutional life of artifacts that may travel apart from the explanation. Algorithmic or proxy governance shows how scores and classifications carry prior disadvantage; recursive cascade is broader, because it also appears in paper files, court records, agency notes, visitation logs, housing records, and defaults.

The point is not to replace these neighboring frameworks.[40] The point is to name what they do not always isolate: the evidentiary return by which a harm-produced artifact becomes proof against the person or relation harmed. Recursive cascade may operate through those frameworks, but it is not reducible to them.

F. Does Recursive Cascade Excuse Noncompliance?

Another objection is that recursive cascade excuses failure. If a person misses a hearing, fails to complete services, misses a deadline, or does not produce documents, the model may seem to convert noncompliance into a defense.

[40] See, e.g., *Mathews*, 424 U.S. at 335; Pamela Herd, Donald P. Moynihan & Hope Harvey, *Administrative Burden: Learning, Psychological, and Compliance Costs in Citizen-State Interactions*, 25 J. Pub. Admin. Rsch. & Theory 43 (2015); Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (2007); Barocas & Selbst, *Big Data's Disparate Impact*, 104 Calif. L. Rev. 671 (2016). These neighboring literatures identify related problems; the distinct mechanism here is the evidentiary return of a breach-produced artifact.

It does not.

Recursive cascade is not an excuse from compliance. It is a prohibition on treating possible breach-produced noncompliance as neutral evidence without inquiry.

The difference is important. Noncompliance may reflect refusal, neglect, incapacity, or risk. Institutions must be able to act on those facts. But noncompliance may also reflect defective notice, inaccessible procedure, displacement, retaliation, delayed services, missing translation, poverty, disability-related barriers, or conditions created by the institution itself. In those cases, the record of failure cannot fairly be read before asking what produced the failure.

Parts IV and VII change the burden of inquiry, not the truth of the underlying facts. A missed deadline remains missed. A service remains incomplete. A document remains absent. The question is what inference may be drawn from that fact and whether the institution may treat it as proof against the person or relation without cause-tracing.

The claimant may still lose. The record may still matter. The institution may still act. But it may not let a breach-produced artifact do evidentiary work while pretending the breach is absent.

G. Can Records Represent Bonds?

A further objection runs in the opposite direction. If bonds are edges rather than holdings, perhaps records cannot represent them at all. Courts, agencies, schools, hospitals, employers, tribes, museums, and archives all rely on records. If the model denies that records can represent relations, it becomes unusable.

The model does not deny record representation. It denies record finalism.

As Part II explained, records represent bonds through proxies and projections. A birth certificate, custody order, visitation log, service-plan entry, school record, membership entry, archive description, or accession file may represent part of a relation. Such records may be necessary. They may protect persons. They may prevent arbitrary decision-making. They may preserve memory and accountability.

But a proxy is not the relation itself. A visitation log may record contact; it does not exhaust care. A service-plan entry may record completion; it does not exhaust capacity. A museum record may show possession; it does not exhaust cultural authority. A membership category may serve one legal purpose; it does not exhaust peoplehood.

The objection is therefore answered by a distinction. Records can represent relations, but they represent them partially, institutionally, and under conditions. When those conditions are damaged, the record must be read through the damage. When the record is used to judge the relation, the institution must ask whether it is seeing the relation or only the artifact through which the relation has been made legible.

Part VII called this recomposition. In objection form, the same point is simpler: records may speak, but they do not get the final word merely because they are records.

H. Does the Model Authorize Outsiders to Judge Indigenous or Collective Relations?

Before that authority question can be answered, the translation must be made explicit. A collective subject is not treated here as an aggregation of individual claims. It is treated as an agent with its own standpoint: collective memory and authority over meaning operate as interior conditions; land, territory, language, and cultural continuity operate as sustaining fields; rolls, recognition, treaties, and legal status operate as recognized conditions; and the bodily domain translates only loosely. The model therefore applies to a people only by translating the domains, not by pretending that a people is simply a larger individual.

A final authority-based objection is that the model may become the thing it criticizes. If protected conditions include relations to land, memory, ancestors, objects, ceremony, membership, or peoplehood, an outside court, agency, museum, university, or scholar might claim authority to decide what those relations mean. That would reproduce the breach in the name of repair.

