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#### The affirmative positions freedom as a question of reclaiming humanity and participation – this view cannot take into account the gratuitous violence enacted on the slave. Expanding the inclusionary circle of civil society can never include Blackness because it is founded in contradistinction to it – their humanism is birthed from the murder of the slave.

Wilderson ’10 [Frank, Associate Professor at UC Irvine’s Department of Drama and African American Studies, Red, White & Black: Cinema and the Structure of U.S. Antagonisms, pp. 21-23]

Again, what is important for us to glean from these historians is that the preColumbian period, the Late Middle Ages, reveals no archive of debate on these three questions as they might be related to that massive group of Black-skinned people south of the Sahara. Eltis suggests that there was indeed massive debate which ultimately led to Britain taking the lead in the abolition of slavery, but he reminds us that that debate did not have its roots in the late Middle Ages, the post-Columbian period of the 1500s or the Virginia Colony period of the 1600s. It was, he asserts, an outgrowth of the mid- to late-18th century emancipatory thrust—intra-Human disputes such as the French and American Revolutions—that swept through Europe. But Eltis does not take his analysis further than this. Therefore, it is important that we not be swayed by his optimism of the Enlightenment and its subsequent abolitionist discourses. It is highly conceivable that the discourse that elaborates the justification for freeing the slave is not the product of the Human being’s having suddenly and miraculously recognized the slave. Rather, as Saidiya Hartman argues, emancipatory discourses present themselves to us as further evidence of the Slave’s fungibility: “[T]he figurative capacities of blackness enable white flights of fancy while increasing the likelihood of the captive’s disappearance…” (Scenes…22). First, the questions of Humanism were elaborated in contradistinction to the human void, to the African-quachattel (the 1200s to the end of the 17th century). Then, as the presence of Black chattel in the midst of exploited and un-exploited Humans (workers and bosses, respectively) became a fact of the world, exploited Humans (in the throes of class conflict with un-exploited Humans) seized the image of the slave as an enabling vehicle that animated the evolving discourses of their emancipation, just as un-exploited Humans had seized the flesh of the Slave to increase their profits. Without this gratuitous violence, a violence that marks everyone experientially until the late Middle Ages when it starts to mark the Black ontologically, the so-called great emancipatory discourses of modernity—marxism, feminism, postcolonialism, sexual liberation, and the ecology movement—political discourses predicated on grammars of suffering and whose constituent elements are exploitation and alienation, might not have developed.vi Chattel slavery did not simply reterritorialize the ontology of the African. It also created the Human out of culturally disparate entities from Europe to the East. I am not suggesting that across the globe Humanism developed in the same way regardless of region or culture; what I am saying is that the late Middle Ages gave rise to an ontological category—an ensemble of common existential concerns—which made and continues to make possible both war and peace, conflict and resolution, between the disparate members of the human race, east and west. Senator Thomas Hart Benton intuited this notion of the existential commons when he wrote that though the “Yellow race” and its culture had been “torpid and stationary for thousands of years… [Whites and Asians] must talk together, and trade together, and marry together. Commerce is a great civilizer—social intercourse as great—and marriage greater” (The Congressional Globe. May 28, 1846). David Eltis points out that as late as the 17th century, “[p]risoners taken in the course of European military action…could expect death if they were leaders, or banishment if they were deemed followers, but never enslavement…Detention followed by prisoner exchanges or ransoming was common” (1413). “By the seventeenth century, enslavement of fellow Europeans was beyond the limits” (1423) of Humanism’s existential commons, even in times of war. Slave status “was reserved for non-Christians. Even the latter group however…had some prospect of release in exchange for Christians held by rulers of Algiers, Tunis, and other Mediterranean Muslim powers” (emphasis mine 1413). But though the practice of enslaving the vanquished was beyond the limit of intra-West wars and only practiced provisionally in East-West conflicts, the baseness of the option was not debated when it came to the African. The race of Humanism (White, Asian, South Asian, and Arab) could not have produced itself without the simultaneous production of that walking destruction which became known as the Black. Put another way, through chattel slavery the world gave birth and coherence to both its joys of domesticity and to its struggles of political discontent; and with these joys and struggles, the Human was born, but not before it murdered the Black, forging a symbiosis between the political ontology of Humanity and the social death of Blacks. In his essay “To ‘Corroborate Our Claims’: Public Positioning and the Slavery Metaphor in Revolutionary America,” Peter Dorsey (in his concurrence with cultural historians F. Nwabueze Okoye and Patricia Bradley) suggests that, in mid- to late-18th century America, Blackness was such a fungible commodity that it was traded as freely between the exploited (workers who did not “own” slaves) as it was between the unexploited (planters who did). This was due to the effective uses to which Whites could put the Slave as both flesh and metaphor. For the Revolutionaries, “slavery represented a ‘nightmare’ that white Americans were trying to avoid” (359). Dorsey’s claim is provocative, but not unsupported: he maintains that had Blacks-as-Slaves not been in the White field of vision on a daily basis that it would have been virtually impossible for Whites to transform themselves from colonial subjects into Revolutionaries: Especially prominent in the rhetoric and reality of the [Revolutionary] era, the concepts of freedom and slavery were applied to a wide variety of events and values and were constantly being defined and redefined…[E]arly understandings of American freedom were in many ways dependent on the existence of chattel slavery…[We should] see slavery in revolutionary discourse, not merely as a hyperbolic rhetorical device but as a crucial and fluid [fungible] concept that had a major impact on the way early Americans thought about their political future…The slavery metaphor destabilized previously accepted categories of thought about politics, race, and the early republic. (355) Though the idea of “taxation without representation” may have spoken concretely to the idiom of power that marked the British/American relation as being structurally unethical, it did not provide metaphors powerful and fungible enough for Whites to meditate and move on when resisting the structure of their own subordination at the hands of “unchecked political power” (354). The most salient feature of Dorsey’s findings is not his understanding of the way Blackness, as a crucial and fungible conceptual possession of civil society, impacts and destabilizes previously accepted categories of intra-White thought, but rather his contribution to the evidence that, even when Blackness is deployed to stretch the elasticity of civil society to the point of civil war, that expansion is never elastic enough to embrace the very Black who catalyzed the expansion. In fact, Dorsey, building on Patricia Bradley’s historical research, asserts that just the opposite is true. The more the political imagination of civil society is enabled by the fungibility of the slave metaphor, the less legible the condition of the slave becomes: “Focusing primarily on colonial newspapers…Bradley finds that the slavery metaphor ‘served to distance the patriot agenda from the antislavery movement.’ If anything, Bradley states, widespread use of the metaphor ‘gave first evidence that the issue of real slavery was not to have a part in the revolutionary messages’” (359). And David Eltis believes that this philosophical incongruity between the image of the Slave and freedom for the Slave begins in Europe and pre-dates the American Revolution by at least one hundred years: The [European] countries least likely to enslave their own had the harshest and most sophisticated system of exploiting enslaved non-Europeans. Overall, the English and Dutch conception of the role of the individual in metropolitan society ensured the accelerated development of African chattel slavery in the Americas…because their own subjects could not become chattel slaves or even convicts for life…There may be something to be said for expanding a variation of Edmund Morgan’s argument to cover the whole of the British Atlantic, in the sense that the celebration of British liberties—more specifically, liberties of Englishmen—depended on African slavery. (Emphasis mine 1423) The circulation of Blackness as metaphor and image at the most politically volatile and progressive moments in history (e.g. the French, English, and American Revolutions), produces dreams of liberation which are more inessential to and more parasitic on the Black, and more emphatic in their guarantee of Black suffering, than any dream of human liberation in any era heretofore. Black Slavery is foundational to modern Humanism’s ontics because “freedom” is the hub of Humanism’s infinite conceptual trajectories. But these trajectories only appear to be infinite. They are finite in the sense that they are predicated on the idea of freedom from… some contingency that can be named, or at least conceptualized. The contingent rider could be freedom from patriarchy, freedom from economic exploitation, freedom from political tyranny (for example, taxation without representation), freedom from heteronormativity, and so on. What I am suggesting is that first, political discourse recognizes freedom as a structuring ontologic and then it works to disavow this recognition by imagining freedom not through political ontology—where it rightfully began—but through political experience (and practice); whereupon it immediately loses its ontological foundations. Why would anyone do this? Why would anyone start off with, quite literally, an earth-shattering ontologic and, in the process of meditating on it and acting through it, reduce it to an earth reforming experience? Why do Humans take such pride in self-adjustment, in diminishing, rather than intensifying, the project of liberation (how did we get from ’68 to the present)? Because, I contend, in allowing the notion of freedom to attain the ethical purity of its ontological status, one would have to lose one’s Human coordinates and become Black. Which is to say one would have to die. For the Black, freedom is an ontological, rather than experiential, question. There is no philosophically credible way to attach an experiential, a contingent, rider onto the notion of freedom when one considers the Black—such as freedom from gender or economic oppression. The kind of contingent riders rightfully placed on the non-Black when thinking freedom. Rather, the riders that one could place on Black freedom would be hyperbolic— though no less true—and ultimately untenable: i.e., freedom from the world, freedom from humanity, freedom from everyone (including one’s Black self). Given the reigning episteme, what are the chances of elaborating a comprehensive, much less translatable and communicable, political project out of the necessity of freedom as an absolute? Gratuitous freedom has never been a trajectory of Humanist thought, which is why the infinite trajectories of freedom that emanate from Humanism’s hub are anything but infinite—for they have no line of flight leading to the Slave.

#### This debate begs the question of what it means to be political. Traditional definitions are based in Whiteness; they are attempts to preserve civil society built on the back of the slave, with borders defined by the ontological death of the black population. We play a stick up artist to the world, demanding all that it cannot give. The destruction of the world *as we know it* is the only road to freedom.