The answer is no. The model identifies a limit, not a license. It may show that an outside institution has distorted, seized, misrecorded, classified, displayed, or governed through artifacts that stand in for a collective relation. But identifying external breach does not give the outside institution authority to define the relation it breached.

This follows from Part III's distinction between breach and internal transformation. A relation may change through the authority of the people who live it. That is not breach merely because an outsider sees alteration, discontinuity, or disagreement. Breach occurs when an external actor interferes with, misrecognizes, extracts, falsifies, or dominates the protected condition on which the relation depends.

In Indigenous and collective contexts, this distinction is decisive. A museum accession record may show possession. It does not by itself define cultural authority. A federal or state category may record membership for one legal purpose. It does not exhaust peoplehood. An archive may preserve a description. It does not become the final interpreter of the relation described. A court may need to decide a legal dispute. It does not thereby become the source of ceremonial meaning.

Federal Indian law supplies a boundary principle for this claim.[41] Tribes retain powers of self-government, and internal matters of membership, governance, territory, family, and cultural continuity cannot be treated as ordinary objects of outside administration. ICWA reflects this boundary in the child-welfare setting: Congress recognized that Indian children are vital to the continued existence and integrity of Indian tribes, and that state systems had often failed to recognize essential tribal relations and the cultural and social standards prevailing in Indian communities and families.[42] The point here is not that ICWA governs all family-separation cases. It is that child welfare can implicate collective relations as well as individual parent-child relations.

The repair principle therefore changes form. Recomposition does not mean that the outside institution reconstructs the relation for the people. It means the institution stops treating its own records, possession, categories, or procedures as if they exhausted the relation. Repair may require consultation, correction, repatriation, return of authority, deference to internal protocol, withdrawal from interpretive control, or limits on display, access, research, or use.

[41] See *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55–56, 60–62, 71–72 (1978); *United States v. Wheeler*, 435 U.S. 313, 322–23 (1978); *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 137–48 (1982). These cases support collective-authority boundaries and tribal self-government; they do not make federal recognition the normative horizon of tribal flourishing.

[42] See 25 U.S.C. §§ 1901(3)–(5), 1902; *Haaland v. Brackeen*, 599 U.S. 255 (2023) (upholding ICWA under Congress's Article I authority and rejecting the anticommandeering challenge, while declining to reach the equal-protection challenge to the Act's placement preferences for want of standing); *Morton v. Mancari*, 417 U.S. 535, 553–54 (1974) (treating classifications based on tribal membership as political rather than racial). ICWA is used for Indian child-welfare contexts and congressional recognition of tribal-family integrity, not all family separation.

This is why NAGPRA is useful but bounded.[43] It does not supply the whole theory. It shows one legal setting in which possession records and institutional classifications do not settle the relation among peoples, ancestors, objects, knowledge, and authority. The current regulations require consultation with lineal descendants, Indian Tribes, and Native Hawaiian organizations, deference to Native American traditional knowledge, and, in specified contexts, free, prior, and informed consent before exhibition, access, or research. Those requirements illustrate the broader point: repair may require the institution to give up the false finality of its own record.

The same limit applies beyond NAGPRA. The Protected Conditions model can say that external domination has damaged a condition of collective agency. It cannot replace the collective authority it is trying to protect. If the model is used to let outsiders define the people's meaning for them, the model has been misused.

The boundary rule is therefore simple:

> External breach may be judged externally. Internal meaning must not be seized externally.

That rule does not solve every jurisdictional or evidentiary problem. Courts and agencies may still have legal questions to decide. But it prevents the model from converting protected conditions into a universal permission slip for outside interpretation. The model protects collective relations by limiting the authority of those who stand outside them.

I. Is the Model Too Complex to Use?

A final practical objection is that the framework is too complex. It distinguishes domains, bonds, breach, threshold harm, cascade, recursive cascade, pathways, repair families, and limits.

The answer is that the model can operate at different depths. At its simplest, it asks three questions:

1. What protected condition was breached?
2. Did the breach produce an artifact, absence, status, or compliance failure?
3. Is that artifact now being used as evidence against the person or relation harmed?

If the answer to the third question is no, the recursive-cascade analysis may end. If yes, the institution asks what repair is needed: correction, reopening, contextualization, recomposition, or some combination.

The framework is not a demand for maximal analysis in every case. It is a diagnostic sequence: when to stop, when to ask for cause, and when the record before the institution may be the residue of breach rather than neutral proof.