This is Wilderson in 2010 (Frank Wilderson - Associate professor of African American Studies, Percy Howard – Psychotherapist asking questions of FW, “Frank Wilderson, Wallowing in the Contradictions, Part 1” <http://percy3.wordpress.com/2010/07/09/frank-b-wilderson-%E2%80%9Cwallowing-in-the-contradictions%E2%80%9D-part-1/>)

FW Reparations suggests a conceptually coherent loss. The loss of land, the loss of labor power, etc. In other words, there has to be some form of articulation between the party that has lost and the party that has gained for reparations to make sense. No such articulation exists between Blacks and the world. This is, ironically, precisely why I support the Reparations Movement; but my emphasis, my energies, my points of attention are on the word “Movement” and not on the word “Reparation.” I support the movement because I know it is a movement toward the end of the world; a movement toward a catastrophe in epistemological coherence and institutional integrity—I support the movement aspect of it because I know that repair is impossible; and any struggle that can act as a stick up artist to the world, demanding all that it cannot give( which is everything ), is a movement toward something so blindingly new that it cannot be imagined. This is the only thing that will save us. PH As a Psychotherapist, I was very interested to see your contrasting Frantz Fanon and Lacan concerning their conceptualizations of potential paths to “emancipation in the libidinal economy”, as you put it. I am ashamed to admit that I have never read Fanon, but have read Lacan. Please illuminate  your idea that the stark difference in their conceptualizations of conflict/antagonism differ are based on the fact that Lacan would  still see Blacks as fundamentally situated in personhood, but that Fannon (and yourself) see Blacks as “situated a priori in absolute dereliction”.FW This is a big question, too big for a concise answer—I think I take about thirty to forty pages to try and get my head around this in the book. But the key to the answer lies in the concept of “contemporaries.” Fanon rather painfully and meticulously shows us how the human race is a community of “contemporaries.” In addition, this community vouchsafes its coherence (it knows its borders) through the presence of Blacks. If Blacks became part of the human community then the concept of “contemporaries” would have no outside; and if it had no outside it could have no inside. Lacan assumes the category and thus he imagines the analysand’s problem in terms of how to live without neurosis among ones contemporaries. Fanon interrogates the category itself. For Lacan the analysands suffer psychically due to problems  extant within the paradigm of contemporaries. For Fanon, the analysand   suffers due to the existence of the contemporaries themselves and the fact that s/he is a stimulus for anxiety for those who have contemporaries. Now, a contemporary’s struggles are conflictual—that is to say, they can be resolved because they are problems that are of- and in the world. But a Blacks problems are the stuff of antagonisms: struggles that cannot be resolved between parties but can only be resolved through the obliteration of one or both of the parties. We are faced—when dealing with the Black—with a set of psychic problems that cannot be resolved through any form of symbolic intervention such as psychoanalysis—though addressing them psychoanalytically we can begin to explain the antagonism (as I have done in my book, and as Fanon does), but it won’t lead us to a cure.

#### Get it right – The policing of the black body is the sine qua non of modern policing. Aggressive US hegemonic practices don’t just exist out of the blue; the only reason we go to war is because of the pretext of chattel slavery.

Sexton 2006 (Jared, Associate Professor of African American Studies and Associate Professor of Film and Media Studies and one third of The Trifecta of Tough, “Race, Nation, and Empire in a Blackened World,” *Radical History Review* Issue 95)