A simple version is enough for many cases:

> Do not let a breach govern through its own artifact.

That sentence is not the whole theory. But it is the usable core.

[43] See 43 C.F.R. § 10.1(a)(1)–(3), (d)(1)–(3). NAGPRA is used as a bounded example of consultation, deference, duty of care, and limits on outside control; it is not the whole theory of Indigenous authority.

J. Is This Capabilities Theory in Property Clothing?

A final objection is that the framework may look like capabilities theory or vulnerability theory in property language. The resemblance is real but limited.

Capabilities theory measures shortfall in what persons are able to be and do. Vulnerability theory begins from the embodied, dependent, and institutionally situated subject. Protected Conditions asks a different question. It asks whether an external crossing has breached a condition on which a protected relation depends, and whether the breach has produced an artifact that returns as adverse proof.

The difference is not cosmetic. A capability shortfall can exist without a breacher. Famine, illness, accident, deprivation, and bad luck may create grave shortfalls even where no one has crossed a protected boundary. Protected Conditions is narrower. It diagnoses breach. It asks who or what crossed the boundary, what condition was damaged, what artifact was produced, and what repair must follow.

Dependency also means something different here. It is not an ontology of the vulnerable subject. It is a property of a relation-condition pair. A condition matters because a protected relation depends on it in that setting. The model is therefore forensic before it is distributive: it particularizes breach, traces pathway, and assigns repair.

This does not make capabilities or vulnerability theory irrelevant. They are neighboring traditions and useful points of convergence. But they are not the ground of the model. The ground is the threshold test itself: a mode is serious because it threatens the conditions that keep a protected relation real.

K. Transition to Conclusion

These objections give the framework shape. Protected Conditions is not a theory of every injury, record error, family conflict, or collective relation. It is a theory of breach where a protected relation depends on a condition, the breach crosses a threshold, and law or institutions risk allowing the breach to govern through its own artifacts. The conclusion returns to that claim.

X. Conclusion

The tenant-screening record with which this Article began is not only a bad-record problem.[44] It is a protected-condition problem. It shows how law can allow a breach to survive as evidence, moving from home to record to future exclusion. The tenant's difficulty is not exhausted by the first loss of housing or the first procedural failure. The injury travels because the record travels, and the record matters because institutions treat it as proof.

That is the central structure this Article has named. Protected-condition harm becomes especially dangerous when it damages the conditions of proof, participation, recognition, or repair. The person harmed may then be judged through the artifact the harm produced. A missed hearing be-

[44]See Consumer Fin. Prot. Bureau, *Tenant Background Checks Market Report* 2–3 (2022); Fed. Trade Comm'n, *Using Consumer Reports: What Landlords Need to Know*; 15 U.S.C. §§ 1681m(a), 1681i(a); see also Mary K. Cunningham et al., Urb. Inst., *Opening the "Black Box" of Tenant Screening* (2022). These sources support the pathway risk and institutional setting, not the claim that every eviction record is inaccurate or every tenant-screening denial wrongful.

comes unreliability. A missing document becomes lack of entitlement. A service failure becomes incapacity. A weakened bond becomes evidence that the bond was weak all along.

The answer is not distrust of records. Records are necessary. Courts, agencies, landlords, employers, schools, museums, archives, and governments cannot operate without files, categories, statuses, and proof. The answer is also not automatic excuse. Noncompliance may matter. Finality may matter. Child safety may require intervention. Institutions may have to make difficult decisions under uncertainty.

The answer is discipline. Institutions must ask what their artifacts are doing.

The Protected Conditions model supplies that discipline by shifting attention from the thing lost to the condition breached. Interior conditions, bodily and near-body conditions, sustaining fields, and recognized conditions are the supports through which agency becomes livable. Some of these supports are material. Some are institutional. Some are relational. Some are collective. The framework does not collapse them into ordinary property ownership. It asks when interference with them disables meaningful agency.

Recursive cascade then names the specific institutional danger: breach → artifact → return. The danger is not only that harm spreads. It is that harm may return wearing the authority of evidence. Once that happens, ordinary legal and administrative systems may treat the breach-produced artifact as if it were neutral, portable, and self-explanatory.