In the United States, homegrown white supremacists, and the lion’s share of their more moderate neighbors, have long considered black people to be weapons of mass destruction. Racial profiling, the hallmark of Homeland Security’s dreadful encroachments, cut its fearsome teeth several years prior to the passage of the USA PATRIOT Act. Prior, as well, to the American Civil Liberties Union’s (ACLU) “Driving while Black” campaign in the late 1990s; priorto the launch of President Ronald Reagan’s infamous war on drugs in the early 1980s, and even to President Richard Nixon’s earlier consolidation of the first truly nationwide police apparatus in the late 1960s. In fact, the genealogy of this nefarious police practice is properly charted beyond the twentieth century, reaching back, with stunningly little modification, to the ethos of the colonial slave patrols of the seventeenth, eighteenth, and nineteenth centuries. Given this line of descent, it is not unreasonable to say that racial profiling is the sine qua non of modern policing. In the consternated deliberations of national security, official and unofficial, from the founding of the republic to the trumpeting of the new world order, thesocial control and crisis management of the black population has always figured centrally, even or perhaps especially when matters of emancipation or racial equality have by no means enjoyed the focus of debate. Across the sweep of U.S. history, policing the color line has required no credible threat of invasion, no evidence of insurrectionary design, no proven stockpile of illicit chemical agents or radioactive material, no particular breach of domestic or international law, no sensational moral or ethical transgression (though all of these items, real or imagined, have factored in the relevant discourses, public and private). It has only required the presence — within the polity, economy, culture, and society — of a so-called problem people, dwelling as the absence of human presence. We can note further that the institution of transatlantic racial slavery — whose political and economic relations constitute, present tense, the social fabric of Western modernity in general, of the Americas in particular, and of the United States most acutely — cannot be explained (away) by the acquisition of fixed capital, the minimization of variable capital, or the maximization of profits, much less by the dictates of gunboat diplomacy, the expansion of strategic overseas military installations, or the idiosyncrasies of the White House. It may seem so at times, but only insofar as contemporary observers, or our historical counterparts, fundamentally misrecognize the nature of racial slavery: as a brutal regime of labor exploitation; as the atrocious adjunct to land conquest and the extermination, containment, and/or forced assimilation of indigenous peoples; or as an endeavor functional to, rather than in excess of and at times at odds with, the advent and maturation of Eurocentric capitalism. Of course, all of these procedures have been important to the history of racial slavery (and vice versa), but none is essential to its origins, its development and, above all, its pernicious afterlife.1 Rather, enslavement — the inaugural enterprise for the age of Europe, the precondition for the American century and its coveted sequel— is enabled by and dependent on the most basic of operations: symbolic and material immobilization, the absolute divestment of sovereignty at the site of the black body: its freedom of movement, its conditions of labor, its physical and emotional sustenance, its social and sexual reproduction, its political and cultural representation. Beyond its economic utility, this rendering of the black as the object of dispossession par excellence — object of accumulation, prototypical commodity, captive flesh — structures indelibly the historical proliferation of modern conceptions of sovereignty that now dominate political and legal discourse globally and provide the crucial frames of intelligibility foar both imperialism and anti-imperialism, empire and its discontents. With blacks barred by definition from the very notion of the sovereign (whatever their nominal legal status, wherever their tentative place of residence), those not marked by the material and symbolic stigma of slavery have the exclusive and positive capacity to debate about sovereignty: to trivialize its importance and rationalize its violation or to struggle in its defense, to name and lament its loss, and wage war for its recovery. Blacks, then, suffer a peculiar relation to the U.S. empire in the historic instance: neither its subjects (certainly not its authors or beneficiaries) nor its objects (at least not in the most direct sense). This peculiarity was underscored dramatically during the notorious U.S. war in Southeast Asia (1965 – 75) wherein black soldiers, overwhelmingly conscripted, were not only disproportionately offered up as cannon fodder (after long being segregated and retained in noncombat functions, depicted as cowardly and inept, denied access to the social capital of military heroism, etc. — all components of the typical critique of the racism internal to the armed forces) but were also differentiated by the enemies of the U.S. military invasion and occupation. Racially targeted propaganda appealed to the cruel ironies of black military service (ironies already well known and articulated by mid-century) and offered ideological support to the struggle for freedom, justice, and equality that was, at the time, intensifying and mutating stateside as it raised the galvanizing cry of Black Power. More important, I think, were the notable combat tactics of Vietcong and North Vietnamese Army soldiers, which frequently targeted white soldiers for ambush and sniper attacks while leaving unharmed (if at all possible) contingents of black soldiers on hand, a veritable racial partition of attack. In this circumscribed domain, the campaign of Vietnamese guerrilla fighters sought to exploit — in parts strategically, in parts earnestly — the living legacy of antiblackness among U.S. fighting forces not only by suggesting a political affinity between blacks and Asians as victims of white supremacy (whether European colonialism or U.S. imperialism) but also by enacting a displacement of the racially distributed vulnerability to violence that otherwise slated blacks for gratuitous assault without recourse. Muhammad Ali’s famous 1966 statement, “I ain’t got no quarrel with them Viet-Cong. No Viet-Cong ever called me nigger,” takes on added weight in this light. Black troops, for their part, contributed actively to this antagonistic milieu with, among other things, hundreds of fraggings of white junior officers, the repeated refusal of high-risk assignments, and, on several occasions, open rebellion and riot against the system of overseas military policing and prisons in which they were, predictably, overrepresented as captives. In the contemporary theater of operations in occupied Iraq, this historical discrepancy — which has hardly been mitigated, even if it is newly mediated — promised to reassert itself briefly with the fragging incident involving U.S. Army Sergeant Asan Akbar, a native-born black.2 But the racial politics of U.S. militarism, so prominent at the height of black political movement and social upheaval in the 1960s and 1970s, have been consistently and unsurprisingly convoluted by the combined effects of corporate media machinations and the marked disarray of black politics domestically.3 The global antiwar movement, while eloquent on the menace of the former, has missed the latter point almost entirely. In its drive for popular (if not populist) appeal, a drive fueled by the euphoria of mass demonstrations on the eve of the U.S. invasion, political opposition to the war on terror across the global North has borrowed freely from the rhetorical repertoire of black freedom struggle in and beyond the United States, but it has displayed a striking disinterest in either the political energies or the lived experience of actually existing black communities.