Repair must answer that danger. Compensation may be necessary, but it will not always be enough. Correction is needed when the artifact is wrong. Reopening is needed when breach has locked a person or relation into an adverse procedural posture. Contextualization is needed when the artifact is accurate but misleading. Recomposition is needed when an artifact stands in for a relation and the evidentiary picture of that relation has been distorted.

The hard cases show why the distinction matters. In family separation, the model does not command reunification and does not deny child safety. It requires that separation-produced records, timelines, housing entries, service failures, and signs of attenuation be read as artifacts of altered conditions before they are used to sever a bond. In Indigenous and collective contexts, the model may identify external breach, but it cannot authorize outside institutions to define internal meaning. External breach may be judged externally. Internal meaning must not be seized externally.

These limits are not concessions away from the theory. They are the theory's form of responsibility. A framework that names protected conditions must also know when to stop. It must not convert children into property, every preference into breach, every record into suspicion, every failure into excuse, or every collective relation into an object for outside interpretation.

The Article's claim is therefore modest in one sense and demanding in another. It is modest because it does not say that every injury is a protected-condition breach or that every adverse record is recursive. It is demanding because once a plausible recursive structure appears, institutions may no longer pretend the artifact is self-explanatory. They must ask what produced it, what relation it is being used to judge, and whether repair must reach the pathway through which the harm continues.

Protected conditions names what must not disappear when law translates life into records: the relation, the condition that keeps it real, and the pathway through which harm continues to act.

Appendix. Relation to Existing Work

This appendix situates the argument within the contemporary literature on property, harm, and repair. It is offered as scholarly orientation rather than as a step in the argument: nothing in the main text depends on it, and the model defended above is not derived from any of the works discussed here. For each neighboring line of work, the discussion marks two things only — the point of contact, where the model shares a premise or concern, and the point of departure, where it does something the prior work does not.

A. Property as a relation rather than a stock

The model's account of property as a standpoint-relative field of relations stands in a tradition that treats property as constitutive of persons rather than as an inventory of things. Its nearest ancestor is Radin's distinction between property that is *personal* — bound up with the holder's self-constitution — and property that is merely *fungible*.[45] The four-domain structure refines that distinction in two respects. First, where Radin draws a line, the model draws a gradient, sorting the field into four tiers and adding the claim that constitutiveness and legibility vary inversely across them. Second, and more consequentially, Radin's distinction is static: it tells us which holdings warrant stronger protection but not how harm to them behaves. The model's central work — cascade, trigger, repair — concerns motion through the field, a dimension the personhood tradition leaves undeveloped.

The model shares with progressive property the premise that property is justified by what it does for human flourishing and community rather than by an abstract right to exclude,[46] and with relational and reliance theories the view that holdings are sites of dependence built up over time[47] — a view that does much of the work in the account of sustaining fields, where what is lost with a place is the accumulated organization of a life rather than its square footage.[48] What distinguishes the model is that it does not stop at characterizing the value of the relation; it traces what happens when the relation is breached and the breach is recorded.[49]

B. The legibility of records

The model's claim that institutions read only the outermost tier — and that this asymmetry is the opening through which breach becomes evidence — is indebted to Scott's account of legibility, the project of rendering subjects into standardized, recordable forms that an institution can survey and

[45] Margaret Jane Radin, *Property and Personhood*, 34 STAN. L. REV. 957 (1982); see also MARGARET JANE RADIN, CONTESTED COMMODITIES (1996) (developing the cognate notion of market-inalienability). The personhood tradition supplies the intuition that some holdings are constitutive of the self; the model departs by grading that intuition across four domains and by supplying the dynamics of breach and repair the tradition does not address.

[46] Gregory S. Alexander, Eduardo M. Peñalver, Joseph William Singer & Laura S. Underkuffler, *A Statement of Progressive Property*, 94 CORNELL L. REV. 743 (2009); see also Gregory S. Alexander, *The Social-Obligation Norm in American Property Law*, 94 CORNELL L. REV. 745 (2009). Shared: property as serving plural human values rather than exclusion alone. Distinct: the model adds an account of how those values are injured and restored.

[47] See JENNIFER NEDELSKY, LAW'S RELATIONS: A RELATIONAL THEORY OF SELF, AUTONOMY, AND LAW (2011); HANOCH DAGAN, PROPERTY: VALUES AND INSTITUTIONS (2011); Joseph William Singer, *The Reliance Interest in Property*, 40 STAN. L. REV. 611 (1988). These ground the model's first-personal, relation-first standpoint; the model's addition is the topology along which relations are harmed.