#### Thus the Alternative: Give Turtle Island Back to the “Savage.” Give life itself back to the Slave. This is a form of revolutionary suicide – well probably die in the revolution but some things are more important

Wilderson ’10 [Frank, Associate Professor at UC Irvine’s Department of Drama and African American Studies, Red, White & Black: Cinema and the Structure of U.S. Antagonisms, pp. 2-4]

What are we to make of a world that responds to the most lucid enunciation of ethics with violence? What are the foundational questions of the ethico-political? Why are these questions so scandalous that they are rarely posed politically, intellectually, and cinematically— unless they are posed obliquely and unconsciously, as if by accident? Give Turtle Island back to the “Savage.” Give life itself back to the Slave. Two simple sentences, fourteen simple words, and the structure of U.S. (and perhaps global) antagonisms would be dismantled. An “ethical modernity” would no longer sound like an oxymoron. From there we could busy ourselves with important conflicts that have been promoted to the level of antagonisms, such as class struggle, gender conflict, and immigrants’ rights. One cannot but wonder why questions that go to the heart of the ethico-political, questions of political ontology, are so unspeakable in intellectual meditations, political broadsides, and even socially and politically engaged feature films. Clearly they can be spoken, even a child could speak those lines, so they would pose no problem for a scholar, an activist, or a filmmaker. And yet, what is also clear—if the filmographies of socially and politically engaged directors, the archive of progressive scholars, and the plethora of left-wing broadsides are anything to go by—is that what can so easily be spoken is now (500 years and 250 million Settlers/Masters on) so ubiquitously unspoken that these two simple sentences, these fourteen words not only render their speaker “crazy” but become themselves impossible to imagine. Soon it will be forty years since radical politics, left-leaning scholarship, and socially engaged feature films began to speak the unspeakable. In the 1960s and early 1970s the questions asked by radical politics and scholarship were not Should the United States be overthrown? or even Would it be overthrown? but when and how—and, for some, what would come in its wake. Those steadfast in their conviction that there remained a discernable quantum of ethics in the United States writ large (and here I am speaking of everyone from Martin Luther King Jr. prior to his 1968 shift, to the Tom Hayden wing of Students for Democratic Society, to the Julian Bond and Marion Barry faction of the Student Nonviolent Coordinating Committee, to Bobby Kennedy Democrats) were accountable, in their rhetorical machinations, to the paradigmatic zeitgeist of the Black Panthers, the American Indian Movement, and the Weather Underground. Radicals and progressives could deride, reject, or chastise armed struggle mercilessly and cavalierly with respect to tactics and the possibility of “success,” but they could not dismiss revolution-as-ethic because they could not make a convincing case—by way of a paradigmatic analysis—that the United States was an ethical formation and still hope to maintain credibility as radicals and progressives. Even Bobby Kennedy (as a U.S. attorney general) mused that the law and its enforcers had no ethical standing in the presence of Blacks. One could (and many did) acknowledge America’s strength and power. This seldom rose to the level of an ethical assessment, however, remaining instead an assessment of the “balance of forces.” The political discourse of Blacks, and to a lesser extent Indians, circulated too widely to wed the United States and ethics credibly. The raw force of COINTEL put an end to this trajectory toward a possible hegemony of ethical accountability. Consequently, the power of Blackness and Redness to pose the question—and the power to pose the question is the greatest power of all—retreated as did White radicals and progressives who “retired” from the struggle. The question lies buried in the graves of young Black Panthers, AIM warriors, and Black Liberation Army soldiers, or in prison cells where so many of them have been rotting (some in solitary confinement) for ten, twenty, or thirty years, and at the gates of the academy where the “crazies” shout at passersby. Gone are not only the young and vibrant voices that effected a seismic shift on the political landscape, but also the intellectual protocols of inquiry, and with them a spate of feature films that became authorized, if not by an unabashed revolutionary polemic, then certainly by a revolutionary zeitgeist.

#### There’s no progress away from slavery in civil society. Law is the plantation – While it exists freedom is an illusion. We must burn the 1AC.

Farley 5 – Boston College
(Anthony, “Perfecting Slavery”, <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1028&context=lsfp>)

What is to be done? Two hundred years ago, when the slaves in Haiti rose up, they, of necessity, burned everything: They burned San Domingo flat so that at the end of the war it was a charred desert. Why do you burn everything? asked a French officer of a prisoner. We have a right to burn what we cultivate because a man has a right to dispose of his own labour, was the reply of this unknown anarchist. The slaves burned everything because everything was against them. Everything was against the slaves, the entire order that it was their lot to follow, the entire order in which they were positioned as worse than senseless things, every plantation, everything. “Leave nothing white behind you,” said Toussaint to those dedicated to the end of white-over-black. “God gave Noah the rainbow sign. No more water, the fire next time.” The slaves burned everything, yes, but, unfortunately, they only burned everything in Haiti. Theirs was the greatest and most successful revolution in the history of the world but the failure of their fire to cross the waters was the great tragedy of the nineteenth century. At the dawn of the twentieth century, W.E.B. Du Bois wrote, “The colorline belts the world.” Du Bois said that the problem of the twentieth century was the problem of the colorline. The problem, now, at the dawn of the twenty-first century is the problem of the colorline. The colorline continues to belt the world. Indeed, the slave power that is the United States now threatens an entire world with the death that it has become and so the slaves of yesterday, today, and tomorrow, those with nothing but their chains to lose, must, if they would be free, if they would escape slavery, win the entire world. We begin as children. We are called and we become our response to the call. Slaves are not called. What becomes of them? What becomes of the broken-hearted? The slaves are divided souls, they are brokenhearted, the slaves are split asunder by what they are called upon to become. The slaves are called upon to become objects but objecthood is not a calling. The slave, then, during its loneliest loneliness, is divided from itself. This is schizophrenia. The slaves are not called, or, rather, the slaves are called to not be. The slaves are called unfree but this the living can never be and so the slaves burst apart and die. The slaves begin as death, not as children, and death is not a beginning but an end. There is no progress and no exit from the undiscovered country of the slave, or so it seems. We are trained to think through a progress narrative, a grand narrative, the grandest narrative, that takes us up from slavery. There is no up from slavery. The progress from slavery to the end of history is the progress from white-over-black to white-over-black to white-over-black. The progress of slavery runs in the opposite direction of the past-present-future timeline. The slave only becomes the perfect slave at the end of the timeline, only under conditions of total juridical freedom. It is only under conditions of freedom, of bourgeois legality, that the slave can perfect itself as a slave by freely choosing to bow down before its master. The slave perfects itself as a slave by offering a prayer for equal rights. The system of marks is a plantation. The system of property is a plantation. The system of law is a plantation. These plantations, all part of the same system, hierarchy, produce white-over-black, white-over-black only, and that continually. The slave perfects itself as a slave through its prayers for equal rights. The plantation system will not commit suicide and the slave, as stated above, has knowing non-knowledge of this fact. The slave finds its way back from the undiscovered country only by burning down every plantation. When the slave prays for equal rights it makes the free choice to be dead, and it makes the free choice to not be. Education is the call. We are called to be and then we become something. We become that which we make of ourselves. We follow the call, we pursue a calling. Freedom is the only calling—it alone contains all possible directions, all of the choices that may later blossom into the fullness of our lives. We can only be free. Slavery is death. How do slaves die? Slaves are not born, they are made. The slave must be trained to be that which the living cannot be. The only thing that the living are not free to be is dead. The slave must be trained to follow the call that is not a call. The slave must be trained to pursue the calling that is not a calling. The slave must be trained to objecthood. The slave must become death. Slavery is white-over-black. White-over-black is death. White-over-black, death, then, is what the slave must become to pursue its calling that is not a calling.

### Case

**Shutting down detention leads a shift to drones and alternative rendition. Comparatively worse and kills intel gathering.**

**Chensney 11** (Robert M. Chesney, 5/1/2011, Prof at U Texas Law School, served on Detention Task Force with the Justice Department, <http://lawdigitalcommons.bc.edu/bclr/vol52/iss3/2/> ‘Who May Be Held? Military Detention through the Habeas Lens’)

The convergence thesis describes one manner in which law might respond to the cross-cutting pressures associated with the asymmetric warfare phenomenon—i.e., the pressure to reduce false positives (targeting, capture, or detention of the wrong individual) while also ensuring an adequate capacity to neutralize the non-state actors in question. One must bear in mind, however, that detention itself is not the only system of government action that can satisfy that latter interest. Other options exist, including the use of lethal force; the use of rendition to place individuals in detention at the hands of some other state; the use of persuasion to induce some other state to take custody of an individual through its own means; and perhaps also the use of various forms of surveillance to establish a sort of constructive, loose control over a person (though for persons located outside the United States it is unlikely that surveillance could be much more than episodic, and thus any resulting element of “control” may be quite weak).210 From the point of view of the individual involved, all but the last of these options are likely to be far worse experiences than U.S.-administered detention. In addition, all but the last are also likely to be far less useful for purposes of intelligence-gathering from the point of view of the U.S. government.211 Nonetheless, these alternatives may grow attractive to the government in circumstances where the detention alternative becomes unduly restricted, yet the pressure for intervention remains. The situation is rather like squeezing a balloon: the result is not to shrink the balloon, but instead to displace the pressure from one side to another, causing the balloon to distend along the unconstrained side. So too here: when one of these coercive powers becomes constrained in new, more restrictive ways, the displaced pressure to incapacitate may simply find expression through one of the alternative mechanisms. On this view it is no surprise that lethal drone strikes have increased dramatically over the past two years, that the Obama administration has refused to foreswear rendition, that in Iraq we have largely (though not entirely) outsourced our detention operations to the Iraqis, and that we now are progressing along the same path in Afghanistan.212 Decisions regarding the calibration of a detention system—the management of the convergence process, if you will—thus take place in the shadow of this balloon-squeezing phenomenon. A thorough policy review would take this into account, as should any formal lawmaking process. For the moment, however, our formal law-making process is not directed at the detention-scope question. Instead, clarification and development with respect to the substantive grounds for detention takes place through the lens of habeas corpus litigation.