[48] Cf. Jeremy Waldron, *Homelessness and the Issue of Freedom*, 39 UCLA L. REV. 295 (1991) (on the dependence of agency on having a place to be), which parallels the model's treatment of sustaining fields.

[49] On the situated subject and human flourishing in the information environment, see JULIE E. COHEN, CONFIGURING THE NETWORKED SELF: LAW, CODE, AND THE PLAY OF EVERYDAY PRACTICE (2012); Julie E. Cohen, *Property as Institutions for Resources: Lessons from and for IP*, 94 TEX. L. REV. 1 (2015), bearing on the recognized and digital-account components of the field.

act upon.[50] The model adapts the concept in two ways. It narrows legibility to a specific operation, *legibility to records-based adjudication*: not whether a person is perceptible to some institution, but what a tribunal can consult when it decides. And it reverses the concept's polarity. Scott's legibility is a technique of administration that fails its subjects by oversimplifying them; the model's legibility is a vulnerability — the property of the recognized tier that lets a breach-produced artifact travel apart from its cause and return as proof.

That the artifact does this in practice is documented, though not theorized, in a body of work on how records and scores operate against those subject to them.[51] The closest empirical cousin to the model's claim that harm becomes administratively durable is the literature on criminal records and collateral consequences, which describes a record that outlives the conduct producing it and re-injures the person across employment, housing, and standing.[52] The model generalizes the structure that literature observes in a single domain and supplies the apparatus — the trigger test and the matched repair — that a record-specific account does not require.

C. Harm and its correction

The model's threshold requirement engages the analytic tradition that asks what it is for conduct to harm rather than merely to affect.[53] Its repair architecture, however, departs from the dominant theory of correction in private law. On a corrective-justice account, the wrong is annulled by restoring the bilateral position of the two parties to it; the structure is bipolar and backward-looking.[54] That structure cannot reach the model's characteristic injury, which is not a completed transfer between two parties but a breach that persists as an artifact and continues to act across forums and over time. The model's repair is correspondingly functional rather than formal: it asks not what would equalize the parties but what would reach the condition breached and the pathway through which the breach continues to act — which is why a single case may require more than one repair.

The nearest analogue to that matched, multi-form conception of repair lies outside private law, in the philosophical account of moral repair as the reconstruction of relations damaged by wrongdoing.[55] The model shares its insistence that repair is a structured response keyed to the specific damage rather than a fixed remedy, and parts from it in register: where moral repair works through

[50] JAMES C. SCOTT, SEEING LIKE A STATE: HOW CERTAIN SCHEMES TO IMPROVE THE HUMAN CONDITION HAVE FAILED (1998). The model narrows Scott's legibility to legibility to records-based adjudication and treats it as a vulnerability of the recognized tier rather than as a technique of administration.

[51] See VIRGINIA EUBANKS, AUTOMATING INEQUALITY: HOW HIGH-TECH TOOLS PROFILE, POLICE, AND PUNISH THE POOR (2018); PAMELA HERD & DONALD P. MOYNIHAN, ADMINISTRATIVE BURDEN: POLICYMAKING BY OTHER MEANS (2018); BERNARD E. HARCOURT, AGAINST PREDICTION: PROFILING, POLICING, AND PUNISHING IN AN ACTUARIAL AGE (2007). These document the artifact in operation — the file entry, the screening score — without supplying the structural account the model provides.

[52] On the durability of the record specifically, see DEVAH PAGER, MARKED: RACE, CRIME, AND FINDING WORK IN AN ERA OF MASS INCARCERATION (2007); Gabriel J. Chin, *The New Civil Death: Rethinking Punishment in the Era of Mass Conviction*, 160 U. PA. L. REV. 1789 (2012); ISSA KOHLER-HAUSMANN, MISDEMEANORLAND: CRIMINAL COURTS AND SOCIAL CONTROL IN AN AGE OF BROKEN WINDOWS POLICING (2018). This is the model's closest empirical cousin; the model generalizes the structure beyond criminal records.

[53] See JOEL FEINBERG, HARM TO OTHERS (1984) (the analytic baseline for distinguishing harm from mere effect, on which the model's threshold requirement draws).