#### Even if they win one court makes an effective decision, they do not solve in long-term or spill over because of a decentralization of the judiciary

**Posner and Vermeule,** 10 - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 29-30)

Information asymmetries The gap between the executive and the judiciary, in information and expertise, is even wider than between the executive and Congress. Whereas many legislators have a narrowly defined field of policy expertise, particularly in the House of Representatives, federal judges are mostly generalists, barring a few specialized courts. Furthermore, the partial insulation from current politics that federal judges enjoy, by virtue of life tenure and salary protection, brings with it a kind of informational impoverishment.25 Legislators, who must please other people at least some of the time, interact with the outside world far more systematically than generalist judges, whose main sodurce of information is the briefs and arguments of litigants. When the executive says that resolving a plaintiff’s claim would require disclosure of “state secrets,” with dangerous consequences for national security, judges know that either an ill-motivated or a well-motivated executive might be making the claim and that they have no easy means to assess whether the claim is credible. Collective action problems and decentralization If congressional monitoring of executive discretion is hampered by collective action problems, judicial monitoring is hampered by a similar condition, the decentralized character of the federal judiciary. The judiciary too is a “they,” not an “it,” and is decentralized along mainly geographic lines. Different judges on different courts have different views of the costs and benefits of oversight and of the appropriate level of monitoring. The Supreme Court is incapable of fully resolving these structural conflicts. Because the Court presides over a large institutional system and lacks the capacity to review more than a fraction of cases submitted to it, its role is restricted by necessity to the declaration of general principles of law and episodic, ad hoc intervention in the system. The legitimacy deficit In the federal system, appointed judges are not overtly partisan, though they are sometimes covertly so. The very condition that enables this relative lack of overt politicization—that federal judges are, at least in one familiar conception, legal technocrats appointed for their expertise rather than elected on a partisan basis—also creates a serious legitimacy deficit for the judiciary, understanding legitimacy in a strictly sociological sense.26 Aroused publics concerned about issues such as national security may have little tolerance for robust judicial oversight of executive discretion, which can always be condemned as “activism” by “unelected judges.” This charge sometimes succeeds and sometimes fails, but for the judges it is always a concern that acts as a drag on attempts to monitor executive behavior.

**The affirmative's reliance on the law is misplaced faith - they cannot articulate any linkage between their prescriptions and practical effects**

**SCHLAG, PROFESSOR OF LAW@ UNIV. COLORADO, 1990 (PIERRE, STANFORD LAW REVIEW, NOVEMBER, PAGE LEXIS)**

In fact, **normative legal thought is so much in a hurry that it will tell you what to do even though there is not the slightest chance that you might actually be in a position to do it.** For instance, when was the last time you were in a position to put the difference principle n31 into effect, or to restructure [\*179] the doctrinal corpus of the first amendment? "In the future, we should. . . ." When was the last time you were in a position to rule whether judges should become pragmatists, efficiency purveyors, civic republicans, or Hercules surrogates?

**Normative legal thought doesn't seem overly concerned with such worldly questions about the character and the effectiveness of its own discourse. It just goes along and proposes, recommends, prescribes, solves, and resolves. Yet despite its obvious desire to have worldly effects, worldly consequences, normative legal thought remains seemingly unconcerned that for all practical purposes, its only consumers are legal academics** and perhaps a few law students -- **persons who are virtually never in a position to put any of its wonderful normative advice into effect.**

**Their rhetorical performance is premised on the idea of a rational subject with free will who can act upon the law - this is how they access solvency - but this model is false and empty, its essential meaning is pain and death**

**SCHLAG, PROFESSOR OF LAW@ UNIV. COLORADO, 1990 (PIERRE, STANFORD LAW REVIEW, NOVEMBER, PAGE LEXIS)**

All of this can seem very funny. That's because it is very funny. It is also deadly serious. It is deadly serious, because all this **normative legal thought**, as Robert Cover explained, **takes place in a field of pain and death**. n56 And in a very real sense Cover was right. Yet as it takes place, **normative legal thought is playing language games -- utterly oblivious to the character of the language games it plays, and thus, utterly uninterested in considering its own rhetorical and political contributions (or lack thereof) to the field of pain and death.** **To be sure, normative legal thinkers are often genuinely concerned with reducing the pain and the death**. However, the problem is not what normative legal thinkers do with normative legal thought, but what normative legal thought does with normative legal thinkers. **What is missing in normative legal thought is any serious questioning, let alone tracing, of the relations that the practice, the rhetoric, the routine of normative legal thought have** (or do not have) **to the field of pain and death.**

And there is a reason for that: Normative legal thought misunderstands its own situation. Typically, normative legal thought understands itself to be outside the field of pain and death and in charge of organizing and policing that field. It is as if the action of normative legal thought could be separated from the background field of pain and death. This theatrical distinction is what allows normative legal thought its own self-important, self-righteous, self-image -- its congratulatory sense of its own accomplishments and effectiveness.