[54] See ERNEST J. WEINRIB, THE IDEA OF PRIVATE LAW (1995); JULES L. COLEMAN, RISKS AND WRONGS (1992). The contrast is structural: bipolar, position-restoring correction cannot reach an injury that persists as an artifact and continues to act across forums, which is what the model's pathway-targeting repair is built to address.

[55] MARGARET URBAN WALKER, MORAL REPAIR: RECONSTRUCTING MORAL RELATIONS AFTER WRONGDOING (2006). Shared: repair as a structured response matched to the damage rather than a fixed remedy label. Distinct: the model's register is institutional — correction, reopening, contextualization, recomposition — rather than the moral-psychological work of trust and amends.

trust, resentment, and amends between persons, the model's repair works through the correction, reopening, contextualization, and recomposition of the institutional artifacts and postures through which a breach travels.

D. What the model is not

Because the model is a theory of the conditions under which agency is held and harmed, it is easily mistaken for two adjacent theories it does not adopt; the following may be read alongside the objections in Part IX. It is not a capabilities theory: it offers no list of functionings a person must be able to achieve and makes no distributive claim about what each is owed, providing instead a structural account of how a field of relations is composed and how harm propagates through it.[56] Nor is it a vulnerability theory: though it shares the rejection of the self-sufficient liberal subject, it does not universalize a vulnerable subject as the ground of state responsibility, retaining instead a first-personal standpoint and a domain structure that locates harm rather than generalizing exposure to it.[57]

E. Foundations and applications

Two further debts and two applications deserve brief mention. The model's bodily and near-body domain — the objects fused to present capacity — is the normative counterpart of the philosophical claim that the boundary of the agent extends into the artifacts through which the agent acts;[58] and its recognized tier, standing conferred by systems, sits within the longer tradition that treats recognition as a condition of personhood, here in its administrative rather than its intersubjective form.[59] At the hard case of family separation, the decomposed-bond cascade supplies a structural counterpart to the empirical critique of the child-welfare system as a family-policing apparatus that converts the conditions of poverty into evidence against the bond.[60] And the model's collective application, which treats a people as an agent with its own standpoint, joins a literature on Indigenous stewardship and peoplehood that resists the reduction of collective relations to individual holdings.[61]

[56]See MARTHA C. NUSSBAUM, WOMEN AND HUMAN DEVELOPMENT: THE CAPABILITIES APPROACH (2000); MARTHA C. NUSSBAUM, CREATING CAPABILITIES: THE HUMAN DEVELOPMENT APPROACH (2011); AMARTYA SEN, DEVELOPMENT AS FREEDOM (1999). The model is structural rather than distributive and enumerates no functionings.

[57]See Martha Albertson Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 YALE J.L. & FEMINISM 1 (2008). The model shares the critique of the self-sufficient subject but keeps a first-personal, domain-structured standpoint rather than grounding obligation in universal vulnerability.

[58]Cf. Andy Clark & David Chalmers, *The Extended Mind*, 58 ANALYSIS 7 (1998). The model takes the extension of the agent into fused objects as a normative premise about what warrants protection rather than as a metaphysical thesis about cognition.

[59]Cf. AXEL HONNETH, THE STRUGGLE FOR RECOGNITION: THE MORAL GRAMMAR OF SOCIAL CONFLICTS (Joel Anderson trans., 1995). The model's recognized tier concerns administrative recognition — standing conferred by systems — rather than intersubjective recognition, but inherits the premise that recognition conditions personhood.

[60]See DOROTHY ROBERTS, TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD (2022); DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE (2001). The decomposed-bond cascade gives structural form to the observation that the conditions of poverty are converted into evidence against the parent-child bond.

[61]See Kristen A. Carpenter, Sonia K. Katyal & Angela R. Riley, *In Defense of Property*, 118 YALE L.J. 1022 (2009); Kristen A. Carpenter, *Real Property and Peoplehood*, 27 STAN. ENV'T L.J. 313 (2008). These inform the model's collective application, which treats a people as an agent with its own standpoint rather than as an aggregation of individual holdings.

The model's claim to novelty is therefore narrow and structural. Each strand above has a developed literature; what has not been done is to run them as one architecture — a graded field, a mechanism by which breach becomes traveling evidence, a test for when that mechanism is engaged, and a repair matched to the pathway — so that property, harm, and repair are described by a single account rather than three.