All this self-congratulation works very nicely so long as normative legal [\*188] thought continues to imagine itself as outside the field of pain and death and as having effects within that field. n57 Yet it is doubtful this image can be maintained. It is not so much the case that normative legal thought has effects on the field of pain and death -- at least not in the direct, originary way it imagines. Rather, it is more the case that **normative legal thought is the pattern, is the operation of the bureaucratic distribution and the institutional allocation of the pain and the death.** n58 And apart from the leftover ego-centered rationalist rhetoric of the eighteenth century (and our routine), there is nothing at this point to suggest that we, as legal thinkers, are in control of normative legal thought.

The problem for us, as legal thinkers, is that **the normative appeal of normative legal thought systematically turns us away from recognizing that normative legal thought is grounded on an utterly unbelievable re-presentation of the field it claims to describe and regulate. The problem for us is that normative legal thought, rather than assisting in the understanding of present political and moral situations, stands in the way. It systematically reinscribes its own aesthetic -- its own fantastic understanding of the political and moral scene.**  n59Until normative legal thought begins to deal with its own paradoxical postmodern rhetorical situation, **it will remain something of an irresponsible enterprise. In its rhetorical structure, it will continue to populate the legal academic world with individual humanist subjects who think themselves empowered Cartesian egos, but who are largely the manipulated constructions of bureaucratic practices** -- academic and otherwise.

#### Judicial decision legitimate the existing legal order

Schegel '01

Henry Schegel, Professor of Law, State University of New York at Buffalo, 2001 (CARDOZO LAW REVIEW, March, pp. 1067-8)

From the judge's perspective, any legal dispute is a "disequilibriation" or a breakdown in the system of normal social relations that must be set right. The judge sets things right by generating a conceptual analysis that embodies the presupposed norm that inheres in the reified system of social relations. To accomplish this task, the judge reifies "legitimating concepts" drawn from the presupposed norm so that "it will appear that the functioning of the system is simply the factual activity of the legitimating concepts, thereby representing the system itself as legitimate a priori." This method affirms the status quo. Then, the judge reverses the movement of thought so as to generate "a process of re-experiencing the event itself as that event is signified through legitimating concepts." The point of this process is that it is a way of continuing the denial of the illegitimacy and disconnectedness of social relations as they are experienced under capitalism by depicting the unalienated group in its imaginary form as a part of political theory.

#### Rights rhetoric masks oppression and demobilizes social movements

Roithmayr '01
Daria Roithmayr, Assistant Professor of Law, University of Illinois, 2001 (CARDOZO LAW REVIEW, **CRITICAL LEGAL** POLITICS: LEFT VS. MPM: LEFT OVER RIGHTS, March, p. 114-5)

In addition, CLS theorists like Gabel argued that rights legitimized the exercise of power. **Rights rhetoric made the government appear as if it were resolving disputes fairly and objectively under the rule of law, when in fact the government** was exercising conservative political power in ways that **oppressed the disempowered**. Moreover, **rights discourse made mass political resistance unlikely** because rights discourse **disguised the role of coercive state power in creating material inequalities** in wealth, opportunities, and resources.

**THEIR RHETORICAL PERFORMANCE SHIELDS US FOR RESPONSIBILITY FOR OUR OWN CONTRIBUTIONS TO MATERIAL PAIN AND SUFFERING-**

**DELGADO IN 1991 (RICHARD, COLORADO LAW PROFESSOR, 139 PA. L. REV. 933, APRIL)**

But what is the cash value of all this priest-talk in the law reviews, in the classrooms of at least the "better" schools, and in the opinions of at least some judges? Are normativos better than other people? **Are we better off for engaging in normative talk, either as speakers or listeners?** Pierre **Schlag,** for example, **has described normativity as a zero -- as a vacuous, self-referential system of talk, all**  [\*954] **form and no substance, meaning nothing, and about itself.**  n82 **This description may be too generous. Normativity may be more than a harmless tic prevalent only in certain circles.**

1. Permission to Ignore Suffering

The history of organized religion shows that **intense immersion in at least certain types of normative system is no guarantee against cruelty, intolerance or superstition.**  n83 In modern times, social scientists have tried to find a correlation between religious belief and altruistic behavior. In most studies, the correlation is nonexistent or negative. In one study, seminary students were observed as they walked past a well-dressed man lying moaning on the sidewalk. n84 Most ignored the man, even though they had just heard a sermon about the Good Samaritan. The proportion who stopped to offer aid was lower than that of passersby in general. The researchers, commenting on this and other studies of religion and helping behavior, hypothesized that religious people feel less need to act because of a sense that they are "chosen" people. n85 I believe this anesthetizing effect extends beyond religion. We confront a starving beggar and immediately translate the concrete duty we feel into a normative (i.e., abstract) question. And once we see the beggar's demand in general, systemic terms, it is easy for us to pass him by without rendering aid. n86 Someone else, perhaps society (with my tax dollars), will take care of that problem.

**Normativity** thus **enables us to ignore and smooth over the rough edges of our world, to tune out or redefine what would otherwise make a claim on us.** In the legal system, the clearest [\*955] examples of this are found in cases where the Supreme Court has been faced with subsistence claims.